

Cross-Party Group on Mental Health
Review of the Mental Health Strategy 2017-2027
Rights, information use and planning problems - Call for Evidence

Name: Greg Thomas, Senior Policy Advisor

Organisation (if applicable): See Me

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See Me is Scotland's national programme to end mental health stigma and discrimination. Our vision is to enable people who experience mental health problems to live fulfilled lives. We are working to change negative attitudes, behaviours and cultures towards mental health by creating a movement for change, bringing people together across Scotland who are passionate about tackling stigma to work as one.

We are pleased to have the chance to respond to this call for evidence. We are particularly interested in how action to tackle stigma and discrimination can be framed in terms of rights. For example, we have explored points of tension between current mental health legislation in Scotland and international human rights conventions in our response to the first stage of the Scottish Government's independent review of mental health law.

In preparation for this submission, we conducted an online survey with our See Me Champions and Youth Champions: volunteers of all ages with lived experience of mental health issues. We translated the issues raised in the call into questions about everyday experience of interacting with mental health services. The survey ran from 18 November to 3 December 2020 and included the following questions:

- Do you feel your rights are prioritised when you receive help, support and treatment for your mental health? Has this changed over time? E.g. have you heard the term 'rights based approach' being used more recently, or less recently?
- Have you ever experienced discrimination when trying to get help and support for your mental health from health and social care professionals, and what was the impact if so?
- Do you feel there are helpful links between disability services, mental health services and employment support services in Scotland? Can you give examples of when joined up services have helped your mental health, particularly in relation to your experience of stigma or discrimination?
- By contrast, can you think of examples where the relationship (or lack of a relationship) between disability services, mental health services and employment support services have increased the stigma or discrimination you face around your mental health?

- Do you feel that workplaces are making improvements in protecting people with mental health issues from stigma and discrimination? Can you think of examples where workplaces have or haven't done this for you?
- Have you worked with a Mental Health Officer, whose role was to protect your rights and stop you from experiencing discrimination? If so, what were your experiences? For example, was the experience positive or negative, and do you feel they took your rights into account?
- Do you have any views on the Adults with Incapacity (Scotland) Act 2000? (This Act allows people such as carers to undertake certain tasks and duties for people who may be unable to make decisions about their care)
- Has the way that mental health services use or share your information ever led to you experiencing stigma or discrimination (including self-stigma)? Could you give examples if so?

We received nine responses to this call for evidence, which form the basis of our responses to the questions below. The data gathered through the small number of responses to the survey reinforces much of what has been shared previously with respect to the experiences and challenges involve in adoption of human rights based practices in mental health services. Points of insight and recommendations are included at the end of each question.

1. Since 2017, what progress has been made in promoting people's rights and taking a human rights based approach to mental health care and treatment?

See Me acknowledges the aim outlined in Action 32 of the Mental Health Strategy 2017-27 to use a rights-based approach in the statutory guidance on the use of mental health legislation; and the assertion in the 2019 progress update that extensive stakeholder engagement had been undertaken over the previous two years, including with service user representatives, to identify key practice issues requiring to be addressed See Me was co-chair of a sub group formed on the back of the original Mental Health Strategy forum in 2018 involving partners with an interest in rights and mental health. The work of the group culminated in an event in November 2019 from which a series of recommendations was put to Scottish Government. The Stakeholders involved identified that for rights-based approaches to be progressed much more would need to be done in following areas:

- Leadership and strategic development and accountability
- Organisational and system-wide change (cultures)
- Understanding human rights (language and literacy)
- Capacity building (training and development)
- Relationship between Equalities and Human Rights
- Empowerment – access to independent advocacy

See Me also responded to the Scottish Government's consultation on the Mental Health Act Code of Practice in October 2019.

