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| **Survey for Professional Organisations** |

1. **Welcome to this survey**

Thank you for your interest in the review.

This is a survey for organisations of professionals.

The review needs to understand what the Mental Health Act does for the human rights of autistic people and people with learning disability in Scotland.  
  
This survey is for organisations whose members have experience of working with the Mental Health Act in Scotland at any time since 2005.  
  
We are interested in the experiences of all professionals who have worked with people with learning disability or autism who were subject to the Mental Health Act. This includes professionals who have specific duties under this Act and other professionals.

If you need help with this survey you can contact the review team by email on [irmha.scot@nhs.net](mailto:irmha.scot@nhs.net?subject=Survey%20-%20request%20for%20help&body=Please%20help%20me%20with%20this%3A) or by phone on 0131 313 8744.

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**2. What you will find in the survey**

The survey is in this order:  
  
1. Information about your organisation

1. Your members’ experiences of working with the Mental Health Act
2. Human rights and the Mental Health Act
3. Mental Health Law in Scotland

**3. How the review will look after your information**

### Information about how the review will look after your information is included in a separate document that is available on our website.

Please don’t give us information that could be used to identify living people, unless you have to do this for the information to make sense.

**4. What we will ask about your members’ experiences**

We will ask you to tell us about:

* your members' experiences of working with the Mental Health Act
* any experience that your members have of the Mental Health Act in relation to:
  + psychotropic medication
  + psychological support
  + the criminal justice system

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...as these areas are of specific interest to the review.

* your members' experiences in relation to people's human rights.

**5. Deadline for responses**

The deadline for submitting evidence is 30 November 2018.

**Survey for professional organisations**

**Section 1 Information about your organisation**

1. **What is the name of your organisation?**

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| Royal College of Occupational Therapists |

We may want to publish the name of your organisation. Is it OK to publish the name of your organisation?

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| --- | --- |
|  | Yes |
|  | No |

1. **How many members are there in your whole organisation?**

|  |
| --- |
| **33 000** |

1. **On how many members experience is this response based?**

|  |
| --- |
| **2** |

### **At which levels do your members work?**

|  |  |
| --- | --- |
|  | Executive |
|  | Manager |
|  | Staff |
|  | Trainee |

1. **Your members' professions:**

Please tell us about your members’ professions. Please tick all that apply.

|  |  |  |  |
| --- | --- | --- | --- |
| **Allied Health Professional** | | **Legal** | |
|  | Art / Drama / Music Therapist |  | Criminal Defence Solicitor |
|  | Dietician |  | Mental Health Solicitor |
|  | X Occupational Therapist |  | Procurator Fiscal |
|  | Physiotherapist |  | Sheriff |
|  | Speech and Language Therapist |  | Sheriff Principal |
|  |  |  | Other – please specify: |
| **Carer (Professional)** | | **Manager** | |
|  | Support for independent living |  | Health & Social Care Partnership |
|  | Support for health |  | Independent sector |
| **Clinical Psychologist** | |  | Local Authority |
|  | Child and Adolescent |  | NHS |
|  | General Adult |  | Prison |
|  | Learning Disability |  | Third sector |
|  | Forensic |  | Other – please specify: |
|  | Other Applied Psychologist |  |
| **General Practitioner** | |  |  |
|  | General Practitioner |  |  |
| **Independent Advocate** | |  |  |
|  | Independent Advocate |  | *Continued…* |
| **Nurse** | | **Social Worker** | |
|  | Child and Adolescent |  | Adult Social Worker |
|  | Learning Disability – Community |  | Children & Families Social Worker |
|  | Learning Disability – Hospital |  | Criminal Justice Social Worker |
|  | Mental Health – Community |  | Mental Health Officer |
|  | Mental Health - Hospital |  | Specialist disability / learning disability role |
|  | Other – please specify: |  | Other (please specify): |
| **Psychiatrist** | | **Other (please specify):** | |
|  | Child and Adolescent |  | |
|  | Forensic |
|  | General Adult |
|  | Learning Disability |  |  |
|  | Old age |  |  |
|  | Psychotherapy |  |  |
|  | Other (please specify): |  |  |

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1. **The areas where your members work**

Please tell us in which areas your members work:

