Agenda's submission to the Independent Review of the Mental Health Act Call for Evidence
January 2018

Introduction

Agenda, the alliance for women and girls at risk, welcomes the opportunity to respond to this call for evidence from the Independent Review of the Mental Health Act. We welcome the Review's aim of improving the treatment and support people receive when experiencing acute mental ill-health and would like to see a particular focus on the needs of women and girls.

There are significant gender differences in relation to mental health. Women and girls' life experiences, socio-economic realities, expressions of mental distress, pathways into services and treatment needs and responses differ from those of men and boys. Evidence shows that women's mental health is closely linked to gendered life experiences, including abuse and violence. Sexual exploitation, abuse and violence are huge drivers of trauma and poor mental health in women - more than half of women with mental health problems have experienced abuse, a trend which is particularly pronounced for women who experience more severe mental health problems.[1]

Mental ill-health amongst women and girls has increased, with women more likely than men to face mental health problems, and young women the most at-risk group for common mental disorders.[2] Women and girls are also more likely to self-harm and, whilst rates of suicide in men remain far higher, rates amongst young women have risen and are now the highest in two decades.[3]

Women with mental health problems report that they want gender-specific and gender-aware support, which works holistically to help them resolve their needs.[4] Many women state that such an approach helps them to feel safe in services, to truly address the causes of their problems, and to build trusting relationships with practitioners. For women who have experienced abuse, a female-only space, including female staff can help them feel physically safe enough to engage in treatment.[5] Where mental health problems are linked to or rooted in gendered trauma, an awareness and understanding of that trauma and women's responses to it is essential for practitioners to deliver effective therapies.[6]

It is in this context that women find themselves detained under the Mental Health Act. Just as there are significant gender differences in mental ill health and in experiences of treatment and services it follows that male and female patients' experiences of the Mental Health Act will also differ. It is imperative therefore that this Review applies a gender lens and considers the experiences of both men and women in relation to the Act.

Executive Summary

This evidence submission will consider the needs of women and girls who are detained under the Mental Health Act, look at issues with the functioning of the Act and consider potential solutions. Key points are:

1. Female and male patients are detained at different rates, and their routes to detention are different. It is important that the Review consider these trends and their potential causes.

2. BAME women face particularly high rates of mental health issues, and their particular experiences of the Act must also be addressed.

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[1] Scott, S. & McManus, S. (2016), *Hidden Hurt: Violence, abuse and disadvantage in the lives of women*. DMSS research for Agenda.
[2] Agenda (May 2017), *Women in Mind: briefing on women's mental health*
[3] ONS, Suicides in the UK: 2016
[4] Department of Health (2004), *Mainstreaming Gender and Women's Mental Health: Implementation Guidance*
[5] ibid
[6] ibid

3. Mental health services are struggling to meet need and often fail to consider women's specific experiences. As a result, many women are unable to access support until they reach crisis.

4. We are concerned that the functioning of the Act and the treatment women receive is failing to meet need and may in some instances have adverse impacts on women and girls' recovery. We have included recommendations throughout this submission of ways in which the following issues could be addressed:
    a. The process of detention can re-traumatise girls and women and may undermine trauma-informed approaches to care
    b. There can be additional issues around re-traumatisation where male professionals are present during the detention process
    c. Routine enquiry into experiences of violence and abuse is not consistently carried out for women and girls who are detained and treatment does not adequately consider the impact of trauma on women and girls
    d. Patients are not able to determine who may have a say in and be informed of their care, causing issues around safeguarding as well as limiting a patient's freedom of choice;
    e. Full consideration must be given to the needs of women who are primary carers when they are detained, and what happens to those in their care
    f. Hospitals in which women are detained often do not offer gender specific support;
    g. There are reports of breaches of same-sex wards
    h. Distressing and potentially re-traumatising restraint against women and girls in mental health settings is widespread

Rates at which men and women are detained and pathways to detention

1. There are gender differences in how male and female patients are detained. In 2016/17 known detention rates were slightly higher for males (22,716, or 83.2 per 100,000 population) than for females (21,291, or 76.1 per 100,000 population).[7] Of patients who spent time in a mental health hospital in 2015/16, females were more likely than males to have been detained – 36.4 per 100 patients compared to 32.5.[8] This would suggest that women and girls are less likely than men and boys to access inpatient mental health services through routes other than detention.

