

**The Mental Health  
(Care and Treatment)  
(Scotland) Act 2003  
and  
Homeless People**

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# **Mental (ill) health and homelessness**

- **High incidence rate of mental disorder among the homeless**
- **Causal links**

# **Context of the Act**

**NHS's 3 clinical priorities:**

- **coronary heart disease**
- **cancer**
- **mental health**

# **Genesis of the Act**

- **“Millan Report”**: January 2001
- **Parliamentary passage**: September 2002 – March 2003
- **Royal Assent**: April 2003
- **Coming into effect date**: April 2005

# Who does it cover?

## Definition of mental disorder:

- **Mental illness**
- **Personality disorder**
- **Learning disability**

## Exceptions:

- **sexual orientation;**
- **sexual deviancy;**
- **trans-sexualism;**
- **transvestism;**
- **dependence on, or use of, alcohol or drugs;**
- **behaviour that causes or is likely to cause harassment, alarm or distress to any other person;**
- **acting as no prudent person would act.**

# **What does the new Act do?**

- **Not very much?**
- **Aim: To bring about a sea-change in mental health legislation and service provision**
- **More clearly defined detention criteria**
- **Increased patient rights (advocates; named persons etc.)**
- **Establishment of the Mental Health Tribunal for Scotland**

# **“The Millan principles”**

**Least restrictive alternative**

**Reciprocity**

**Equality /  
non-discrimination**

# **What does the Act say about homeless people?**

## **2 principal implications:**

- Wide-ranging duties placed on local authorities (e.g. section 25)**
- Community-based Compulsory Treatment Orders**

## Section 25:

(1) A local authority —

(a) shall-

- (i) provide, for persons who are not in hospital and who have or have had a mental disorder, services which provide care and support; or
- (ii) secure the provision of such services for such persons. [...]

(2) Services provided by virtue of subsection

(1) above shall be designed to —

- (a) minimise the effect of the mental disorder on such persons; and
- (b) give such persons the opportunity to lead lives which are as normal as possible.

(3) In subsection (1) above, “care and support” —

(a) includes, without prejudice to the generality of that expression —

- (i) residential accommodation;



# What does this mean?

- **Broad statement of principle**
- **Social inclusion / civic participation**

# **Compulsory treatment orders:**

**“breaking the link between  
treatment and detention”**

**move away from “one size  
fits all” approaches**

## **4 questions:**

- **Are community-based orders really all that new?**
- **How will they work?**
- **Who are they aimed at?**
- **What happens if someone breaches a requirement of their order?**

# Implications of “CBCTOs”

- **Involvement of service providers:**
  - **In the CTO application process**
  - **In Tribunal hearings**
  - **In “monitoring” the order?**
  
- **Effects on relationship between service providers and service users?**
  
- **Principle of equality?**