Notwithstanding any progress that may have been made since this point, our survey respondents did not feel that considerations around their rights were consistently embedded in the mental health services they had used. One respondent stated that such an approach was very much contingent on individual practitioners' style: "I believe an individual's rights are given more consideration now than when I was first an in-patient some 30 years ago but this can be very variable depending on the health professional." Another respondent noted that although a "rights based approach has been discussed lots behind the scenes [it's] still [to] be seen in practice – rights are not always heard or consulted as they should be."

In See Me's [response to the Scottish Government's Consultation on the Mental Health Act Code of Practice](#), we stressed several ways in which the code could help practitioners to better support people's rights in relation to mental health services. For example, the code of practice should explicitly consider how to raise awareness of advance statements, indicating how professionals should promote them, and helping them to support service users to complete them. The code should also highlight and clarify the roles of independent advocates and named persons, helping practitioners to connect service users with both, while making clear that service users' wishes *not* to inform their named persons of use of services or support should also be respected. It is also important that the code makes clear how to better inform people of their rights during hospitalisation and particularly during and after a Compulsory Treatment Order, which should be used as a last resort. Many of these recommendations were reiterated in our [response to the first stage of the Mental Health Act Review in 2020](#).

Responses to our survey indicate that some respondents did not feel adequately supported in realising their rights when using mental health services, and that others are still relatively uninformed about them (several participants noted they had never heard the term "rights based approach"). We would therefore reiterate the above recommendations.

2. Reflecting on the progress reports for Actions 32-37 of the Mental Health Strategy, is there on-the-ground evidence of these actions being implemented? *You can read the Second Progress Report of the Mental Health Strategy [here](#), or see the Table of Actions provided by SAMH.*

Progress on Action 32 is covered in our answer to question 1. Action 33, to commission a review of how provisions in the Mental Health Act 2003 fulfil the needs of people with learning disabilities and autism, does not relate directly to See Me's work.

With regards to Action 34 – to reform Adults with Incapacity legislation – we acknowledge that a consultation was undertaken on this theme in 2018, with further work undertaken prior to the 2019 progress report, including establishing working groups to distil the messages received into draft policy, drafting guidance, and amending relevant codes of practice. Our survey respondents were not familiar with

the details of the Adults with Incapacity Act or the recent consultation on this theme. We are not therefore in a position to comment on the progress of the Action. Those who commented on the general principle that people such as carers should be able to make some decisions on behalf of service users felt that this was necessary to some extent, with the proviso that as much independence should be retained as possible.

Action 35 of the strategy is to better understand Mental Health Officer capacity and demand, and to consider how pressures might be alleviated. In the 2019 progress report on the strategy, the government noted that this work would be taken forward by the Children and Young People's Mental Health and Wellbeing Programme Board. This action is perhaps in too early a stage for progress to be commented on, therefore. However, our survey indicates almost no awareness of Mental Health Officers' roles or remit. Eight out of nine respondents had not worked with one, and the respondent who said that they had described the experience as "not pleasant": "you lose control of what's going on [and] stress levels rise", resulting in "disengagement." There are various reasons why our volunteers might not have been supported by – or benefited from the support offered by – Mental Health Officers. For example, Mental Health Officers involvement may not be appropriate for their type or level of mental health issue. Nonetheless, our limited evidence base suggests that work must be urgently taken forward to increase the number of Mental Health Officers and their capacity to offer meaningful support.

Action 36, to work with employers on how they can act to protect and improve mental health, and support employees experiencing poor mental health, is the basis of ongoing work which is quite specific in its remit and is hard for respondents to comment on. However, there was a general sense from our survey respondents that workplaces were making gradual improvements in protecting people with mental health issues from stigma and discrimination. Most respondents commented on an improvement over time in this regard – in all likelihood stretching back past 2017 – although two spoke of a surface-level commitment to supporting employees with mental health issues that was not backed up by concrete action: "some workplaces like to mention they know about mental health or that they care yet, never actually do anything to show that"; "on the face of it....Underneath not so. In public or in front others the right things are said often they are not followed through." In this sense, we welcome the commitment(s) in the Mental Health Transition and Recovery Plan to embed a focus on addressing stigma and discrimination as part of developments relating to mental health in the workplace. These will provide an opportunity to respond to persistent issues of stigma and discrimination and related issues arising from COVID.

