

Mental Health Bill [HL]

RUNNING LIST OF ALL AMENDMENTS IN COMMITTEE OF THE WHOLE HOUSE

*Tabled up to and including
28 November 2024*

The amendments are listed in accordance with the following Instruction –

Clauses 1 to 3	Clauses 24 to 38
Schedule 1	Schedule 3
Clauses 4 to 23	Clauses 39 to 54
Schedule 2	Title

[Amendments marked ★ are new or have been altered]

Clause 4

BARONESS BARKER

Clause 4, page 4, line 41, at end insert –

“(iv) housing”

Member's explanatory statement

This amendment ensures that housing needs are considered as part of care, education and treatment review meetings.

LORD SCRIVEN

Clause 4, page 5, line 23, at end insert –

“(v) the patient,
(vi) the patient’s nominated person, and
(vii) the patient’s independent mental health advocate.”

Member's explanatory statement

This amendment ensures that nominated persons and independent mental health advocates receive copy of a care, education, and treatment review meeting report for children and young people with autism or a learning disability.

BARONESS BARKER

Clause 4, page 7, line 2, at end insert –

“(iii) housing”

Member's explanatory statement

This amendment ensures that housing needs are considered as part of care and treatment review meetings.

LORD SCRIVEN

Clause 4, page 7, line 28, at end insert –

“(v) the patient,
(vi) the patient’s nominated person, and
(vii) the patient’s independent mental health advocate.”

Member's explanatory statement

This amendment ensures that nominated persons and independent mental health advocates receive a copy of a care and treatment review meeting report.

Clause 20

BARONESS TYLER OF ENFIELD

Clause 20, page 30, line 2, at end insert –

“(g) following the patient turning 18 years of age during the course of a care and treatment plan.”

Member's explanatory statement

This amendment ensures that individuals turning 18 during a care and treatment plan have their plans reviewed to maintain continuity of care while transitioning from child to adult services.

Clause 42

BARONESS BARKER

Clause 42, page 54, line 15, at end insert –

“(c) providing access to advance choice documents and related information to patients and relevant parties in both physical and electronic formats, and other formats deemed appropriate by the Secretary of State.”

Member's explanatory statement

This amendment ensures that patients receive advance choice documents and relevant information in electronic format.

BARONESS BARKER

Clause 42, page 55, line 15, at end insert –

- “(c) providing access to advance choice documents and related information to patients and relevant parties in both physical and electronic formats, and other formats deemed appropriate by Welsh Government.”

Member's explanatory statement

This amendment ensures that the provisions in another amendment by Baroness Barker on advance choice documents extend to Welsh services.

After Clause 50

BARONESS TYLER OF ENFIELD

After Clause 50, insert the following new Clause –

“Review: Impact of this Act on schools

- (1) Within six months of the day on which this Act is passed, the Secretary of State must publish a review of the impact of provisions in this Act related to the treatment and care of mentally disordered persons on –
 - (a) under 18s,
 - (b) state-funded schools, and
 - (c) any other such persons they deem appropriate.
- (2) In the review, the Secretary of State must assess whether, in their view, the Act provides adequate support for ongoing treatment and care of mentally disordered persons in a school setting.”

Member's explanatory statement

This amendment requires the Secretary of State to publish a review of the impact of the provisions of the Act on under-18s and those in state funded schools and to assess whether the Act provides for adequate support for ongoing treatment and care in these settings.

LORD SCRIVEN

After Clause 50, insert the following new Clause –

“Cost and implementation reporting –

- (1) The Secretary of State must lay a report before Parliament four months after the passage of the Act, and annually thereafter, assessing the costs and implementation dates of provisions in the Act.
- (2) The report must include details on –
 - (a) the monetised and non-monetised costs to the health and social care system;
 - (b) the monetised and non-monetised costs to the justice system;

