Human Rights Impact Assessment (HRIA): Mental Health and Wellbeing Strategy

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Scottish Government
Riaghaltas na h-Alba

Human Rights Impact Assessment (HRIA): Mental Health and Wellbeing Strategy

Minister: Minister for Social Care, Mental Wellbeing and Sport

Lead official: Rebecca MacPherson

Directorate / Division / Team: Directorate for Mental Health
Strategy & Co-ordination Unit

New policy or revision to an existing policy: New policy

Introduction

Purpose of Assessment

The purpose of this report is to present and assess any potential human rights issues arising as a result of the Mental Health and Wellbeing Strategy which was published on 29 June 2023. This assessment also covers the Delivery Plan and Workforce Action Plan which were published on the 7th November 2023.

Policy Aims of the Strategy:

- Our vision is of a Scotland, free from stigma and inequality, where everyone fulfils their right to achieve the best mental health and wellbeing possible.

Summary outcomes

Our outcomes describe the differences or changes that we want to see as a result of this Strategy. They are:

1 Improved overall mental wellbeing and reduced inequalities.

2 Improved quality of life for people with mental health conditions, free from stigma and discrimination.

3 Improved knowledge and understanding of mental health and wellbeing and how to access appropriate support.

4 Better equipped communities to support people's mental health and wellbeing and provide opportunities to connect with others.

5 More effective cross-policy action to address the wide-ranging factors that impact people's mental health and wellbeing.

6 Increased availability of timely, effective support, care and treatment that promote and support people's mental health and wellbeing, meeting individual needs.

7 Better informed policy, support, care and treatment, shaped by people with lived experience and practitioners, with a focus on quality and recovery.

8 Better access to and use of evidence and data in policy and practice.

9 A diverse, skilled, supported, and sustainable workforce across all sectors.

Key areas of focus

To achieve these outcomes, we will:

Promote positive mental health and wellbeing for the whole population, improving understanding and tackling stigma, inequality and discrimination.

Prevent mental health issues occurring or escalating and tackle underlying causes, adversities, and inequalities wherever possible; and

Provide mental health and wellbeing support and care, ensuring people and communities can access the right information, skills, services, and opportunities in the right place at the right time, using a person-centred approach.

We seek to have a stronger emphasis and focus on promoting good mental health and wellbeing for all and on early intervention and prevention. We will do this while ensuring high-quality services are in place so people can access the right support at the right time to meet their needs.

We have published a Delivery Plan to complement this Strategy. The Plan will be refreshed regularly and lays out the actions we will take to achieve our vision and make progress towards our outcomes. The actions have been developed in partnership with those with operational responsibilities and those with lived experience. They focus on meeting the outcomes, responding to the priorities in this document, and take account of Scottish Government's recently published 'Policy Prospectus' and the COSLA plan 2022-2027.

Delivering the Strategy and its associated actions can only be achieved with the right workforce, supported to have the right skills, in the right place at the right time. The Workforce Action Plan sets out how Scottish Government and the Convention of Scottish Local Authorities (COSLA) will progress a range of workforce specific activity to address key workforce issues that have been raised in consultation with delivery partners.

The previous Mental Health Strategy was published in 2017 and was to span 10 years to 2027. Much has changed since 2017 and we recognised that people's attitudes towards mental health have shifted. It was the right time to take stock of our current system and policies and reset our priorities to better fit this new landscape. We recognise that underlying factors, inequalities and types of disadvantage affect certain groups of people who may suffer disproportionate impacts on their mental health. We must learn from evolving evidence about intersectionality by recognising that people are multi-faceted and that different experiences or aspects of their identity can interact and combine to affect their mental health in ways that are not the case for everyone. Mental health needs to be tackled across government. That is why our Mental Health and Wellbeing Strategy was created with equalities and human rights at its core.

Substantial engagement was carried out in developing the Strategy and plans. This includes engaging with people with lived experience and the Mental Health Equalities and Human Rights Forum (MHEHRF). This was key to developing a Strategy which would try to deliver highly effective and well-functioning mental health system – with the right support available, in the right place, at the right time, whenever anyone asks for help. We made human rights explicit throughout the Strategy, Delivery Plan and Workforce Plan to demonstrate our intent to promote and help uphold rights across mental health services.

1. Human Rights PANEL Principles (underlying principles in applying a human rights based approach)

Participation

Everyone has the right to participate in decisions which affect their human rights. Participation must be active, free, meaningful and give attention to the issues of accessibility, including access to information in a form and a language which can be understood.

The Strategy outcomes are intended to be for the whole population of Scotland. People will have different starting points and require different kinds of support to get them where they want to be. For example, the needs of children and young people will differ from those of adults. So, too, will the needs of someone with severe and enduring mental illness when compared to someone struggling with their mental wellbeing.

The needs of those who experience social and structural inequality and discrimination, such as those with protected characteristics, will also vary. We know these groups are at a higher risk of having their rights impacted.

The outcomes we aim for are the same for everyone, although the actions we need to take to get there will likely differ for different groups. We have tried to reflect this in both plans. We will use these outcomes to help monitor and evaluate progress as this Strategy is implemented.

To deliver the changes we want to see, we will need to encourage collaboration from a wide range of partners across Scotland. This will include putting the voices of lived experience at the heart of implementing the Strategy. It will require working in partnership with our colleagues in Health Boards, Integration Joint Boards, and Health and Social Care Partnerships. It will mean moving forward in lockstep with the third sector.

To show how this Strategy is making a real difference to people's lives, we have set out the outcomes we wish to achieve so we can be held to account for our progress. Our Delivery Plan and Workforce Action Plan therefore detail the work we will take forward to progress these outcomes. This requires local and national leadership as we collectively work towards key national outcomes whilst maintaining local flexibility. We will robustly review, monitor and evaluate the Strategy, the accompanying Delivery Plan and the Workforce Action Plan to ensure we are committed to the right actions.