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| --- | --- | --- | --- |
| Aberdeen |  |  | Inverclyde |
| Aberdeenshire |  |  | Midlothian |
| Angus |  |  | North Ayrshire |
| Argyll and Bute |  |  | North Lanarkshire |
| Edinburgh |  |  | Orkney Islands |
| Clackmannanshire |  |  | Perth and Kinross |
| Comhairle nan Eilean Siar (The Western Isles) |  |  | Renfrewshire |
| Dumfries and Galloway |  |  | Scottish Borders |
| Dundee |  |  | Shetland Islands |
| East Ayrshire |  |  | South Ayrshire |
| East Dunbartonshire |  |  | South Lanarkshire |
| East Lothian |  |  | Stirling |
| East Renfrewshire |  |  | Highland |
| Falkirk |  |  | Moray |
| Fife |  |  | West Dunbartonshire |
| Glasgow |  |  | West Lothian |
|  |  |  |  |
| All of Scotland |  |  |  |
| Outwith Scotland |  |  |  |
| Don't know |  |  |  |
| Other (please specify): |  | | |
|  |

**Section 2 Your members experience of working with the Mental Health Act**

### **Who have your members worked with, whilst they were subject to the Mental Health Act?**

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|  | Autistic people |
|  | People with learning disability |
|  | Autistic people with learning disability |
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1. **Experience of the Mental Health Act with autistic people**

From your members’ experience, please give us some examples of how and why the Mental Health Act has been used for people who have **autism without learning disability.**

You might give examples of typical use of the Act, and strengths and weaknesses of the Act.

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1. **Experience of the Mental Health Act with people with learning disability**

From your members’ experience, please give us some examples of how and why the Mental Health Act has been used for people who have **learning disability only.**

You might give examples of typical use of the Act, and strengths and weaknesses of the Act.

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1. **Experience of the Mental Health Act with people who have autism and learning disability**

From your members’ experience, please give us some examples of how and why the Mental Health Act has been used for people with **autism and learning disability.**

You might give examples of typical use of the Act, and strengths and weaknesses of the Act.

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1. **Psychotropic medication**

From your members’ experience, please tell us whether the Mental Health Act ensures good practice in prescribing psychotropic medication for autistic people and people with learning disability.

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| **In general our members indicate that they feel the Act does ensure good practice in prescribing psychotropic medication because the review process includes review of medication.**  For example, the Act specifies that compulsory treatments are reviewed by a designated medical practitioner and our members’ experience is of significant independent oversight by Mental Welfare Commission (MWC) including second opinions and periodic review.  The use of psychotropic medications for behavioural problems means there is potential for patients to be subject to complex drug regimens that build up over long periods of time. It is noticeable how frequently that external reviews for Second Opinions, via internal reviews through the Care Program Approach process or preparations for tribunal recommend medication changes. Similarly significant medication reviews can also occur when patients are admitted to acute services.  In addition, high risk medication reviews and protocols are in existence and medication is frequently a component of full multi-disciplinary team (MDT) discussion.  However – our members have raised concerns that sometimes, despite a review recommending medication changes, that these do not happen due to nursing staffs fear that it will lead to an increase of aggressive behaviour. This occasionally results in pressure on RMO’s not to make changes to existing regimes because patients are “currently manageable.” This is particularly relevant where challenging behaviour is present or the person has significant levels of both a learning disability and autism.  Our members also feel that it is questionable that for people with both a learning disability and autism how well engaged they are in medication discussions and discussions about risk (participation principle). |

1. **Psychological support**

From your members’ experiences, please tell us whether the Mental Health Act ensures good access to psychological support for autistic people and people with learning disability.

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| **In general our members do not think that the Act ensures good access to psychological support.**  For example, although the Act clearly defines psychological interventions as a medical treatment in the Act, people should receive these interventions (reciprocity principle) and this is subject to frequent review by MWC during planned visits. While the Act defines psychological treatment it does not assure it is provided.  The lack of safe minimum staffing levels in professions such as psychology and occupational therapy limits the potential to ensure that treatments are provided.  Psychological services continue to be under pressure and often access is difficult due to reduced staffing in certain service areas. Also there is sometimes debate between different psychological teams about who will support people, particularly in forensic services.  The lack of legislated staff professions and staffing levels also means for example that input from allied health professionals such as occupational therapy and speech and language therapy, which can be key to effective delivery, is variable. |

1. **Criminal justice system**

From your members’ experiences, please tell us how effectively the Mental Health Act interacts with the criminal justice system for autistic people and people with learning disability.

