

## **Scottish Government Consultation on the Mental Health Act Code of Practice – See Me Response**

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 behaviours towards mental health, by creating a movement for change, bringing people together all over Scotland who are all passionate about tackling stigma, to work as one. Currently we have nearly 10,000 people signed up, including supporters, volunteers and champions, who are leading the way in making real changes in communities across the country.

We want to change the culture around mental health so people feel confident enough to speak about how they are feeling and can ask for help if they need it, without the fear that they will be stigmatised and discriminated against. To do this we are targeting key settings where people face stigma and discrimination; in work, education, health and social care, and in their local communities.

### **Advance statements**

- A well-written advance statement can act as a guarantor for many of the rights and safeguards people are entitled to under the Mental Health Act. For this reason the Code of Practice should explicitly consider how to raise awareness of advance statements, with individuals who would benefit from them and for professionals to promote them and support the person to have one completed.
- Case studies and examples of good advance statements should be included in the code of practice.
- Given that many people who have been detained are likely to be so again, discharge would be a good time to make an advance statement with a person, supported by the healthcare professional.
- What learning can be drawn from other areas where Anticipatory Care Plans work to better ensure patient's wishes, will and preferences are respected? E.g. ReSPECT process, Key Information Summaries, care plans for people with dementia, etc.
- Often, where an advance statement has been overwritten, it is due to a lack of clear communication around a person's wishes, quality control and lack of support for people to complete one. A potential barrier is a perception that advance statements are not taken into consideration and therefore meaningless. This makes clear guidance for advance statements laid out in the code of practice all the more important.
- The role health boards and HSPCs have to promote advance statements is unclear – this would benefit from being explained

## **Independent Advocacy**

- Highlight examples of best practice in involving advocates, clarifying their role, and how and when to contact them.
- The code of practice should outline how to contact an advocate and how they can be involved in the person's care, before, during and after a person's detention under the Mental Health Act.

## **Named persons**

- Clarify the circumstances around when and how hospital managers can use their discretion when sharing information.
- It is possible that the person does not wish their family or friends to be involved. It is a key element of supported decision making that people's wishes are respected around whether or not they want involvement of their named person. Ideally this should be laid out in an advance statement, but where it is not, it is important that the person's wishes are respected as far as possible.
- Named persons role needs to be explained more clearly and feature more in the code of practice. More clarity on responsibilities of professionals in providing advice and support.
- Guidance on the best times to raise with patients the matter of named persons and representation and to clarify that patients should not be pressured to nominate someone.

## **Rights based approach**

- Provide advice on how people can be informed of their rights during hospitalisation.
- Provide advice on how professionals as duty bearers uphold an individual rights
- The emphasis must always be on using compulsion as a last resort, and that even when a person is detained that their decision making is still maximised as much as possible.
- Emphasis on therapeutic approaches also when in hospital. Importance of peer support. Include techniques for de-escalation and for planning out incidents in the guidelines

## **Other matters**

- The inclusion of case studies would be welcome throughout any guidance to give key examples of how and when the various provisions of the Mental Health Act should be used.
- There must be clear guidelines for when a person is discharged from hospital, and plans for supporting that person after they are discharged based on their needs.

- Consideration of how advance statements can be promoted to third sector, people at risk of detention, healthcare professionals and health boards.
- Greater reference to use of force, restraint and covert medication being a last resort.
- More explanation of how the Adults with Incapacity, Adult Support and Protection and Mental Health Act interact.
- Outlining clear roles for the various professionals MHO, psychiatrist, CPN's roles under the Mental Health Act
- Powers of the Tribunal should be clarified.
- There is a concern that the deep and enduring stigma around severe mental health conditions means people with these conditions are less likely to be listened to and have their views respected or taken seriously. It is important that guidelines are clear that maximising autonomy and respecting a person's wishes are key; even when a person is detained it is essential staff take the 'whole person's' needs into account rather than only on matters related to care and treatment.