ROYAL COLLEGE of PHYSICIANS of EDINBURGH

Response from the Royal College of Physicians of Edinburgh to the Scottish Mental Health Law Review consultation. May 2022.

Chapter 2: What is the purpose of the law?

Scottish Mental Health Law Review consultation - Chapter 2: What is the purpose of the law? - Scottish Government - Citizen Space

1. What are your views on our purpose and principles?

The Royal College of Physicians of Edinburgh's perspective relates predominantly to the care of people in general NHS care, as in-patients and out-patients, of all ages, but predominantly adults.

The RCPE welcomes this Review which it considers is overdue, and recognises the significant work undertaken by Review team members. The current legislative framework is out dated as thinking around mental health and disability has matured and evolved considerably over the last two decades. Legislation needs to be modernised to be in alignment with UN and Human Rights Conventions. It also needs to take into account best practice from other places. Crucially, given the fact that existing legislation, and its associated terminology, is already complex and confusing- which may contribute to some of the problems with its variable application- any proposed change should simplify mechanisms rather than make more complex.

The legal principles under review are important, but need to be more thoughtfully balanced with clinical perspectives. The legislation created must not only meet necessary human rights and legal requirements but also be pragmatic, understandable and workable in real life clinical environments in Scotland.

The prevalence of various conditions covered in the legislation should also be considered, in part to ensure that the most common conditions, and most common clinical situations, are given adequate coverage and prominence. We are particularly concerned that "dementia" and "delirium" are used far less frequently than other terms in the review consultation. (Learning Disability (37) Delirium (0) Autism (18) Dementia (7).

A human rights based approach is welcome provided it can deliver a workable, understandable and deliverable set of proposals that do not unreasonably impinge on the human rights of those without mental disorder or incapacity. The principles outlined are all reasonable and the right to independent living should be supported.

The system wide changes on pages 41-2 are all encompassing, and likely largely aspirational, unless resource is shifted from "physical" health to "mental" health. In that regard, the distinction between physical and mental health may be of limited value. Care of all individuals should be holistic and aim to address all needs, however classified. This may be further exemplified by the use of the term "mental health practitioner" on Page 62. Is a geriatrician, working in an acute NHS hospital, and dealing with patients with delirium and dementia every day a "mental health practitioner"?

2. What do you think about the approach that we are proposing for Scottish Government to meet core minimum obligations for economic, social and cultural rights in this area?

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The RCPE considers that this ambition is to be supported but will require a clear framework, shared understanding by all parties and equality of access to these rights, accompanied by appropriate assets and resource.

3. What are your views on our suggestions for reforming sections 25 to 27 of the Mental Health Act?

4. Do you have suggestions on how law could be reformed to address stigma, and issues with attitudes towards mental disability?

Our Fellows consider that legislation in this area will only succeed when it is appropriately backed up with public education, training for practitioners, consistent support for individuals, and a framework to ensure stigma can be recognised and broken down.

5. Do you have suggestions on how the law could lead to prevention, and how the law could address the social determinants of mental health?

6. What are your views on our proposals on adequate income, housing and independent living, inclusion in society, and accessible information?

We believe these proposals are ambitious but have the potential to deliver very substantial changes in terms of prevention of both physical and mental ill health.

Please let us know if you have suggestions of other economic, social or cultural rights which you feel are particularly relevant to mental health?

There needs to be a continuing and intensive focus on early years- education and improving life chances- and attention given to strengthening and supporting parental, family and community networks.

7. What are your views on the system-wide changes which we think are needed?

8. Please use the space provided below for any other comments you would like to make, relevant to this chapter.

Chapter 3: Supported Decision Making

[Scottish Mental Health Law Review consultation - Chapter 3: Supported Decision Making - Scottish Government - Citizen Space]

1. What are your thoughts on our proposals for a wide ranging supported decision making scheme ?

The College considers that the principles behind a wide ranging supported decision making scheme are correct but in operation it must be clear, consistent in its approach and simple to apply. There need to be some core tools to support decision making and educational and training resources to ensure patient understanding and for practitioners. The College is clear that the provision of adequate resources will be key to the success of the operation of supported decision making.

Should the protection of individuals with mental disorder become subordinate to the patient's rights, will and preferences, then we are concerned that significant numbers of older people with delirium and dementia will

suffer avoidable harm. We are concerned that it could be believed, with specific regard, for example, to patients with advanced dementia, that supported decision making could replace substitute decision making.

What do you consider would be the barriers to this?

