

St Martins' Experience of Using Human Rights in Practice
A presentation with the British Institute of Human Rights, 27th
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Introduction to St Martins – who we are.

St Martins can trace its history back to 1920's, when the Catholic Fund for Homeless and Destitute Men - a charitable fund set up by the Catholic Arch Bishop of Westminster to assist soldiers returning home from war - opened its first hostel which was in Holland Park, London. The hostel focussed on meeting a basic need for shelter, food and clothing and finding men jobs.

The Catholic Fund was supported by donations from businesses and individuals and continued to grow as the century progressed and by the 1950s was helping 100's of men each year to secure employment. The Catholic Fund used some of its assets to established St Martin of Tours Housing Association in 1980. The Catholic Fund was wound up after the turn of this century leaving St Martin of Tours Housing Association as a legacy.

St Martins is now based in North London. We continue to provide services for men within our residential care homes in Islington and Brent, but we also now have a small number of women in our supported housing projects.

Whereas in the 1920's the 'destitute' that the Catholic Fund supported may have been destitute due to their lack of employment and harrowing experiences of war, in today's society it is people who are 'destitute' in other ways that St Martins support . The difficulties that we help people with are in the form of social instability, chronic mental health problems, being trapped within addictions and the consequences of having a forensic history. This is evident by looking at the demographics within our Wilton Villas Project in Islington where:

- 1/3 people have arrived in UK as refugees
- 2/3 have addictions
- 2/3 have convictions for violent offences

Very few people have any personal resources or any recent settled accommodation when they arrive at St Martins and often they have had few choices as to whether they are placed with us as NHS care teams are often quite limited in what can be offered. St Martins is sometimes the only 'option' given to people as they leave prison, hospital, or are moved on from other placements.

It is perhaps a defining feature of our group of service users that they are likely to be moved on every few months or years and to live their adult lives between hospitals, prisons and social care placements. As such, our first objective is to keep people in the community and to help them to establish a foothold. The road to a recovery in terms of achieving greater independence is usually a steep one, yet some do manage this through their own efforts and by using the support that we provide.

St Martins involvement with BIHR came about through our pressing need to find a response to a situation that we have faced whereby the situations of people coming into our projects are now more complex and challenging to begin with. By comparison, up to about ten years ago most people came from long stay hospitals and were mentally settled after lengthy in-patient treatment and rehabilitation programmes. People nowadays increasingly come to us more often after a placement breakdown and are therefore usually far less settled mentally.

The reasons for this are out of our control, but clearly the landscape has been changing for us and we have had to look at how and whether we can support people in what are larger residential care homes, and crucially whether we can do this safely from the point of view of the residents themselves, our staff, and our neighbours, so that our services continue to add value and do not become a 'disservice'.

Human Rights seemed to offer us something of a 'Red Flag' to hold up if we should ever approach a tipping point whereby what we are doing becomes not helpful but potentially harmful to the lives of

our residents as a whole, or to any individual resident. A Human Rights approach therefore sets a foundation upon which to set our services upon, and to build safe, sound and effective services from.

The People who use our services are clearly amongst the more marginalised of people in the community, and it appears that the Human Rights of such people on the margins may be more at risk of violation in today's society. Indeed the BIHR have recently published the 'Human Rights Check UK' which highlights some concerns about the protection of the human rights of 'the marginalised' and 'less popular' groups in society. It was suggested by BIHR, that this maybe a result of the austerity policies pursued by Governments towards reducing public spending on social security and public services. Indeed, prison assaults have doubled in the last 3 years, there has been a 55% increase in rough sleepers and an unprecedented rise in poverty as people resort to using food banks. This points towards a less than universal application of the Human Rights Act, as vulnerable groups may experience inhuman and degrading treatment, or excessive restrictions of their right to privacy and family life in such circumstances.

St Martins' Compassionate Care programme involves the protection of universal Human Rights, as it is arguably only through a universal application of human rights that the human rights of the people that use our services will be protected.

Remit of the programme that we have been participating in.

During the programme we have focussed mostly upon the following articles of the Human Rights Act:

- Article 2 - Right to life
- Article 3 – Right to freedom from inhuman and degrading treatment
- Article 5 – Right to liberty
- Article 8 – Right to respect for private family life

We have looked at our Human Rights duties both in terms of our negative and positive duties.

