Investigating deaths occurring during compulsory care and treatment under mental health legislation in Scotland

Section 2: Summary of revised process proposed by the Commission

Q1. Q1: Do you agree that the Commission should be responsible for initiating, directing and quality assuring the process of investigating deaths during compulsory treatment in all cases?
No Response

Q2. Q1a: Do you foresee any difficulties with this arrangement?
No Response

Q3. Q1b: How could such difficulties be addressed?
No Response

Section 2: Summary of the revised process proposed by the Commission

Q4. Q2: Do you agree that the Commission should be responsible for producing and disseminating an annual report on the results of the investigations as described in paragraph 30 of the consultation document?
No Response

Q5. Q2a: Do you foresee any difficulties with this arrangement?
No Response

Q6. Q2b: How could such difficulties be addressed?
No Response

Section 2: Summary of revised process proposed by the Commission

Q7. Q3: Do you agree that the Commission should develop guidance and standards for use by local services when undertaking investigations into deaths during compulsory treatment?
No Response

Q8. Q3a: Do you foresee any difficulties with this arrangement?

No Response

Q9. Q3b: How could such difficulties be addressed?

No Response

Section 2: Summary of the revised process proposed by the Commission

Q10. Q4: Do you have any comments on the revised process as set out in Section 2, paragraphs 34 to 43, of the consultation document?

No Response

Q11. Q4a: Do you foresee any difficulties with this process?

No Response

Q12. Q4b: How could such difficulties be addressed?

No Response

Section 3: Involving families and carers

Q13. Q5: Do you think that the role of the Commission Liaison Officer will help to improve the involvement of, and communication with, families and carers during investigations of deaths?

No Response

Q14. Q5a: Do you have any concerns about this type of arrangement?

No Response

Q15. Q5b: How could your concerns be addressed?

No Response

Section 4: Other matters for consideration

Q16. Q6: Do you agree that the revised process, described in Section 2 of the consultation document, will meet the values and principles set out in paragraph 50?

No Response

Q17. Q6a: Please explain your answer.

No Response

Section 4: Other matters for consideration

Q18. Q7: Do you have any comments on the potential impacts of the revised process on those with protected characteristics?

No Response

Q19. Q7a: Please explain what you think could be done to minimise any negative impacts on people with protected characteristics.

No Response

Q20. Q8: Do you have any comments on the potential impacts of the revised process on children and young people?

No Response

Q21. Q8a: Please explain what you think could be done to minimise any negative impacts on children and young people.

No Response

Section 4: Other matters for consideration

Q22. Q9: Do you agree that the revised process for investigating deaths during compulsory treatment (as described in Section 2 of the consultation document) is human rights compliant?

No Response

Q23. Q9a: Please explain what you think could be done to ensure that the new process fully complies with human rights standards.

No Response

Section 4: Other matters for consideration

Q24. Q10: Do you have concerns in relation to any financial or administrative impacts the revised process may have, especially for local services?

No Response

Q25. Q10a: Please explain what you think could be done to minimise any negative financial or administrative impacts.

No Response

Section 4: Other matters for consideration

Q26. Q11: Do you have any other comments or concerns in relation to the revised process?

Answer to all questions

It is a pity that it is only deaths that are to be investigated. We also feel that false statements on documents, and ill-treatment of patients should be investigated too. This is particularly important given the recent closure of a petition on this matter.

We do not think that the Mental Welfare Commission is a suitable organisation to investigate deaths in detention. This is based on our dealings with the Commission over several years. Deaths should be investigated by the police instead. Our reasons are as follows:

Some of our members have been banned from Voices of Experience (Scotland’s national mental health charity) and the Scottish Mental Health Law Review. Commission members have influenced these decisions. This is part of a culture of not giving patients and their families a voice. We note that individual responses to this consultation will not be published.

The Commission seems to believe that Scotland is a world leader in mental health when instead we have some of the highest death and detention rates. They also wish to prioritise more buildings and more detention instead of human rights. An excerpt from a Glasgow Herald 2014 article about their former head states: Dr Lyons believes that as a consequence of these changes being implemented Scotland now leads the world in many respects in terms of its mental health system."I think mental health care has come on a long way in Scotland over the past decade," he said. "There has been a shift in the culture of doing things to people with mental health issues to doing things with people. On the international stage the mental health service in Scotland has punched well above its weight. The legislation we have is being looked at worldwide." Despite the progress made, Dr Lyons says there are still aspects that need to improve. Top of the list is the standard of hospital buildings and accommodation in some of the country's main psychiatric institutions, which he describes as "outdated and shameful".

Their 2014 Death in Detention report stated that mortality is almost three times higher in the mental health population compared with the general population but did not give any reasons. They failed to mention the harmful side effects of medication. Many people who died in detention were simply classed as having died from natural causes.

It is an offence under section 318 of the Mental Health (Care and Treatment) (Scotland) Act to make false statements on documents but there have been no prosecutions to date. After several years of enquiries the police charged a professional with making a false statement on a document pertaining to one of our members. The Crown Office and Procurator Fiscal Service then asked the Commission for advice. The charge was then dropped even though there was corroborating evidence. A petition to the Scottish Parliament was taken out about the lack of prosecutions but the Commission persuaded the Petitions Committee to close this petition due to the fact that the only problem was a lack of Mental Health Officers. The fact that this safeguard is not being used means that people can be detained and treated using false information.

The Commission tried to stop one of our members visiting their spouse when they were detained in hospital.

The culture of the Commission is that of professionals. The last three heads have been a psychiatrist, a lawyer and a mental health officer. There is no-one for patients and their carers to look up to.

The Commission in the past have been unable to deal with individual cases and they have blamed this on a lack of resources. Instead they have produced a plethora of good practice guides.

Wellside Research recently performed a review of the Commission. In Table 7 of their report, only 21% of non-professionals agreed that the Commission solved their problem. The figure was much higher

for professionals.

They have created a culture of division between professionals and patients/carers- "us and them". We note that two separate meetings regarding this consultation were held in January 2021 as the professionals were unable to take questions or criticism.

In the past, some family members have complained that their loved one died as a result of forced treatment. The Commission has never acknowledged this.

Under this proposition a team will be assembled containing a psychiatrist, a social worker and a nurse. Like a mental health tribunal, its composition is heavily weighted in favour of the state which will skew its conclusions. A family member or patient should be a member of the team.

Andrew Muir
Psychiatric Rights Scotland

Please publish this response.

Respondent Information Form

Q27. Name of person submitting the response

Andrew Muir

Q28. Email address of person submitting the response

Andrew.muir@blueyonder.co.uk

Q29. Are you responding as an individual, or on behalf of an organisation?

I am responding on behalf of an organisation

Respondent Information Form - individual responses

Q30. Are you a family member or carer of a person who has died whilst being treated under mental health legislation in Scotland?

No Response

Q31. Do you wish your response to be published?

No Response

Respondent Information Form - Organisational responses

Q32. Organisation name

Psychiatric Rights Scotland

Q33. Organisational responses will be published unless otherwise requested. Please tick the box below if you do NOT want your organisation's response to be published. Note that the name of your organisation will be listed as a respondent to the consultation even if you request that your response not be published.
No Response