



DEBATE PACK

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General debate on reform of the Mental Health Act 1983

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Summary

At 1.30pm on Thursday 25 July 2019 there will be a Westminster Hall debate entitled "General debate on reform of the Mental Health Act 1983". This debate will be led by Neil Coyle MP.

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The House of Commons Library prepares a briefing in hard copy and/or online for most non-legislative debates in the Chamber and Westminster Hall other than half-hour debates. Debate Packs are produced quickly after the announcement of parliamentary business. They are intended to provide a summary or overview of the issue being debated and identify relevant briefings and useful documents, including press and parliamentary material. More detailed briefing can be prepared for Members on request to the Library.

1. Background

1.1 The Mental Health Act 1983

The [Mental Health Act 1983](#) is the law in England and Wales under which a person with a 'mental disorder' can be admitted to hospital for assessment and treatment against their wishes.¹ It also contains provisions for Community Treatment Orders. The term 'mental disorder' is a general term used in the Act to describe any disorder or disability of the mind.

The revised version of the *Mental Health Act 1983* on the [Legislation.gov.uk](#) website includes amendments made by the *Mental Health Act 2007*, and it also includes references to other later amendments. The statutory [Code of Practice for the Mental Health Act](#) sets out further detailed guidance on patient rights, professional duties, and responsibilities for community treatment and aftercare. The mental health charities [Mind](#) and [Rethink Mental Illness](#) also provide further guidance on the 1983 Act, including advice on the rights of patients detained under the Mental Health Act.

Box 1: Mental Health Units (Use of Force) Act 2018

The [Mental Health Units \(Use of Force\) Act 2018](#) was introduced, as a Private Members Bill, by Labour MP Steve Reed, following the death of a constituent, Seni Lewis, in 2010. The Act increases the oversight and management of the use of force in mental health units. In particular, the Act makes provision for deaths that occur during, or result from, the use of force in mental health units to be investigated. The Act also makes provision for police officers to wear and operate body cameras when attending a mental health unit.

For 2017/18, NHS Digital reported just over 49,500 new detentions in hospital under the Mental Health Act during the year.² The Care Quality Commission report that available data shows overrepresentation of Black and Minority Ethnic (BAME) groups in the detained population.³

1.2 Independent Review of the Mental Health Act 1983

In October 2017, the Government commissioned Professor Sir Simon Wessely to carry out a full independent review of the *Mental Health Act 1983*. This was a particular response to concerns about rising rates of

¹ Both Scotland and Northern Ireland have their own mental health legislation. Mental health law in Scotland is covered by the *Mental Health (Care and Treatment) (Scotland) Act 2003*.

² NHS Digital, [Mental Health Act Statistics, Annual figures, England 2017-18](#), October 2018

³ CQC, [Monitoring the Mental Health Act in 2017/18](#), March 2019.

detention and the disproportionate use of the Act among people from BAME groups. The review also looked at processes under the Act that are out of step with a modern mental health care system.

The final report, [Modernising the Mental Health Act – final report from the independent review](#), was published in December 2018.⁴ The report sets out recommendations covering 4 principles that the Review believed should underpin the reformed Act:

- choice and autonomy – ensuring service users’ views and choices are respected
- least restriction – ensuring the Act’s powers are used in the least restrictive way
- therapeutic benefit – ensuring patients are supported to get better, so they can be discharged from the Act
- people as individuals – ensuring patients are viewed and treated as rounded individuals

In over 150 recommendations, the report called for improvement in services and a greater focus on the needs of particular groups affected by the Act, including people from BAME communities.

