



XX February 2020

## Joint Declaration on Persons with Mental Health Difficulties and Conditions and Disability

We, the organisations listed here under together with the Commissioner for the Promotion of Rights of Persons with Mental Disorders and the Commissioner for the Rights of Persons with Disability, DECLARE THAT WE ARE IN AGREEMENT ON THE RECOGNITION OF PERSONS WITH MENTAL HEALTH DIFFICULTIES AND CONDITIONS AS PERSONS WITH DISABILITIES IN TERMS OF ALL APPLICABLE LEGISLATIVE INSTRUMENTS:

This declaration is based on our acceptance of the principles listed hereunder, namely:

- that the UN Convention on the Rights of Persons with Disabilities affirms that '*Persons with disabilities include those who have long-term physical, **mental**, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others*' (UNCRPD, 2006, Article 1)<sup>1</sup>; and
- that an impairment, as well as societal barriers, are the two elements, the sum total of which is expressed as the notion of disability, which might be either long-term or temporary, in terms of the social model of disability embodied in the UNCRPD, ratified by the Government of the Republic of Malta on 10th October 2012, said ratification becoming effective on 9th November 2012; and
- that, in terms of the UNCRPD, persons whose impairment or condition is classified as 'mental', are deemed to be persons with psychosocial disabilities; and
- that persons with disabilities are diverse and not defined by their impairment; and
- that disabilities may be visible or invisible, and onset of the relevant impairment or condition can be at birth or at any later point throughout a person's lifespan.

Due to the divergent, and at times even inaccurate views on disability currently held within Maltese society, the undersigned hereby declare that:

- (a) within the Maltese context and in line with relevant Maltese legislation, there are various instances where persons with mental health difficulties or conditions experience disability of a temporary or a more chronic basis, and this needs to be

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<sup>1</sup> UNCRPD, 2006; Convention on the Rights of Persons with Disabilities and Optional Protocol  
<https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>

adequately recognised and addressed in order for these persons to be able to fully exercise and enjoy their rights; and

- (b) there is diversity in disability, and the impact of this on the individual's life varies. As a consequence, in order to adequately address the needs of persons with a mental health difficulties or conditions, who furthermore face potentially disabling barriers in their everyday lives, such persons shall be entitled to apply for recognition and registration as persons with disability under the relevant laws and administrative procedures currently in place. This would also enable such persons with mental health difficulties or conditions to access services and/ or benefits for which they would otherwise not be entitled to; and
- (c) no person experiencing mental health difficulties or diagnosed with a mental health condition, whatever the degree of said difficulties or the intensity of said condition, shall be compelled to register against their will as a person with disability as described above; and
- (d) any person with a mental health difficulty or condition who has the required mental capacity to assimilate the relative information and to understand the implications of such a registration as a person with disability may personally apply for such registration. Persons who are certified to lack such mental capacity shall nevertheless be entitled to benefit from access to services and/ or benefits as described above. If an application to this effect is submitted by their responsible carer appointed under article 4 of the Mental Health Act (CAP. 525), or by any other person appointed by the Courts or the Guardianship Board to legally represent such person under currently applicable legislation, or by or together with any person exercising legal capacity instead of or together with said person, in terms of applicable legislation at any point in the future.

Having given due consideration to all of the above, we hereby agree to recommend that:

- (i) the degree of functional impairment of a person, together with a person's interactions with their environment and with society, need to be adequately assessed on the basis of internationally recognised tools, such as WHODAS 2.0 (2018) (or its subsequent versions or substitutes), which is a generic assessment instrument for health and disability. This is a tool that provides standardized scoring for different disability profiles. It is applicable across cultures, in all adult populations and is directly linked at the conceptual level to classification systems such as the International Classification of Functioning, Disability and Health (ICF)<sup>2</sup>, which should be used as the basis for any further exercises performed to assess disability and determine eligibility for benefits, services and supports in respect thereof; and

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<sup>2</sup> WHO Disability Assessment Schedule 2.0 (WHODAS 2.0) (2018) [https://www.who.int/classifications/icf/more\\_whodas/en/](https://www.who.int/classifications/icf/more_whodas/en/)

- (ii) in order to facilitate the access to services, supports and/ or benefits as described above for persons with a mental health difficulty or condition, there should be an established single centralized body which carries out holistic needs analysis using these tools, and tailored to fit the national scenario, or any other tools deemed necessary and acceptable, in order to direct the persons to the relevant support options and decrease the burdens already suffered by such persons.
  
- (iii) carers who support persons with a mental health difficulty or condition as described above, should be considered eligible for services, support options and/or benefits. There should be an established single centralized body which sets the eligibility criteria and carries out holistic needs analysis using the adequate tools, and tailored to fit the national scenario, or any other tools deemed necessary and acceptable, in order to direct the persons to the relevant support options and decrease the burdens already significantly suffered by such persons caring for persons with a mental health difficulty or condition as described above.

ADHD Malta

Hearing Voices

Be Positive Malta

Mental Health Association

Caritas Malta

Richmond Foundation

Friends of Mount Carmel Hospital

St Jeanne Antide Foundation

Gozo Mental Health Association

Suret il-Bniedem

Endorsed by:

Commissioner for the Promotion of Rights  
of Persons with Mental Disorders

Commissioner for the Rights of Persons  
with Disability