



# #WhatWENeed

Context: Dorothy Gould, from Liberation made a 3-minute verbal presentation to CRPD Committee members during a Zoom meeting with OPD members ahead of the session in August. The aim of this pre-meeting was to understand the complexities of differing law and practice in the 4 countries that make up the UK. At that meeting, Dorothy's brief was to address mental health law in the whole of the UK, whereas normally Liberation focuses on England.

## **Oral presentation to the rapporteurs and other Committee members**

Good morning, everyone. In terms of Article 19, there are major, additional issues for people with psychosocial disabilities and people with intellectual disabilities related to mental health and mental capacity law, which have been ongoing since the special inquiry and urgently need addressing too in the whole of the UK.

To start by explaining which government controls this legislation:

- The Westminster government makes decisions about England and Wales, though the Welsh government (the Senedd) may bring in some additional measures
- The Scottish government and, when it is in place, the Northern Ireland Assembly make decisions for Scotland and Northern Ireland respectively.

In all four countries, the governments have described both new and planned changes in mental health and mental capacity law as important improvements, but the reality is that they remain in serious breach of Article 19, our right to live independently in the community, and of recommendation 114 c) in the special inquiry:

- The [Mental Capacity Act \(Northern Ireland\) 2016](#), which fuses existing mental capacity and mental health legislation continues to be based on a mental capacity approach and to allow continuing detention in hospital and forced treatment on the basis of a disability
- There are exactly the same problems with the Westminster government's [Mental Capacity \(Amendment\) Act 2019](#) and [draft Mental Health Bill](#) and with the Scottish government's planned updates to mental health and mental capacity law.

In all 4 countries, the assumption is that there need to be improvements in mental capacity and mental health law, but that detention and forced treatment are not wrong as such, they just need to be reduced. That assumption is in complete violation of our rights under Article 19, as well as our rights under Articles 12, 13 and 14 and the Committee's recent deinstitutionalisation guidelines. Appalling levels of abuse which have been emerging in psychiatric hospitals and high levels of deaths (for example, up to 2,000 deaths of detained patients in Essex psychiatric services) could not show more clearly that detention and forced treatment are violating our human rights. There is also a complete failure to address rising levels of psychological distress caused by socio-economic inequalities which in reality are putting increased numbers of people at risk of detention. There is, too, a complete failure to address major shortfalls in community provision. It is urgent that these shortfalls are also resolved if we are to exercise our right to live independently in the community.

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