

# Consultation Response

## Mental Welfare Commission: Development of the Strategic Plan for 2026 to 2029

August 2025



# What are your VIEWS?

## Preparing for the next 3 years ....

The Mental Welfare Commission's strategic plan is due for review.

The aim of this consultation is to seek your views on where we are now in relation to how we deliver on our duties according to mental health and incapacity legislation (activities) and where we need to be over the next three years.

We are ambitious for the people that we serve and want to be informed by everyone with an interest in the role of the Mental Welfare Commission and its responsibilities in law; this will help to develop and shape our priorities for our new Strategic Plan for 2026 to 2029. We thank you in anticipation of your contribution.

Please return your completed questionnaire by email to: [mwc.ep@nhs.scot](mailto:mwc.ep@nhs.scot) by **15 August 2025**

### About Us

#### **Our Purpose**

We protect and promote the human rights of people (children, young people and adults) with mental illness, learning disabilities, dementia and related conditions

#### **Our Mission**

To be a leading and independent voice in promoting a society where people with mental illness, learning disabilities, dementia and related conditions are treated fairly, have their rights respected, and have appropriate support to live the life of their choice.

To achieve our mission and purpose we currently have four strategic priorities:

#### **Strategic priorities**

- To challenge and promote change
- Focus on the most vulnerable
- Increase our impact (in the work that we do)
- Improve our efficiency and effectiveness

In order to achieve these priorities we have grouped our activities into five main categories:

- Influence and empowering
- Visiting individuals
- Monitoring the law
- Investigate and casework
- Information and advice



## Activity 1: Influencing and empowering

We are often described as a mental health 'watchdog'.

We look into situations where something has gone wrong in mental health and learning disability services, but we also work to improve policy to help safeguard people and prevent things going wrong.

In our watchdog role, we draw attention to deficiencies in care and treatment in mental health services and areas of improvement in practice and ask people to learn from them. In this role, we use our unique overview of mental health, learning disability and dementia services to help Scottish Ministers and service managers shape policy. This way we aim to help develop services that safeguard rights, and improve care and treatment for people with mental illness, learning disability, dementia and related conditions.

### **Q1 In your opinion how is the Mental Welfare Commission making a difference?**

We consider that the Mental Welfare Commission (MWC) has an important oversight and leadership role within the wide scope of its remit.

### **Q2 Do you think our current four strategic priorities are still relevant?**

#### Current Strategic priorities

- To challenge and promote change
- Focus on the most vulnerable
- Increase our impact (in the work that we do)
- Improve our efficiency and effectiveness

☒ Yes

☐ No

If No, (please explain)

Whilst we do consider that the current strategic priorities remain relevant, we also consider that an additional priority reflecting the Commission's leadership role would be helpful.

**Q3 In your opinion what does the Mental Welfare Commission need to do in future (next 3 years) to make a greater impact on its strategic priorities?**

Given its unique expertise and insight, it will be important that the MWC is able to play a leading role in supporting and influencing the Scottish Government's programme of reform to mental health and capacity law, to help ensure that new laws in this area protect and promote the rights of those subject to the legislation. This includes the urgent priorities of ensuring that incapacity law complies with ECHR and that mental health law reflects the UN Convention on the Rights of the Child, and the need for longer term reform to address the requirements of the Convention on the Rights of Disabled Persons, and a proper legal framework for advance medical decision making.

**Q4 Are there any other actions that should be prioritised by the Commission for attention in the next three years?**

The Commission should also prioritise:

- Maintaining its integrity and independence;
- Working with stakeholders to prepare for the implementation of law reform initiatives.

**Q5 Is there additional support that we can provide to Health and Social Care Partnerships/Health Boards/Local Authorities to support their own engagement and involvement of people with lived experience, their families and carers?**

Other organisations will be better placed to respond to this question.

**Q6 Any other comments you wish to make in relation to our influencing and empowering activity?**

Engaging with and shaping policy and legislative change can be resource-intensive, so it is therefore important that the MWC is appropriately resourced to do this effectively at this crucial juncture for law reform in those areas relevant to the MWC's remit. This may include considering whether the MWC requires in-house legal expertise, as is the case with a number of other Commissions.

