

Minutes of the Cross-Party Group on Learning Disability

Committee Room 1, The Scottish Parliament

Tuesday 10 September 2019, 1pm – 2:30pm

People who were there

Jackie Baillie MSP (Convener)*

Joan McAlpine MSP (Deputy Convener)*

Gillian Barclay (Scottish Government)

Brenda Bradley (North Lanarkshire Advocacy)

Gillian Callander (RCSLT)

Mike Casey (Garvald Edinburgh)

Arun Chopra (Mental Welfare Commission)

Norma Curran (Values Into Action Scotland)

Jana De Villiers (The State Hospital)

Sally Ann Elfverson (ENABLE Glasgow)

Andrew Fraser (Royal College of Psychiatrists)

Pat Graham (PAMIS)

Ewan Hamilton (LDAS)

Jason Henderson (National Autistic Society Scotland)

Nick Hobbs (Children and Young People's Commissioner Scotland)

Sharon Irvine (Cornerstone)

Marjorie Irving (The Usual Place)

Vivien Jayne (Down's Syndrome Scotland)

Leanne Keegan (Community Integrated Care)

Melanie Lowe (Scottish Government)

Frances Macdonald (Edinburgh Development Group)

Maureen Martin (Edinburgh Development Group)

Douglas McConachie (NHS Lothian)

Michael McEwan (ERDA)

Frank McKillop (ENABLE Scotland)

James McNab (People First Scotland – supported by
Caroline Kingston)

Colin Menabney (ENABLE Glasgow)



Andy Miller (SCLD)
Jenny Miller (PAMIS)
Sarah Moreland (Mindroom)
Chris O'Shea (Royal College of Psychiatrists)
Catriona Petrie (North Lanarkshire Advocacy)
Steve Robertson (People First Scotland)
Andy Rome (Independent Review of the Mental Health Act)
Ewelina Rydzewska (SLDO)
Jan Savage (ENABLE Scotland)
Andrew Strong (The ALLIANCE)
Nick Ward (National Autistic Society Scotland)
Simon Webster (Independent Review of the Mental Health Act)
Paul White (ELCAP)

People who could not come and sent apologies

Jeremy Balfour MSP
Alex Cole-Hamilton MSP
Alison Johnstone MSP
Mark McDonald MSP
Oliver Mundell MSP
Sam Cairns (North Lanarkshire Advocacy)
Paddy Carstairs (ARC Scotland)
Sharon Horne-Jenkins (NHS)
Faye Keogh (Turning Point Scotland)
Lynnette Linton (ARC Scotland)
Lorraine MacKenzie (Parent carer)
Robert McGeachy (Camphill Scotland)
Colin McKay (Mental Welfare Commission)
Alison Roy (Equal Futures)



1 Welcome



Jackie Baillie MSP welcomed everyone to the meeting and noted the apologies above.

2 Minutes of last meeting and matters arising



Minutes from the last meeting were agreed, with the amendment that Alexander Warren had developed training with the Edinburgh Development Group.

- **Correspondence and Parliamentary Questions**



Several written questions had been sent to Scottish Government Ministers after the last meeting. Copies of replies were shared with members.

- **The Keys to Life Implementation Framework**

The Keys to Life Leadership Group has met to discuss turning the new framework into action.



Members wanted to be kept up to date with progress.

- **People First petition for a new law**



James McNab said People First Scotland has submitted a petition to the Scottish Parliament for a new learning disability law and will keep the CPG up to date with progress.

- **Social Care Reform**



The CPG will talk more about this at a future meeting. In particular, members want to discuss how people can be supported to move out of institutions and into their own homes.

3 AGM



Jackie said that every year, the CPG must hold an Annual General Meeting (AGM) to make sure it is following the Parliament's rules.

- **Re-elect and confirm the Office Bearers**

Jan Savage from ENABLE Scotland chaired the election of the CPG Convener.



Jackie Baillie MSP was nominated for Convener by Gillian Callander, seconded by Jenny Miller and approved by members.



Joan McAlpine MSP was nominated for Deputy Convener by Sharon Irvine, seconded by Ewan Hamilton and approved by members.



ENABLE Scotland was nominated for the CPG Secretariat by Maureen Martin, seconded by Jackie Baillie MSP and approved by members.

The CPG did not elect a Treasurer as it does not collect or spend any money.

- **Confirm membership of the CPG**

MSP members of the CPG were confirmed as:

- Jackie Baillie MSP
- Jeremy Balfour MSP
- Alex Cole-Hamilton MSP
- Alison Johnstone MSP
- Joan McAlpine MSP
- Mark McDonald MSP
- Oliver Mundell MSP



Any organisations that no longer wishes to be listed as a member of the CPG should ask the Secretariat to remove them.

- **Plan what we want to discuss for the next year**

Members agreed they would like future meetings of the CPG to talk about:

- The Keys to Life Implementation Framework
- A new learning disability law
- Seclusion and restraint in schools
- Social care charging
- Bringing people home from institutions



4 Review of the Mental Health (Care and Treatment) Act



Jackie said a decision had been taken to pause issuing a position statement on a new learning disability law until the recommendations of the Independent Review of the Mental Health (Care and Treatment) (Scotland) Act 2003 were published.