- We will ensure governance structures and decision-making processes are clear and transparent, and that people taking part in governance arrangements are supported to understand their role in the process.
- We will ensure policymaking is informed by the voices of those with lived experience of accessing support and services, and the workforce, including those with experience of developing and delivering services. We will ensure there is space for challenge, with access to a wide range of evidence and expertise.

- We will ensure there are opportunities for both national and local leadership, with key national outcomes that the entire system can work towards, whilst maintaining local flexibilities.

There is a commitment to having our current Equalities and Human Rights Forum, and lived experience as part of the governance structure surrounding the implementation of the Strategy. This will help provide a space for a feedback loop with a wide range of stakeholders and the groups that they represent. Monitoring and evaluation will be a key part of the implementation of the Strategy and these groups will also be part of this process, ensuring that we can share progress and make sure actions are still relevant, giving space to adjust as necessary.

Accountability

Accountability requires effective monitoring of human rights standards as well as effective remedies for human rights breaches. For accountability to be effective there must be appropriate laws, policies, institutions, administrative procedures and mechanisms of redress in order to secure human rights.

We will work to strengthen accountability and ensure that we have appropriate scrutiny and assurance arrangements in place for the whole mental health system. This will support national scrutiny bodies and service providers and help drive continuous improvement in the overall quality and safety of all mental health services. It will also place continued emphasis on the experience and outcomes of people who use them.

The Scottish Government and its delivery partners are responsible for making sure that human rights are respected, protected and fulfilled. The Strategy has human rights and equalities as a foundation, being considered throughout, with several specific actions within the Delivery Plan and Workforce Action Plan.

In writing the Strategy, Workforce Action Plan and Delivery Plan, substantial engagement was carried out. Stakeholder workshops were carried out across 2022 and 2023 to consult on all aspects of the Strategy including vision, outcomes, priorities and actions. A statutory consultation also ran which included public workshops and allowed the public and organisations to contribute their opinions on the Strategy and what was important to them. The consultation had a specific section on equalities which supported evidence gathering for tackling inequalities and promoting human rights. Drafts of the Strategy and both plans were also shared with the Mental Health Equalities and Human Rights Forum (MHEHRF) and the Diverse Experiences Advisory Panel (DEAP). The Equalities and Human Rights Forum hosts 22 organisations who advocate for human rights and specific protected characteristics. The Scottish Commission for Human Rights sits on the forum and provided feedback on drafts, strengthening our commitment to embedding human rights in all aspects the strategy.

The DEAP consists of 25 members, all who have unique experiences of inequalities, discrimination and mental health struggles. The panel is run and facilitated by the Mental Health Foundation and the panel act as our central lived experience group. While developing the Strategy, we recognised it had to be informed by the voices of people who had real life experiences, to create outcomes and actions which would

truly deliver effective change in services and support. There are several other lived experience projects across specific areas of mental health who are regularly consulted on policy development. The knowledge, insight and evidence we have gathered from the forum and lived experience groups has shaped the Strategy and Delivery Plan to have a positive impact on equalities and human rights. The MHEHRF and those with lived experience will continue to contribute to and comment on our policy work and progress, as part of the governance structure surrounding the Strategy.

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Because many of the services will be delivered by national, regional and local delivery partners (NHS, HSCPs, IJBs, local authorities, third sector), a strong governance structure will surround the delivery of the strategy. A series of multidisciplinary groups and workstreams currently exist across the mental health policy landscape including advisory groups, Programme Boards and specific governance groups. Consideration will be given to how these are brought together to inform and progress the Strategy under a joint decision making body, the Mental Health and Wellbeing Leadership Board. The Mental Health and Wellbeing Leadership Board will be ultimately accountable for ensuring actions are delivered. There will be other governance groups monitoring the progress of specific groups of actions, who will report to the leadership group and any issues will be escalated where appropriate.

A monitoring and evaluation framework will be developed and published during the lifetime of the first Delivery Plan. This will set out how we will measure progress towards the outcomes. It will also take account of existing indicators and standards currently under development.

We have produced a Mental Health Equality Evidence Report to accompany the strategy. This report provides an overview of the current evidence relating to mental health inequality in Scotland. We know equalities and human rights are inextricably linked, and so this evidence report provides the basis for much of the evidence we used to incorporaterights into the Strategy and accompanying documents. The report provides a summary of available evidence relating to each of the characteristics protected under the Equalities Act 2010, with the exclusion of marriage and civil partnership. It also includes poverty and deprivation, geographical location and carers. The report explores the following topics relating to each characteristic: existing inequalities and mental health disparities (including social determinants impacting mental health); inequity in accessing services and support; experiences of using mental health services and support; impacts of the COVID-19 pandemic; and data and evidence gaps. The report is based on a rapid review of evidence from population level survey data undertaken in Scotland and the wider UK, relevant academic and third sector literature and insights provided by organisations participating in the Mental Health Equalities and Human Rights Forum (MHEHRF).

Several cross-cutting themes were identified around mental health inequalities and social determinants of mental health, experiences of accessing and using services, and data and evidence, which relate to multiple different groups. While these impact different groups in a multitude of ways and are shaped by a variety of experiences and circumstances, they indicate key areas for future focus on equalities and mental health.

An extensive evidence narrative on mental health provides a review of currently available published data on what impacts positively and negatively on mental health and wellbeing across the population. The report looks at levels of population mental wellbeing, prevalence and burden of mental health conditions, trends within these and what influences mental health and wellbeing. It then reflects on some of the key challenges impacting upon population mental health and wellbeing that the strategy needs to tackle. It goes on to consider evidence-based approaches to addressing these challenges in both the immediate and longer term.

Key sources of quantitative data come from several population-level sources, including the Scottish Health Survey (SHeS) and Scottish Surveys Core Questions (SSCQ). Given the disruption to data collection during the COVID-19 pandemic, much of the evidence included from these surveys is taken from 2018 and 2019.

