

Scottish Mental Health Law Review

SMHLR
Executive Team Meeting - Teams
Tuesday 8th February 2022

Attendees: John Scott, Jill Stavert, Colin McKay

Secretariat: Kirsty McGrath, Simon Webster, Isla Jack, Morag Peberdy, Fiona Scott, Shaben Begum, Sandra McDonald

Minutes: Fiona Scott

Apologies: Karen Martin, Alison Rankin, Graham Morgan

Topic of Discussion for Meeting: Rome Review and ‘Mental Disorder’

1. Minutes of previous meeting

2. Draft Consultation

- The first draft has been circulated for feedback on the content. Later drafts will need to be condensed into an accessible consultation document.

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3. RCPsychS event discussion

- The scenarios will be distributed to the participants early next week.
- Responsibilities for the event were confirmed:
 - Welcome and introduction.
 - Introduction to the scenarios.
 - The direction of travel of the review and plenary discussion. This is an opportunity to clarify the issues around coercion whilst understanding the complexity of the issue and awareness of what practitioners are dealing with.
 - Facilitators for the scenarios
 - Note takerw for the groups

Action Point:

- **Secretariat to send out scenarios on Monday**
- **Secretariat to consider framing of coercion in plenary discussion**

4. Main Discussion: Rome Review and Mental Disorder

There was a presentation and the paper “The relationship between learning disability, autism and mental disability law, January 2022” was spoken to. The ET were asked for a response with particular consideration for their position on

the Rome Review and in turn the implications this will have for defining 'mental disorder' in the consultation. The points raised were:

Rome Review Discussion

- We are not likely to hear more about the recommendations from SG before the release of the consultation.
- The legal framework should be consistent for everybody whether defined as mental disorder or not. Proposing having the same framework with different gateways with a focus on rights and needs.
- There is not a huge difference between ET position and that of Rome. Both recommend support before coercion. The more that we can demonstrate that we are building on Rome the better.
- Compare with BSL where you can expect that no matter what service you are in support will be available.
- With LD and Autism the evidence is that Mental Health law is not the right place. There needs to be a focus for LD and Autism in law that isn't necessarily in MH law.
- Build on Rome and offer reassurance to groups who are already frustrated with telling government the same thing over and again.
- The Rome recommendations are in old law – now our job is to consider the recommendations in a new landscape.

Mental Disorder Discussion

- If we are going for mental disorder neutral law how do we pin down who is affected by the law?
 - Removing the capacity threshold and moving to assessments.
 - Having criteria for catching issues rather than completely excluding anyone
 - Not in favour of mental disorder but the advantage is that it is very broad
- There is a concern with different pieces of law that people will fall through the gaps.
- It's the job of government to link up services and not all of them are part of our law. We could make recommendations on the implementation.
- When setting out options for mental disorder in the consultation are we excluding LD and Autism?
 - No as approach is maximalist and a complete reframing to remove stigma – creating a new 'big label' that means something different.
 - Mental Disorder is important for AWI law and agree with starting from a maximalist position but need to explain how it is different to what we have now.

- The maximalist approach is for everyone but we would still need separate legislation for LD and Autism as they are coming into the system from a different entry point.
- Addressing discrimination in access to services is the purpose of the HRE as an acid test to avoid discrimination. We should be working to remove discrimination and the law provides that lead.
- There is the issue of inverse care -the more people are discriminated against the more ill they become. Consider the concept of equality vs equity. People with LD and autism need the extra level of support.
- Recognising the nature of disability and impairment you could argue should be enshrined in law.
- We have to be honest and say where we are and ask for options. This is the purpose of the consultation.
- We should be proactively getting in touch and reaching out to both the groups we know but also others who may be upset.

ET were thanked for the discussion and Secretariat will consider how to present these ideas in the consultation

Action Point: Secretariat to organise engagement with LD and Autism Groups

5. Planning for next meeting

The next meeting will be an opportunity to revisit VDM in the context of the full consultation document along with a discussion on deprivation of liberty.

6. Date of Next Meeting

15th February 2022