The mental health charity [Mind](#) highlighted a number of the review’s key recommendations:

- introducing advance choice documents so that people can set out their wishes about future care and treatment, which would have more weight than they do in the current system
- advocates for all mental health inpatients (whether voluntary or detained) without having to ask for one
- advocates who are skilled in responding to people's cultural needs
- a statutory care and treatment plan to include people's wishes
- earlier access to a second opinion and a right to appeal against treatments
- more scope for tribunals to respond to people's concerns about their care
- choice of which friend or family member has a role in decisions about sectioning and care, by making the current ‘nearest relative’ role a ‘nominated person’ chosen by the patient

⁴ Department of Health and Social Care, [Modernising the Mental Health Act – final report from the independent review](#), 6 December 2018

- a complete end to the use of police cells when initially detained and an end to the use of police vehicles for taking people to hospital
- a systematic approach to improving how mental health services respond to their local population's ethnic and cultural background.⁵

The Government has welcomed the Review and has committed to reform mental health legislation. In June 2019, the Prime Minister said that the DHSC and the MoJ would publish a White Paper before the end of the year in response to the review. The Prime Minister also set out a number of Government plans for early action:

- the first ever Race Equality Framework will ensure NHS mental healthcare providers work with their local communities to improve the ways in which patients access and experience treatment, and ensure data on equality of access is monitored at board level and acted on
- working with Black African and Caribbean community groups alongside others to develop a White Paper formally setting out a response to Sir Simon's review
- further work towards eradicating the use of police cells as a place to detain people experiencing mental illness ahead of banning it in law, building on the Prime Minister's work to end this practice for under-18s
- launching a pilot programme of culturally-sensitive advocates in partnership with local authorities and others, to identify how best to represent the mental health needs of ethnic minority groups
- a partnership between the Care Quality Commission and Equality and Human Rights Commission to review how they can use their regulatory powers to better support equality of access to mental health services
- an open call for research into how different ethnic minority groups experience mental health treatment and how this can be improved – to be launched later this year by the National Institute for Health Research⁶

The Government has already accepted two of the review's recommendations; the establishment of new statutory advance choice documents, so that people's wishes and preferences carry far more legal

⁵ [Mind, Mental Health Act Review](#)

⁶ No10 press release, Measures to end unequal mental health treatment kickstarted by PM, 17 June 2019

weight, and the creation of a new role of ‘nominated person’ to be chosen by the patient to replace the current nearest relative provisions.⁷

1.3 Reactions to the Review

Links to a number of charities and organisations responses to the Mental Health Act Review can be found in the further reading section of this briefing. Initial responses from the chief executives of the charities, Mind, Rethink Mental Illness and Young Minds are set out below:

Paul Farmer, Chief Executive, Mind:

"Mind welcomes the review and the recommendations of the panel. This outdated legislation has seen thousands of people experience poor, sometimes appalling, treatment, who still live with the consequences to this day. We are pleased to see that many of our concerns – and those of the people we represent and have supported to feed into the review – have been heard.

(...)

"The Government now needs to take this review forward as soon as possible so that people with mental health problems get the support they need. A key test of the recommendations will be their impact racial inequality and we look forward to the NHS long-term plan which will set out how mental health care will be transformed. These recommended changes are much needed but detentions will only reduce when people have access to quality, culturally relevant and timely care, so that fewer people end up in a mental health crisis."

Mark Winstanley, Chief Executive, Rethink Mental Illness

"Rethink Mental Illness has long campaigned for reform of the vital but outdated Mental Health Act. Countless people have told us how they felt disrespected and lost all control of their care while treated under the Act. The Review's recommendations can change that. By giving people more rights to shape their own treatment, choose how to involve loved ones, and more power to challenge decisions, the Review shows how mental healthcare can respect people's rights while they are very unwell. We are really pleased to hear that the Prime Minister has welcomed the Review and that the Government plans to bring forward a new mental health bill. We are ready to work with the Government, Parliament and the NHS to help make this happen."