Additional quantitative and qualitative evidence targeting specific protected characteristic groups has been sourced from a range of relevant UK and Scotland-based government, third sector and academic publications through a process of rapid literature review. International academic evidence is used where relevant, primarily drawing on review-level evidence. Organisations participating in the Mental Health Equalities and Human Rights Forum (MHEHRF) contributed significantly to the evidence gathering via consultation throughout 2021, as well as highlighting evidence gaps and insights from the lived experiences of the people that they work with. This has been particularly valuable in providing insights across the period of the pandemic, in addition to the specific bodies of work which have taken place exploring the impact of the pandemic on mental health, wellbeing and influencing factors.

Many mental health services are provided by the NHS. NHS Scotland has a patient charter which sets out what people can expect when accessing NHS care in Scotland. It sets out what people are entitled to and what they can do if they feel their rights have not been upheld. NHS boards have their own complaints procedures. Information on how to raise a complaint is available online and displayed in NHS estates, these differ per board. For staff, NHS Boards have whistleblowing policies and procedures in place to support staff who want to report or discuss any breaches in rights or concerns about safety. Complaints and concerns about NHS services can be escalated to the Scottish Public Services Ombudsman or the Independent National Whistleblowing Office (INWO) respectively, if the complainant is not satisfied with NHS handling.

Similarly, if people want to complain about social care services, this can be done directly with the local authority providing the service and this is different for each council but specific information should be available on council websites. Complaints can be escalated to the Ombudsman.

Work is also underway to co-design a Charter of Rights and Responsibilities ('the Charter') for the NCS with people who have lived experience of social care, social work and community health support. The Charter will set out people's rights and responsibilities when accessing NCS support. It will provide a clear pathway for complaints and redress if rights are not met.

Health and Social Care Alliance Scotland (the ALLIANCE) is the national third sector intermediary for health and social care, bringing together a diverse range of people and organisations from the third sector, statutory and private sector, disabled people, people living with long term conditions and unpaid carers. Their purpose is to improve the wellbeing of people and communities across Scotland and ensure the voices of third sector and people with lived experience is listened to and acted upon by Scottish Government and local authorities. The Alliance have a complaints procedure and whistle blowing policy in place to support staff in coming forward with concerns.

The Mental Welfare Commission was originally set up in 1960 under the Mental Health (Scotland) Act 1960. The Commission exists to uphold patient's rights and provide information and advice to people about their rights in relation to mental health care and treatment. They also provide advice to Scottish Government in policy development, developing services that safeguard rights and improve care and treatment for people with mental illness, learning disability, dementia and related conditions. They provide an independent function to support people when they feel their rights have not been upheld when accessing mental health services. They act as a watchdog to make sure the Scottish Government is accountable when necessary. The Commission provides advice to both the public and professionals on rights and good practice in mental health care and treatment through its Advice Line including if someone feels that a breach of rights has occurred.

The Scottish Government will continue working with partners to develop Quality Standards and Specifications for mental health services, setting out clear expectations for what services will look like, recognising the need for local flexibility, whilst also providing assurance of high-quality care. These will be informed by the principles in this Strategy.

The Scottish Government will work with partners to strengthen the scrutiny and assurance of the delivery of mental health services. The quality and safety of NHS mental health in-patient services are important in supporting positive outcomes. Whilst some environments are modern and enable the provision of high quality care, others need improvement. A national tool will be developed to assess and support improvement in the quality and safety of the mental health built environment.

For workforce, while there are no specific human rights actions within the Workforce Action Plan, however human rights and equalities are embedded throughout. An essential learning module is being updated on equality and human rights and a specific resource on cultural competence is being developed. This should enhance NHS staff knowledge around human rights and sensitive support.

Non-discrimination and equality
All forms of discrimination (such as age, gender, sexual orientation or ethnicity) in the realisation of rights must be prohibited, prevented and eliminated. It also requires the prioritisation of those in the most marginalised or vulnerable situations who face the biggest barriers to realising their rights.

Anyone who experiences mental ill health may be vulnerable and therefore fall under the umbrella of the strategy. However, there are certain groups that may be particularly vulnerable.

There are people whose illness is such that they require to be treated in hospital on a short or long term basis. Sometimes this cannot be done on a voluntary basis, and people can be subject to compulsory measures of care and treatment in hospital or in the community under mental health legislation. It is essential that these groups retain the same rights and entitlements as others and that appropriate safeguards exist to protect and uphold rights. Anyone carrying out functions under the Mental Health (Care and Treatment) (Scotland) Act 2003 must have regard to the over-arching principles of the Act which include taking into account the wishes and feelings of patients and carers, using options of least restriction and maximum benefit and that of reciprocity where society imposes an obligation on someone to comply with a programme of treatment of care, there should be the same obligation on health and social care authorities to provide safe and appropriate services, including ongoing care once the individual is no longer subject to compulsory measures.

Social and structural inequality in society means that those who face the most significant disadvantages in life also face the greatest risks to their mental health. This includes marginalised groups who experience discrimination, racism or exclusion (social, political, economic or environmental) solely based on age, race, sex, sexual orientation, disability or other characteristics protected by the Equality Act 2010. There are also other groups, such as veterans, refugees, children, young people, adults and families who are care experienced, people affected by substance use or those experiencing abuse or homelessness and those engaged in the justice system. People in prison often have a combination of mental and social care needs, arriving in prison disproportionately from the most deprived areas in Scotland, and with higher mental health needs relative to the non-prison population. Many people in these marginalised or hidden groups experience discrimination from parts of society, creating multiple discrimination and leading to significant marginalisation. This can be traumatic and cause long-term damage to their mental health and considerable adverse mental health impacts beyond those that the rest of the population face.

Poverty is the single biggest driver of poor mental health, and we know that people living in poverty carry a higher risk of suicide, as do those who are unemployed or socially isolated. Many people also face the additional barrier of digital exclusion, meaning it is harder to access advice, support and services.

In many cases, these same groups of people also often experience less access to effective and relevant support for their mental health. When they do get support, their

experiences and outcomes can be poorer. These inequalities in mental healthcare can exacerbate mental health inequalities.

Disabled people are more likely to report lower mental wellbeing than those with no condition and are amongst those who need support and services to be accessible and inclusive in a range of formats, including non-digital. This includes people with learning disabilities, those with sensory loss and those with a long-term physical health condition. A large proportion of autistic people also experience mental ill health in their lifetime.

