

Case study

Mental Welfare Commission for Scotland: Use of covert medication

The advice line of the Mental Welfare Commission for Scotland (MWCS) received many enquiries about the use of covert medication. In response, the MWCS collected case examples and invited a selection of health and social care practitioners, legal experts, service users and carers to a consultation event. Using their views on the pros and cons of covert medication in individual cases, the MWCS produced good practice guidance (updated in 2013).

The practice of using covert medication could breach an individual's Article 5 right to liberty and security of person and their Article 8 right to respect for privacy. Therefore it is essential both that medication is given lawfully and that it is necessary. It must also be proportionate to the situation, so it is important to explore alternatives. For example, its use may be proportionate where the alternative is that the individual suffers (or even dies) through not having treatment, or suffers from a more invasive and painful procedure for giving medication. Unnecessary restraint and forced injection of medication may breach Article 3 of the ECHR (freedom from torture or other serious ill treatment).

[The MWCS guidance](#) contains a pathway which, if followed correctly, will ensure that covert medication is administered safely, in accordance with legal safeguards and with regard to the rights of the individual.