

Mental Health Bill [HL]

RUNNING LIST OF ALL AMENDMENTS IN COMMITTEE OF THE WHOLE HOUSE

*Tabled up to and including
9 January 2025*

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 1

BARONESS TYLER OF ENFIELD
LORD SCRIVEN

Revised version of the amendment printed on 18 December 2024

★ Clause 1, page 1, line 19, at end insert –

| | |
|---------|---|
| “Equity | addressing inequalities in treatment, particularly racial inequalities, outcomes, and related provisions regarding protected characteristics” |
|---------|---|

Member's explanatory statement

The purpose of this amendment is to include a fifth guiding principle to ensure that there is equity in treatment and outcomes addressing inequalities related to protected characteristics, particularly racial inequalities, in the operation of the Code of Practice and the Mental Health Act 1983 more generally.

BARONESS WHITAKER
LORD BRADLEY
LORD PATEL

Clause 1, page 1, line 19, at end insert –

“(2) In section 118 of the Mental Health Act 1983 (duty to prepare code of practice, including principles which the person making it thinks should inform decisions under the Act), after subsection (2B) (inserted by subsection (1)) insert –

“(2BA) The statement of principles must set out how in fulfilling the principles and addressing the matter specified in the table, a patient’s communication disability, difficulty, or difference will be identified and supported.””

Member's explanatory statement

This amendment ensures that a patient’s communication disability, difficulty, or difference is identified and supported as communication skills or support for communication difficulty is essential to deliver the four principles to inform decisions and fundamental and foundational to the matters to be addressed.

BARONESS TYLER OF ENFIELD

★ Clause 1, page 1, line 19, at end insert –

“(2) In section 118 of the Mental Health Act 1983 (code of practice), after subsection (1) insert –

“(1ZA) The individuals and organisations referenced in subsection (1) must have regard to the code of practice when making decisions.””

Member's explanatory statement

This amendment is intended to probe whether the principles set out in the table in subsection (2B) will be statutorily binding.

After Clause 3

BARONESS BROWNING

★ After Clause 3, insert the following new Clause –

“Application of the Mental Capacity Act 2005: autism and learning disability

(1) In Schedule 1A to the Mental Capacity Act 2005, insert the following after the last line of the table in paragraph 2 –

| | |
|---------|---|
| “Case F | P has autism or a learning disability and is not subject to any of the mental health regimes – see paragraph 5A.” |
|---------|---|

- (2) In Schedule 1A to the Mental Capacity Act 2005, insert the following new paragraph—

“5A(1) This paragraph applies in Case F in the table in paragraph 2.

(2) P is ineligible if the following conditions are met.

(3) The first condition is that P objects—

- (a) to being admitted for treatment as a mental health patient, or
- (b) to being given some or all of the mental health treatment.

(4) The second condition is that a donee or deputy has not made a valid decision to consent to each matter to which P objects.

(5) In determining whether or not P objects to something, regard must be had to all the circumstances (so far as they are reasonably ascertainable), including the following—

- (a) P’s behaviour,
- (b) P’s wishes and feelings, and
- (c) P’s views, beliefs and values.

(6) But regard is to be had to circumstances from the past only so far as it is still appropriate to have regard to them.

(7) For the avoidance of doubt, Case F and this paragraph do not apply to determine P’s ineligibility in respect of admission for assessment of mental disorder.”

Member's explanatory statement

This amendment to the Mental Capacity Act 2005 would prevent the Deprivation of Liberty Safeguards scheme being used to replace detention under section 3 of the Mental Health Act for people with learning difficulties or autism who do not have a mental health condition.

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.

BARONESS MERRON

Clause 4, page 5, line 20, after “provide” insert “or arrange for the provision of”

Member's explanatory statement

This amendment and my other amendments to Clauses 4 and 43 are minor and technical amendments to clarify that the references to after-care services include services arranged (as well as directly provided) by a public authority under section 117 of the Mental Health Act 1983.

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 BUTLER-SLOSS

★

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

- “(v) a parent, guardian or other person with parental responsibility.”

Member's explanatory statement

This and other amendments in the name of Baroness Butler-Sloss aim to secure the role of a parent or guardian.

BARONESS MERRON

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

“(The arrangements may also include provision authorising or requiring a copy of the report to be given to other persons.)”

Member's explanatory statement

New section 125A(3)(b) requires arrangements to include provision for reports to be given to the people listed in that provision. This amendment provides, for the avoidance of doubt, that arrangements may also include provision for reports to be given to others.

LORD SCRIVEN

Clause 4, page 5, line 29, leave out “12” and insert “six”

Member's explanatory statement

This amendment and other amendments related to this issue in Lord Scriven’s name shortens the length between care and treatment reviews from 12 months to six months.

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.

