Draft Mental Health Act Reform Bill

“My Ministers will publish draft legislation to reform the Mental Health Act.”

The purpose of the draft Bill is to:

• Ensure patients suffering from mental health conditions have greater control over their treatment and receive the dignity and respect they deserve.

• Make it easier for people with learning disabilities and autism to be discharged from hospital.

The main benefits of the draft Bill would be:

• Modernising the Act so that it is fit for the 21st century and provides a framework for services in which people experiencing the most serious mental health conditions can receive more personalised care, with more choice and influence over their treatment and a greater focus on recovery.

• Helping to address the existing disparities in the use of the Act for people from ethnic minority backgrounds – especially for detentions and for the use of Community Treatment Orders.

• Ensuring that detentions only happen where strictly necessary.

• Improving how we support offenders with acute mental health needs, ensuring they have access to the right treatment, in the right setting, at the right time – with faster transfers from prison to hospital, and new powers to discharge patients into the community while ensuring the public is protected.

The main elements of the draft Bill are:

• Amending the definition of mental disorder so that people can no longer be detained solely because they have a learning disability or because they are autistic.

• Changing the criteria needed to detain people, so that the Act is only used where strictly necessary: where the person is a genuine risk to their own safety or that of others, and where there is a clear therapeutic benefit.

• Giving patients better support, including offering everyone the option of an independent mental health advocate, and allowing patients to choose their own ‘nominated person’, rather than have a ‘nearest relative’ assigned for them.

• Introducing a 28-day time-limit for transfers from prison to hospital for acutely ill prisoners and ending the temporary use of prison for those awaiting assessment or treatment.

• Introducing a new form of supervised community discharge. This will allow the discharge of restricted patients into the community, with the necessary care and supervision to adequately and appropriately manage their risk.

• Increasing the frequency with which patients can make appeals to Tribunals on their detention and provide Tribunals with a power to recommend that aftercare services are put in place.

• Introducing a statutory care and treatment plan for all patients in detention. This will be written with the patient and will set out a clear pathway to discharge.

Territorial extent and application

• The draft Bill will extend and apply to England and Wales only.
Wider action on mental health

- Last year our Mental Health Recovery Action Plan, backed by a one-off targeted investment of £500 million, ensured additional support for members of groups which have been most impacted by COVID-19, including; those with severe mental illness, young people, and front-line staff.

- We remain committed to our ambitious plans to expand and transform NHS mental health services to reach an additional two million people, backed by £2.3 billion more in real terms per year by 2023 to 2024.

- This includes the establishment of 33 new maternal mental health services, bringing together psychological therapy, maternity services and reproductive health for women who have mental health needs following trauma or loss related to their maternity experience. These services will be available across the whole of England by March 2024.

- We are also accelerating the roll out of mental health support teams in schools and colleges across the country, meaning 399 teams will be up and running by 2023.

- The Department of Health and Social Care is running a Call for Evidence seeking views to inform a new 10-Year Mental Health Plan and updated National Suicide Prevention Plan which will build on current progress, assessing how local services can work together to prevent mental ill health to level up mental health across the country and put mental and physical health on an equal footing.

Key facts

- In 2020-21, there were around 53,000 detentions under the Act in England, an estimated 4.5 per cent increase from 2019-20. Rates of detention have nearly doubled since 1983, and between 2007-16 the number of detentions rose by over 40 per cent.

- In 2020-21, black people were four times more likely than white people to be detained under the Act, and over ten times more likely to be placed on a Community Treatment Order.

- A total of 1,520 restricted patients were admitted to hospital for treatment under the Act in 2020. Restricted patients are offenders subject to special controls in the justice system, for example after a court sentence or transfer from prison.

- Trends are particularly worrying for children and young people, with rates of probable mental health disorders in six to 16 year olds rising from 11.6 per cent in 2017 to 17.4 per cent in 2021. More people than ever are receiving support for a mental health crisis and, tragically, the numbers of those ending their life through suicide have broadly increased over the past decade.

Source: