

# Policy and Sustainability Committee

10am, Tuesday 5 October 2021

## Mental Welfare Commission – Authority to discharge report - Edinburgh improvement plan

Executive/routine  
Wards  
Council Commitments

### 1. Recommendations

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- 1.1 To provide Policy and Sustainability Committee with the content of the Edinburgh Health and Social Care Partnership (EHSCP) improvement plan, prepared in response to the Mental Welfare Commission (MWC) report – *Authority to Discharge* - and for committee to approve the plan.
- 1.2 To outline and note the improvements made in terms of EHSCP plan for implementing the MWC's reports recommendations and agree the work that is in progress.
- 1.3 To agree that updated reports will come forward to Policy and Sustainability Committee as the work progresses.

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## Mental Welfare Commission – Authority to discharge report- Edinburgh improvement plan

### 2. Executive Summary

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- 2.1 On 5 May 2021, the Mental Welfare Commission (MWC) for Scotland published a report titled – ‘Authority to discharge’. The report contains a series of improvement actions for Health Boards and Health and Social Care Partnerships (HSCPs). Eight of the twelve improvement actions relate to Health and Social Care Partnerships. This report provides a summary of EHSCP plan to implement the recommended actions.

### 3. Background

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- 3.1 During the Coronavirus pandemic, there were a number of concerns raised with the Mental Welfare Commission (MWC) regarding whether the appropriate legal authority was used to safeguard people being discharged from hospital to care homes where the person lacked capacity to make an informed decision to agree to the move. The MWC undertook to audit 457 people, from across Scotland, who were transferred from hospital to care home between 1 March to 21 May 2020. This amounted to 10% of the total number of hospital discharges to care homes for the period. In some of the moves, there had been specific pandemic related reasons for this. For example, a misinterpretation that easement of s.13ZA had been enacted as a result of the Coronavirus (Scotland) Act 2020 when in fact this legislation was never activated and was removed in September 2020. Some moves were related to more systemic practice issues which were listed in the report and which have informed the recommendations for improvement listed below.

### 4. Main report

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- 4.1 On receipt of the Mental Welfare Commission Authority to Discharge Report in May 2021- Edinburgh Health and Social Care Partnership (EHSCP) established a working group to develop a response to the 8 actions which relate directly to EHSCP. This work has been a joint approach with representatives of the Chief Social Work Officer. Clearly there will be overlaps with improvement plans for colleagues in acute hospitals and this will require a joined-up approach in terms of our action plans going forward. The work to develop and deliver an EHSCP

improvement plan is ongoing and this update outlines progress to date and plans for action.

4.2 A first priority for EHSCP was to conduct a deep dive into the case identified by the MWC as an unlawful transfer. This case has been allocated to experienced MHO/senior social worker for hospital discharge, to work with the person involved and their family to ensure that his rights and his need for care are fully met and protected.

<b>Recommendations 1-8</b>	<b>Action</b>	<b>Status</b>
<p>HSCPs should undertake a full training needs analysis to identify gaps in knowledge in relation to capacity and assessment, associated legislation, deprivation of liberty definition and the human rights of individuals (as detailed in this report) to inform delivery of training programmes to ensure a confident, competent multidisciplinary workforce supporting safe and lawful hospital discharge planning</p>	<p>Progress is underway to compile a full Training Needs Analysis. A series of focus groups scheduled for early September will help form the content of a Survey which will be distributed to EHSCP workforce including managers, senior social workers, social workers, mental health officers and community care assistants for completion. This information should be available by early October and will result in a full Training Needs Analysis being available to inform the workforce development plan. In parallel work has been progressed to develop a staff training programme. Clearly this will be adapted in response to the findings of the TNA. Currently leads have been appointed to develop a training programme that includes –</p> <ul style="list-style-type: none"> <li>• Core legislation and interplay between legislation Guardianship/Power of Attorney/13ZA procedures</li> <li>• Good practice re hospital discharge – home first principles</li> <li>• Awareness of the impact of being subject to measures from service users/carers perspective</li> <li>• Assessment of capacity / Supported Decision Making / Communication tools</li> <li>• Human Rights &amp; Deprivation of Liberty</li> </ul>	<p>Ongoing</p>
<p>HSCPs should establish a consistent system for recording when an assessment of incapacity has been conducted, by whom and in relation to which areas of decision making</p>	<p>It has been identified that the current recording of an assessment of incapacity and by whom, including what areas of decision making are affected, is possible in the SWIFT recording system. However, the process is protracted. It has been agreed that the SWIFT system</p>	<p>Ongoing</p>

	can be amended to simplify the recording of the information. This improvement will be cascaded via relevant managers and the requirement to record assessment of capacity/impact on decision making and by whom will be incorporated into the training programme.	
HSCPs should ensure that staff facilitating hospital discharges are clear about the status of registered care home placements, in terms of law (see EHRC vs GGC) <sup>1</sup> and with regards the financial and welfare implications of different types of placements for the individual	A lead manager is working on good practice note relating to hospital discharge. This will cover the arrangement of respite care, short-term step-down care & long-term care arrangements. Our plans for improvement have highlighted the need to clarify the business support arrangements which complete financial assessments and therefore provide front line workers, families and service users with the necessary information which relates to cost of care. Recent organisational review of business support has raised some concerns in this area and this improvement plan has provided a focus to clearly define the back-office support required for financial assessment and this will be distributed to staff and will also be incorporated into the training programme.	Ongoing
HSCPs should ensure that practitioners facilitating hospital discharges have copies of relevant documents on file detailing the powers as evidence for acting on behalf of the individual who is assessed as lacking capacity	The MWC report has highlighted the need for workers to have sight of any Power of Attorney (POA) to clarify the status of the POA, its content in terms of powers. Clear interim guidance has been issued to staff and again this will feature as part of the training programme and performance of the requirement will be monitored.	Ongoing
HSCPs should ensure that assessments reflect the person as a unique individual with focus on outcomes important to that individual and not external drivers that have the potential to compromise human rights and/or legality of moves	EHSCP has a Home First approach embedded in practice, aiming to support people to maintain as much independence as possible at home or in a homely setting through a new model of assessment, rehabilitation and recovery. This model is strengths based. The Home First Edinburgh team is well established, and work is ongoing to disseminate Home First principles more	Ongoing