Emma Thomas, Chief Executive, Young Minds:

"The Mental Health Act review represents a welcome step forward in reforming mental health law, and it's important that it focuses on children and young people's rights. The report includes some positive proposals that would mean that children and young people are only treated in hospital when absolutely necessary, and which would strengthen and clarify their rights to be involved in –

⁷ [PO 209277, 24 January 2019](#)

and challenge – decisions about their care. We hope that the Government takes action to consider and implement these proposals. It is also vital that we see greater investment in early intervention, so that more young people receive support in their communities before they reach crisis point".⁸

Mind also noted their disappointment to see that the Review had not recommended getting rid of Community Treatment Orders (CTOs). They responded that CTOs "have not reduced hospital readmissions and are often experienced as intrusive and coercive, especially by people from Black or Black British backgrounds, who are more likely to be subjected to CTOs. However, the Review's recommendations would be an improvement on the current position."⁹

1.4 Mental health in the NHS Long Term Plan

The [NHS Long Term Plan](#) (7 January 2019) provided a number of commitments to improve mental health services, building on those from the 2016 [Five Year Forward View For Mental Health](#). For example, the Long Term Plan stated, by 2023/24, the NHS 111 service would act as a single point of contact for NHS services for people experiencing mental health crisis. New services intended to support patients going through a mental health crisis would be introduced, including:

- new mental health transport vehicles intended to reduce inappropriate use of ambulance or by police vehicle transport;
- the inclusion of mental health nurses in ambulance control rooms; and
- the improvement of the mental health competency of ambulance staff.

Further information can be found in Chapter 3 of the NHS Long Term Plan, from page 50 (children's mental health) and page 68 (adult mental health). On 1 July 2019 the Government has published an [Implementation Framework for the Long Term Plan](#) and paragraphs 2.30 to 2.36 cover improvement to mental health services.

1.5 Reports on the use of the Mental Health Act

It is the role of the Care Quality Commission (CQC) to look at how health services in England are applying the *Mental Health Act 1983* to make sure that patients' human rights are being protected. As well as its regular inspections of services, the CQC publishes an annual report,

⁸ [Independent review of the Mental Health Act: charities' responses](#), Mental Health Today, 6 December 2018

⁹ [Mind, Mental Health Act Review](#)

monitoring the Mental Health Act, which summarises its findings on how the Act is being delivered. The latest CQC report, [Monitoring the Mental Health Act in 2017/18](#), was published in March 2019. The report commented on a general trend of improvement in the areas they measured but noted that their greatest concern was about the quality and safety of care provided on mental health wards; in particular on acute wards for adults of working age.

In June 2017, the Mental Health Alliance published [A Mental Health Act fit for tomorrow: An agenda for reform](#). Based on research undertaken by Rethink Mental Illness, that questioned more than 8,000 patients, relatives and professionals about the underlying principles behind the Act, and their personal experiences of the law in action. Rethink found that a majority (64%) of respondents agreed that it is sometimes necessary to treat someone in hospital against their wishes and restrict their human rights for their own or others' safety. However, the survey also found that significant numbers expressed concerns that the current Act fails to protect people's rights and dignity, with seclusion, and physical restraint used "too readily" in some mental healthcare settings. Rethink and Adelphi Research UK also carried out qualitative focus group work, published in the report [No voice, No Choice? Making the Mental Health Act more person centred](#), in April 2018.

2. Library briefings

The Commons Library has published the following briefings relating to mental health policy:

- [Mental Health Policy in England](#) (CBP 7547, September 2018)
- [Children and young people's mental health – policy, CAMHS services, funding and education](#) (CBP 7196, July 2019)
- [Suicide Prevention: Policy and Strategy](#) (CBP 8221, September 2018)
- [Mental health statistics for England: prevalence, services and funding](#) (CBP 6988, April 2018)

3. News

[Using police cells to detain people with mental illness to be banned under new reforms](#), Independent, 16 June 2019

['It's sitting on the backburner': why acute mental illness is being forgotten](#), Guardian, 15 May 2019

[Mental Health Act must be updated to give patients power over care, says review](#), BMJ, 6 December 2018

[Mental Health Act 'needs major reform' as black patients four times as likely as whites to be sectioned](#), independent, 5 December 2018

