



Written Evidence from the Scottish Tribunals & Administrative Justice
Advisory Committee (STAJAC) to Scottish Parliament Health & Sport
Committee on the Mental Health (Scotland) Bill

August 2014

Introduction

The Scottish Tribunals and Administrative Justice Advisory Committee (STAJAC) welcome the opportunity to submit views to the Scottish Parliament on the Mental Health (Scotland) Bill.

STAJAC was established by Scottish Ministers in November 2013 (following the abolition of the Scottish Committee of the Administrative Justice and Tribunals Council) to provide external, expert scrutiny of the devolved administrative justice and tribunals system in Scotland. Its remit includes promoting the interests of system users and championing an administrative justice and tribunals system that is accessible, responsive and has users' needs at the centre.

Comments on the Bill

Our comments are all in respect of Part 1 of the Bill.

Given our remit, STAJAC's interest in the Bill is from the point of view of users of the administrative justice system, and therefore on those aspects of the Bill that affect how people assert their rights or are assisted to do so, and how they might complain or appeal against decisions that affect them.

We note the changes the Bill introduces to the Named Persons and Advance Statements arrangements, and although STAJAC does not have the expertise, nor the remit, to comment on the appropriateness of these

changes, we do believe there is an overriding issue regarding the awareness amongst mental health service users, their next of kin and carers and the general public about these arrangements.

The Mental Health (Care & Treatment) (Scotland) Act 2003 introduced the safeguards of Advance Statements and Named Person, and supported this by a duty on local government on health boards to secure the availability of independent advocacy services.

We note the research carried out for the Mental Welfare Commission by Griesbach & Gordon¹ (2013), highlighting the low levels of awareness amongst service users of Advance Statements, Named Person and independent advocacy. We are also aware that the McManus Review² (2009) provided detailed information on the continued lack of access for certain groups to independent advocacy. The Scottish Independent Advocacy Alliance has published evidence highlighting the mixed implementation of the 2003 Act with reference to independent advocacy³.

We are concerned that the effectiveness of the safeguards put in place for mental health service users is compromised by a lack of awareness of these arrangements amongst those immediately affected by them (i.e. not only service users, but also potential Named Persons) and the general public, and by a lack of awareness and comprehensive availability of independent advocacy services. In this context, we wonder if consideration was given to the possibility of keeping a register of Named Persons (as is envisaged for Advance Statements). This could give a route to provide Named Persons with information, support and training as recommended by the McManus Review.

*Scottish Tribunals and Administrative Justice Advisory Committee
August 2014*

¹ http://www.mwcscot.org.uk/media/129344/rightsinmentalhealth-report-final_apr_2013.pdf

² <http://www.scotland.gov.uk/Resource/Doc/281409/0084966.pdf>

³ http://www.siaa.org.uk/wp-content/uploads/2014/01/SIAA_AdvocacyMap_2011_2012.pdf

The *SIAA Advocacy Map* is published every two years and tracks the annual national spend as well as who can access independent advocacy. The research covering 2013-14 is due to be published in September 2014.