	<p>widely to colleagues working to facilitate hospital discharge and prevention of admission. EHSCP will disseminate the principles of home first choice and human rights early intervention and diversion. EHSCP mental health strategy Thrive has a workstream focussed on “Rights in Mind”. This work is aimed at incorporating human rights in all interventions, including hospital discharge. All partners have signed up to PANEL principles and the MWC Rights in Mind document will be used by all staff. In partnership with advocacy agencies a Human Rights Training programme for staff will be delivered by people with lived experience. The recruitment to these training posts has just been completed and the training should begin in October 2021. The Scottish Human Rights Assessment tool is being applied in selected statutory and voluntary sector service areas and will assist will the evaluation of the impact of EHSCP commitment to put rights at the centre of all interventions. Work is underway to develop and deliver quarterly workshops for staff with one of our collective advocacy partners. Workshops will be delivered by people with lived experience of using mental health services and one aim will be to increase professionals’ understanding of the individuals’ experience of using services.</p>	
<p>HSCPs should ensure that processes are in place to audit recording of decisions and the legality of hospital discharges for adults who lack capacity in line with existing guidance and the principles of incapacity legislation.</p>	<p>EHSCP have agreed, in conjunction with the Chief Social Work Officer, to build on the scrutiny of the MWC audit by conducting a supplementary audit of cases of people transferred from hospital to a care home between March 2020 and August 2021. This will apply additional focus for improvement in the use of 13za, the recording of capacity, the use of POA and will add to our understanding of the challenges of retaining our commitment to put human rights and person-centred care at the centre of all interventions. We have also highlighted the need for consistent practice amongst senior social</p>	<p>Aim to complete full audit by March 2022.</p>

	<p>workers checking confirmation of a capacity assessment at the point of signing off a financial authorisation for the provision of care.</p> <p>Any learning or remedial action identified through this audit will be added to this Improvement Plan.</p>	
<p>HSCPs' audit processes should extend to ensuring evidence of practice that is inclusive, maximising contribution by the individual and their relevant others, specifically carers as per section 28 Carers (Scotland) Act 2016</p>	<p>EHSCP practitioners and managers are actively involved in an ongoing series of Practice Evaluation sessions. These sessions allow managers, independent to the workers, to take time with a front-line worker and their senior to reflect on a randomly selected case. The focus of the analysis is on a whole system overview of strengths and weaknesses, including practice of the worker and support available from the manager. Senior social workers also have a system for deep dive in a selected case, to monitor standards. There is scrutiny by the senior SW during a case closure discussion and in supervision with frontline worker.</p>	
<p>HSCPs should ensure strong leadership and expertise to support operational discharge teams</p>	<p>The Thrive Edinburgh workstream "Rights in Mind" has established an executive leadership group. The group includes key leaders from statutory services, advocacy agencies and academic partners. This executive will work to drive forward the programme to assess our starting point in terms of human rights, outline the actions for improvement and measure our progress in achieving the goal to put human rights at the centre of every intervention. Developing the tools, training and information in one area of the service will assist with the roll out across all service areas. The training programme developed as a result of the MWC report will help workers and managers connect with their value base, identify the challenges to good practice being maintained and will put in place the necessary management support to give workers the authority to challenge any pressure that impacts on people's rights. EHSCP staff have access to Edinburgh council and NHS Lothian leadership</p>	<p>Ongoing</p>

	<p>training programmes. City of Edinburgh MHOs have an ongoing programme of Continuous Professional Development sessions which recently featured an Edinburgh Patient Council report on people's rights in the context of hospital care.</p>	
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## 5. Next Steps

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- 5.1 This work is ongoing, and this report describes what the next steps will be. Further reporting to Policy and Sustainability Committee would keep members fully informed of the progress being made in implementing the EHSCP response to MWC report recommendations for improvement.

## 6. Financial impact

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- 6.1 The considerable increase in the number of cases to be audited, as requested by Policy and Sustainability Committee in August 2021, will require additional staff input to complete the audit and to undertake any remedial work with people concerned and their carers. Most of this pressure will fall on social work and mental health officer services which are already challenged by long waiting lists, given the ongoing system pressures relating to the pandemic. Clearly additional funding will be required to employ the necessary resources to manage this additional work and a case for additional resource is being developed.

## 7. Stakeholder/Community Impact

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- 7.1 The plans and progress being made in response to the MWC recommendations for improvement will be shared with all stakeholders across the Integration Joint Board and EHSCP, including advocacy agencies, people with lived experience and carers. In addition the lessons learned will be incorporated in the Rights in mind workstream described above which aims to ensure human rights at the centre of every intervention.

## 8. Background reading/external references

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- 8.1 [Authority to discharge – MWC Report](#)

## 9. Appendices

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- 9.1 None.