How do you think the Supported Decision Making scheme should be taken forward?

2. How do we mitigate against undue influence or pressure in Supported Decision Making generally?

There should be clear frameworks to support advocacy, allow escalation of concern around undue pressure and timely responses to concerns raised.

3. Should there be legal duties on public bodies to secure Supported Decision Making for people who need it?

We consider that advance Statements, with specific regard to mental health, are extremely rarely encountered in clinical practice and should be merged with advance directives or Advance Care Plan (ACP) that relate to physical health.

We support explicit legislative provision for advance directives and agree that their current status is uncertain. We also believe that when medical staff are aware of their existence they are taken into account in decisions regarding the care of a person who now lacks capacity.

What needs to happen practically to facilitate successful implementation of SDM?

If so, given that advocacy is a form of SDM, what should be the relationship between that and the existing duties in respect of advocacy?

The RCPE considers that independent advocates must be demonstrably independent. That is they must neither be employees of health or social care, nor part of the informal network of carers or supporters the person already has, including family.

Expanding their numbers to cover all areas of mental disorder and all aspects of decision making that, for example, a person with dementia may have to make during a hospital admission for intercurrent illness, will be expensive, likely invoke delay, be unlikely to be pragmatic in emergency settings, and possibly undermine the role of other decision supporters (eg unpaid carers and family).

We felt that it would be useful for references to evidence that demonstrates that “independent” advocacy improves decision making were included, as the view is not universally supported in clinical practice.

We agree that the “named person” is largely an unknown role in general medical clinical practice, overlaps with the role of POA or Guardian, and potentially “independent advocate”. We feel that the “listed initiator”,”safeguarder” and “curator” roles are also largely unknown in general medical clinical practice.

4. Please use the space provided below for any other comments you would like to make, relevant to this chapter.

We agree that safeguards are necessary. However, meeting this aim will ultimately require judgement, exercised by one or more, individuals. The process leading to that judgement should, in our view, be as short as is reasonable and involve as few different people as is reasonable.

We are not convinced that creation of a Centre for Excellence for Shared decision-making in medicine (SDM) will improve SDM in Scotland and would welcome sight of evidence to inform the belief that it would.

Chapter 4: The Role and Rights of Carers

Scottish Mental Health Law Review consultation - Chapter 4: The Role and Rights of Carers - Scottish Government - Citizen Space

1. What are your views on our proposals for mandatory Carer Awareness training for all mental health staff?

The RCPE welcomes the recent focus on informal and unpaid carers and considers that there is merit in this training being a requirement for all mental health staff.

2. What are your views on information sharing with unpaid carers of all ages?

We consider that information sharing should always be seen as the correct approach, unless the risk outweighs the benefit, and is in the best interests of the individual concerned. We believe the carer should be supported to take on this information.

3. What is needed to ensure mental health services identify and engage with young carers?

Firstly, there needs to be proactive recognition of young carers and then a duty to support them.

4. What are your views on including unpaid carers in discharge planning and processes, as stated in Carers (Scotland) Act 2016?

In typical NHS hospital practice we believe that unpaid carers are routinely involved in discharge planning processes. It may be the case that care planning does not meet all the perceived needs of the unpaid carer but this should not be conflated with lack of involvement in the discharge planning process.

5. What needs to happen to ensure unpaid carers of all ages are respected and valued?

With regard to older people with mental health problems, the dual prejudices of ageism and ableism need to be eradicated from society, as the lack of respect and value of unpaid carers of such older people is in no small part simply a “proxy” effect. That is, until older people with mental health problems are respected and valued, their carers will not be respected and valued. The eradication of such prejudice is unlikely to be within the easy grasp of any government.

6. Please tell us anything else you think may be relevant to the role of unpaid carers when supporting someone experiencing mental disorder and working with services.

7. Please use the space provided below for any other comments you would like to make, relevant to this chapter.

The feelings of unpaid carers described on Page 62 are in accord with our own experience, gained through contact. In no small part, these feeling reflect the complexity of the current systems of support and legislation, and the suboptimal understanding of roles and responsibilities from different individuals and agencies, and suboptimal communication between those individuals and agencies. As such, simplification of systems must be a prime outcome of legislative change.

We are concerned with the inclusion of a specific section on “Young Carers” without a specific matching section on “Old Carers”. The spouses and siblings of patients with delirium and dementia are often older, and this can bring specific challenges, such as digital literacy. With regard to “Carer Awareness Training to be mandatory for all mental health staff”….again we question the utility of a split between mental health and physical health and in particular question the definition of “mental health staff”.