- (c) costs associated with additional training for NHS staff responsible for treatment provisions;
 - (d) costs related to community care services and infrastructure;
 - (e) costs for additional training for approved mental health practitioners and independent mental health advocates;
 - (f) additional costs incurred by local authorities;
 - (g) housing and care-related costs for individuals with autism or learning disabilities;
 - (h) additional costs incurred by the Care Quality Commission;
 - (i) costs for training responsible clinicians and other relevant parties involved in patient care.
- (3) The report must also include a monitoring and evaluation strategy for the reforms introduced by the Act, including –
- (a) commencement timelines for the Act’s provisions;
 - (b) an assessment of the Act’s impact on patient outcomes including user feedback;
 - (c) relevant data to evaluate whether the reforms are being delivered as intended;
 - (d) assessments of the impact of new safeguards and support mechanisms on patient and carer experiences.
- (4) Following the publication of the first report, the Secretary of State must arrange for the tabling of –
- (a) a motion for resolution on the report in the House of Commons moved by a Minister of the Crown, and
 - (b) a motion for the House of Lords to take note of the report moved by a Minister of the Crown.
- (5) If the report is rejected by the House of Commons, the Secretary of State must deliver a statement to Parliament within a period of three months which addresses the contents of the report.
- (6) Subsequent reports are not subject to the provisions of subsection (4).”

Member's explanatory statement

This amendment requires the Secretary of State to present a report to Parliament detailing the costs and implementation assessments of the Act after one year, and annually thereafter. The first report published under this provision must be subject to a resolution motion in both Houses of Parliament.

BARONESS TYLER OF ENFIELD

★ After Clause 50, insert the following new Clause –

“Mental Health Commissioner

After section 142B of the Mental Health Act 1983, insert –

“Mental Health Commissioner

142C Independent Mental Health Commissioner: Establishment

- (1) There is to be an office known as the Office of the Mental Health Commissioner.
- (2) The Office in subsection (1) must be established by the Secretary of State three months after the day on which the Mental Health Act 2025 is passed.
- (2) The Office of the Mental Health Commissioner will be led by an individual appointed by the Secretary of State titled the “Independent Mental Health Commissioner”.
- (3) The role in subsection (2) is referred to as the “Mental Health Commissioner”.

142D Functions of the Commissioner

- (1) The Mental Health Commissioner is responsible for overseeing the implementation and operability of functions discharged by relevant bodies and persons under the provisions of this Act and the Mental Health Act 2025, particularly regarding the provision of treatment, care, and detention of people with a mental disorder.
- (2) The Mental Health Commissioner is also responsible for overseeing the implementation and operability of functions discharged by relevant bodies and persons under this Act which relate to the Mental Capacity Act 2005 and the Mental Health Act 2007.
- (3) The Mental Health Commissioner must publish an annual report on the use of functions discharged under this Act, which must assess –
 - (a) the quality of mental health care treatment provided by relevant services;
 - (b) the accessibility of mental health care treatment services;
 - (c) the relationship between mental health and the criminal justice system;
 - (d) inequalities of mental health care provision regarding protected characteristics under the Equality Act 2010;
 - (e) the use and effectiveness of detention measures under this Act, including but not limited to Community Treatment Orders, for the purposes of therapeutic benefit outlined in section 1(2B);

- (f) challenges surrounding stigma of mental health conditions;
 - (g) the accessibility of advice and support to mental health service users, their families and carers on their legal rights;
 - (h) other issues deemed appropriate by the Mental Health Commissioner.
- (4) In fulfilling their duties under subsection (1), the Mental Health Commissioner may review, and monitor the operation of, arrangements falling within subsection (1), (2) and (3) for the purpose of ascertaining whether, and to what extent, the arrangements are effective in promoting the principles in section 118(2B) of this Act.

142E Appointment and tenure of office

The Secretary of State may make regulations which make provision as to –

- (a) the appointment of the Mental Health Commissioner (including any conditions to be fulfilled for appointment);
- (b) the filling of vacancies in the office of Commissioner;
- (c) the tenure of office of the Mental Health Commissioner, including the circumstances in which they cease to hold office or may be removed or suspended from office.

142F Remuneration of role

The Secretary of State may –

- (a) pay the Commissioner such remuneration and allowances, and
- (b) pay, or make provision for the payment of, such pension or gratuities to or in respect of them, as may be provided for under the terms of their appointment.