2. There are also notable differences in male and female patients' routes to detention: men are more likely than women to be placed under a section 136 order and are more likely to receive a Community Treatment Order.[9] Statistics from 2015 show men were 5 times more likely than women to be detained under part 3 of the Act, applying to patients concerned in criminal proceedings or under sentence.[10] It is worth noting, however, that there are 20 times as many men as women in the criminal justice system[11]; there is therefore some disproportionality in the number of women detained under part 3.

3. While gendered break downs are published in statistics on Mental Health Act routes and functions in which men are overrepresented, including Community Treatment Orders and detention under Section 136, the Review team should look into the routes to detention in which women are overrepresented, and look to understand the reasons for these gendered differences.

4. We know that broadly men are more likely to 'externalise' mental distress and trauma, through aggression and sometimes violence, whereas women are more likely to 'internalise' mental distress and trauma,[12] resulting in higher rates of behaviours such as self-harm and conditions such as eating disorders.[13] Given this trend, it may be the case that the reasons for detention look quite different by gender, with women more likely to be detained for posing a risk to themselves, than to other people.

[7] NHS Digital (2017), *Inpatients formally detained in hospitals under the Mental Health Act 1983, and patients subject to supervised community treatment: Annual Statistics, 2016/17*
[8] NHS Digital (2016), *Mental Health Bulletin: 2015/16 Annual Report*
[9] NHS Digital (2017), *Inpatients formally detained in hospitals under the Mental Health Act 1983, and patients subject to supervised community treatment: Annual Statistics, 2016/17*
[10] Department of Health (2015), *Equality for all: Mental Health Act 1983: Code of Practice 2015*
[11] Prison Reform Trust (2017), *Bromley Briefings, Summer 2017*
[12] Dr Enys Delmage (2015), Justice Committee Oral Evidence: Young Adult Offenders, 10th November 2015
[13] NHS Digital (2014), *Adult Psychiatric Morbidity Survey: Survey of Mental Health and Wellbeing, England, 2014*

5. It is important that we understand these differences and how rates of and routes to detention for male and female patients differ in order to address the ways in which the Act can be fairly and appropriately applied to male and female patients.

BAME women and girls

6. According to the Government's Race Disparity Audit[14], BAME women are the most likely group to experience a common mental disorder (CMD). 29% of black women report experiencing a CMD, compared to 20.9% of White British and 15.6% of "white, other" women.[15] BAME women face additional inequalities and challenges to their mental health including racism, sexism and stigma.

7. Agenda shares the Review's concern at the disproportionate number of BAME people detained under the act. The Review should look at the statistics on detention of BAME women and girls, and consider ways in which mental health services can be bother gender and culturally informed in order to better respond to their specific needs.

Mental health services

8. Agenda is concerned that many women and girls struggle to get the support they need from mental health services. Without appropriate support at the right time, women's mental health needs can escalate into a crisis where detention under the Mental Health Act becomes their route into services. It is critical that support which meets women's needs is available earlier.

9. Women with acute mental health problems, especially those who have experienced violence and abuse, need holistic, gender-specific and trauma-informed support to tackle the issues they face.[16] Research by Agenda[17] however, found that there is little gender awareness in mental health trusts' policies. Only one trust who responded to an FOI had a specific women's mental health strategy in place.[18] In all other trusts, the level of stated provision for women's needs was variable, but on the whole not good; all trusts provided single-sex accommodation (although the meaning of single-sex varied from trust to trust), but very few mentioned the provision of other women-specific services.[19]

10. It is concerning that there is a lack of a strategic approach to women's mental health and that the vast majority of trusts showed no evidence that the needs of women were comprehensively considered in the service planning process.

11. Further research[20] by Agenda and AVA has also shown that only 104 of 353 English local authorities and five of 22 Welsh unitary authorities provide specific support for women experiencing mental health problems. Of the support identified, most (55.1%) was for pregnant women or women who have recently given birth.[21] While it is vastly important that women get mental health support during the perinatal period, we would also like to see appropriate investment in support for women when they are not carrying or raising children.

12. Agenda shares the Review's concern over rising rates of detention under the Act. This is likely to be caused by a lack of provision of adequate mental health support in the community, leading to patients accessing support only when they have reached crisis.