Chapter 5: Human rights enablement

[Scottish Mental Health Law Review consultation - Chapter 5: Human rights enablement - Scottish Government - Citizen Space]

1. What are your thoughts on the proposed Human Rights Enablement (HRE) framework?

The College welcomes the principle and ambition of the HRE framework but has concerns that its implementation may become labour intensive for an already stretched workforce. Guidance that is straightforward, simple and clear is vital and clinicians will require support to allow them meet new requirements without overburdening them.

2. How do you see the framework as proposed working in practice?

The College recognises that the framework would be a very significant change from current practices and considers that clinicians will look for clear guidance on questions such as when an individual’s assessment should be completed, when and how it should be updated and how these assessments are stored and accessed.

What barriers do you see to its operation in practice?

3. What are your thoughts on who should initiate an HRE ?

4. What are your views on the triggers for an HRE?

Is there anything not included which should form a trigger?

5. What are your views on the right to request a review and the right of remedy and appeal as proposed?

6. Would the body for remedy and appeal differ if the request for a review was in respect of a group of persons rather than an individual?

7. Please use the space provided below for any other comments you would like to make, relevant to this chapter.

Chapter 6: Autonomous decision making test

[Scottish Mental Health Law Review consultation - Chapter 6: Autonomous decision making test - Scottish Government - Citizen Space]

1. Option 1: Are you in favour of the current capacity and SIDMA tests remaining – unchanged?

Agree

Disagree

Option 2: Are you in favour of the current tests remaining, distinctly – but with one, or both, reframed, if possible, to address the current problems articulated above?

Agree

Disagree

If you would prefer a reframed definition, please feel free to comment on what you would wish to see adjusted.

Option 3: Are you in favour of the current tests remaining but reframed as a single test?

Agree

In light of the problems with the current tests identified in the consultation document and previously, the RCPE considers that there is merit in reframing the currents tests as a single test. We support the broader principles that any application of an order must ensure the least restrictive and most proportionate approach with the best possible legal framework and appropriate systems for advocacy, review and challenge- challenge that needs to be decided in the most timely manner possible.

If so, please comment to let us know if would this include additional matters, or be a reworking to conjoin the current tests?

Option 4: Do you see little value in the current tests, preferring to see one, or both, of them replaced?

Agree

Disagree

Option 5: You may prefer an option not mentioned, please feel free to comment.

Please let us know your thoughts on any options not mentioned

2. We seek your views on the concept of the test of autonomous decision-making, distinct from a capacity or SIDMA test.

We have deliberately not asked specific questions; we wish to leave this open for you to offer any comments on its workability for different categories of persons and to make any suggestions for improvement.

Please share your views on the concept of autonomous decision making

3. What are your views on the skills and experience required for someone to competently undertake a test of a person's ability to make an autonomous decision?

Who performs the ADM test?

Please share your views on the skills and experience required

4. What are your views on the ADM appeal process?

Things you may wish to consider are:

What qualities should the appeal have? – for example it needs to be accessible and speedy.

Who can trigger an appeal? – the person themselves or any other party with an interest?

Should it have escalation, e.g. commence with an internal review before secondary or external review?

Who should conduct an external review?

Should there be easy access to an independent second opinion – how might this be obtained?

Should there be any limit on the frequency of which one dispute an ADM outcome?

Should there be access to a judicial process?

5. Please use the space provided below for any other comments you would like to make, relevant to this chapter.

Chapter 7: Reduction of Coercion

[Scottish Mental Health Law Review consultation - Chapter 7: Reduction of Coercion - Scottish Government - Citizen Space]

1. Please share your views on how the Review understands coercion

The RCPE considers that how the Review understands coercion adequately explains the context. It would wish to emphasise that while the word implies some degree of negative or malign approach that is, in the overwhelming majority of cases, not in the mind of a practitioner when perceived interventions are applied to improve the quality of life, or reduce risk, to an individual.

2. What you think about the Review's proposed approach to reducing coercion, including reducing the use of involuntary treatment?

It is right to always aim to reduce coercion as all interventions should follow a stepwise framework of autonomous decision making and application of interventions in terms or proportionality and where it is in best interests.

3. Do you think that "coercion" or some other word(s) should be used to describe the use of force, the possible use of force, and the experience of coercion

We consider that the need for 'coercion' is manifest by behavioural change and this may reflect stress and distress so perhaps a different word incorporating a view that these interventions may be put in place to reduce stress and distress may be considered.