BARONESS TYLER OF ENFIELD

LORD BRADLEY

Clause 4, page 7, line 12, at end insert –

“(v) ensuring communication needs are met where the patient may have additional or alternative communication needs”

Member's explanatory statement

This amendment ensures that the communication needs of patients are considered as part of a care and treatment review meeting.

BARONESS MERRON

Clause 4, page 7, line 25, after “provide” insert “or arrange for the provision of”

Member's explanatory statement

See the explanatory statement for my amendment to Clause 4, page 5, line 20.

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.

BARONESS BUTLER-SLOSS

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

“(v) a parent, guardian or other person with parental responsibility.”

BARONESS MERRON

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

“(The arrangements may also include provision authorising or requiring a copy of the report to be given to other persons.)”

Member's explanatory statement

New section 125B(3)(b) requires arrangements to include provision for reports to be given to the people listed in that provision. This amendment provides, for the avoidance of doubt, that arrangements may also include provision for reports to be given to others.

LORD SCRIVEN

Clause 4, page 7, line 34, leave out “12” and insert “six”

Member's explanatory statement

This amendment and other amendments related to this issue in Lord Scriven's name shortens the length between care and treatment reviews from 12 months to six months.

LORD SCRIVEN
BARONESS HOLLINS

Clause 4, page 8, line 6, leave out “must have regard to” and insert “have a duty to carry out”

Member's explanatory statement

This amendment ensures that integrated care boards and local authorities responsible for a patient's treatment and care have a duty to implement recommendations arising from a care and treatment review.

LORD SCRIVEN
BARONESS HOLLINS

Clause 4, page 8, line 7, leave out “in accordance with that section” and insert “unless a compelling reason is provided for why a recommendation cannot be carried out”

Member's explanatory statement

This amendment ensures that integrated care boards and local authorities responsible for a patient's treatment and care have a duty to implement recommendations arising from a care and treatment review.

BARONESS TYLER OF ENFIELD

Clause 4, page 8, line 21, at end insert –

“(ba) the person is under 18 years old and satisfies the conditions in (b)(i) and (b)(ii).”

Member's explanatory statement

The amendment inserts a new subsection that extends the duty on integrated care boards to establish and maintain a register for those at risk of detention to all children and young people under the age of 18.

LORD SCRIVEN
BARONESS BROWNING

Clause 4, page 8, line 30, at end insert –

- “(1A) Each local authority must take reasonable steps to assist the integrated care boards in its duties set out in subsection (1) by informing the integrated care board where it considers a person ordinarily resident in its area to have –
- (a) autism or a learning disability;
 - (b) risk factors for detention under Part 2 of this Act.”

Member's explanatory statement

This amendment ensures that local authorities assist integrated care boards in identifying residents who may have autism or a learning disability and present relevant risk factors under the 1983 Act.

EARL HOWE
LORD KAMALL

Clause 4, page 9, leave out lines 9 to 13

Member's explanatory statement

This probing amendment seeks to clarify the Government's intended definition of “specified risk factors for detention” under Part 2 of the 1983 Act.

LORD SCRIVEN

Clause 4, page 9, line 17, leave out “regard to” and insert “a duty to consider”

Member's explanatory statement

This amendment and other amendments related to this issue in Lord Scriven's name impose duties on commissioning services and local authorities regarding the care provisions for people with autism or a learning disability.

LORD SCRIVEN

Clause 4, page 9, line 20, leave out “seek” and insert “have a duty”

Member's explanatory statement

This amendment and other amendments related to this issue in Lord Scriven's name impose duties on commissioning services and local authorities regarding the care provisions for people with autism or a learning disability.

LORD SCRIVEN

Clause 4, page 9, line 21, leave out “under Part 2 of this Act” and insert “unless there is a compelling reason for why this is not possible”

Member's explanatory statement

This amendment and other amendments related to this issue in Lord Scriven's name impose duties on commissioning services and local authorities regarding the care provisions for people with autism or a learning disability.

BARONESS TYLER OF ENFIELD
LORD SCRIVEN

Clause 4, page 9, line 22, at end insert –

“(c) seek to ensure that the needs of children and young people can be met without detaining them under Part 2 of this Act.”

Member's explanatory statement

This amendment extends the duty on integrated care boards and local authorities to exercise their commissioning functions in a way that seeks to ensure that children and young people's needs can be met without detaining them.

BARONESS BROWNING

Clause 4, page 9, line 23, after “market function” insert “and commissioning functions”

Member's explanatory statement

This amendment ensures the LA commissioning duties to provide care and support under the Care Act is more specific.

LORD SCRIVEN

Clause 4, page 9, line 24, leave out “regard to” and insert “a duty to consider”

Member's explanatory statement

This amendment and other amendments related to this issue in Lord Scriven's name impose duties on commissioning services and local authorities regarding the care provisions for people with autism or a learning disability.