- Negative duty - to provide a service that respects human rights and does not systemically breach them, and
- Positive duty - to challenge abuses of Human Rights.

In doing so we have focussed on three main practice areas that we felt we were particularly challenged in:

First Practice Area: The obstacles for residents in accessing health care and treatments in a rights respecting way. (article 2, article 5).

Whilst we enjoy working with our statutory colleagues, whom we have frequent cause to respect and admire, we raised this as we were concerned about the level of assessment and follow up that some of our residents have had. We were concerned by a culture of rapid discharge from hospital and sometimes from an absence of adequate monitoring and reviewing arrangements from mental health professionals once a person had been placed with us.

Two examples from 2015 illustrate this:

- 1) We had placed someone in a room on our third floor without our being aware that he had a history of suicidal ideation when depressed. There would therefore have been a breach under article 2 if he had jumped from the window and died and this lack of care would have breached his right to life. Thankfully he did not become depressed, but this highlighted the need for more careful assessment.

- 2) Unknown to us at the time, we found ourselves providing care to a resident without a care coordinator, because the NHS care team had actually allocated this man's care coordination to a duty worker who was not able to give the time needed to provide adequate care coordination. Unfortunately, this meant that when this man relapsed, this was not managed in as timely a way as it could have been, and two of our staff were attacked, breaching their human rights. Thankfully neither staff member was seriously harmed. The resident however was detained under the MHA and therefore ultimately lost his liberty for a number of months whilst being detained in hospital. Therefore, although he was legally detained under the MHA this could be seen as breach of his right to Liberty under article 5 of the Human Rights Act, since the care network failed to uphold his human rights by responding to his treatment needs.

Our experience of moving towards a more human rights respecting approach here has been a positive one. The Human Rights programme with BIHR has given clarity and momentum to us in pushing ahead with a number of changes that we had already planned, and we believe these bring us further in line with our negative duty to uphold Human Rights. What we have done includes the following measures:

Assessment and transition - We have engaged mental health professionals as assessors who now work alongside our project staff so that we can better understand our service users before they arrive at our projects in terms of: who they are, what needs they have, and what risks require managing.

Furthermore, following our assessments we have then invited prospective residents to visit our projects where we have shown the person around the project and discussed support planning in realistic terms as well as explaining our license requirements and what this means for residents in terms of restrictions. Through these good practice measures we have been more able to engage prospective residents in an informed discussion about whether they want to take up a placement. We are also more able to consider whether we can safely support them.

Once the person has moved in we have commenced a 6 and 12 week review process. This means that a final decision about whether the person remains for a longer term placement is delayed until after reviews. This creates a time of extra focus for St Martins, the NHS care professionals and the referred person, in which the safety of the placement can be considered in practice, and any issues addressed early on. This has been empowering for St Martins in terms of exercising our negative duty to deliver services in a human rights respecting way. It can be empowering for service users too, inviting them to be more involved.

Once past the 12 week review stage, we are now taking a more proactive approach to ensuring that our residents have regular monitoring and clinical care reviews. This involves meetings with their NHS care professionals so that our residents are less likely to relapse and pose an increased risk to themselves or others. Prior to setting these measures in place, there was greater potential our residents could end up in hospital detained under the MHA, when this could have been prevented.

Physical Health - We have paid special attention to physical health care, recognising that people with chronic mental health needs often die younger due to having poorer physical health than other people. Crucially, we realised that we need to tease out mental capacity issues in this area to ensure that we protect people's right to life when they lack the capacity to manage their own physical health needs. To achieve this we have been piloting a Health Action Plan that allows us to understand and mitigate, where possible, areas of physical health vulnerability.

Second Practice Area - The challenges of balancing residents' right to a private life with the duty to protect, when undertaking room searches or when intruding into residents' private space for any other reason (Article 8).

A major challenge to St Martins has been is respecting residents' privacy and freedom, and providing a safe environment for others, particularly in terms of:

- Being able to preventing illicit drugs from being used within our projects.
- When we have had concerns about the hygiene of peoples' rooms.
- Managing the presence of visitors to our projects when we fear that their safety or that of others will be compromised.