142G Appointment of staff

- (1) The Commissioner may appoint any staff they consider necessary for assisting in the exercise of their functions, one of whom must be Deputy Commissioner.
- (2) During any vacancy in the office of Commissioner or at any time when the Commissioner is for any reason unable to act, the Deputy Commissioner may exercise their functions (and any property or rights vested in the Commissioner may accordingly be dealt with by the deputy as if vested in them).
- (3) Any member of the Commissioner's staff may, so far as authorised by them, exercise any of their functions.
- (4) The duties of the Deputy Commissioner must be determined by the Commissioner.

- (5) Regulations may provide for the Commissioner to make periodic or other reports to the Secretary of State relating to the exercise of their functions and may require the reports to be published in the manner required by the regulations.

142H Examination of cases

- (1) The Secretary of State may, by regulations, make provision for the examination by the Mental Health Commissioner of the cases of those who are detained under this Act receiving treatment by authorised mental health care providers.
- (2) The regulations may include provision about—
 - (a) the types of case which may be examined;
 - (b) the circumstances in which an examination may be made;
 - (c) the procedure for conducting an examination, including provision about the representation of parties;
 - (d) the publication of reports following an examination.
- (3) The Secretary of State may, by regulations, provide for the Office of the Mental Health Commissioner to access and examine relevant data on mental health treatment provision held by NHS England and any other authorities the Secretary of State considers appropriate.
- (4) In cases under subsection (3), reasonable steps must be taken to ensure that data provided to the Office of the Mental Health Commissioner is anonymised.
- (5) Regulations may, for the purposes of enabling the Mental Health Commissioner to examine or determine whether any recommendation made in a report following an examination has been complied with, make provision for—
 - (a) requiring persons to provide the Mental Health Commissioner with information, or
 - (b) requiring persons who hold or are accountable for information to provide the Mental Health Commissioner with explanations or other assistance, for the purpose of an examination or for the purposes of determining whether any recommendation made in a report following an examination has been complied with.
- (6) For the purposes mentioned in subsection (3), the Mental Health Commissioner has the same powers as the High Court in respect of—
 - (a) the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad), and
 - (b) the provision of information.

- (7) No person may be compelled for the purposes mentioned in subsection (5) to give any evidence or provide any information which they could not be compelled to give or provide in civil proceedings before the High Court.
- (8) The regulations may make provision for the payment by the Mental Health Commissioner of sums in respect of expenses or allowances to persons who attend or provide information for the purposes mentioned in subsection (5).

142I General powers

- (1) Subject to any directions given by the Secretary of State, the Commissioner may do anything which appears to them to be necessary or expedient for the purpose of, or in connection with, the exercise of their functions.
- (2) This may include—
 - (a) collaborating with health services, public authorities, charitable organisations, and other entities deemed necessary by the Mental Health Commissioner that are responsible for the provision of mental health care across the United Kingdom, including, but not limited to NHS bodies, the Care Quality Commission, and the Parliamentary and Health Service Ombudsman;
 - (b) making recommendations to the Secretary of State regarding treatment and detention provisions contained in this Act;
 - (c) ensuring that authorities and public bodies with responsibilities for enforcement under the Mental Health Act 1983 have the necessary capacity and resources to undertake duties;
 - (d) promoting mental health wellbeing;
 - (e) ensuring access to treatment;
 - (f) safeguarding the rights and welfare of patients;
 - (g) other duties deemed to be necessary by the Secretary of State.

142J Accounts

- (1) The Mental Health Commissioner must keep accounts in such form as the Secretary of State may determine.
- (2) The Mental Health Commissioner must prepare annual accounts in respect of each financial year in such form as the Secretary of State may determine.
- (3) The Mental Health Commissioner must provide copies of the annual accounts to the Secretary of State and the Comptroller and Auditor General within such period after the end of the financial year to which the accounts relate as the Secretary of State may determine.

- (4) The Comptroller and Auditor General must examine, certify, and report on the annual accounts and must lay copies of the accounts and of their report before Parliament.
- (5) In this paragraph “financial year”, in relation to the Mental Health Commissioner, means –
 - (a) the period beginning with the date on which the Mental Health Commissioner is established and ending with the next 31st March following that date, and
 - (b) each successive period of twelve months ending with 31st March.

142K Regulations

- (1) Regulations under section 142E or 142H are to be made by statutory instrument.
- (2) A statutory instrument containing regulations under section 142E or 142H may not be made unless a draft of the instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.””

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