

# **People First (Scotland)**

**Statement regarding Supported Decision Making pilot and Vaccination.**

The Adults With Incapacity (AWI) Reform team has just posted on Twitter that:

*“As the Covid-19 vaccine is being rolled out, those administering it to adults lacking capacity using s.47 certificates should be aware of their responsibility to consult guardians, attorneys and interveners. Guidance below:”*

People First has some problems with this statement and with the Guidance referred to.

Firstly, the AWI Reform team does not seem to be doing anything about reform of the AWI Act or doing anything to issue guidance which would bring Scottish practice more in line with the United Nations Convention on the Rights of Persons with Disability (UNCRPD) or with a **human rights model**.

Instead it simply refers to the AWI Act as it is and, in fact, participates in issuing guidance on Covid that makes it easier to remove the rights of people they think lack mental capacity, including people with learning disabilities.

Scottish Commission for People with Learning Disability (SCLD) and the Scottish Government’s guidance on treating people with learning disabilities have said that people with learning disabilities should be treated with the same dignity and respect as other citizens and that people with learning disabilities should not receive a worse service because of their learning disability.

The United Nations Human Rights Office of the High Commissioner has said that, *“When the vaccine for COVID-19 comes, it should be provided without discrimination.”*

Despite that, the AWI Reform team and others are sticking to the AWI guidance on delivering “treatment” to “incapacitated adults”.

This means, as far as we can see, that doctors who are thinking of giving the vaccine to someone they think is mentally incapable, must first of all fill out a Section 47 incapacity form.

They then need to consult with any guardian, attorney, intervener and next of kin.

They don’t need to follow the instructions of these people unless they hold the specific powers to decide on getting the vaccine.

They should try to establish the wishes of the person themselves but we know they do not have the skill or training to do this properly.

They might have to appeal to the Court of Session or ask the Mental Welfare Commission to appoint another doctor – a “nominated practitioner” to make a decision on the case.

All this before they can give the vaccine to the person.

Our concern is that these things do, in fact, follow the direction of the AWI Act and existing guidance on medical treatment but are they necessary when we are talking about a vaccine?

These steps will clearly lead to a longer process and delay in giving the vaccination compared with other citizens who have the right to make their own decisions.

If the figures we read about are correct, and people with learning disabilities are more likely to die of Covid than most other people, then surely we should be looking for ways to give protection against the virus as quickly as possible.

**We think this would be an ideal time to suspend the AWI Act and the current guidance and replace them with a fast-track pilot programme of support for decision-making and support to exercise legal capacity based on Rights, Will and Preference. Where necessary, this should include best interpretation of will and preference for people.**

**As a pilot project, we think that independent advocates and close family members could be asked to take on the role of supporter to make this kind of decision.**

<http://peoplefirstscotland.org/people-first-scotland/information/>

The link above takes you to our website where you can read **Supported Decision-Making A Framework** on how to make it work.

Medical Practitioners should be asked to simply follow the direction and decision made in this way and administer the vaccine, if that is the decision or refrain from giving the vaccine, if that is the decision.

**At the moment, we do not know how safe or effective the vaccine is, so we don't support the idea of a blanket vaccination.**

We do know that many people with learning disabilities, just like most other people, believe the vaccine(s) will protect them and allow "normal life" to return.

We don't think the AWI Act was written with these circumstances in mind and we do not think it makes sense to make it more difficult to give the vaccine to people with learning disabilities than other citizens.

**Scotland has a chance to lead the way and realise our Human Rights.**

**Please share this statement and invite your partners and contacts to speak about, support and promote it.**

**People First (Scotland)**

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