On the one hand we had felt uneasy about instigating room searches to address drug use issues and self neglect issues because we considered that this may in fact be contrary to our value of respecting our residents and their space.

The Human Rights Training has illuminated us to the fact that the right to privacy and family life is a restricted right: and with this knowledge we have felt more able to be interventionist when we have needed to be, for example to carry out room searches and 'ban' visitors from our projects.

We have now begun to document such restrictions by including Human Rights within our support planning forms, indicating to the service user and their professionals exactly where we have restricted their human rights under article 8 and why we have done so. This process also offers residents the opportunity to seek redress.

However, in another interesting example, we concluded that we had been 'too interventionist' in the application of the right to privacy and family life. Our practice within one of our projects had been not to allow any residents to have male or female visitors to their rooms on the sole basis that the men in general who live in the project may have histories of sex offending. In light of the BIHR programme we

have amended this, so that now, we would only restrict visitors on an individual basis, and only at particular times, as determined by the risks posed by the relevant resident.

Third Practice Area - Balancing the rights of individuals living in close proximity and sharing space, particularly in response to verbal or physical abuse directed at staff or other residents (Article 3).

We had been troubled by an increase of serious violent incidents of the type that can unfortunately occur in hospitals and in residential care settings. We were further concerned about the effect upon our residents' wellbeing and also that of our staff. We were also concerned about the potential for the most vulnerable residents to be exploited by other residents in various ways. We felt that due to the size of our projects and the nature of the issues that our service users have, that the environment within our care homes could become 'unhealthy'.

We wanted to reduce the potential of being in breach of article 3 – that is, when violence results in degrading and inhuman treatment of others placed in our care.

Through the BIHR Programme we have felt empowered to address such issues directly. It was vital to lift the projects away from the prospect of their becoming zones where violence is much more likely and even tolerated, than elsewhere in society.

We have made increasing use of the police to address criminal behaviour. The frequent presence of the police may give the impression that our projects are 'out of control', but we have been able to recognise that the opposite has become true. Police involvement actually represents an approach whereby we insist upon the rule of law as much in our projects as we would elsewhere in the community. We have encouraged service users to report matters to the police, so that when they become victims, they are not denied access to justice.

We have also overhauled our incident reporting procedure to ensure that every incident of aggression to others is reported. These are collated, and we use evidence from incident reports within review meetings with residents and their care professionals, where we seek either a change of the concerning behaviour, or we admit finally and reluctantly, that a resident committing repeated offences needs to leave the project. In doing so we have been more able to avoid untimely evictions and have helped people to move on to more appropriate settings where this has been a necessity.

Through this approach, and through our being more thorough in assessments, we have seen a marked reduction of 50% in serious incidents during 2015, with this being maintained and probably surpassed in 2016.

Conclusion – Value of a Human Rights Approach.

At the beginning of the programme, the BIHR trainer offered the opinion that adopting a human rights approach would lead to a better service in terms of service outcomes. We have certainly found a Human Rights framework helpful in taking forward our response to working in a changed landscape, and in providing safe and helpful services to people with complex needs.

In terms of the creation of a 'rights respecting service', this presentation has outlined chiefly how far we have progressed in terms of fulfilling our so called 'negative' legal duty to uphold human rights within our day to day customs and practices. From this platform, St Martins hopes to move forward. We plan to be more active in addressing our positive duties by helping our residents to know their human rights, and to support them to seek redress when they perceive that these have been breached.

Our logo is Partners in Mental Health Recovery, and taking a Human Rights respecting approach has allowed us to 'partner' in a better way with statutory services. It has enabled us to have the courage to insist on a culture and practices that align with human rights; whether this means upholding, defending, or restricting human rights, working to protect and restore the dignity and self worth of people who use our services, or making it more possible for our residents to remain in the community where they can continue to enjoy their human rights, as opposed to returning to hospitals or prisons.

A seal on our work will be the inclusion of Human Rights within our Quality Assurance Framework. This is currently underway, which means that Human Rights will be routinely audited by St Martins. It will become a defining quality standard and key feature of the organisation.