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| **In general our members feel that the Act has limited effectiveness when interacting with the criminal justice system (CJS).**  Some of this is because the configuration and delivery of services for people with offending behaviour and a learning disability and/or autism varies across Scotland. While some services have well established specialist forensic inpatient and community services, others do not.  The original Millan recommendations for the Act suggested inclusion of learning disability in the Act would keep people with a learning disability out of hospital. This does not always happen because implementation of court diversion schemes is reliant on the effective skills of police, criminal justice services and liaison schemes. People with a learning disability and/or autism with good expressive language skills may be missed. For people who are already in contact with learning disability services, where the presence of those conditions is more apparent, the Act is more likely to effectively interact with the CJS.  A recent example of this problem has been highlighted by joint working with prison services revealing a number of potentially undiagnosed individuals. Current services still have contact with a number of vulnerable individuals discharged from prison who had not been previously known to services but were subsequently diagnosed in prison.  Our members also report that in some cases individuals with learning disabilities and/or autism are subject to restrictions under the Act for longer periods than people who are only involved in the CJS.  Finally, transition through secure care can be slow and some individuals wait inordinate times after being declared ready for discharge which impacts on their mental wellbeing and motivation. The Act does ensure that these individuals have full and well considered support packages upon discharge (as care packages in forensics are non-negotiable) while those in the CJS are discharged without support. |

**Section 3 Human rights and the Mental Health Act**

Human rights cover all areas of life. We will be asking your members to think about rights about care and treatment, but also about other areas of life that are relevant to mental health and law.  
  
There are 9 areas of human rights in this review. In the next pages, you can choose to respond to any or all of these areas.  
  
The 9 areas are: standards of living; health; freedom and safety; protection from abuse; independent living; dignity; equality and non-discrimination; accessibility; and implementation and monitoring.  
  
If you want to see full detail of all areas of human rights in this review, our human rights framework is available on our website.

All information is derived from international human rights standards that apply to Scotland.  
  
**Based on your members' experiences - with examples - please tell us whether the Mental Health Act promotes and protects the following human rights of autistic people and / or people with learning disability:**

1. **Standard of living**

**How does the Mental Health Act promote and protect people’s right to a standard of living:**

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| It does not; many people with learning disabilities and/or autism lives in extremely poor conditions. |

**B. Health**

**How does the Mental Health Act promote and protect people’s right to health:**

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| It does not; people with learning disabilities and/or autism still experience higher levels of health inequality. |

**C. Freedom and safety**

**How does the Mental Health Act promote and protect people’s right to freedom and safety:**

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| The Act sometimes protects people from unsafe situations but not at all times (see below). |

**D. Protection from abuse**

**How does the Mental Health Act promote and protect people’s right to a protection from abuse:**

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| The Act does not always protect people from abuse; Admissions under the Act can expose vulnerable people to harm which is prolonged if they have long admissions. |

**E. Independent living**

**How does the Mental Health Act promote and protect people’s right to independent living:**

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| The Act does not promote independent living; for people who are not part of forensic services, their support needs are often poorly matched through ineffective social work assessments and funding decisions.  In addition, if they experience a longer hospital stay, community support organisations redistribute their staff, home leases are revoked and benefits reduced. This makes discharge difficult as they need to go back through the care system to obtain money and housing and they end of bed blocking in hospital. |

**F. Dignity**

**How does the Mental Health Act promote and protect people’s right to dignity:**

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| It does not –see answer above. |

**G. Equality and non-discrimination**

**How does the Mental Health Act promote and protect equality and non-discrimination for all:**

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| The Act does not do this because of the stigma attached to learning disability, autism and mental health labels. |

**How does the Mental Health Act promote and protect equality and non-discrimination for women:**

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**How does the Mental Health Act promote and protect equality and non-discrimination for children. In the Mental Health Act a child is a person under 18 years of age:**

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**H. Accessibility**

**How does the Mental Health Act promote and protect people’s right to accessibility:**

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**I. Implementation and monitoring**

**How does the Mental Health Act promote and protect people’s right to effective implementation and monitoring:**

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**Section 5 Mental Health Law in Scotland**

### In the experience of your members, what are the **benefits** of **autism** being included in Scotland's Mental Health Act?