Please give reasons for your answer and any suggestions of other word(s) that should be used

4. Please share your views on whether law reform could drive changes which could reduce the use of coercion.

We believe that law reform will support this but it also education and training in the application and implementation of the laws that will be required.

5. Do you think that safeguards for medical treatment in Part 16 of the Mental Health Act should be strengthened?

Agree.

Disagree

Please give reasons for your answer

6. We seek your views on whether the Mental Welfare Commission should have stronger powers to oversee the use of coercive interventions and to identify areas for action.

We believe there is merit in the MWC's powers being strengthened here but any increase in responsibilities must be appropriately resourced.

7. Please share any suggestions that you have for the Review's ongoing work on understanding rising rates of detention and community-based Compulsory Treatment Orders

We consider that an urgent study of these rising rates and discussion with all relevant stakeholders would be beneficial.

8. Please use the space provided below for any other comments you would like to make, relevant to this chapter.

Chapter 8: Accountability

Scottish Mental Health Law Review consultation - Chapter 8: Accountability - Scottish Government - Citizen Space

1. What do you think about our proposals to give the Mental Health Tribunal increased powers to order that specific care and/or support be provided for a person?

We consider that there is merit in this proposal but the process must be simplified, accessible in a timely way and able to deliver real support, judgement and change with the best interests of individual at centre.

2. What do you think about the ways we want to extend current excessive security appeals to anyone who feels they are being subjected to unjustified levels of restriction?

3. What do you think about our ideas for reforming the ways a person can raise a concern or complain about their care and treatment?

Do you have any other ideas to make this process more effective and equitable?

4. What are your thoughts on collective advocacy groups raising court actions?

What are your thoughts about creating a way for collective advocacy groups to alternatively escalate unresolved human rights issues to an identified scrutiny body?

Please let us know of any existing organisation that you feel should take on that role?

Should these proposals also cover individual advocacy organisations?

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Agree

Disagree

Please tell us why you feel this way.

5. What are you views on why and how we think collective advocacy should be strengthened?

6. Do you have any suggestions to make the scrutiny landscape for mental health services more effective?

7. What do you think about the ways in which we think the role of the Mental Welfare Commission should be extended?

Do you have any other ideas?

8. Please use the space provided below for any other comments you would like to make, relevant to this chapter.

Chapter 9. Children and Young People

Scottish Mental Health Law Review consultation - Chapter 9: Children and Young People - Scottish Government - Citizen Space

The RCPE notes the inclusion of a chapter specifically about children and young people and their carers but the absence of a chapter about the specific issues facing older people and their carers.

1. Do you think the current 2003 Act principle for children is still needed?

Please choose one of these responses:

The current 2003 Act principle for children is still needed

The principle should be replaced by a wider principle of respecting all the rights of the child under the UNCRC in any intervention

The principle should be replaced with something else

Please explain your answer

2. What do you think about having a statutory duty on Scottish Ministers and health and care agencies to provide for children the minimum standards needed to secure the human rights set out in international treaties such as the UNCRC?

3. What are your views on reforming crisis services for children and young people experiencing acute mental distress?

What are your views on the safeguards for emergency detention?

4. What do you think about law reform to ensure access to CAMH services up to at least the person's 18th birthday and to ensure age appropriate services more generally?

Please share your thoughts on law reform to ensure age appropriate services more generally

5. What are your views on our ideas about relatives and families?

6. What are your thoughts on how supported decision making, human rights enablement and the autonomous decision making test in chapters 3, 5 and 6 might apply to children and young people?

7. What do you think about our proposals on advocacy and on accountability?

8. What are your views on autism, learning disability and neurodiversity and the possible law reforms for children and young people?

9. What do you think about our proposals on safeguards for treatment and services, and safeguards to protect the relationships between children and parents?

10. At this time, Scotland's mental health law applies to compulsory mental health treatment at all ages. Do you have views on the idea of moving mental health law for children to connect it with other law for children, to apply across health, education and social care?

11. Please use the space provided below for any other comments you would like to make, relevant to this chapter.

Chapter 10: Adults with Incapacity proposals: Part 1 Guardianship

Scottish Mental Health Law Review consultation - Chapter 10: Adults with Incapacity proposals: Part 1 Guardianship - Scottish Government - Citizen Space

We will be taking into account comments submitted to the Scottish Government's Adults With Incapacity Reform consultation in 2018, so you do not need to repeat any responses you made to that, unless you wish to.

