

Finance Committee

Public Services Reform (Scotland) Bill

Submission from the Mental Health Commission for Scotland

The Mental Welfare Commission for Scotland (“the Commission”) works to safeguard the rights and welfare of all people with a mental disorder. The general duties and particular functions of the Commission are laid down in statute in Part 2 of the Mental Health (Care and Treatment) (Scotland) Act 2003 and in section 9 of the Adults with Incapacity (Scotland) Act 2000.

In general, we welcome the Bill and support the principles underpinning the proposed reforms. We understand that the Finance Committee has been designated the lead committee on the Bill. The Health and Sport Committee is giving detailed consideration to Parts 4 and 5 of the Bill and we have been invited to address our comments on those parts of the Bill to that committee. The invitation directed us to the Finance Committee’s call for evidence on other parts of the Bill, notably part 2. We have some comments on part 2 and part 6.

Part 2, Order Making Powers:

We understand the aims behind the provisions contained within Part 2. It is essential that Government has regard to improving the efficiency, effectiveness and economy of the exercise of public functions. It is in no-one’s interest that there be inefficiency, overlap or duplication of functions.

We wonder whether it is possible to achieve the general aims of the Bill without conferring the order-making powers contained in respect of the very creation or abolition of a “person, body or office-holder”. This seems to be a more fundamental change that should have the public consultation and parliamentary scrutiny afforded to primary legislation.

Part 6:

Part 6 of the Bill deals with some broad issues relating to scrutiny. Many of these are most welcome. In particular, we welcome the sections on user focus and the duty of cooperation between and among organisations, including the Commission.

We think the legislation should give Ministers authority to require a joint inspection and that organisations should be able to decide themselves to conduct a joint inspection without needing to seek the approval of Ministers. This would further the aim of simplifying the scrutiny landscape enshrined in the Bill, an aim which we wholeheartedly support.

Parts 4 and 5:

We will direct our comments on Parts 4 and 5 to the Health and Sport Committee and will be happy to present them with oral evidence. Both Committees should note that there is a consultation process initiated by the Scottish Government on

the role and functions of the Commission. We hope that the outcome of that process will provide both Committees with further information on the Commission's functions. This will allow Parliament to decide on the best way to ensure that vulnerable people with mental illness, learning disability and other mental health problems can be assured that their rights and welfare will have proper independent safeguards.

Dr Donald Lyons
Director

Mr Jim Connechen
Acting Chair