Women and girls are disproportionately impacted by poverty, which can lead to social isolation, anxiety, depression and stress. Greater caring responsibilities and the everyday threat of violence against women and girls can also adversely impact mental health. Childbirth is also associated with an increased risk of mental ill health in mothers.

Periods of transition often put extra stress on children and young people's pre-existing resilience and coping strategies. The late teenage years are a point when mental wellbeing can decline, particularly for young women, and can also be the point of onset of serious mental illness. Teenage years are also a stage in life where the increased use of online communities and social media can impact mental health, especially for young women. Experiences of bullying, harassment and abusive behaviour put young people at higher risk of poor mental health.

Scotland also has an ageing population. The proportion of 'older adults' (65 years old and over) in the population has increased from 16% in 2000 to 19% in 2020. This is expected to continue increasing over the next decade, putting more pressure on public services. Older adults, particularly those living in remote, rural and island areas, are more likely to experience loneliness and can also face barriers in accessing support and services, exacerbated by a lack of access to transport. Research from both NHS Grampian and Scotland's Rural College highlights the disproportionately higher rates of depression amongst agricultural communities, with suicide rates amongst farmers among the highest of any occupational group.

Experiencing minority stress, racism, discrimination and trauma has a significant negative impact on mental health and wellbeing and can disproportionately impact lesbian, gay, bisexual, transgender and intersex (LGBTI) people, minority ethnic groups, and disabled people. LGBTI and minority ethnic people also have reported that staff can lack cultural competency, sensitivity and understanding of their specific needs.

Evidence suggests that only around half of veterans experiencing mental health problems seek help. Stigma is one of the main reasons for this, and levels of help-seeking are particularly low in those with post-traumatic stress disorder. The specific needs of veterans must be taken into account when planning support and services.

We want to be clear about what this Strategy is trying to achieve.

- Positive changes in cross-cutting outcomes will contribute to changes for people over time

- Positive changes in support and services outcomes
- Positive changes in outcomes for the mental health and wellbeing workforce
- Positive changes in how information, data and evidence is accessed and used to support the improvement outcomes for people

Specifically, the actions in the Delivery Plan and Workforce Action Plan will lead to that change happening in a sustainable way.

To do this, we have developed a set of outcomes. These are the differences or changes that we want to see as a result of this Strategy. The outcomes we aim for are the same for everyone, although the actions we need to take to get there will likely differ for different groups. We will use these outcomes to help monitor and evaluate progress as this Strategy is implemented.

Logic Model Showing the Achievement of Strategy Outcomes

To realise our VISION for a Scotland, free from stigma and inequality, where every person experiences and has the right to achieve the best mental health and wellbeing possible.

This Strategy aims to achieve

Positive changes in cross-cutting outcomes will contribute to changes for people over time

Positive changes in support and services outcomes

Positive changes in outcomes for the mental health and wellbeing workforce

Positive changes in how information, data and evidence is accessed and used to support the improvement outcomes for people

And these will help us achieve

Positive changes in outcomes for individuals

Positive changes in outcomes for communities (geographic communities, communities of interest and of shared characteristics)

That will over time contribute to

Longer-term, population outcomes [Dependent on action across policy areas and funding streams]

And throughout this we will be working towards our High Level Summary Outcomes

Whole Population Level Outcomes

- The overall mental health and wellbeing of the population is increased and mental health inequalities are reduced.
- People with mental health conditions, including those with co-existing health conditions experience improved quality and length of life, free from stigma and discrimination.
- People have an increased knowledge and understanding of mental health and wellbeing and how to access appropriate support.
- Communities are better equipped to act as a source of support for people's mental health and wellbeing, championing the eradication of stigma and discrimination and providing a range of opportunities to connect with others.
- We adopt a 'mental health and wellbeing in all policies' approach to facilitate cross-policy actions that more effectively address the wide-ranging social, economic and environmental factors that impact people's mental health and wellbeing, including poverty, stigma, discrimination, and injustice.

Process Outcomes

- Comprehensive support and services that promote and support people's mental health and wellbeing are available in a timely way that meets and respects individual needs.
- Mental health policies, support, care, and treatment are better informed and shaped by people with lived experience of mental health issues and staff practitioners, with a focus on high quality provision that is recovery orientated.
- Decision-makers and practitioners (including the third sector)are better able to access the evidence, research and data they need to ensure a more evidence-based approach to policy formation and practice.
- The mental health and wellbeing workforce is diverse, skilled, supported and sustainable.

An accessible format of this diagram is available if required.

The aim of the Strategy is to deliver positive outcomes for people. There are various actions which could be argued support the relevant rights and safeguards of human rights in the Delivery Plan and Workforce Action Plan.

- **Promote** positive mental health and wellbeing for the whole population, improving, understanding and tackling stigma and discrimination.

- **Promote and Prevent** mental health issues occurring or escalating and tackling underlying causes and inequalities wherever possible.

- **Promote, Prevent and Provide** mental health and wellbeing support and care, ensuring people and communities can access the right information, skills, support, services and opportunities in the right place, at the right time.

Through the actions laid out in the Delivery Plan for this Strategy, we will seek to:

- Tackle mental health stigma and discrimination where it exists and ensure people can talk about their mental health and wellbeing and access the person-centred support they require.
- Improve population mental health and wellbeing, building resilience and enabling people to access the right information and advice in the right place for them and in a range of formats.
- Increase mental health capacity within General Practice and primary care, universal services and community-based mental health supports. Promote the whole system, whole person approach by helping partners to work together and removing barriers faced by people from marginalised groups when accessing services.
- Expand and improve the support available to people in mental health distress and crisis and those who care for them through our national approach on Time, Space and Compassion.
- Work across Scottish and Local Government and with partners to develop a collective approach to understanding and shared responsibility for promoting good mental health and addressing the causes of mental health inequalities, supporting groups who are particularly at risk.
- Improve mental health and wellbeing support in a wide range of settings with reduced waiting times and improved outcomes for people accessing all services, including Child and Adolescent Mental Health Services (CAMHS) and psychological therapies.
- Ensure people receive the quality of care and treatment required for the time required, supporting care as close to home as possible and promoting independence and recovery.
- Continue to improve support for those in the forensic mental health system.
- Strengthen support and care pathways for people requiring neurodevelopmental support, working in partnership with health, social care, education, the third sector and other delivery partners. This will ensure those who need it receive the right care and support at the right time in a way that works for them.
- Reduce the risk of poor mental health and wellbeing in adult life by promoting the importance of good relationships and trauma-informed approaches from

the earliest years of life, taking account where relevant adverse childhood experiences. We will ensure help is available early on when there is a risk of poor mental health and support the physical health and wellbeing of people with mental health conditions.