13. Agenda is also concerned at reports that women with high levels of need, for example women who are self-harming, are being inappropriately detained in forensic services due to the high level of support and staffing they require, rather than because they have entered services via a criminal justice pathway. Additionally, due to a lack of available beds, some women are having to wait for

[14] Cabinet Office (2017) *Race Disparity Audit: Summary Findings from the Ethnicity Facts and Figures Website*
[15] ibid
[16] Department of Health (2004), *Mainstreaming Gender and Women's Mental Health: Implementation Guidance*
[17] Agenda (September 2016), *Women's needs in mental health services: A Response to an FOI Request*
[18] ibid
[19] ibid
[20] Agenda and AVA (2017), *Mapping the Maze: services for women experiencing multiple disadvantage in England and Wales*
[21] ibid

long periods before being transferred to forensic services, meaning they can be held in seclusion for extended periods of time, which can be extremely damaging to wellbeing. We are concerned that a lack of staffing and support is meaning that women are being inappropriately held in seclusion or forensic services.

14. Agenda would like to see the Review call for better investment in mental health services in the community and for gender specific and gender sensitive support which takes into account women's specific needs.

Functions of the Act

Staff present during the detention process

15. Agenda is concerned that, under current guidance, there is no recommendation concerning the gender of staff present throughout the process of detention of a female patient.

16. For many women with mental health problems, and particularly those who have experienced violence and abuse by male perpetrators, contact with a male member of staff when they are facing a mental health crisis may be distressing and even re-traumatising.

17. During the detention of a female patient at least one female professional should be required to be present as a matter of course. Where possible, women and girls should also be able to choose whether they want only female staff present throughout the process of detention.

Routine enquiry

18. Agenda is concerned that, in spite of NICE guidance,[22] routine enquiry, where trained staff ask patients about women's experience of violence and abuse, is not happening. Research by Agenda[23] found that the majority of Trusts do not have a policy on routine enquiry, beyond meeting their basic safeguarding responsibilities. In at least one case where routine enquiry was the policy, staff were not yet adequately trained to ask the question and provide a proper response.[24]

19. Agenda is concerned that without meaningful routine enquiry and follow on support, mental health services may be unaware of women and girls' experiences of violence and abuse and these experiences will therefore not be integrated into patients' care plans.

20. Routine enquiry should be standard practice across mental health services and should be accompanied by proper support and pathways into care. Where patients are detained, routine enquiry should be carried out during an initial mental health assessment but also at intervals throughout a patient's care, with the understanding that a person experiencing a mental health crisis may not yet feel ready or able to disclose histories of abuse. Routine enquiry should also be carried out upon selection of the Nearest Relative (see below).

The Nearest Relative

21. Agenda shares concerns about the ability of a detained person to determine which family members or carers have a say in their care. Empowerment and choice are crucial for trauma-informed approaches to care (see below) and this includes a patient being able to decide who has access to their information and who is included in decisions about their care.

22. Agenda is concerned that under current guidelines, women and girls who have experienced violence and abuse at the hands of a partner or relative are at risk of that person being classified as their Nearest Relative and thus having a say in some aspects of their care. We are concerned that giving such powers to an abusive partner or relative could facilitate forms of abuse such as coercive control. There is also a risk for women who have escaped a violent partner who is their Nearest Relative that if they are detained, the abusive partner will be made aware of their location. We are aware of at least one specific incident where this has happened.

[22] NICE (2016), NICE pathways: Domestic Violence and Abuse Overview
[23] Agenda (September 2016) *Women's needs in mental health services: A Response to an FOI Request*
[24] ibid

23. There must be adequate safeguarding around the process so that where it is known that a Nearest Relative has been abusive, due consideration should be given to the risks posed to the patient's safety before the Nearest Relative receives information about their care.

24. Agenda would like to see a reformed approach to the Nearest Relative, which allows a patient to decide who will have statutory powers related to their care. Routine enquiry should be undertaken when selecting the person to carry out the role of 'Nearest Relative' and where a potential 'Nearest Relative' is thought to be a perpetrator of abuse, this should open up a discussion between the patient and Mental Health Professional about what this might mean and what other options might be available. In addition to this, patients should have the opportunity to review who has a say in their care with ease, particularly if it should be discovered that a 'Nearest Relative' has been abusive. The Review should consider what this process would look like.

Transfers for patients subject to criminal proceedings

25. Agenda is concerned that women in prison may be disadvantaged when they are transferred into secure care. Women make up a small percentage of the prison population and are often held in prisons far from their homes.[25] In many cases women continue to be situated far from home when they are transferred to mental health services. This makes family visits more difficult and costly, making it harder to maintain family ties.

