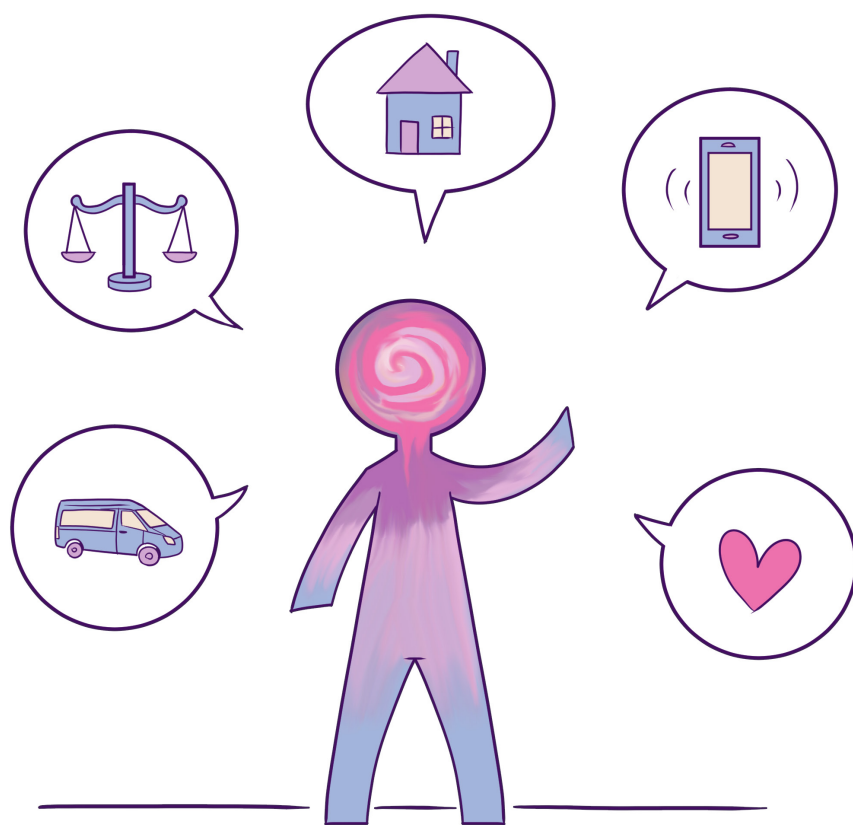


Learning Disabilities, Autism and Neurodivergence Bill: **Mental Health and Capacity Law**

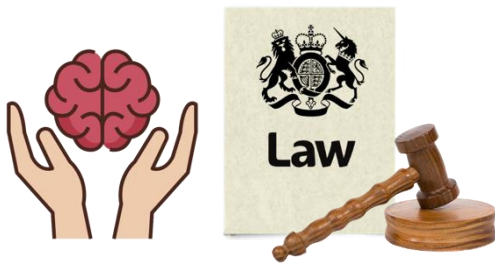


Learning Disabilities, Autism and Neurodivergence (LDAN) Bill

Mental Health and Capacity Law



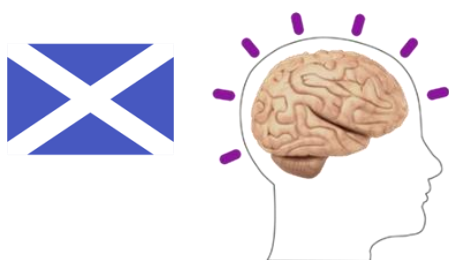
Easy Read



The main mental health **legislation** in Scotland is the Mental Health Act 2003. This is often just called The Mental Health Act.



Legislation is a law which has been passed by Parliament.



Mental health legislation in Scotland can apply to autistic people and people with learning disabilities.



The words **mental disorder** are used in the Mental Health Act.



Mental disorder affects how someone thinks, feels and behaves, often causing them distress.



Mental disorder in the Mental Health Act means someone who has:

- a mental illness
- a personality disorder
- a learning disability
- autism



Many people think it is wrong and offensive to say that a learning disability is a mental disorder.



Most types of mental illness can be treated, but there is no treatment that can lead to someone not being autistic or having learning disabilities.



Many learning disability groups have said that the inclusion of learning disability in the definition of mental disorder has a negative impact on people with learning disabilities.

What did the Lived Experience Advisory Panel (LEAP) think?



The **Lived Experience Advisory Panel (LEAP)** is a group made up of neurodivergent people and people with learning disabilities to help advise the Scottish Government on this Consultation.



LEAP members said that learning disabilities and autism are lifelong conditions and are not curable.



LEAP members said that learning disabilities and autism are not a mental health issue.



LEAP members strongly thought that autism and learning disabilities should not be considered a mental disorder in Scottish law.

LEAP members find this upsetting and insulting that this is what the law in Scotland says.



LEAP members strongly thought people with learning disabilities and autistic people should not be locked up under mental health law if they do not have a mental health issue.