LORD SCRIVEN

Clause 4, page 9, line 26, leave out “seek” and insert “have a duty”

Member's explanatory statement

This amendment and other amendments related to this issue in Lord Scriven's name impose duties on commissioning services and local authorities regarding the care provisions for people with autism or a learning disability.

LORD SCRIVEN

Clause 4, page 9, line 27, leave out “under Part 2 of this Act” and insert “unless there is a compelling reason for why this is not possible”

Member's explanatory statement

This amendment and other amendments related to this issue in Lord Scriven's name impose duties on commissioning services and local authorities regarding the care provisions for people with autism or a learning disability.

BARONESS TYLER OF ENFIELD
LORD SCRIVEN

Clause 4, page 9, line 28, at end insert –

- “(c) seek to ensure that the needs of children and young people can be met without detaining them under Part 2 of this Act.”

Member's explanatory statement

This amendment extends the duty on integrated care boards and local authorities to exercise their marketing functions in a way that seeks to ensure that children and young people's needs can be met without detaining them.

LORD SCRIVEN
BARONESS HOLLINS

Clause 4, page 9, line 40, at end insert –

“125FA Report: sufficient commissioning services for people with autism or learning disabilities

- (1) Within four months of the day on which the Mental Health Act 2025 is passed, the Secretary of State must lay before Parliament a plan to allocate sufficient resources for commissioning services regarding the treatment and detention of autistic people and people with learning disabilities to ensure operability of provisions in this Act.
- (2) The plan must include –
 - (a) revised assumptions of the number of autistic people and people with learning disabilities who may require detention under this Act;
 - (b) the actions that the Secretary of State will take to ensure community services are available to meet demand after the 28-day detention period;
 - (c) plans for data collection to support commissioning sufficient services;
 - (d) plans to allocate appropriate resource to ensure operability of services, including, but not limited to, financial resource;
 - (e) plans to ensure that responsible bodies and individuals receive the necessary training to carry out support, diagnostic, and treatment plans.”

Member's explanatory statement

This amendment requires the Secretary of State to present a plan within four months to ensure sufficient services, resources, data, and training are in place to support autistic people and those with learning disabilities under the Act.

BARONESS BARKER

Clause 4, page 9, line 40, at end insert –

“125FA Mandatory training in diagnosis of autism and learning disabilities

- (1) Bodies with commissioning functions under this Act and the Mental Health Act 2025 must create and implement a mandatory training programme, on the diagnosis and treatment of individuals with autism or a learning disability, for all mental health professionals responsible for the diagnosis and such individuals.
- (2) Training programmes created by commissioning bodies must be undertaken by –
 - (a) approved Mental Health Professionals;
 - (b) Independent Mental Health Advocates;
 - (c) NHS staff responsible for treating mental health patients;
 - (d) General Practitioners with responsibility for referring or managing patients with suspected autism or learning disabilities in relation to mental health;
 - (e) social workers involved in assessments or care planning for individuals with autism or learning disabilities in relation to mental health;
 - (f) educational psychologists contributing to diagnostic processes or support plans in relation to mental health;
 - (g) private sector or charity-employed professionals providing commissioned mental health services.
- (3) Training programmes must –
 - (a) be developed in consultation with relevant stakeholders, including autism advocacy groups, learning disability organisations, and clinical experts;
 - (b) include specific guidance on the identification of autism and learning disabilities, effective communication strategies, and the provision of reasonable adjustments;
 - (c) be subject to periodic review to ensure alignment with the latest clinical standards and practices.”

Member's explanatory statement

This amendment ensures that relevant persons and bodies with treatment and diagnostic responsibilities connected with the provisions of the Mental Health Act 1983 and this Bill are required to undertake mandatory training for the diagnosis and administering of treatment for patients with autism or a learning disability.

After Clause 4

BARONESS MURPHY

★ After Clause 4, insert the following new Clause –

“Treatment for autism or learning disability

- (1) The Mental Health Act 1983 is amended as follows.
- (2) After Section 3 (admission for treatment) insert –

“3A Admission for treatment: autism or learning disability

- (1) An application for admission for treatment under Section 3 may only be made in respect of a patient with autism or a learning disability with the approval of the appropriate tribunal.
- (2) An application for approval may only be granted by the appropriate tribunal in exceptional circumstances.
- (3) The appropriate tribunal may when granting an application for approval set a duration of authority to detain which is shorter than that provided for in section 20(1).”
- (3) After Section 20 (duration of authority) insert –

“20ZA Duration of detention: autism or learning disability

- (1) A patient with autism or a learning disability admitted to hospital in pursuance of an application for admission for treatment may not be detained further in the absence of a further application for approval from the appropriate tribunal.
- (2) An application for approval may only be granted by the appropriate tribunal in exceptional circumstances.
- (3) The appropriate tribunal may when granting an application for approval set a duration of authority to detain shorter than that provided for in section 20(2)(a).
- (4) Section 78 applies to the making of procedural rules by the Mental Health Review Tribunal for Wales for applications for approval under subsection (1).”
- (4) In Section 118 (code of practice), in subsection (1), at end insert –

“(c) for the guidance of the appropriate tribunal as to the meaning of “exceptional circumstance” for the purposes of Section 3A and Section 20ZA.””