[NHS mental health care for women is 'not fit for purpose', campaigners claim](#), Evening Standard, 14 August 2018

[Judge calls for Mental Health Act reform over rising detentions](#), Guardian, 5 July 2018

[Mentally ill subject to 'physical violence and verbal threats' while held under Mental Health Act, finds report](#), Independent, 1 May 2018

[NHS patients having to be sectioned to get help, says regulator](#), Guardian, 23 January 2018

4. Parliamentary Material

4.1 Oral Questions

[Topical Questions](#), HC, 651 c644, 18 December 2018

Asked by: Ruth Cadbury (Brentford and Isleworth) (Lab) | **Party:** Labour Party

Will the Secretary of State commit to implementing the recommendations of the independent Mental Health Act review to reform mental health tribunals and will the Government commit adequate resourcing to the recommendations?

Oral questions - Supplementary

Answering member: Edward Argar | **Party:** Conservative Party | **Department:** Justice

As the hon. Lady will be aware, the Government have welcomed the independent review of the Mental Health Act and have rightly committed to reform mental health legislation. Some of the review's recommendations, as she alludes to, have particular implications for civil justice and particular reforms to the Mental Health Tribunal. My Department is working closely with the Department of Health and Social Care to consider the review, its recommendations and implications in detail and we will respond shortly.

4.2 Written Questions

[Compulsorily Detained Psychiatric Patients](#), HC, PQ 211326, 30 January 2019

Asked by: Gill, Preet Kaur | **Party:** Labour Party · Cooperative Party

To ask the Secretary of State for Health and Social Care, what assessment he has made of the effectiveness of the Mental Health Act 1983 in protecting the rights of people detained under that Act.

Answering member: Jackie Doyle-Price | **Party:** Conservative Party | **Department:** Department of Health and Social Care

It is the role of the Care Quality Commission (CQC) to look at how health services in England are applying the Mental Health Act 1983 to make sure that patients' human rights are being protected. As well as its regular inspections of services, the CQC publishes an annual report, monitoring the Mental Health Act, which summarises its findings on how the Act is being delivered.

The latest report for 2016/17, which includes a chapter on protecting patients' rights and autonomy, is available at the following link:

https://www.cqc.org.uk/sites/default/files/20190108_mhareport2017_amend_1.pdf

The Government commissioned a review of the Mental Health Act as we want to ensure that people with mental health problems receive the treatment and support they need when they need it,

are treated with dignity, and that their liberty and autonomy is respected as far as possible.

The independent Review of the Mental Health Act published its final report on 6 December 2018.

The Government has welcomed the report and will consider it and its recommendations in detail before responding in due course. We remain committed to reforming mental health law and will develop and bring forward legislation when Parliamentary time allows.

[Mental Health Services](#), HC, PQ 209277, 24 January 2019

Asked by: Davies, Geraint | **Party:** Labour Party · Cooperative Party

To ask the Secretary of State for Health and Social Care, what his timetable is for bringing forward legislative proposals on mental health care.

Answering member: Jackie Doyle-Price | **Party:** Conservative Party | **Department:** Department of Health and Social Care

We welcome the publication of final report of the independent review of the Mental Health Act 1983, which was commissioned by the Prime Minister.

The Government will consider the report and its recommendations in detail and respond in due course. We remain committed to reforming mental health law and have committed to develop and bring forward legislation when Parliamentary time allows.

We have already accepted two of the recommendations of the review; the establishment of new statutory advance choice documents, so that people's wishes and preferences carry far more legal weight, and the creation of a new role of 'nominated person' to be chosen by the patient to replace the current nearest relative provisions. This will support the review's overall purpose of increasing patient rights and improving the way the Act works for people.

[Mental Health Services](#), HC, PQ 205224, 14 January 2019

Asked by: Cooper, Rosie | **Party:** Labour Party

To ask the Secretary of State for Health and Social Care, with reference to the report entitled, A Mental Health Act fit for tomorrow, an agenda for reform, published by published by the Mental Health Alliance in June 2017, what assessment he has made of the accuracy of the conclusion that the average waiting time of assessment by patients with severe mental illness is 14 weeks.