The Workforce Action Plan aligns with the five pillar approach from the wider National Workforce Strategy for Health and Social Care - Plan, Attract, Train, Employ, Nurture.

All of the actions in the Delivery Plan and Workforce Action Plan were developed in careful consultation with should ultimately help to promote and uphold human rights around mental health.

Empowerment
Individuals and communities should understand their rights and be fully supported to participate in the development of policy and practices which affect their lives.

Extensive and targeted consultation and engagement was undertaken while developing the new strategic policy and actions underneath this. The policy was developed through extensive stakeholder engagement, including a full public consultation and direct discussions with the Diverse Experiences Advisory Panel, the Equality and Human Rights Forum, Mental Health Leads Network, Professional Advisors Group, and Stakeholder Engagement Group.

A series of workshops run in collaboration with Public Health Scotland informed the Outcomes framework featured in the Strategy – these were attended by hundreds of people representing a wide range of organisations. Our public consultation received nearly 500 responses, and an independent analysis of these has been published online. We also held a series of consultation events in Summer 2022 that were attended by nearly 300 people representing 117 organisations. A wide variety of other ad hoc engagement was conducted alongside this, including with people with lived experience.

A first draft of the Strategy was shared with over 150 stakeholders in January 2023. The final draft of the Strategy has built on the feedback we received, with extensive changes made based on stakeholder comments.

Legal
A human rights based approach requires the recognition of rights as legally enforceable entitlements and is linked in to national and international human rights law.

The Strategy has been designed to place human rights at the centre of its work and the process of carrying out this impact assessment will help to identify and recognise our obligations under international treaties.

By delivering on outcomes they will help us achieve positive changes in for individuals and positive changes in outcomes for communities (geographic communities, communities of interest and of shared characteristics), and therefore human rights and equalities.

That will over time contribute to longer-term, population outcomes (dependent on action across policy areas and funding streams). Throughout this we will be working towards our High Level Summary Outcomes which includes Whole Population Level Outcomes so that the overall mental health and wellbeing of the population is increased and mental health inequalities are reduced. Achieving these outcomes should have a positive effect on human rights and equalities. The Strategy and both plans we recognise the intersectionality of these.

Seven conventions were considered during this assessment; European Convention of Human Rights; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; United Nations Convention on the Elimination of All Forms of Discrimination Against Women; International Convention on the Rights of Persons with Disabilities; International Convention on the Elimination of All Forms of Racial Discrimination; UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Details on which conventions and specific rights might be engaged by the Strategy can be found in Annex A. Annex A does not include additional information on rights around reporting although it is accepted that these are relevant for any convention where rights are engaged by the Strategy (required periodic reporting under UN Conventions).

The actions in the Strategy, Delivery Plan and Workforce Action Plan should have a positive or neutral impact on human rights. None of the actions or outcomes should negatively impact on human rights.

Conclusion

Overall, the Strategy, Delivery Plan and Workforce Action Plan should have a positive or neutral impact on human rights. Consistent engagement and consultation with stakeholders, equalities and human rights organisations, and those with lived experience has provided invaluable insight in developing our new policy. It has informed and ultimately helped shape the Strategy and accompanying action plans to reflect and respect equalities and human rights throughout.

European Convention on Human Rights **Annex A**

Article	Relevant	Comments	Covered by Strategy, Delivery Plan and/or Workforce Action Plan	Notes
Article 2 – Right to Life	Yes	Engaged by the strategy due to implications of suicide; a duty to protect life from risks by self/others.	2.5.4, 4.1, 4.2, 4.3, 4.4, Creating Hope Together	The right to life will be positively impacted by the Strategy. Strategic action 4 is based around continuing to work towards realising the ambitions in the Creating Hope Together Strategy, as separate specific strategy on suicide prevention and distress intervention. As with the Mental Health and Wellbeing Strategy, equalities and human rights underpin the vision and actions throughout. This work should uphold the right to life and have a positive impact, promoting early intervention for people in distress or contemplating suicide.

Article 3 – Freedom from torture or inhuman or degrading treatment	Yes	The State must not act in a way that that subjects a person to torture or to inhuman or degrading treatment or punishment.	2.4 (2.4.2, 2.4.3, 2.4.4), 4.1.1, 5.1, 6.6, 9.3, 10.3.	Everyone deserves, and should be able to expect, sensitive and humane treatment when accessing mental health support. The Strategy acknowledges that traumatic experiences affect most people at some stage in life and the impact of trauma is unique to each of us. It can negatively impact mental health and wellbeing as well how and when people seek and access support. The National Trauma Transformation Programme was set up to promote a trauma-informed approach using universal principles to help recognise the impact trauma may be having on people seeking support and to work with them and respond in a way that supports recovery. The Strategy has trauma informed and responsive care as a foundation and there are several actions in the Delivery Plan and Workforce Action Plan that will help achieve this. The ambition is that anyone who receives care will do so with a trauma informed, responsive and person-centred approach no matter their previous experiences. This will have a positive impact on human rights. In regard to detention of a person, there are processes and safeguards in the Mental Health (Care and Treatment) (Scotland) Act 2003 ("the 2003 Act") designed to ensure that a person is only subject to compulsory care and treatment where this is absolutely necessary. When a person is subject to compulsory care and treatment, there are safeguards in place for the individual. Both the Adults with Incapacity (Scotland) Act 2000 ("the AWI Act") and the 2003 Act are clear about the need to take into account/ have regard to the wishes and feelings of the adult. The Mental Health and Capacity Reform Programme will consider how best to build on and enhance human rights protections in mental health and capacity law.

