

Maree Todd MSP  
Minister for Social Care, Mental Wellbeing and Sport  
Scottish Government  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

Via [MinisterforSCMWS@gov.scot](mailto:MinisterforSCMWS@gov.scot)

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SHRC20250416

Dear Ms Todd,

## **Potential inhuman and degrading treatment (Article 3 ECHR) in mental health in-patient units**

The Scottish Human Rights Commission (SHRC) has been considering the evidence emerging from the BBC documentary "Kids on the Psychiatric Ward", on which we are aware you made a statement to Parliament on 25 February 2025.

At its most recent meeting of the Commission on Monday 24th March 2025, Members considered the emerging evidence from this media source, as well as our own evidence base in relation to the treatment and detention of people as exposed in our recent Spotlight report, "Tick-Tock..." this. Collectively, the SHRC is concerned that the treatment and conditions outlined in the programme indicate what may amount to inhuman and degrading treatment and punishment in violation of Article 3 of the European Convention on Human Rights. In light of known gaps in the scrutiny and regulatory framework, we are also concerned about the potential for similar treatment in adult mental health settings.

In terms of the European Convention on Human Rights, while the use of force may be involved in compulsory treatment, it should be an exceptional measure. Patients should only be restrained as a measure of last resort to prevent imminent harm to themselves, or others and restraints should always be used for the shortest possible time. Means of restraint should never be used as punishment, for the mere convenience of staff, because of staff shortages or to replace proper care or treatment.

The minimum level of severity necessary for treatment to amount to a violation of the prohibition on inhuman and degrading treatment takes into account the duration of treatment, its physical and mental effects, as well as the sex, age and health of the victim. Exacerbating factors in this case include the repeated nature of the treatment, as well as the vulnerability of individuals by virtue of being in the care of the state, their mental health, and their age.

The treatment exposed by the documentary also raises questions about the prevalence of similar treatment in other mental health in-patient settings, for adults, which is of significant concern to the SHRC. We are already in correspondence on the need for a statutory framework for restraint and seclusion together with the Children and Young People's Commissioner Scotland, the Equality and Human Rights Commission Scotland and The Promise Scotland. However, we seek your views on what steps can be taken to provide assurance that excessive use of force and coercive practices are actively uncovered and prevented in adult settings.

Separately, the SHRC welcomes the announcement of further scrutiny of Scotland's child and adolescent in-patient units by Healthcare Improvement Scotland and the Mental Welfare Commission. We also welcome NHS Greater Glasgow and Clyde's announcement of a full review of the quality of care and an independent review of the unit. It will be important that those reviews and investigations also consider whether there is evidence of violations of Article 3 ECHR. Where violations have occurred, steps must be taken to ensure adequate investigation capable of leading to the identification and punishment of those responsible, and access to redress and compensation for victims.

Yours sincerely,



**Professor Angela O'Hagan**  
**Chair**