## Activity 2: Visiting individuals

One of the best ways to check that people are getting the care and treatment they need is to meet with them and ask them what they think.

We visit people in hospital, in their own home, in a care home, in secure accommodation, or in any other setting where they are receiving care and treatment. About a quarter of our visits are unannounced.

We produce reports on all of our visits to people using services, so that services can learn from them and improve the care and treatment they provide. We do this through either:

**Local visits** - to people who are being treated or cared for in/by local services, such as a particular hospital ward, a local care home, local supported accommodation, or a prison.

**Themed visits** - to people with similar health issues, or in similar situations, across the country.

**Welfare guardianship visits** - where we visit people who have a court-appointed welfare guardian. The guardian may be a family member, friend, carer, or social worker (on behalf of the Chief Social Work Officer).

**Monitoring visits** - where we visit people who are subject to specific areas of mental health and incapacity legislation due to our statutory duty to monitor the operation of the law in this area. On these visits we look at compliance with the legislation, and at the experience of people who are receiving treatment. We also look for examples of good practice that we can share.

**Other visits** - for example, we visit when someone who is detained in hospital in England, Wales, or Northern Ireland is transferred to a hospital in Scotland. We also visit some young people admitted to an adult ward.

**Q7 Are you aware of the Visits undertaken by the Commission (themed, local, guardianship)?**

☒ Yes (If Yes, please go to question 8)

☐ No (If No, please go to question 14)

**Q8 Have you been involved in any of the visits undertaken by the Commission (themed, local, guardianship)?**

☐ Yes (If Yes, please go to question 9)

☒ No (If No, please go to question 11)

**Q9 What worked well?**

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**Q10**     **What, if any improvements could we make to our visits?**

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**Q11**     **Do you have any further comments about the Commission's visiting role?**

We have no further comments.

**Q12**     **Do you have any comments about the Commission's visiting reports that are published?**

We have no specific comments, but recognise that these reports are a valuable resource for improving practice.

**Q13**     **Do you have any other comments in relation to the Commission's visiting role?**

We have no further comments.

## Activity 3: Monitoring of the Acts

We monitor the use of the Mental Health (Care & Treatment) (Scotland) Act 2003 and the welfare parts of the Adults with Incapacity (Scotland) Act 2000.

The law says that the people providing care and treatment must let us know if a person has been:

- detained under the Mental Health Act
- detained without the consent of a mental health officer
- placed under a compulsory treatment order
- given care and treatment that is not in line with his or her advance statement, or if:
  - a compulsory treatment order has been changed in an important way
  - a welfare guardian has been appointed to make decisions on another person's behalf

We produce general monitoring and trend data on the use of mental health and incapacity law. These monitoring reports identify any issues with the way the law is used. We highlight these issues, and recommend changes to policy makers and to service providers.

**Q14 Have you read any of our publications on our monitoring of the acts?**

☒ Yes

☐ No (If No, please go to question 19)

**Q15 Have these monitoring reports been useful to you? Please explain how.**

The statistical information provided within these reports is extremely helpful in providing an evidence base for policy engagement.

**Q16 What, if any, improvements could be made to these publications?**

We have no specific comments.

**Q17 What other monitoring work can the Commission do to ensure the rights of individuals are protected and respected?**

We have no further comments.

**Q18 Any other comments?**

No.

## Activity 4: Investigations

If we think that someone with a mental illness, learning disability, dementia or related conditions is not getting the right care and treatment, we will look into it.

We may conduct an in-depth investigation if we believe there are valuable lessons to be learned across Scotland.

We are particularly keen to investigate when we think other people may be having similar problems, and where there have been mistakes that we feel other professionals could learn from. We want to help make sure the same things don't happen again to other people in similar circumstances. Sometimes, after initial investigations, we find nothing of concern. Other times, we want to look further into the case.

When we do this we publish the results and recommendations from our investigations. We then follow up with services to find out what changes they have made in response to our recommendations.