1. Part 1: Guardianship

We seek your views on the new model.

What do you see as it's advantages?

What do you see as it's drawbacks?

What adjustments, if any, would you suggest?

The RCPE is concerned that the Adults with Incapacity (AWI) Reform consultation concluded in 2018 and that, despite many concerns about its current operation, reform has not occurred, and that the recommendations of this review do not appear to hasten that reform.

With regard to "Decision-making supporter, Person appointed under a power of attorney and Decision-making representative", we are concerned that this framework will complicate rather than simplify, for carers, staff and patients alike.

The suggestion that there can be more than one "supporter" and that they may have different annotations of authority "joint, joint and individual or a mix" adds further complication that blur understanding.

We agree that the role of the co-decision maker is insufficiently distinct, adds even more complexity and should be omitted.

It is difficult to understand the difference between a current "guardian" and then new "decision making representative" but we appreciate the sentiment underlying the suggested change of name.

We are concerned that more than one "Representative" can be appointed, despite, again the suggestion of different annotations of authority.

We agree that the current application process for guardianship is "overly cumbersome and time consuming." It results in unnecessary stays in hospitals of patients who could be managed in a more homely environment whilst they await the judicial process, but who currently cannot be, as they cannot be moved from "health" to "social" care facilities.

The vast majority of older patients in general hospital wards who are the subject of a guardianship application (typically because of dementia) have the order granted. In our President's lengthy personal clinical experience he has never seen an application in this setting declined. The granting of the order does not change the views of the patient affected, but permits the hospital to move the patient to "social", typically "care home", settings. The revision of AWI and guardianship provisions should expressly permit the movement of such patients between "health" and "social" care facilities whilst the guardianship, or new, process is underway.

"Urgency" should include the situation described above, in which a patient is in a hospital bed, and, even if all relevant family members and other carers and all proxy decision makers and health and social care staff agree that they cannot return to their own home, they must wait in that hospital bed before moving into a more homely setting. This is urgent for two reasons – the care of the patient in question is suboptimal as they are in a hospital setting and do not need the care and treatment of a hospital; and the bed which they occupy could be used by another patient who does need the care and treatment of a hospital.

2. Specifically, what are your views on the role of co-decision maker – and its omission from this model?

3. Will the proposed change address the issues currently experienced with guardianship?

Agree

Disagree

4. What are you views about the proposed streamlined application process?

5. Does the proposed emergency provision in the model address the concerns about the current system?

Agree

Disagree

Please let us know why you feel this way

6. Should the reframed model allow for the grant of a specific or one-off order (currently called an intervention order)?

Agree

Disagree

If so, will the reframed model allow for this?

7. Should the current access to funds process be subsumed within the new guardianship model?

Agree

Disagree

If so, will the model allow for this?

8. Should the current management of residents' finances process be subsumed within the new guardianship model?

Agree

Disagree

If so, will the model allow for this?

9. What are your views on a system of supervision?

10. Please use the space provided below for any other comments you would like to make, relevant to this chapter.

Chapter 10: Adults with Incapacity proposals: Part 2 Power of Attorney

Scottish Mental Health Law Review consultation - Chapter 10: Adults with Incapacity proposals: Part 2 Power of Attorney - Scottish Government - Citizen Space

We will be taking into account comments submitted to the Scottish Government's Adults With Incapacity Reform consultation in 2018, so you do not need to repeat any responses you made to that, unless you wish to.

1. Proposed Recommendations

2. What are the key points of guidance that need to be given to attorneys?

3. What support should be given to attorneys – by whom, when?

4. What are your thoughts on the reporting structure for someone with concerns?

5. What are your thoughts on the investigations structure?

6. What are your thoughts on authorities being able to supervise an attorney, on cause shown, following a statutory inquiry?

7. What are your thoughts on attorneys having power to authorise a deprivation of liberty (assuming this power has been granted in the power of attorney)?

8. Please use the space provided below for any other comments you would like to make, relevant to this chapter.

9. What measures should be taken to increase the awareness of a PoA?

Chapter 10: Adults with Incapacity proposals: Part 3 Medical Treatment and Research

Scottish Mental Health Law Review consultation - Chapter 10: Adults with Incapacity proposals: Part 3 Medical Treatment and Research - Scottish Government - Citizen Space

We will be taking into account comments submitted to the Scottish Government's Adults With Incapacity Reform consultation in 2018, so you do not need to repeat any responses you made to that, unless you wish to.

