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## **SINGLE LEGISLATION FOR MENTAL HEALTH AND MENTAL CAPACITY AN IMPORTANT STEP TO EQUALITY: PSYCHIATRISTS**

The Royal College of Psychiatrists has welcomed the announcement of single Mental Health and Capacity Legislation, saying that Northern Ireland is taking a world lead in bringing equality for people with mental health problems.

The Minister for Health today announced plans to encompass mental capacity and mental health legislation into a single Bill. This will mean that people who are unable to make decisions for themselves will come under the same legislation, whether this is for physical reasons or because of mental health conditions.

It will also tackle issues with the interface between Capacity law and Mental Health law that can arise when it is unclear which legislation should apply.

The Royal College of Psychiatrists has lobbied for this approach. It is pleased that the principle of autonomy enshrined in the Bamford Review has been maintained, so that individuals who have the mental capacity to make decisions for themselves will be allowed to do so.

"This bold action by Health Minister Michael McGimpsey shows that he and his officials have been listening to the advice of ourselves and others in the mental health and legal sector," Dr Philip McGarry, Chair of the Royal College of Psychiatrists Northern Ireland Division said.

"The modernised legislation promises to be better for people with mental health problems, and better for society as a whole. Only a small proportion of people with mental health problems will ever need to be detained, usually because they want to harm themselves, and on some occasions because they are at risk of harming others," Dr McGarry said. "These people should have the same rights and protections anyone else to whom capacity legislation applies.

"However, for this legislation to work, we need to see real investment in mental health services that will not only mean modern law can be enacted quickly, but that by treating problems as early as possible, as few people as possible will need to be subject to this legislation," he said.

We look forward to seeing further details of the legislation, and the Royal College of Psychiatrists is committed to working with DHSSPS to ensure that this legislation is the best possible for people with

mental illness and others who are unable to make or communicate decisions at some time in their lives.

“Introducing modern legislation that is at the forefront of best international practice will be challenging, and will require appropriate commitment and resourcing from the Executive.

“We are pleased that Mr McGimpsey has said the Executive has been supportive, but there will need to be continuing support from all parties to ensure that this legislation is robust and workable, and truly reflects the Bamford vision.”

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### **Notes to editors**

The Royal College of Psychiatrists has argued strongly for a single Mental Health and Capacity Act because fundamentally we consider that both legislations are there to support others to intervene when mental disorder affects people’s capacity to make decisions about their lives and treatment.

The College was concerned that in its consultation, the Executive was proposing two pieces of legislation: one for “good” people with incapacity who primarily require protection and another for “bad” people who primarily need detention and treatment against their will. This would effectively have endorsed the stigma that people with mental illness face every day, and which inhibits recovery and is a barrier to people living fully inclusive lives.

Similarly, two separate acts for capacity and mental health legislation could prove very difficult in practice, since individual professionals working with patients would be called to judge on a regular basis, which of these two pieces of legislation to invoke in a particular case.

There is a growing international consensus that favours amalgamation of mental health and capacity legislation into a single Act. Because Northern Ireland is introducing capacity legislation

and reviewing its mental health legislation at the same time it is uniquely placed to become the first country in the world to introduce a single Act.

We do not under-estimate the difficulties that will be involved in drafting this Bill, not least the interface with the criminal justice system, but we believe that across services, professions, service users and carers in Northern Ireland there is a commitment to resolve any difficulties, and succeed in producing world leading legislation.

The College and its members are committed to legislation based on the principles of autonomy, justice, benefit and least harm. Whatever form of legislation results from this review, these principles should support the dignity of the person and be written on the face of legislation as well as embedded throughout the Code of Practice.

The Royal College of Psychiatrists is committed to helping at every stage of the development of new legislation, and to putting in all the necessary work so that this can be delivered on schedule.

### ***Background information***

The Royal College of Psychiatrists is the statutory body responsible for the supervision of the training and accreditation of psychiatrists in Britain and Ireland and for providing guidelines and advice regarding the treatment, care and prevention of mental and behavioural disorders.

Psychiatrists provide the backbone of the local psychiatric service, offering inpatient, day patient and outpatient treatment, as well as specialist care and consultation across a large range of settings. Implementing mental health legislation is a day-to-day part of a psychiatrist's job.

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