Article 5 – The right to liberty	Yes	Detention under mental health law	6.6, 9.3	Scottish mental health law is fully compliant with article 5 of the ECHR. Deprivation of liberty on the grounds of mental disorder is permitted under article 5. In 2019, Scottish Government commissioned an overarching independent review, the 'Scottish Mental Health Law Review'. This looked at how our mental health, incapacity and adult support and protection laws can be further strengthened from a human rights perspective and how we can remove any barriers to care and support that people might face. The Review published its final report in September 2022 and provided over 200 proposals for reform. These were based on extensive engagement with a wide range of organisations and people with lived experience on the issues that matter to them. This wider review followed two earlier independent reviews: one into the delivery of forensic mental health services and one which considered how mental health law works for those with learning disability and autism. The Scottish Government responded to the recommendations in June 2023 and committed to establishing a Mental Health and Capacity Reform Programme. This gives the Scottish Government the opportunity to strengthen how mental health and capacity law interacts with human rights and equalities and seeking related improvements in policy and practice. More information can be found in the Mental Health Law Review.

Article 8 – Right to respect for private and family life, home and correspondence	Yes	Privacy and involving family in care decisions.	Covered in CRWIA	We have engaged significantly with children, young people and their families since 2017 through several functions like the Children and Young People's Mental Health Taskforce and most recently the Joint Delivery Board on Children and Young People's mental health. We have heard that children and young people want to advocate for themselves, have a choice about how they access information on mental health and wellbeing and be part of the decision making process regarding their care. Strategic action 2.1 and the actions below this, aim to expand the range of formats that mental health and wellbeing information is available on, including significant work with children and young people on resources for this demographic. All actions relating to children and young people are based around a GIRFEC approach which is wholly rights based, encouraging a person centred, adaptive approach recognising the different needs of individuals There is an expectation of privacy when using services and organisations have an obligation to protect people's information, medical records and any data they hold on they to uphold confidentiality. Data breaches are taken seriously in Scottish Government, who are ultimately responsible for public organisations like NHS Scotland.
Article 14 – Right to freedom from discrimination	Yes	Equalities work relevant here. Indirect discrimination is contained under this right as well as direct.	Yes	From engagement and the evidence gathered while developing the Strategy and Plans, we know that discrimination can prevent people from seeking, accessing, and continuing to engage with mental health support. Those who face discrimination are also more likely to have poor mental health. This is one of the key reasons why equalities are embedded throughout the Strategy and Plans. There are specific actions around reducing discrimination and inequalities in both Plans and the Strategy. A specific inequalities action table within the

				Delivery Plan sets out actions and how they relate to specific protected characteristics. The mental health evidence review and EQIA set out a significant piece of work around inequalities and discrimination, and how the Strategy, Workforce Action Plan and Delivery Plan address this. EQIA for Delivery Plan. EQIA for Workforce AP. More detail can be found in the inequality Action Table in the Delivery Plan.

International Covenant on Civil and Political Rights

Article	**Relevant**	**Comments**	**Covered in Strategy, Workforce AP and/or Delivery Plan**	**Notes**
Article 3 – Ensure equal rights of men and women to enjoy the civil rights set forth in the covenant	Yes	Equalities work will be relevant if any other rights in the covenant are relevant to the work of the mental health and wellbeing strategy.	More detail in the Inequality Action Table in the Delivery Plan (page 51).	
Article 6 – Right to life	Yes	Engaged by the strategy due to implications of suicide; a duty to protect life from risks by self/others.	As in EHCR table article 2 above.	

Article 7 – Freedom from torture or cruel, inhuman or degrading treatment or punishment.	Yes	The State must not act in a way that that subjects a person to torture or to inhuman or degrading treatment or punishment Prevention of ill-treatment, protection and rehabilitation of survivors of ill treatment. Ensuring trauma responsive services and ensuring access to support for people affected by trauma.	As in EHCR table article 3 above.	
Article 9 – Right to liberty and security of person.	Yes	Detention under mental health law.	6.6, 9.3	The 2003 Act sets out clear processes and safeguards for persons detained under mental health law for necessary care and treatment (see Article 3 ECHR above). The Mental Health and Capacity Reform Programme will consider how best to build on and enhance human rights protections in mental health and capacity law..
Article 10 – All persons deprived of their liberty shall be treated with humanity and respect	Yes	Detention under mental health law.	6.6, 9.3	Both the AWI Act and the 2003 Act are clear about the need to take into account/ have regard to the wishes and feelings of people and carers. The Mental Health and Capacity Reform Programme will consider how best to build on and enhance human rights protections in mental health and capacity law.

Article 23 - The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.	Yes	Family mental health	4.4 (4.4.1), 5.2 (5.2.1, 5.2.2), 9.1, 10.1 (10.1.1-10.1.5), 10.2 (10.2.1-10.2.3).	Family and perinatal mental health work and work around GIRFEC is relevant to this article.
Article 24 - Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.	Yes	Protection of the mental health of children and young people	4.4 (4.4.1), 5.2 (5.2.1, 5.2.2), 9.1, 10.1 (10.1.1-10.1.5), 10.2 (10.2.1-10.2.3).	Packages of work around children and young peoples mental health, perinatal mental health and mental health support in education are relevant to this article.
Article 25 – Right to take part in public affairs, vote, and equality of access to public service	Yes	If access to public service includes access to NHS services, social work, etc.	All priorities and actions support the right to the right support at the right time and place.	
Article 26 – right to be equal before the law,	Yes	Mental Health Law and forensic	6.6, 8.1 (8.1.1-8.1.4), 9.3.	The 2003 Act sets out clear processes and safeguards for persons detained under mental health law for necessary care and treatment

and to have equal protection of law				(see Article 3 ECHR above). The Mental Health and Capacity Reform Programme will consider how best to build on and enhance human rights protections in mental health and capacity law.
Article 27 - In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.	Yes	Culturally sensitive services	2.2, 2.3, 2.4, 2.6, 2.7, 3.2, 6.3, 9.2, 10.3.	Culturally sensitive services and staff. Workforce training for support of equalities groups - Minority ethnic and religious minority (including the need for culturally sensitive services), choice and agency in support received. Health and Social Care: National Workforce Strategy - Deliver up-to-date, relevant and impactful training for staff around Equality, Diversity and Inclusion; Working with NES to improve mandatory Equality, Diversity and Inclusion training for Health and Social Care staff.

