



Law Society
of Scotland

Consultation Response

Mental Welfare Commission Advisory Committee Equalities Outcomes

20 November 2020



Introduction

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

Our Mental Health and Disability committee welcomes the opportunity to consider and respond to the Mental Welfare Commission Advisory Committee consultation on equality outcomes. The committee has the following comments to put forward for consideration.

1. Do you have any comments on the proposed new Outcome 1?

No.

2. Do you have any comments on the proposed new Outcome 2?

No.

3. Do you have any comments on Outcome 3?

We note that no changes to Outcome 3 are proposed. However, we would suggest that focusing upon the use by authorities of mental health and incapacity legislation is too narrow an approach and that there are equality issues to consider beyond this. Authorities have significant roles in supporting the use of procedures under such legislation by others. They also make decisions about allocation of resources for the benefit of people who are or may be subject to procedures under such legislation, and equalities issues may arise if it should appear that there is relatively unequal allocation of resources to the disadvantage of such people.

4. Is there anything missing or other outcomes you think should be included?

No.

5. What would be your top 3 suggestions for actions to achieve our outcomes?

Reiterating and building on the Commission's May 2018 *Equality Outcomes and how we plan to achieve them*:

- a) A clear set of published criteria and identified duty-holders against which to measure progress in achieving such outcomes, such criteria being informed by the Equality Act 2010.
- b) Audits of progress including the collection of data from authorities, practitioners and lived experience.
- c) Audits must identify where the duty has been fully, partially and not met and concrete steps to achieve compliance.

6. Do you have any other comments?

No.



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