Answering member: Jackie Doyle-Price | **Party:** Conservative Party | **Department:** Department of Health and Social Care

Information on the average waiting time of assessment for patients with severe mental illness is not collected.

The waiting time standard for people with first episode psychosis is for 60% to start treatment in an Early Intervention in Psychosis service within two weeks of referral. In 2017/18 this standard was

exceeded, with 76.2% of people accessing services within two weeks in November 2018.

[Compulsorily Detained Psychiatric Patients](#), HC, PQ 204428, 7 January 2019

Asked by: David, Wayne | **Party:** Labour Party

To ask the Secretary of State for Health and Social Care, what recent assessment he has made of the effectiveness of the (a) support and (b) treatment for people detained under the Mental Health Act 1983.

Answering member: Jackie Doyle-Price | **Party:** Conservative Party | **Department:** Department of Health and Social Care

The Care Quality Commission has a statutory duty to monitor how mental health providers exercise powers and discharge their duties when people are detained under the Mental Health Act 1983. It reports annually, and its most recent report *Monitoring the Mental Health Act in 2016/17* was published in February 2018. The report contains a specific chapter on care, support and treatment in hospital. It is available at the following link:

www.cqc.org.uk/sites/default/files/20180227_mhareport_web.pdf

The Government has committed to reform mental health legislation. As a first step towards this, the Prime Minister asked Professor Sir Simon Wessely to chair a full and independent review of the Mental Health Act 1983. *Modernising the Mental Health Act Increasing choice, reducing compulsion*, the final report of the Independent Review of the Mental Health Act, was published in December. The Government will consider the report and its recommendations in detail, and will respond in due course.

[Compulsorily Detained Psychiatric Patients](#), HC, PQ 202728, 20 December 2018

Asked by: Keeley, Barbara | **Party:** Labour Party

To ask the Secretary of State for Health and Social Care, whether he is taking account of the funding and delivery of aftercare delivered under section 117 of the Mental Health Act in formulating his forthcoming plans for reform to the social care system.

Answering member: Caroline Dinenage | **Party:** Conservative Party | **Department:** Department of Health and Social Care

The Government commissioned an independent review of the Mental Health Act 1983, the final report of which was published earlier this month. The report contains a number of recommendations on the administration of section 117 aftercare, including the need for national guidance on the division of funding between local authorities and clinical commissioning groups. We will be considering these recommendations in detail before responding in due course, we will develop this work alongside our work to reform the social care system.

[Mental Health Act 1983 Independent Review](#), HC, PQ 908263, 18 December 2018

Asked by: Cadbury, Ruth | **Party:** Labour Party

What assessment he has made of the implications of the Independent Review of the Mental Health Act for the work of (a) his Department and (b) HM Courts & Tribunals Service.

Answering member: Edward Argar | **Party:** Conservative Party | **Department:** Ministry of Justice

The Government have welcomed the independent review of the Mental Health Act and have rightly committed to reform mental health legislation. Some of the review's recommendations, have particular implications for civil justice and particular reforms to the Mental Health Tribunal. The Department is working closely with the Department of Health and Social Care to consider the review, its recommendations and implications in detail and we will respond shortly.

[Mental Health Act 1983 Independent Review](#), HC, PQ 199861, 11 December 2018

Asked by: Berger, Luciana | **Party:** Labour Party · Cooperative Party

To ask the Secretary of State for Health and Social Care, whether the Government plans to accept all of the recommendations of the Final report of the Independent Review of the Mental Health Act 1983, published on 6 December 2018.

Answering member: Jackie Doyle-Price | **Party:** Conservative Party | **Department:** Department of Health and Social Care

We welcome the final report of the independent review of the Mental Health Act 1983.