International Covenant on Economic, Social and Cultural Rights

Article	Relevant	Comments	Covered in Strategy, Workforce AP and/or Delivery Plan	Notes
Article 2 – State parties take all action to ensure realisation of rights	Yes	Relevant as several articles in this covenant are invoked by the Strategy.	Yes, all actions should enhance rights.	

Article 4 – Rights may only be subject to limitations if necessary by law, and for the purposes of promoting general welfare in a democratic society	Yes	Regarding MH Law.	6.6, 9.3	The 2003 Act sets out clear processes and safeguards for persons detained under mental health law for necessary care and treatment (see Article 3 ECHR above). The Mental Health and Capacity Reform Programme will consider how best to build on and enhance human rights protections in mental health and capacity law.
Article 7 – Right to just and favourable conditions of work	Yes	Right to healthy working conditions incorporates mental health – therefore this is relevant to the strategy.	2.5 (2.5.1-2.5.5).	We will continue to promote the Healthy Working Lives' mental health and wellbeing digital platform to help employers in Scotland actively support and promote mental health at work. The platform signposts employers to a wide range of mental health and wellbeing resources. These include information and advice on understanding mental health, mental health and the law and staff learning and development opportunities, as well as signposting to sources of support.
Article 10 – Family Rights	Yes	This right includes – protection and assistance for families; special protection for mothers during a reasonable period before and after childbirth; protection and assistance on behalf of all	As above in article 23 and 24 of ICCPR.	

		children and young people. This includes protecting them from economic and social exploitation that may negatively impact their health. Work to support CYP mental health, and perinatal mental health is relevant.		
Article 12 – The right to enjoy the highest standard of physical and mental health	Yes		Entire Strategy and all actions.	

International Convention on the Rights of Persons with Disabilities

Article	Relevant	Comments	**Covered in Strategy, Workforce Action Plan and/or Delivery Plan**
Article 3 – General Principles	Yes		The entire Strategy and all actions, specifically equality and disability focused actions, will help to uphold these rights. The specific themes and actions in the Inequality Action Table that support these
Article 4 – General obligations	Yes		

Article 5 – Equality and non-discrimination	Yes	.	rights are – Social determinants of mental health; poverty and deprivation (2.4, 4.4, 5.1, 5.2); experiences of minority stress, discrimination and trauma (2.7, 4.4, 5.1, 9.1,10.3). Accessing services; lack of targeted information and lack of inclusive communication (2.1, 2.2, 2.3, 2.6, 2.7, 4.4,9.1, 9.2); diagnostic overshadowing (2.7, 4.5, 7.1, 9.1, 9.2, 10.4). Experience of using services; choice and agency in support received (2.2, 2.3, 2.6, 3.2, 6.3, 9.2, 10.3). Data and evidence gaps; lack of disaggregated data (6.4, 6.5). Tackling a range of inequalities (3.1, 3.2, 4.1, 4.2, 4.4, 6.1, 6.2, 6.6, 7.1, 8.1, 9.3, 10.4).
Article 6 – Women with disabilities	Yes	Equalities work will take into account people who are subject to multiple discrimination.	
Article 7 – Children with disabilities	Yes	Take all action to ensure children with disabilities enjoy all human rights.	
Article 8 – Awareness raising	Yes	Raise awareness of disabilities, and foster respect for the rights and dignity of disabled people. Combat stereotypes, prejudices and harmful practices. Promote awareness of the capabilities and contributions of persons with disabilities.	
Article 9 – Accessibility	Yes	Ensure accessibility in all aspects of life for disabled people, this will include measures taken to ensure accessible mental health services for disabled people.	Scottish Government will work with NHS Boards to ensure the mental health built estate enables the delivery of high quality, person centred and safe care. In doing so, we will take into account the findings from Equalities Impact Assessments and other relevant assessments.(7.2)
Article 10 – Right to Life	Yes	Engaged by the strategy due to implications of suicide; a duty to protect life from risks by self/others.	As EHCR table above, article 2.
Article 12 – Equal recognition before the law	Yes	Equality under mental health law.	As Mental Health Law (EHCR article 3; article 5. ICCPR article 9) and trauma (EHCR article 3) related actions described above.
Article 14 – Liberty and security of the person	Yes	Detention under mental health law.	
Article 15 – Freedom from torture, or cruel, inhuman or	Yes	The State must not act in a way that that subjects a person to	

degrading treatment or punishment		torture or to inhuman or degrading treatment or punishment Prevention of ill-treatment, protection and rehabilitation of survivors of ill treatment Ensuring trauma responsive services, and ensuring access to support for people affected by trauma.	
Article 16 – Freedom from exploitation, violence and abuse	Yes	States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services	
Article 17 – Protecting the integrity of the person	Yes	Right to respect for the physical and mental integrity of disabled people on an equal basis with others	As all of the equalities work described above.
Article 19 – living independently and being included in the community	Yes	Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.	

Article 21 - Freedom of expression and opinion, and access to information	Yes	Need to ensure accessible information on mental health, mental wellbeing and mental health services for disabled people.	
Article 25 – Health	Yes	States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability.	
Article 31 – Statistics and data collection	Yes		The Strategy includes work on improving data collected around mental health. Specific actions include; Data and evidence gaps; lack of disaggregated data (6.4, 6.5); lack of quantitative and qualitative data (4.2, 6.4, 6.5). Tackling a range of inequalities (3.1, 3.2, 4.1, 4.2, 4.4, 6.1, 6.2, 6.6, 7.1, 8.1, 9.3, 10.4).

