

Mental Health Bill

Committee Stage Briefing, House of Lords Monday 20th January 2025

Centre for Mental Health welcomes the introduction of the Mental Health Bill and the positive changes it aims to deliver, including strengthening rights, addressing inequalities, and enhancing mental health outcomes for all. This committee stage briefing outlines amendments we believe are essential to further enhance care and treatment under the law.

The current Mental Health Act is over 40 years old and disproportionately impacts Black and racialised communities, autistic people and people with learning disabilities and those facing financial inequality. For example, **Black people are 3.5 times more likely to be detained under the Act** and seven times more likely to be placed on a Community Treatment Order for treatment within the community¹. Reform offers a critical opportunity to create a modernised Act that prioritises respect for rights, dignity, and people's voices in their treatment.

While the bill represents significant progress, further amendments are needed to address critical gaps in mental health support and ensure robust protection of rights as it moves through Parliament. We support amendments to the bill to:

- establish a statutory mental health commissioner
- strengthen the renewal process for Community Treatment Orders (CTOs)
- protect people's housing rights

Centre for Mental Health also hosts the Children and Young People's Mental Health Coalition and supports their proposals to enhance safeguards and protections for children and young people.

Community treatment orders (CTOs)

The Bill makes some important changes to better regulate the use of CTOs, but it stops short of adopting all of the Independent Review's recommendations. For example, it allows CTOs to continue indefinitely, with too few safeguards for patients when they are renewed. We believe it is essential to prevent CTOs from being renewed without proof that they continue to be necessary and proportionate. Centre for Mental Health strongly supports Lord Scriven's amendment to introduce a more robust 12-month review process for CTOs, requiring the added scrutiny of a second medical professional. Under this amendment, the renewal process is similar to the process the bill sets out for the making of a CTO in the first place. This will create stronger accountability for the continued use of a CTO and provide a more robust review of its continued utility and necessity.

Amendment tabled by Baroness Barker:

Clause 6

_ Clause 6, page 12, line 34, at end insert—

“(c) after subsection (6) insert—

“(6A) Any person subject to a community treatment order must be informed orally and in writing at the time of the making of the order of their right to an independent mental health advocate under section 130A of this Act.””

Explanatory statement: The amendment would ensure that people who are to be subject to a CTO would receive information about their right to advocacy.

Why is this amendment important?

Access to advocacy services for individuals detained under a Community Treatment Order (CTO) varies widely, with evidence indicating minimal or even non-existent uptake in some areasⁱⁱ. The Independent Review highlighted the need to strengthen access to Independent Mental Health Advocacy (IMHA) services for those on CTOs. Currently, IMHA services are predominantly hospital-based and lack the resources to effectively reach individuals subject to CTOs, leaving a critical gap in support.

Mental Health Commissioner

We fully support and endorse Baroness Tyler’s amendment to establish a Mental Health Commissioner for England as a new statutory office within government. Our research <https://www.centreformentalhealth.org.uk/wp-content/uploads/2023/12/Mental-Health-Commissioner.pdf> demonstrates the value of this role in jurisdictions internationally and its potential benefits here.

A Mental Health Commissioner would offer sustained leadership for mental health – complementary to existing roles and structures in government. They would operate both within the machinery of state and in the media and wider public sphere. They would have influence within government and the NHS, but with the freedom to speak out when necessary: to lead public debate, challenge stigma, and break boundaries and taboos. They could help to galvanise action across departments and systems to improve population mental health and ensure people living with mental illness are treated fairly and equitably in every sphere of life. By helping to put mental health at the heart of government, the Commissioner could change the ways decisions get made – supported by a ‘mental health policy test’ that could be used by all departments to improve their impact on the nation’s wellbeing. And by establishing the role in statute, mental health would no longer be a topic that waxed and waned in its profile and importance within government, reliant on short-term interest or hard-won attention.

In the second reading debate, the Government stated that the Commissioner would duplicate the work of the Care Quality Commission. This is not the case: their role would be complementary, as the Children’s Commissioner complements the work of Ofsted. The functions of the two are clearly different, with distinctive powers and responsibilities, that between them provide extra benefit to the public that would not be achieved by one of them alone. Both have powers of entry to inspect services that work with children, but their roles and the outcomes they seek to provide are very different. And the Children’s Commissioner has a wider advocacy role across the whole of government as well as civil society more broadly that Ofsted cannot perform.

Housing rights while in hospital

Too many people are made homeless when they are in hospital, for example because they lose their tenancies. We would like to see the new Act require health and local authorities to take affirmative steps to protect people’s housing rights and ensure no one is either discharged homeless or stuck in hospital for too long because accommodation isn’t available for them.

This critical issue was highlighted during the second reading debate, where the high number of delayed discharges caused by the lack of housing was widely acknowledged. Strengthening protections for housing rights during a hospital stay is crucial to prevent homelessness and ensure people have the support they need from the outset.

Amendment tabled by Baroness Barker:

Clause 20

Clause 20, page 29, line 20, at end insert—

“(4A) The information authorised or required to be included in, or attached to, a care and treatment plan by virtue of regulations under subsection (3) must include provision to protect the patient’s housing and accommodation during and immediately after they are subject to a care and treatment plan.”

Explanatory statement: This amendment ensures that protection of housing and accommodation needs are considered as part of care and treatment plans.

Why is this amendment important?

Being detained under the Mental Health Act can also have a significant impact on an individual’s housing situation. In the most severe cases, people may lose their tenancies, face difficulties keeping up with payments or fall into debt. These challenges can have devastating effects on both the individual and their family, often exacerbating their mental health difficulties.

We welcome Baroness Barker’s amendment to ensure that the housing needs of autistic people and those with learning disabilities are properly addressed through Care, Education, and Treatment Reviews. While local authorities are already required to provide aftercare services and advice to individuals discharged from hospital, the Bill should go further. We would propose that this could be included within the new statutory care and treatment plan, rather than creating an additional duty.

About Centre for Mental Health

Centre for Mental Health is an independent charity. We take the lead in challenging injustices in policies, systems and society, so that everyone can have better mental health. By building research evidence to create fairer mental health policy, we are pursuing equality, social justice and good mental health for all. **For more information contact Kadra Abdinasir, Associate Director of Policy, on Kadra.Abdinasir@centreformentalhealth.org.uk.**

ⁱ NHS Digital (2024) Mental Health Act Statistics, Annual Figures, 2023-24. Available from: <https://digital.nhs.uk/data-and-information/publications/statistical/mental-health-act-statistics-annual-figures/2023-24-annual-figures/community-treatment-orders#top>

ⁱⁱ CQC (2022) Mental Health Act community treatments orders (CTO) – focused visits report. Available from: <https://www.cqc.org.uk/publication/cto-focused-visits/report>