Children and other caring responsibilities

26. Women are far more likely than men to be the primary carers of children and other relatives. We are not aware that any information is currently captured on the number of primary carers detained and what happens to those in their care during and following detention. We would like to see the Review seek to better understand the impact of detention on primary carers and those in their care and consider the implications for the operation of the Act.

27. Separation during detention and the potential removal of children into care can be a cause of significant trauma among women. Further pressure may be caused by the worry and potential financial implications of organising alternative care. Many women also report being afraid to access mental health support in the first place because they fear their children will be removed from their care.

28. At present, there are insufficient services available to allow women to stay with their babies and young children while in mental health hospitals: research by Agenda and AVA found there are only fifteen mother and baby units in mental health services in England, and none in Wales.[26] Better investment is needed to ensure that mothers and their babies or young children can be kept together wherever possible.

29. Part of providing appropriate, gender-specific mental health support includes understanding the importance of the relationship between mother and child and responding appropriately. Full consideration should always be made of the impact of separation on the mental health of both mother and child when the decision is made to detain a patient under the Act and support must be available to help women cope with separation and loss. All efforts must also be made to facilitate familial visits, including addressing any financial or practical barriers and creating an environment that will make children feel comfortable during hospital visits.

30. We are concerned at a lack of join up between mental health services and social services. There must be improved communication and a joined-up approach towards ensuring the well-being of any dependent children and facilitating the relationship between mother and child, which should be a priority.

Distance from home

31. Agenda is also concerned that a lack of investment in mental health provision is seeing women detained in mental health hospitals located a significant distance from their homes: there were

[25] Prison Reform Trust (2017), *Bromley Briefings, Summer 2017*

[26] Agenda and AVA (2017), *Mapping the Maze: services for women experiencing multiple disadvantage in England and Wales*

610 Out of Area Placements of female patients in England in October 2017 alone.[27] Being held far from home can make maintaining ties with family and friends difficult and poses particular issues for those who may not be able to afford travel and related costs.

32. Women often place particular value on relationships with family and friends and on the support they derive from them and may be put under particular strain from being held far away from friends and family. Maintaining contact while detained in a mental health facility is critical both for mothers and their children and this can be made more difficult when placements are a significant distance from home. These issues need particular consideration when determining where a woman is to be placed and there must be an emphasis on the impact on her ability to maintain contact with children and other family and friends.

33. Agenda is concerned that some specialist support services, for example for eating disorders are particularly scarce. This means that patients with an eating disorder, disproportionately young women, can be detained in mental health services a significant distance from their home, their family, and their friends.

34. Agenda would like to see the inquiry look into trends among particular groups of women who may be detained at a distance from their homes due to their need to access specialist provision. We would like to see the inquiry call for improved investment in staffing and support in local hospitals and the community.

Women and girls' experiences in mental health hospitals while detained under the Act

35. As detailed above, mental health services often fail to take into account women's particular experiences so do not always respond to their mental health needs. Mental health hospitals should be caring, therapeutic environments for women and girls feeling at their most vulnerable, and at the very least they should be places that do no harm. The decision to detain a person should be made with the aim that the mental health facility a patient will be placed in will be more conducive to recovery than the community may be. Agenda is concerned that for many women and girls detained under the act, experiences in mental health hospitals, rather than facilitating recovery, put their mental health and even physical safety at further risk of harm.

The Mental Health Act and trauma-informed approaches to care

36. Trauma-informed approaches to care aim to reduce or eradicate coercion and control in mental health support, and understand that "power over" relationships may reinforce past experiences of violence and abuse.[28] Trauma-informed care is particularly important for women and girls with mental health issues, most of whom have experienced violence and abuse.[29]

37. It is acknowledged by academics of trauma-informed approaches that the 'fundamental operating principles of coercion and control' within the mental health system can be retraumatising.[30] Agenda is concerned that the nature of detention under the Mental Health Act, whereby a patient may be detained and treated against their will, may undermine the principles of trauma-informed care, and thus undermine the recovery of women and girls who have experienced violence and abuse.

Gender of mental health staff

38. Agenda is concerned that existing guidance does not allow a female patient the choice of having a female practitioner deliver support. We know that in some instances male members of staff are assigned to carry out one-to-one observance of female patients which can be humiliating and distressing for women, particularly those who have faced abuse at the hands of men, which will be the case for most women detained under the Act.