United Nations Convention on the Elimination of All Forms of Discrimination Against Women

Article	Relevant	Relevant Strategy work
Article 2 – Condemn discrimination against women and girls and take all appropriate means to eradicate it	Yes	The Delivery Plan and Workforce Action Plan cover this Convention with all actions, specifically the equalities work. The work focused on women is highlighted in the Inequality Action Table in the Delivery Plan and includes the themes - social determinants of health; poverty and deprivation (strategic actions 2.4, 4.4, 5.1, 5.2); experiences of minority stress, discrimination and trauma (strategic actions 2.7, 4.4, 5.1, 9.1, 10.3); loneliness and isolation (strategic actions 3.2, 10.2); diagnostic overshadowing (strategic actions 2.7, 4.5, 7.1, 9.1, 9.2, 10.4). Experience of using services; workforce training (strategic actions 2.3, 2.4, 2.7); choice and agency in
Article 3 – Take all action to ensure the full development and advancement of women	Yes	
Article 4 – Any temporary, special measures taken to accelerate equality between men and women	Yes	

shall not be considered as discrimination		support received (strategic actions 2.2, 2.3, 2.6, 3.2, 6.3, 9.2, 10.3). Tackling a range of inequalities (strategic actions 3.1, 3.2, 4.1, 4.2, 4.4, 6.1, 6.2, 6.6, 7.1, 8.1, 9.3, 10.4). The Women's Health Plan, published in August 2021 aims to address health inequalities and improve health outcomes for women and girls. There are actions being delivered through the plan which are of relevance to the mental health and wellbeing workforce. This includes promoting the menopause and menstrual health workplace policy that is being developed for NHS Scotland Staff. We will promote use of this best practice example for all employers within the mental health and wellbeing system and encourage equivalent efforts. This will be supported by inviting a representative from the mental health and wellbeing workforce to participate in the Menopause and Menstrual Health Working Group which will consider the implementation of the workplace policy for NHS Scotland as an example of best practice.
Article 5 – take measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and all other practices which are based on the idea of inferiority or superiority of either men or women.	Yes	
Article 11 – take all appropriate measures to eliminate discrimination against women in the field of employment	Yes	
Article 12 – take all measures to eliminate discrimination against women in the field of health care.	Yes	
Article 14 – take into account particular problems faced by rural women	Yes	
Article 15 – ensure women are equal to men before the law	Yes	

International Convention on the Elimination of All Forms of Racial Discrimination

Article	Relevant	Comments	
Article 2 – take all measures to eliminate racial discrimination	Yes	Equalities work to eliminate mental health inequalities based on race are relevant here.	The Delivery Plan and Workforce Action Plan cover this Convention with all actions, specifically the equalities work. The work focused on women is highlighted in the Inequality Action Table in the Delivery Plan and includes the themes – social determinants of health; poverty and deprivation (strategic actions 2.4, 4.4, 5.1, 5.2); experiences of minority stress, discrimination and trauma (2.7, 4.4, 5.1, 9.1, 10.3). Accessing
Article 5 – Includes a list of matters in respect of	Yes	- Right to work, free choice of	

which State Parties must prohibit and eliminate all racial discrimination so people can have equal access		employment and favourable working conditions - Right to public health, medical care, social security and social services	Services; mental health stigma (1.1, 2.3, 2.5, 2.7, 9.1, 10.4); lack of targeted information and lack of inclusive communication (2.1, 2.2, 2.3, 2.6, 2.7, 4.4, 9.1, 9.2). Experience of using services; workforce training for support of equalities groups (2.3, 2.4, 2.7); workforce diversity (2.3); choice and agency in support received (2.2, 2.3, 2.6, 3.2, 6.3, 9.2, 10.3). Data and evidence gaps; lack of disaggregated data (6.4, 6.5); lack of quantitative and qualitative data (4.2, 6.4, 6.5). Tackling a range of inequalities (3.1, 3.2, 4.1, 4.2, 4.4, 6.1, 6.2, 6.6, 7.1, 8.1, 9.3, 10.4).Workforce - The new Anti-Racist Employment strategy gives employers practical guidance and support in addressing racial inequality in the workplace. This strategy provides resources for employers, and it will be promoted as part of the Action Plan to mental and wellbeing workforce employers.
Article 7 – take effective measures in teaching, education, culture and information with a view of combatting prejudices which lead to racial discrimination	Yes	Workforce training	

UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

Article	Relevant	Comments	Covered in Strategy, Delivery Plan and/or Workforce AP
Article 10 – Concerned with training on the prohibition of torture being provided to law enforcement, civil or military, medical personnel etc.	Yes	This extends to training being provided to any person who may be involved in the custody, interrogation, or treatment of any individual subjected to any form of arrest, detention, or imprisonment. Relevant to the mental health and wellbeing workforce.	The workforce actions aim to achieve a workforce which are supported to provide effective, person-centred, trauma- informed, rights based compassionate services and support.
Article 14 – Concerned with ensuring legal systems allow victims	Yes	If rehabilitation includes mental health services.	Trauma informed practice as in EHCR above – DP actions 2.4 (2.4.2, 2.4.3, 2.4.4), 4.1.1, 5.1, 6.6, 9.3, 10.3.

of torture a right full and adequate compensation, including for as full rehabilitation as possible			
Article 16 – Concerns preventing other acts of cruel, inhuman or degrading treatment or punishment that do not amount to torture as defined in the convention	Yes	The State must not act in a way that that subjects a person to torture or to inhuman or degrading treatment or punishment. Prevention of ill-treatment, protection and rehabilitation of survivors of ill treatment. to support for people affected by trauma.	Trauma informed practice as in EHCR above – DP actions 2.4 (2.4.2, 2.4.3, 2.4.4), 4.1.1, 5.1, 6.6, 9.3, 10.3. Mental Health Law as in ICCPR articles 9 and 10.

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