LEAP members thought that medication is used as a solution for people with learning disabilities and autism too quickly under the Mental Health Act.

Medication is often used before someone is diagnosed with a mental health issue.



LEAP members do not like the label challenging behaviour.

LEAP think behaviour which is seen as problematic is often a communication problem.



LEAP members believe that more importance should be placed on the use of Supported Decision Making.

This involves the individual in the decision making that impacts their freedom and their human rights.



Supported Decision Making can be very important to make informed choices around things like health and treatment.



LEAP members said autistic people often find being in mental health wards bad for their mental health.



LEAP said there needs to be more thought about the harms that forced treatment and detention could have on people with learning disabilities and autistic people.

Where do the Scottish Government want to get to?



The Scottish Government want mental health **law** to protect the rights of autistic people and people with learning disabilities.



Laws are rules created by Parliament.



The Scottish Government want a human rights culture across their policies and wider practices.



The Scottish Government want laws that are clear to understand and protect autistic people and people with learning disabilities.



The Scottish Government want it to be clear who is responsible for making sure autistic people and people with learning disabilities are safe.



The Scottish Government want to look at ways it could make changes to the Mental Health Act, so it is closer to what international human rights say.



The Scottish Government want to look at the definition of mental disorder and decide who this should apply to in any future changes to the Mental Health Act.

What happens now?



Mental health law in Scotland is made up of the following legislation:



The Adults with Incapacity Act



The Act says that someone can help you make decisions if you can't do it yourself because of a mental problem or a communication problem.



The person who helps you make decisions can decide things they think is best for you and your wellbeing.



The Mental Health Act



The Mental Health Act is a law that helps people who have mental health problems.



The Mental Health Act is used when people cannot make their own choices about getting help or when they need help even if they do not want it.



The Mental Health Act says that someone can be forced to get care and treatment for their mental disorder if all of the following things are true:



- They have a mental disorder.
- There is a treatment that can help them feel better or stop them from getting worse.
- If they don't get the treatment, they or someone else could be harmed.
- They can't make good decisions about the treatment because of their mental disorder.
- Forced treatment is needed.



The Mental Health Act says that someone can only be helped to do something if it is good for them and they can't do it by themselves.



The Adult Support and Protection Act



The law says that if someone is being hurt or mistreated by others, they can get help to stop it.



This can include people being hit, robbed, bullied, ignored or treated badly because of who they are.



The Adult Support and Protection Act uses the same meaning of mental disorder as the Mental Health Act, but it does not stop someone from going where they want without permission.



What has happened so far on this issue?



Two reports looked at how mental health law should treat people with learning disabilities and autism in Scotland.



The Rome report and the Scott report wrote about how some laws in Scotland should apply to people with learning disabilities and autistic people.



The Rome report said learning disabilities and autism are not mental illness and therefore should not be treated by the Mental Health Act.



The Rome report said new laws are needed to protect people with learning disabilities and autistic people.



The Rome report also said the Mental Health Act would apply to people with learning disabilities and autistic people if they do also have a mental illness.



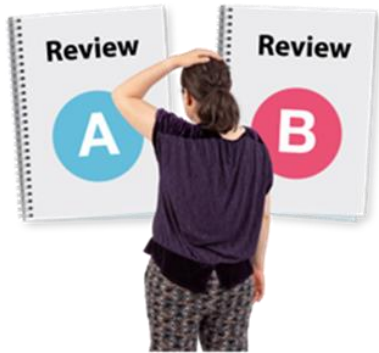
The Scott report said people with learning disabilities and autistic people should be included in mental health law.



The Scott report said mental health law should protect people, whether they have either a mental illness or a learning disability.



The two reports therefore have different views on how to include people with learning disabilities and autism in mental health law.



Because the two reports said different things, the Scottish Government have to think carefully about what to do next.

What can the Learning Disabilities, Autism and Neurodivergence (LDAN) Bill do?



The Bill may better protect, respect and champion the rights of neurodivergent people and people with learning disabilities.



The Bill could make changes to mental health legislation and how it applies to autistic people and people with learning disabilities.



The LDAN Bill could either:

1

1. Change the term mental disorder to words that are not as upsetting or offensive

2

2. Take learning disabilities and autism out of Mental Health laws.



The Scottish Government are not ready to change those laws yet. More time is needed to think about what is best for everyone.



The Scottish Government know that many people want these changes soon, though they don't want to make changes that might hurt people's rights or safety.



The Scottish Government are working with people, including people with lived experience to look at this issue.



When the work finishes, they will be able to decide on any change in law.

What do you think?

Questions

?

1. What do you think about it?

Good

Bad

Not sure

1. Which of these proposals do you agree with? Please tell us why.

Questions

?

1. What do you think about it?

Good

Bad

Not sure

2. Which of these proposals do you not agree with? Please tell us why.

Questions



1. What do you think about it?

Good

Bad

Not sure



3. Is there anything else that we should consider which is relevant to this topic?