**Q19 Have you read any of the Commission's investigation reports or are you familiar with the Commission's investigation work?**

☒ Yes

☐ No

**Q20 What works well in relation to our investigations work and publications?**

Where investigation publications have included consideration of the role and practice of solicitors, we have found these helpful in reminding our members of best practice and have responded proactively where this is necessary (for example, following the Mr and Mrs D Report). It is helpful when (as with the Mr & Mrs D report), the Commission makes specific public recommendations about actions by the Society, following engagement with the Society before finalising and publishing these.

**Q21 What, if any, improvements could we make to our investigations work?**

We have no further comments.

**Q22 Do you think the role of the Commission in investigations is clear?**

☒ Yes

☐ No

If No, please explain

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**Q23    Any other comments?**

No.

## Activity 5: Information and advice

If you need information or advice about your rights in relation to mental health care and treatment, or you are concerned about someone else's rights and welfare, we will try to help.

If we cannot help directly, we can refer you to other organisations who should be able to.

We give advice and information about rights and best practice in relation to two key laws:

- the Mental Health (Care & Treatment) (Scotland) Act 2003
- the Adults with Incapacity (Scotland) Act 2000

Our website provides answers to questions that patients and members of the public, carers, and professionals have asked us.

**Q24 Have you accessed the Commission's advice line or good practice guides?**

☒ Yes

☐ No (If No please go to 'About you' section on page 13)

**Q25 What was good about the advice line or good practice guides/advice notes you accessed?**

Advice notes can be of assistance to legal practitioners.

**Q26 What, if any, improvements could we make to our advice line or good practice guides/advice notes?**

It would be helpful if advice notes could be updated more regularly, where appropriate. We recognise the likelihood of resources issues, but nevertheless have the impression that more up-to-date advice and good practice notes, published more frequently, would be of help

**Q27 Is there anything else we could be doing in relation to the provision of information and advice?**

We have no further comments.

**Q28 Within the Commission's role and remit, is there more the Commission could be doing with and for:**

People with lived experience

We have no further comments.

Families, carers

We have no further comments.

Practitioners

See our comments above at Q26 and elsewhere.

**Q29     Any other comments?**

We have no further comments.

## About you section

Finally, we'd like to ask some details about you. You don't have to fill this in, but if you do it will help us to ensure our consultation is inclusive. Anything you tell us on this form will be anonymous.

### Are you responding as an individual or organisation?

- ☐ Individual
- ☒ Organisation

### Organisation

Please specify which type of organisation you work for?

- ☐ NHS Board
- ☐ Health & Social Care Partnership
- ☐ Local Authority
- ☐ Third Sector
- ☐ Private Sector
- ☒ Other, please specify: Professional body

If you are responding as an **Individual** can you please complete the following:

- ☐ Prefer not to answer

#### White

- ☐ Scottish
- ☐ Other British (English, Welsh, Northern Irish)
- ☐ Irish
- ☐ Gypsy/Traveller
- ☐ Polish
- ☐ Any other white ethnic group, please describe:

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#### Asian, Asian Scottish, Asian British

- ☐ Pakistani, Pakistani Scottish, Pakistani British
- ☐ Indian, Indian Scottish, Indian British
- ☐ Bangladeshi, Bangladeshi Scottish, Bangladeshi British
- ☐ Chinese, Chinese Scottish, Chinese British
- ☐ Any other Asian, please describe:

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#### African

- ☐ African, African Scottish, African British
- ☐ Any other African, please describe:

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#### Caribbean or Black

- ☐ Caribbean, Caribbean Scottish, Caribbean British
- ☐ Black, Black Scottish, Black British
- ☐ Any other Caribbean or Black, please describe:

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#### Other ethnic group

- ☐ Arab, Arab Scottish, Arab British
- ☐ Any other ethnic group, please describe:

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#### Any mixed or multiple ethnic groups

Please describe:

.....

**How old are you?**

☐ Prefer not to say

Age: .....

**Gender identity - Are you:**

☐ Prefer not to say

☐ Male (including trans man)

☐ Female (including trans woman)

☐ Other gender identity - please tell us: .....

**Which of these best describes how you think of your sexuality?**

☐ Prefer not to say

☐ Heterosexual or straight

☐ Gay or lesbian

☐ Bisexual

☐ Other sexuality – please tell us: .....