

# SCLD FACT SHEET



## INCLUSION OF LEARNING DISABILITY WITHIN SCOTTISH MENTAL HEALTH LEGISLATION

### The 'Coming Home' Report Findings



#### Delayed Discharge

- 67 people with learning disabilities and complex needs were subject to a delayed discharge.
- Of these, 22% had been in hospital for more than 10 years and another 9% for 5 to 10 years.

#### Out-of-Area Placements

- Of the 705 people living in Out of Area Placements, 45% had been out-of-area for more than 10 years.
- 109 people had not chosen their placements and were identified as a priority to return.
- 79 people were placed outside of Scotland.

*Source:* Coming Home: A Report on Out-of-Area Placements and Delayed Discharge for People with Learning Disabilities and Complex Needs, Dr Anne MacDonald, Scottish Government (2018)

#### People with learning disabilities left in Scottish hospitals for decades

Forty people had stays of 10 years or more, BBC documentary finds



The independent review of  
**Learning Disability and Autism**  
in the Mental Health Act

**SMHLR**  
SCOTTISH MENTAL HEALTH LAW REVIEW

### More Information

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**Scottish Commission for People with Learning Disabilities**

Learning disability is defined as a 'mental disorder' in the Mental Health Care and Treatment (Scotland) Act of 2003. This definition allows people with learning disabilities and/or autism to be denied their liberty based on impairment, contrary to Articles 14 and 19 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

In 2019, the Scottish independent review on Learning Disability and Autism in the Mental Health Act (SMHLR) recommended that learning disability be removed from the term 'mental disorder' and defined in a separate law, focused on the positive realisation of rights.

The Independent Scottish Mental Health Law Review is underway and is due to publish its final report in September 2022. The review has not yet proposed removing learning disability from the term 'mental disorder'. So far the Review has only proposed amendments to the language of 'mental disorder'.

In February 2022, the Working Group on Complex Care and Delayed Discharge published the Coming Home Implementation Report. This committed to:

- A register to track those at risk of improper admission
- A national support panel to ensure people get the care they need, and;
- A peer support network to share expertise.

This was supported by 20 million pounds of additional funding to deliver community-based support for people with complex needs to reduce hospital admissions and speed up discharge. However, despite this work, a recent report from BBC Disclosure Scotland (August, 2022) highlighted the ongoing failure to provide community-based support for people with learning disabilities.

## Recommendations



1

Devolved Nations (Scotland) to amend the Mental Health (Care and Treatment) (Scotland) Act 2003 to remove learning disability from the term 'mental disorder'.

2

Devolved Nations (Scotland) to develop a UNCRPD compliant national supported decision framework.

### More Information

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