



RCSLT briefing on Reforming the Mental Health Act White Paper, 2021

1. Summary

The Government has published the Reforming the Mental Health Act¹ White Paper, which sets out proposed changes to the Mental Health Act 1983 and wider reforms of policy and practice around it. The Government proposals take forward the majority of the recommendations made by the Independent Review of the Mental Health Act 1983. This briefing summaries the key points and the RCSLT response.

Scope: The current Mental Health Act applies in both England and Wales. The White Paper concerns health policy which is devolved to Wales, whilst justice matters remain reserved to the UK Government. The Welsh Government will develop its own response to the Review.

Setting: The benefits of reform will also be extended to people with serious mental illness in contact with the criminal justice system, with a focus on rehabilitation and reduced re-offending.

Context:

The Mental Health Act 1983 provides a legal framework to authorise the detention and compulsory treatment of people who have a mental health disorder and are considered at risk of harm to themselves or others. The Mental Health Act was considered out of step with a modern-day mental health service and in significant need of reform. The Independent Review of the Mental Health Act 1983², published in December 2018, proposed a number of recommendations to improve mental health services. The Government has accepted the majority of the review's recommendations.

2. Summary of the Proposals

The main policy objectives of the Government's response in the White Paper:

- Modernise mental health legislation and ensure care and treatment is of the highest quality and promotes recovery; people will only be detained when it is appropriate and where there is demonstrable therapeutic benefit to the person.
- Improve patient's choice and experience, give everyone a voice and the power to express their views about care and treatment.
- Improve how the Mental Health Act works for people with a learning disability and autistic people and reducing the reliance on specialist inpatient services.
- Enable patients to access safeguards earlier and more often, such as the Mental Health Tribunal, and ensure that they are empowered and supported to challenge their detention and treatment.
- Reduce racial disparities under the Mental Health Act and promote equality.

New guiding principles

1. Choice and autonomy – ensuring service users' views and choices are respected and followed
2. Therapeutic benefit – ensuring patients are supported to get better, and receive care and treatment, so they can be discharged from the Act.
3. Least restriction – ensuring the Act's powers are used in the least restrictive way and people are only detained where it is absolutely necessary.
4. The person as an individual – ensuring patients are viewed and treated as individuals.

¹ www.gov.uk/government/consultations/reforming-the-mental-health-act

² <https://www.gov.uk/government/publications/modernising-the-mental-health-act-final-report-from-the-independent-review>

People with a learning disability and autistic people

- It will be made clearer that autism and learning disability are not considered to be ‘mental disorders’ for the purposes of the Act.
- The aim is to reduce the reliance on specialist inpatient services for people.
- The White Paper says that people with learning disability or autism will only be detained for treatment under the mental Health Act if they have a co-occurring mental health condition.
- Where the driver of this behaviour is not considered to be a mental health condition, for example due to an unmet support need, unmet social or emotional need, or an unmet physical health need, grounds for a detention under the Act would no longer be justified.

Inpatient wards

New rules which are proposed include:

- More choice and autonomy for detained people:
 - People can challenge their detention;
 - A new framework so people can choose and refuse specific treatments;
 - Advance choice documents setting out the person’s wishes for future care and
 - Each person will have a statutory care and treatment plan.
- A drive to reduce restrictive practice on inpatient wards.

Care in the community

- New duty on health and social care commissioners to work together.

Workforce

- The Government anticipates that the reforms will require further expansion of the mental health workforce.

3. RCSLT view

We welcome the publication of the white paper and look forward to responding to this with our members.

Understanding and being understood is central to all four of the key guiding principles of the reforms. People must be able to express their views and wishes if they want to have a say over their care and treatment. Establishing people’s communication preferences and making reasonable adjustments is critical in ensuring that people are equal partners in decisions about their own care and support.

We note that the Government confirms that the mental health workforce will need to be expanded to meet extra demand for care and support over the coming months and years. The expansion of the mental health workforce must include speech and language therapists.

Providing high-quality community mental health services is the best way to improve the care and outcomes for those with mental health needs. As detentions are reduced, community-based provision needs to be improved and expanded to make these services accessible to everyone. Bolstering these services will ensure that people receive care and support before they reach a crisis.

4. The Consultation

The consultation is open until April 2021 and the government is seeking views. The RCSLT will submit a consultation response based on your views, contact policy adviser Claire.moser@rcslt.org to contribute. The full document is available here www.gov.uk/government/consultations/reforming-the-mental-health-act. Feedback from the consultation will inform a draft Bill to amend the Act by the end of 2021 or when Parliamentary time allows.