One of the reasons the Government commissioned the review was to understand better the reasons behind the disproportionate number of people from black and minority ethnic groups detained under the Act, and for suggested next steps to be recommended.

The Government has already accepted two of the recommendations of the review including the creation of a new role of nominated person, chosen by the patient, to replace the current nearest relative provisions.

We will consider the report and its recommendations in detail and respond in due course. We remain committed to reforming mental health law and will develop and bring forward legislation when Parliamentary time allows.

[Mental Health Act 1983 Independent Review](#), HC, PQ 199858, 11 December 2018

Asked by: Berger, Luciana | **Party:** Labour Party · Cooperative Party

To ask the Secretary of State for Health and Social Care, with reference to the Final report of the Independent Review of the Mental Health Act 1983, published on December 2018, what steps the Government plans to take to seek greater representation

of people from ethnic minority backgrounds, especially those of black African and Caribbean heritage in key health and care professions.

Answering member: Jackie Doyle-Price | **Party:** Conservative Party | **Department:** Department of Health and Social Care

We welcome the final report of the independent review of the Mental Health Act 1983.

We will consider the report and its recommendations in detail and respond in due course. We remain committed to reforming mental health law and will develop and bring forward legislation when Parliamentary time allows.

The Government recently set a goal for the National Health Service to ensure that representation of black, Asian and minority ethnic (BAME) individuals at very senior management levels will match that across the rest of the NHS workforce within 10 years. As part of this, ongoing implementation of the NHS Workforce Race Quality Standard is taking steps towards ensuring employees from BAME backgrounds have equal access to career opportunities and receive fair treatment in the workplace.

[Mental Health: Tribunals](#), HC, PQ 195582, 3 December 2018

Asked by: Berger, Luciana | **Party:** Labour Party · Cooperative Party

To ask the Secretary of State for Justice, what plans he has to reform mental health tribunals; and what steps he is taking implement those plans.

Answering member: Lucy Frazer | **Party:** Conservative Party | **Department:** Ministry of Justice

We are waiting to see the report of Sir Simon Wessely's Independent Review of the Mental Health Act before we consider any reforms to the Mental Health Tribunal. We expect the report to be published shortly.

[Mental Health Act 1983](#), HC, PQ 192945, 22 November 2018

Asked by: Daby, Janet | **Party:** Labour Party

To ask the Secretary of State for Health and Social Care, if he will make it his policy to reform the Mental Health Act 1983 better to protect the rights of those who are in receipt of mental health treatment.

Answering member: Jackie Doyle-Price | **Party:** Conservative Party | **Department:** Department of Health and Social Care

The Independent Review of the Mental Health Act 1983 will report before the end of the year. The Government will consider its findings and respond in due course. The Review will make recommendations to Government for how it should improve the Act, including on improving the protection of people's rights and considering how detentions might be reduced, but it was not commissioned to have a direct influence on legislation or practice.

5. Further Reading

[Next Prime Minister can't turn back on mental health](#), Mental Health Foundation, 8 July 2019

[Mental Health Act Review](#), Mind

[The Mental Health Act: What is the Independent Review of the Mental Health Act 1983?](#), Royal College of Psychiatrists

[Reforming the Mental Health Act](#), Centre for Mental Health

[Independent review of the Mental Health Act: charities' responses](#), Mental Health Today, 6 December 2018

[Mental Health Act changes could see 10,000 fewer individuals face compulsory detention](#), Mental Health Today, 6 December 2018

[Modernising the Mental Health Act – final report from the independent review](#), Department of Health and Social Care, 6 December 2018

[Modernising the Mental Health Act](#), NHS Confederation Mental Health Network, December 2018

[Government announces steps towards a better Mental Health Act](#), Rethink Mental Illness

[No voice, No Choice? Making the Mental Health Act more person centred](#), Rethink Mental Illness, April 2018

[A Mental Health Act fit for tomorrow](#), Mental Health Alliance, June 2017

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