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[27] NHS Digital (2017), Out of Area Placements in Mental Health Services October 2017

[28] Sweeney, A; Clement, S; Filson, B; Kennedy, A (2016), "Trauma-informed mental healthcare in the UK: what is it and how can we further its development?", Mental Health Review Journal, Vol. 21 Issue: 3, pp.174-192

[29] Scott, S. & McManus, S. (2016), *Hidden Hurt: Violence, abuse and disadvantage in the lives of women*. DMSS research for Agenda.

[30] Sweeney, A; Clement, S; Filson, B; Kennedy, A (2016), "Trauma-informed mental healthcare in the UK: what is it and how can we further its development?", Mental Health Review Journal, Vol. 21 Issue: 3, pp.174-192

39. Mental health services must be environments in which patients can feel safe and build trusting relationships with practitioners. For women who have experienced abuse, a female-only space, including female staff, can be key in helping them feel safe enough to engage in treatment.[31] We would like to see better provision of such spaces. As a minimum, the Review should look to ensure that whenever possible women are offered the choice of a female practitioner.

Single sex wards

40. Agenda is extremely concerned about breaches of single sex accommodation rules – the Care Quality Commission's Mental Health Act report in 2016/17 found cases of women being forced to go through men's accommodation to get to the toilets and being intimidated or receiving unwanted attention.

41. Women – and particularly women who are experiencing a mental health crisis and are being detained – are entitled to be in an environment where they feel safe. Breaches of single sex accommodation rules put female patients' safety at risk and simply should not be happening. The Review should look to address this as a matter of urgency.

Restraint in mental health settings

42. Agenda is concerned that women and girls are regularly and repeatedly physically restrained in mental health settings, including in a face-down position.[32] Females under 20 are physically restrained on average 24 times and restrained face-down 8 times (compared with 13 and 7 times respectively for boys and young men).[33] Women over 20 are also more likely to be repeatedly restrained than men, including in a prone position.[34]

43. Physical restraint, often carried out by a male member of staff, can be frightening, distressing, and risks re-traumatising patients who have experienced physical or sexual abuse and violence. Agenda would like to see an end to the use of face-down restraint and other forms of physical restraint used only as a last resort.

Case Study: Rachel's Story

In hospital after a suicide attempt, Rachel was placed on one-to-one observation with a male member of staff.

"I hated knowing that if I took too long in the bathroom (which I was not allowed to lock), a man I didn't know might come in. I panicked – I unhooked my drip and tried to run away."

She was detained under the Mental Health Act, and was put on one-to-one observation with another male member of staff.

"I couldn't bolt, so I curled up in a ball and screamed … at the time, it felt like the only possible response to being trapped on a corridor of strangers, at night, where a man I didn't know was going to watch me sleep."

Staying at a mixed-gender residential service had a negative effect on Rachel's recovery.

"I hardly left my room because I got unwanted attention from the male patients. But the more time I spent alone, the further my thoughts could run away with me."

After being detained, Rachel spent time at Drayton Park, a residential service run exclusively by and for women, and the only women's crisis house in England and Wales

"I knew that the person knocking on my bedroom door at midnight would always be a woman, so I wasn't humiliated or frightened"

"At Drayton Park, I had spaces to sit with other women without fear of harassment"

44. Women and girls' specific needs, and particularly their experiences of violence and abuse, must be taken into account at all points throughout their mental health treatment. Women and girls who are detained under the Act are currently not receiving appropriate support and in too many instances they are exposed to re-traumatisation and even violence. Agenda believes that this Independent Review of the Mental Health Act offers the opportunity to address the treatment of women and girls under the Act and put their particular needs at the heart of mental health policy, delivery, and strategy.

[31] Department of Health (2004), *Mainstreaming Gender and Women's Mental Health: Implementation Guidance*
[32] Agenda (March 2017), The use of restraint on women and girls in mental health units: a Response to an FOI Request.
[33] NHS Digital (2017), Mental Health Bulletin: 2016/17 Annual Report
[34] ibid

About Agenda

Agenda is an alliance of more than 80 organisations who have come together to campaign for change for women and girls at risk. Our members include mental health, homelessness, substance misuse and domestic violence charities who help women who face multiple and complex needs to rebuild their lives. Our campaign, Women in Mind, calls for women's needs, and in particular their experience of abuse and violence, to be prioritised and taken seriously in mental health policy, strategy and delivery. www.weareagenda.org

For further information, please contact: Connie Muttock, connie@weareagenda.org, 020 8709 4819