With regards to Action 37 – exploring innovative ways of connecting mental health, disability, and employment support – the specific projects outlined under this action in the 2019 report were, again, highly specific and did not translate into tangible change for our respondents, who relayed no strong sense of helpful links between disability services, mental health services, and employment support services which had reduced

their experiences of stigma and discrimination. One respondent commented that “they all fight their own corner and don’t give full consideration to the overall picture.” Some respondents mentioned relevant sources of state-funded support, such as an employment support service, and/or third-sector support such as through See Me, but these were not evidence of interlinked services as outlined in the question, although we acknowledge that there has been investment by Scottish Government in integration and alignment of employability support, as outlined in [No One Left Behind: Next Steps for Employability Support](#). Notably, See Me partnered with a programme in Fife exploring better integration of pathways to access training and work for people with mental health problems, informed by people with lived experience.

3. To what extent will Actions 32-37 of the Mental Health Strategy help to promote people’s rights and implement a human rights based approach to mental health care and treatment? What further action will be needed on this theme?

Again, Action 33 is not discussed as this is not directly relevant to See Me’s remit or the groups we work with.

Of the remaining actions, we can make a rough distinction between those (such as action 32 and action 35) that have led to potentially meaningful programmes of work but which are in too early a stage of development for change to be measured; and those which have been translated into pilot scheme-style activities on a small scale, which must now be upscaled to produce broader progress (actions 36-37).

The review of the Mental Health Act Code under Action 32, for example, has the potential to translate into meaningful and positive change in the behavior of mental health professionals, such that they are more consistently respectful of service users’ rights and strive to promote these. This would lead to a reduction in stigmatising and discriminatory experiences for mental health service users. However, as our respondents’ answers indicate, for many users of mental health services a “human rights based approach” still feels like an alien concept. More time and urgency of action is needed for the effect of statutory changes to be felt as a real-life culture shift. Similarly, an increase in the number and capacity of Mental Health Officers under Action 35 could lead to service users being better informed of their rights, feeling more supported by mental health professionals, and thus being less stigmatized and discriminated against. However, our survey responses on relationships with Mental Health Officers suggest a very low awareness of their role and remit.

By contrast, many of the actions in the strategy, such as 36-37, have been interpreted to some extent as the basis for pilot schemes, working with specific groups of people to identify new and innovative ways of working to improve mental health services. For example, Action 36 has led to a one-year pilot plan of a new framework of workplace mental health standards for the public and private sector, while action 37 resulted in the funding of 13 projects under the employability innovation and integration fund. Such schemes are welcomed but, as our volunteers’ survey responses indicate, any

success or insights from these activities in tackling stigma and discrimination must now become the basis for meaningful change on a larger scale.

4. Do you have any other comments that are relevant to the theme of 'Rights, information use and planning'?

All the respondents to our survey reported experiences of stigmatising behaviour from mental health services, with results ranging from a feeling of powerless in relation to their care and treatment, worthlessness, and a sense of not being taken seriously, to an unwillingness to open up to health and social care professionals and, in one case, serious knock-on effects in terms of physical health.

A 2019 See Me survey of 1181 people in Scotland who had experienced mental health problems found that one in five had experienced stigma in GP practices, and one in ten in NHS services.

This suggests that much more needs to be done to ensure that actions on paper contained in the mental health strategy translate into meaningful change on the ground for people with mental health issues, so that they can live lives free of stigma and discrimination. Human rights-based mental health policy will not affect positive change unless more is done to support its implementation and realisation in practice and through services (that's what our Nov 2019 report highlighted. Similarly, without clear expectations, lines of accountability, and measure in place to hold services to account, change will not occur.