Liberation's work

Introduction to Liberation

Liberation is a quite recently formed organisation, led by people with psychosocial disabilities. We operate at a grass roots level. Our aim is to promote full human rights for people with lived experience of mental distress/trauma. This is the term we often use in England for people with psychosocial disabilities. We are supported by 27 other organisations, mostly ones led by disabled people, as well as by a considerable range of individuals. In particular, we promote the fundamental rights set out in the UN Convention on the Rights of Persons with Disabilities (UNCRPD). Our focus is on adults of all ages. We work in England, but have links with other countries both inside and outside the UK.

Why Liberation?

It is very important to us to have an organisation led by people with psychosocial disabilities which champions the full human rights contained in the UNCRPD and actively campaigns for them. In England, the emphasis and legal framework have been based on the European Convention on Human Rights (ECHR), which, despite being valuable in many respects, gives us fewer rights. In particular, it is still used to authorise involuntary detention in psychiatric hospitals and forced treatment, if certain conditions are met (TCI, 2023)– and the weight given even to this Convention is currently being questioned.

Important links between Liberation's work and TCI's #WhatWENeed campaign 2022

We strongly advocate for the right of people with psychosocial disabilities to be free from institutions, including all forms of coercion, and to live independently in the community, as recognised members of our communities and full participants in them. We emphasise the need to stop pouring money into institutions and institutional approaches and to transfer funding to alternative, community-based and culturally appropriate options.

In support of this, we call for access to good quality physical healthcare, an adequate standard of living, leisure opportunities, education, voluntary work and employment and for equal opportunities to participate in local and national government. For us, this means having support available when we need it, support of our choice. We recognise the role which personal assistants can play, but have concerns that the role can be dominated by traditional, service-led approaches.

We campaign strongly for equal recognition before the law, in particular for recognition of our right to legal capacity: The UK's legal and judicial systems continue to use judgements about 'mental capacity' to justify involuntary detention in psychiatric hospitals, forced treatment and other forms of coercion and not infrequently to deny our access to judicial trials.

Our work also includes a strong emphasis on equal rights for people with psychosocial disabilities who encounter more than one form of discrimination. There are, for example, major intersectional issues for women, older people, people from racialised communities, including refugees and asylum seekers, people from disadvantaged socio-economic groups, people who identify as LGBTQI+, people with intellectual disabilities and neurodiverse people. Yet so often our experiences in these spheres are treated as being of little significance or bypassed.

Current Liberation work which directly fits TCI's #WhatWENeed campaign 2022

A large amount of our time is being spent on highlighting continuing human rights breaches in planned reform of the Mental Health Act 1983 which focuses on England and Wales. A draft Mental Health Bill has now been publicised. It has continuing

provisions not just for people with psychosocial disabilities, but for people with intellectual disabilities and neurodiverse people as well. The draft Bill is currently being scrutinised by a Joint Committee which has members from the UK parliament's House of Lords and House of Commons. Once this legal scrutiny is complete, the Bill will be put forward for parliamentary debate before it then becomes part of English law.

Human rights problems with the draft Bill

1. It continues to be dominated by a medical model and institutionalised approach to people

2. It is based on the idea that it is improvements to the Mental Health Act 1983 which are needed, not fundamental reform. That is a widely held view and so the draft Bill sounds convincing to the majority of people, including most politicians. However, you cannot bring in equal human rights by merely improving a fundamentally discriminatory Act

3. The government's plan is to make reform of mental health law compatible with the ECHR as opposed to the UNCRPD. However, as has been indicated above, people with psychosocial disabilities have fewer rights under the ECHR than under the UNCRPD. The same is true of people with intellectual disabilities and neurodiverse people

4. The draft Bill will not bring an end to involuntary detention, forced treatment in psychiatric hospitals and community treatment orders based on a person's disability. The intention is to reduce the use of these, but not to abolish them. That is because of a strong, political belief that they remain necessary to reduce risks to ourselves/others, despite the lack even of adequate research evidence that coercive measures are effective (Gooding, 2017)

