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VOX's response to the consultation on the Limited Review of the Mental Health (Care and Treatment) (Scotland) Act 2003.

VOX is a national mental health service user led organisation based within Scotland which aims to give a voice to mental health service users. We aim to drive policy and practice, facilitate partnership working and strengthen the voice of people who have or have had a mental health problem. We aim to do this by using a range of innovative and accessible consultation methods to involve members.

VOX asked its membership about its views on the Mental Health Act Limited Review to understand what parts of the act are working well and what areas our members felt could be improved on.

To do this VOX prepared a summary paper of the act to help people to understand the act. We then asked those who had experience (and those who were interested) their views. We also held a focus group together with the Mental Health Network (Greater Glasgow).

The following points were raised from those who participated.

1. Advance Statements

Members felt as though yes, we should encourage as many staff as possible who are involved in recovery to encourage service users to write advance statements, however, it was felt that the problem was that no-one is ultimately responsible for mentioning advance statements and that this would mean that no-one sees it as their role.

Despite this to raise awareness it was suggested that it would be helpful to promote and highlight the times when advance statements have made a difference to people. Overall however it was felt that people aren't aware of advance statements and there isn't a consistent enough process to raise awareness of advance statements.

It was also felt that the content which could be included in advance statements should be clarified. How the information in an advance statement is stored was also highlighted.

In relation to overturning advance statements the point was mentioned that if you are well when they are written what is the rationale for overturning advance statements.

It was also suggested that there may be links with WRAP and care plans over time, as there is some overlap between taking control of your own mental health in WRAP and the principles behind advance statements.

2. Independent Advocacy

Advocacy services could vary across the country, and greater investment is needed to ensure some kind of consistency and extension to include working with those who are at the appropriate stage of their recovery to consider developing advance statements. Appropriate provision is a vague concept which needs to be quantified.

Clarity over advocacy for carers was felt to be necessary; members wondered whether this was mental health advocacy or general advocacy. Furthermore there was a doubt that in this economic environment that additional resources would be available to achieve this. The role of collective advocacy was felt to be important but again there was some fear that this could be a way of trying to save money, and that ultimately no additional resources would be put into this area. Also it was felt that some people would not participate in collective advocacy and that their needs would therefore not be addressed.

3. Named Person

If a named person is appointed then it would usually be fine that they receive all of the information about the patient and that they are involved in the full process. However some particular complex situations were highlighted where you may wish someone to be a named person although there could be something which is in your medical notes which could put a strain on the relationship between the service user and named person, members felt that this process needs to be managed very carefully.

Default named person

One issue that came up was that when people didn't have a named person that they ended up being designated with someone who may not know them very well. Members were worried about this and felt that this part of the act didn't work particularly well. In addition to this, the amount of information which people received when they became the default named person was felt to be inappropriate.

"It was okay for me because my default named person knew about my medical background but if they didn't it could have been awkward"

It was felt that there should be an option to opt-out of nominating a named person.

Conflict of interest

Difficulty was expressed in relation to situations when a named person may not act in the best interests of the individual. If the named person seems to be wanting a different outcome than the individual this must be carefully managed in order to ensure that the named persons motivations are based around what is best for the individual. Service users rights must be carefully protected when financial motivations may be involved.

If an individual doesn't want a named person they should be able to choose this option. If this happens there should be an option of legal representation to protect the individual if required.

Training for named persons

Training was mentioned by some members as something they felt named persons should receive, without this they felt as though signs and symptoms, understanding of recovery and conflicts of interest etc may not be full understood, however for others it was also felt that this could take away from the importance of the relationship.

More importantly the emotional impact of being a named person and the strain which can arise within a relationship because of this needs to be better supported throughout the process and that this could be done through a "counselling approach".

Involve others

Members felt as though anyone who has a good relationship with the individual should be able to become a named person if they are willing to do so. This could include independent advocates, mental health workers etc.

"It should be about the relationship the person has with someone, then you know and trust they will do the right thing"

Additional service user representation was also suggested.

4. Tribunals

Interim Compulsory Treatment Orders (ICTO'S)

It was felt that around 50% of cases needing ICTO's was unacceptable, and that having multiple hearings needed to be changed. It was suggested that the process of how to obtain quicker ways to obtain medical information should be prioritised prior to looking at the extension of five days to ten days. Members felt that this should be properly investigated, and there was an overall feeling that

even if it was extended to ten days then the system would just slow down and it would still be difficult to achieve the timescales. Members felt irritated by this question as they did not feel that the inadequacies of the system should be resolved by them, and felt as though the suggested ways forward were badly thought through.

Venues

The basic standards which were suggested, e.g. access to toilet facilities and private rooms was felt to be too weak, and it was felt that the type of venue should be given more weighting. Our members felt as though the venues where the tribunals are held should avoid being intimidating, this was an important issue for them.

Community settings which are used for other purposes were felt to be a good option, and hospital settings were felt to be inappropriate. Within East Ayrshire it was mentioned that the East Ayrshire Advocacy Project was a great setting, and that this was no longer being used, and that other settings such as the local hospital were now being used, members felt this may be because they are trying to suit consultant psychiatrists rather than the individual involved.

“It needs to be somewhere which makes you feel comfortable when you come in, not intimidating”

5. Legal Representation

Members felt as though the importance placed on trust and knowing the person who would be providing legal support is crucial and that the idea of lawyers prolonging cases was extremely worrying. Members felt that this must be monitored and safeguarded in some way to ensure that appropriate support is provided. No suggestions were given on the best way to achieve this, and because the various systems weren't fully understood it was felt to be a solution which should be worked on by those who would understand the Scottish Legal Aid Board, legal training courses etc. to ensure adequate and continuity of legal representation.

Overall it was felt that it was completely unacceptable that there is not a greater level of interaction between the service user and legal representation they receive.

Code of Conduct

Members were surprised that there wasn't already a code of conduct for legal representatives, and felt that this should be prioritised.

6. Medical Matters

It was suggested that increasing education and support for GPs in providing a medical report would be a good option. It was felt that the GP is often the person who understands the individual best, and that their viewpoint is crucial. Members felt disheartened to hear that only 50% of second reports are carried out by GPs as they felt this was critical.

There was some concern over the fact that psychiatrists would just back up other psychiatrists, this was worrying for many people, and any ways to minimise this should be focussed on.

7. Other issues

Members mentioned that often they felt support could be provided earlier to avoid anything getting to this stage, and that we should be starting to develop something which is more forward thinking in nature. Even for those who understand the mental health system well, receiving help is difficult despite service users trying. The mental health act must therefore be considered as part of the larger mental health system, and it was felt that sometimes people are unnecessarily ending up under the act because of the failings within the system more generally.

In relation to the process of the consultation, it was felt that the consultation document was complex, requiring detailed understanding of the act and that the language used could have been simpler. It was also suggested that the use of real life examples would help many to be able to participate.

Furthermore that whilst it is good to involve people in decision making there were some aspects of the consultation where people's views were asked on areas which really require internal problem solving to develop more effective systems.

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