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1. In the experience of your members, what are the **disadvantages** of **autism** being included in Scotland's Mental Health Act?

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### In the experience of your members, what are the **benefits** of **learning disability** being included in Scotland's Mental Health Act?

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| NB –as our members tend to work with people with a learning disability and/or autism, we have added the benefits here but some is applicable to autism too:   * The legislation protects individuals that would be vulnerable in the absence of the Act and whose cognitive ability might mean they are less likely to seek well informed informal treatment. They access safer environments for close monitoring, appropriate medication and MDT support. It ensures they receive the most appropriate level of care. * The Act currently prevents vulnerable people being inappropriately sent to prison when their needs and community safety would be best served by treatment. * It’s unclear how some individuals would receive sufficient support if the Act was not applied and where other legislation will not enable effective risk reduction, particularly around behavioural breakdown of care packages. |

### In the experience of your members, what are the **disadvantages** of **learning disability** being included in Scotland's Mental Health Act?

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| * People with a learning disability and/or autism are subject to restrictions and compulsory treatments in the absence of mental ill health as evidenced in existing MWC census work. This is frequently the case for people with challenging behaviour. It also means people can be placed in unsuitable hospital environments where some staff may not be trained to support people with learning disabilities and/or autism. * The Act means challenging behaviour being treated by Inpatient compulsion and via medication as opposed to tackling, for some cases, the root causes in the person’s own environment. The current financial restraints and support mechanisms for community providers means admission is increasingly likely. This leads to increased negative and aggressive behaviours due to lack of occupational opportunities and support resources beginning a negative cycle that puts individuals, fellow patients and staff at harm. On frequent occasions it leads to distressing restraint and or seclusion. The increased length of stays experienced by individuals means the risk of harm remains for longer. * Including learning disability as a mental disorder adds to the stigma associated with individuals labelled as such. Work by our members on inclusion still highlights that for some, the term learning disability and/or autism linked to the term mental disorder suggests risk of harm to others. |

**What does Scotland need in law?**

### What do your members think should change or continue in Scotland's mental health law, to promote and protect the human rights of **autistic people**?

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### What do your members think should change or continue in Scotland's mental health law, to better promote and protect the human rights of people with **learning disability**?

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| NB –as our members tend to work with people with a learning disability and/or autism, we have added the benefits here but some is applicable to autism too:  Legislation needs to change to reflect the support and care needs for individuals to maintain their mental wellbeing. Too often people with a learning disability and/or autism are supported in substandard accommodation, in occupationally deprived areas and by poorly educated, regulated and remunerated social supports systems. Our members’ clinical experience suggests that many admissions for poor mental health and or challenging behaviour results from these factors. A person’s entire journey from home to receiving appropriate treatment to home again needs to be protected in legislation.  Despite national learning disability policy there is an absence of legislation and guidelines for minimum community support standards that prevents poor health and health inequalities for those who are likely to come into contact with the Act. Stronger human rights legislation is also needed.  The role of named person and advocacy should be strengthened to ensure people detained by the Act have their views and wishes properly represented whilst subject to the Act and in advance of being subject to the Act. Specific competencies for advocacy should be introduced. On occasions advocates are unable to meet the communication needs of their clients. |

**Thank you**

This is the last section. Thank you for your responses.

### If you give us your email address, we will contact you to update you on the review and to let you know about any more opportunities to take part.

### You can give your email address here **if you wish**:

Genevieve.smyth@rcot.co.uk

### If there is anything else you want to tell us about the Mental Health Act that has not been covered by this survey, you can say it here:

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| --- |
| The RCOT are aware that the British Psychological Society (BPS) would like psychologists to be able to be Approved Medical Practitioners (AMPs) and Responsible Medical Officers (RMOs) within the Act for patients with learning disability and/or autism.  The RCOT agree with the BPS proposal and would like legislation changes that reflect this and which open this to other professionals who can demonstrate the necessary competencies. For some of our expert occupational therapists, with some additional support they could reach these competencies.  Occupational therapists within many MDTs are active contributors to overall case planning. The occupational therapy approach enables fuller discussion round case needs and helps to inform decision making. More in-depth information about this can be provided if requested. |