Jackie introduced Andy Rome, the Chair of the Independent Review, to talk about its recommendations ahead of the final report being published.

Some of the points raised in Andy's presentation were:

- The Review has taken evidence from lots of people who have a learning disability or autism and have been treated under the Mental Health Act, as well as their families and carers, medical professionals and studying what other countries do.
- The Review team have published their recommendations for any last comments before they send a final report to the Minister.
- Human rights have been at the centre of the whole Review, because human rights exist no matter what the law says.
- Learning disability and autism should be regarded as disabilities and not as “mental disorders”.



- Everyone has the right to the support they need to make decisions about their own lives, to live independently, and to be safe and secure.
- Everyone has the right to a trial when they are charged with an offence, and no-one who has a learning disability should ever get a longer sentence than someone else who committed the same offence.
- Learning disability should be called “intellectual disability” to match how it is described in other countries.
- Some laws need to change to make this happen, and there should be a change to the law so that no-one can be detained in an institution just because they have a learning disability.
- There should be a new law for learning disability and autism to make sure all these rights are protected.

Jackie thanked Andy for his presentation. She said she had at first worried about the review when it was announced, but was struck by how positive the statement and recommendations are.



She asked for questions and comments, and there was a discussion on points including:

- Most members were very supportive of the recommendations, but were concerned that people who have a learning disability could still be detained in a way that other people could not.

- The focus of separate spaces must be on providing a safe space rather than detention or treatment.
- No country has managed to completely end detention of people who have a learning disability, so there is a chance for Scotland to be a world leader.
- The level of support people need to make decisions is different, but the starting point must be that everyone has the right to make decisions about themselves.
- Sometimes, intervention may be necessary to protect someone's right to life, and rights need to be balanced in circumstances like that.
- There could be a risk of more people who have a learning disability going through the criminal justice system, but some offenders said they would prefer this option to a treatment order.
- The new law needs to go hand-in-hand with a shift to a social care and support model, with all professionals being trained to deliver this.

Jackie thanked everyone for their comments. She suggested that learning disability organisations should meet separately to discuss a Cross-Party Group position ahead of the 1st November deadline.

5 Restraint and seclusion



At its last meeting, the CPG agreed it would like to hear more about the issue of seclusion and restraint in schools.



Jackie introduced Nick Hobbs, the Head of Advice and Investigations for the Children and Young People's Commissioner Scotland, to talk about their report called "No Safe Place" which was published in December.

Some of the points raised in Nick's presentation were:

- For the first time ever, the Commissioner used his power to force councils to give him information about restraint and seclusion.
- He found there were 2,674 incidents of restraint and seclusion affecting 386 children during the 2017/18 school year.
- Only 18 out of 32 local councils recorded every incident. 10 recorded some incidents, and 4 did not record any.
- The "No Safe Place" report made 22 recommendations for action.
- The Commissioner feels not enough has been done in the 9 months since the report was published.
- The Scottish Government has a legal duty to uphold children's rights. They could be challenged in court if they are not doing this.





Jackie thanked Nick and introduced Jan Savage, Director of External Affairs at ENABLE Scotland, to talk about their new *in safe hands?* campaign.

Some of the points raised in Jan's presentation were:

- ENABLE Scotland members felt they needed to apply more pressure for action on the Children's Commissioner's "No Safe Place" report.
- The Commissioner's report proves that existing guidance on restraint and seclusion is not being followed.
- ENABLE Scotland is launching a new campaign called *in safe hands?*
- The campaign calls for:
 - Stronger, dedicated Scottish Government guidance on the use of restraint and seclusion in schools;
 - School staff trained in Positive Support strategies;
 - A duty of candour, meaning schools must be open, honest and supportive when incidents happen;
 - More transparency, accountability and oversight.



Jackie thanked both speakers and asked for questions and comments. Discussion points included:

- Restraint and seclusion affects so many families.
- It's important that everyone works together to make the *in safe hands?* campaign a success.



- Experiences in childhood influence people’s whole lives. It’s important that children do not have bad experiences like restraint and seclusion that could affect what they feel able to do as adults.
- The Scottish Government is talking about making the law reflect the United Nations Convention on the Rights of the Child and being a “trauma-informed nation”, but addressing the issue of restraint and seclusion must be part of this.
- There are wider issues with additional support for learning (ASL), and an independent review of the implementation of existing ASL legislation is underway.

Jackie thanked everyone for their comments. She said she would table a Motion in Parliament supporting the campaign and would ask for a debate on this issue.

6 Anything else?



Maureen Martin from Edinburgh Development Group said they hold a “Friendship Factory” event every fortnight where people who have a learning disability can come along to make new friends and have fun.



Jackie said the next meeting would be on Tuesday 10th December at 1pm.

She thanked everyone for coming and taking part, and closed the meeting.