5. The draft Bill rests on a continuing foundation of mental capacity, instead of legal capacity, despite the fact that the UK is not one of the countries that has placed a reservation on Article 12 of the UNCRPD. As a result, people assessed to 'have capacity' should now have more weight given to wishes they express about treatment in hospital, but this will not apply in the same way to those assessed as not 'having capacity'. The draft Bill also contains continuing provision for guardianship

6. The draft Bill is underpinned by a concept of 'autonomy' which sets a dangerous precedent; 'autonomy' is taken to mean giving patients more, but not full autonomy, and so has a meaning for people with psychosocial/intellectual disabilities, or neurodiverse identities which is different from the meaning it has for people in general. Thus, it will still be possible to detain even those who are judged to 'have capacity'. Such treatment choices as there are will apply only once someone has been taken into hospital involuntarily

7. In the criminal justice system, it will remain possible to use 'mental capacity' arguments to deny people with psychosocial disabilities the same right to a trial as anyone else.

8. The draft Bill falls well short of dealing with intersectional issues. It has a focus on people with intellectual disabilities and neurodiverse people, if an inadequate one. However, it has essentially failed to address even the limited recommendations for people from racialised communities in the Review that led up to the planned legal 'reform'. Women, older people, people from disadvantaged socio-economic groups and people who identify as LGBTQI+ have all been badly let down by the draft Bill.

Weaknesses and loopholes in the draft Bill

It undoubtedly contains some planned improvements, but the latter also have some concerning weaknesses/loopholes. For example:

1. The current detention criteria will be tightened. However, legal advice received suggests that the terminology used is too unsatisfactory to ensure the intended reduction in detentions. For example, what counts as 'serious' harm, or 'appropriate treatment' which has 'a reasonable prospect of alleviating or preventing the patient's mental disorder, or one or more of its symptoms or manifestations'?

2. There are due to be shorter detention periods. Detained people will also be able to approach Mental Health Tribunals more quickly to appeal against detentions. However, there is a low success rate for appeals and no measures have been set up to deal with a Tribunal system which appears weighted against detained people

3. Statutory care and treatment plans will now be put in place to address shortfalls in current care planning. However, even when someone is assessed as 'having capacity', clinicians will be able to overrule that person's wishes if they provide what

is regarded as a ‘compelling reason’ and certification from a Second Opinion Appointed Doctor

4. Under the Mental Health Act 1983, a person’s nearest relative can have involvement in decisions made about detention. Now, this role will be taken over by a nominated person whom the person at risk of detention chooses, or at least does so if they are thought to ‘have capacity’. Access to advocates is due to be extended as well. Both measures are a step forward. However, mental health staff will continue to have the strongest powers over decisions about detention

5. It will no longer be possible to use mental health law to treat people against their will purely because they have an intellectual disability, or are neurodiverse. However, if they are given a mental health diagnosis as well, detention for treatment will still be allowed. In addition, they will remain subject to the powers of another discriminatory law, the Mental Capacity (Amendment) Act 2019, which can also be used to deprive people of their freedom/choices

6. The draft Bill contains some increased emphasis on keeping people in the community, particularly in the case of people with intellectual disabilities and neurodiverse people. However, its overall model remains institutional in emphasis and so runs the risk of transferring medicalised services to the community instead of promoting a genuinely community-based approach. In addition, adequate resourcing, even of the changes which are proposed, is not at all certain; how much funding becomes available will depend on successive spending decisions by the government.

Campaign action by Liberation, related to TCI’s campaign themes

In the UK, an institutional approach is deeply rooted. Although there has been an increased emphasis on community care and on closing a number of institutions, the assumption remains that people experiencing acute problems need to be in institutions. The belief that coercion is a form of care, that it protects people with psychosocial, or intellectual disabilities and neurodiverse people from harming themselves/others is also deeply embedded in the UK. The draft Bill very much reflects both these concepts.