1. We seek your views on the recommendations we are proposing.

Please share your views the proposed recommendations

2. What are your thoughts on the provisions within s47(7) on the use within the AWIA of force, detention and the relationship with the 2003 Act?

3. Is any change needed to the list of special treatments requiring additional safeguards, (section 48) or the procedures by which they are authorised?

Please share any thoughts you have on change needed to the list of special treatments requiring additional safeguards, (section 48) or the procedures by which they are authorised?

Please share your views on Transcranial Magnetic Stimulation (TMS) being added to the list of special treatments requiring additional safeguards in section 48.

4. Is any change needed to the dispute resolution procedure in section 50?

Agree

Disagree

Please give details of the changes you think are needed

5. Please use the space provided below for any other comments you would like to make, relevant to this chapter.

Chapter 11: Deprivation of Liberty

Scottish Mental Health Law Review consultation - Chapter 11: Deprivation of Liberty - Scottish Government - Citizen Space

1. Please share your views on our proposals.

The College understands the implications of the Bournewood case and subsequent ECHR declarations. We do not believe that many hospital practitioners (outside “mental health” units) understand that the AWI legislation and documentation does not cover deprivation of liberty and does not cover the placement of older patients with delirium and dementia in acute or “downstream” hospital beds that have locked doors.

With regard to the statement "Where it is necessary to deprive a person of their liberty as a matter of urgency in order to preserve life or health an application should be made to a court or tribunal", we find this a concerning suggestion that is likely to be unworkable in acute general hospital practice.

We are concerned that as written, the focus of consideration of deprivation of liberty issues lies in domiciliary, rather than general hospital, settings and as such may produce guidance that fails to take into account the issue of locked wards we note above.

Worked examples of some of the recommendations would aid understanding.

We are concerned at the volume of requests likely to be made under, for example Standard Orders Point 3, and the delays likely to be occasioned by the necessity to seek court intervention.

2. Please share your views on the proposed standard and urgent deprivation of liberty orders and the suggested process

3. How can we ensure that there is a real, effective and accessible ability for the adult and/or their representative to challenge the lawfulness of a deprivation of liberty order?

4. What do you see as potential barriers to the operation of deprivation of liberty orders?

What else may you wish to see included?

5. Please use the space provided below for any other comments you would like to make, relevant to this chapter.

Chapter 12: Mental Disorder

Scottish Mental Health Law Review consultation - Chapter 12: Mental Disorder - Scottish Government - Citizen Space

1. Should there be a gateway to mental health and capacity law which reflects a diagnostic criterion?

Agree

Disagree

Why do you agree or disagree?

If you agree, please share your thoughts on what that gateway should be

What terminology should we use?

2. Please use the space provided below for any other comments you would like to make, relevant to this chapter.

Chapter 13: Fusion or alignment?

Scottish Mental Health Law Review consultation - Chapter 13: Fusion or alignment? - Scottish Government - Citizen Space

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1. Given the changes being proposed by the Review, do you think a single piece of legislation for mental health, incapacity and adult protection law is the best way forward?

Please provide an explanation for your answer

Do you consider that 2 or 3 pieces of law would be preferred, each dealing with specific issues across mental health , incapacity and adult protection law.

2. What do you think about our suggestion of aligned legislation?

Which aspects of the law should be aligned and which should be left within standalone law?

3. Please tell us if you consider a single judicial forum should deal with all mental health, incapacity and adult protection cases

Yes

No

If you answered with 'yes', please let us know more by answering the following questions.

Should that forum be the sheriff court?

Should that forum be a tribunal?

Should there be a single forum only in the event of fused legislation?

Is a single forum your preferred way forward regardless of wider changes to the legislation

If you consider aligned legislation is preferred, should a single judicial forum be part of that alignment?

Please share any reasons for your answers

4. Please use the space provided below for any other comments you would like to make, relevant to this chapter.

Please use the space provided below for any other comments you want to make.

The RCPE would welcome clarification on the suggestion in the Glossary, page 14, with regard to an Advance Statement. Under sections 275-276C of the 2003 Act, an advance statement is a statement by a patient setting out the way in which they want to be treated or treatment they do not want for their mental health condition. (our underlining). Is it the case that this legislation does not apply to treatments other than for mental health conditions?

We also note that the term “patient” is used frequently (59 times) without definition and should be included in the glossary.

Some of our fellows voiced support for support the principle of a Mental Health Commissioner with clear lines of accountability and consideration of the same for people with autism and learning disabilities.