At Liberation, we are working to challenge this thinking and to highlight the major damage caused by involuntary detention in hospital and forced treatment. Ineffective

though government responses have been, there is at least somewhat more recognition of damage and abuse which people with intellectual disabilities and neurodiverse people experience in institutions. However, there has continued to be poor recognition of the damage and abuse experienced by people with psychosocial disabilities who are subjected to coercion in the name of 'care'. Recent examples include:

- Deaths of **1,500** people using mental health services in Essex, south east England, who died 'in circumstances that were unexpected, unexplained, or self-inflicted' between 2000 and 2020, despite persistent concerns being raised about services provided
- Shocking abuse at the Edenfield Centre, a medium secure unit in Prestwich, north England, which is run by the Greater Manchester Mental Health Trust. Physical, mental and sexual abuse and falsified records have all become apparent through secret filming by the British Broadcasting Company (Panorama Team and Lee, 2022 & TCI, 2023)
- 20 former patients being 'treated worse than animals' (Sky News, 2022) at children's mental health units run by the Huntercombe Group until the end of last year and now by the Active Care Group - and again this abuse was only picked up through a media investigation.

Liberation is using mechanisms such as evidence submissions to the Joint Committee's consultation about the draft Bill, partnership working with organisations who have good media access, meetings with professional groups and presentations at conferences to call for an end to detention in psychiatric hospitals and involuntary treatment. We have been actively promoting the UNCRPD deinstitutionalisation guidelines, not least through our evidence to the Joint Committee. I myself represent Liberation at the internationally-based Access to Justice Hub; this challenges injustice experienced by disabled people within criminal justice systems. In my Fellow capacity at the Hub, I am also now contributing to plans for a new Hub workstream which will focus on the abolition of disability-based incarceration.

Another issue of concern is that community alternatives to hospital are often institutional in nature themselves, for example small group homes, or community teams dominated by a medical model approach. In addition, the draft Bill continues to

authorise community treatment orders as an alternative to further detention in hospital. These impose conditions such as the place where someone should live, or treatment which they should continue to accept and so represent a transfer of coercion to community settings, not genuine community living. The government is also failing to address in any adequate way the fundamental, societal changes needed if community inclusion is to be a reality for people with psychosocial disabilities, for example is failing to take adequate steps to counter ongoing poverty and deprivation experienced by many disabled people (Disability Rights UK, 2022).

At Liberation, we are drawing on General Comment 5 of the UNCRPD to promote understanding of genuine community inclusion; for example, we have cited this Article in reports sent to the government. We have also joined other disabled people's organisations (DPOs) to campaign for fundamental societal changes. For example, we are a member of the Hate Crime Partnership set up by the DPO Inclusion London to combat hate crime and have used our membership to demonstrate that, instead of detention being used to exclude people with psychosocial disabilities from society because of government misconceptions about risk, the emphasis needs to be on the much greater risk to us of hate crime and discrimination. We also work in partnership with other DPOs to make regular representations to the government about unacceptable standards of living.

We are using the government's failure to understand and implement Article 12 of the UNCRPD as a key part of our campaign against human rights breaches in the draft Mental Health Bill, again drawing on the sorts of mechanisms described above. Unless and until Article 12 is both understood and enacted, those of us who are affected by mental health legislation will continue to be treated as second class citizens. Similarly, we have used submissions to the government and opportunities to meet with government ministers to highlight the draft Bill's intersectional shortcomings.

In relation to all the points described above, we have also had a lead role in supplying material important to people with psychosocial disabilities for the forthcoming UNCRPD review of the UK; an initial civil society report has been sent to the UNCRPD Committee, ahead of the review now due in 2023. We are, too, already preparing for a response to the Joint Committee's recommendations about the draft Bill once these are published in mid-January.

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