Member's explanatory statement

The purpose of this amendment is to address concerns about the needs of some people with learning disabilities who pose a considerable risk in the community and require supervision and treatment but will not be managed safely in the community, and yet have no formal ancillary diagnosis.

Clause 5

LORD SCRIVEN
BARONESS HOLLINS

Clause 5, page 11, line 18, at end insert –

“(2A) In section 2 (admission for assessment), after subsection (2) insert –

“(2A) Where the patient does not meet the grounds for detention as set out in subsection (2), detention may not be authorised under the Mental Capacity Act 2005.””

Member's explanatory statement

This amendment prevents patients from being detained under the Mental Capacity Act 2005 where they would not meet the criteria for detention under the Mental Health Act 1983.

BARONESS BROWNING

Clause 5, page 11, line 29, at end insert –

“(f) the patient meets the criteria for detention due to the degree of psychiatric disorder.”

Member's explanatory statement

This amendment seeks to ensure that detention is for needs associated with the degree of psychiatric disorder, not unmet needs for autism/learning disability.

LORD SCRIVEN
BARONESS HOLLINS

Clause 5, page 11, line 29, at end insert –

“(aa) after subsection (2) insert –

“(2A) Where the patient does not meet the grounds for detention as set out in subsection (2), detention may not be authorised under the Mental Capacity Act 2005.””

Member's explanatory statement

This amendment prevents patients from being detained under the Mental Capacity Act 2005 where they would not meet the criteria for detention under the Mental Health Act 1983.

BARONESS BROWNING

Clause 5, page 11, line 32, at end insert –

“(iii) after paragraph (b) insert –

“(c) if the patient is autistic or has a learning disability, a statement declaring that the registered medical

practitioners are satisfied that detention for treatment is necessary for the purposes of treating the psychiatric disorder alone.””

Member's explanatory statement

This amendment seeks to ensure that Autism/learning disability is not cited as the reason for detention, which should be for psychiatric disorder alone.

BARONESS BROWNING

Clause 5, page 11, line 32, at end insert –

“(c) after subsection (3) insert –

“(3A) If the patient concerned is diagnosed with autism, or a learning disability is suspected, every effort must be made to ensure that one of the two registered medical practitioners providing a recommendation for admission for treatment has experience in learning disability and autism.””

Member's explanatory statement

This amendment seeks to ensure that one of the two registered medical practitioners who recommend someone be admitted for treatment is an expert in autism/learning disability where these are diagnosed or suspected.

Clause 6

BARONESS BROWNING

★ Clause 6, page 12, line 33, at end insert “, including access to a prescribing psychiatrist local to their place of residence”

LORD SCRIVEN

Clause 6, page 12, line 34, at end insert –

“(2A) In section 17B (conditions) after subsection (7) insert –

“(8) The responsible clinician must ensure that community treatment orders align with the code of practice as set out in section 118(2B).

(9) A community treatment order shall have a maximum duration of 12 months, subject to the following provisions –

(a) the responsible clinician may extend the duration of a community treatment order beyond 12 months only after –

(i) consulting the patient, the patient’s nominated persons, and any relevant mental health care professional involved in the patient’s treatment or care planning;

- (ii) undertaking a review process to evaluate the ongoing necessity and therapeutic benefit of the community treatment order;
 - (iii) consulting a second medical professional regarding the conditions of the community treatment order and determining whether an extension of the order is necessary and is in accordance with the principles set out in section 118(2B);
 - (b) community treatment orders with a duration of less than 12 months are not subject to the review process outlined in subsection (9)(a)(ii);
 - (c) a tribunal may recommend that the responsible clinician consider whether to extend, vary, or terminate the duration and conditions of a community treatment order.
- (10) Where a community treatment order is extended beyond a period of 12 months, the order shall be subject to review at intervals not exceeding six months, in accordance with the procedure set out in subsection 9(a).
- (11) At the conclusion of the default period or any extended period, the responsible clinician must undertake a review to assess the effectiveness of the community treatment order in aligning with the code of practice stipulated in section 118(2B).”

Member's explanatory statement

This amendment ensures that community treatment orders align with the principles of therapeutic benefit outlined in the code of practice and establishes a maximum duration of 12 months. It introduces safeguards for extensions beyond 12 months, requiring consultation, review, and oversight to evaluate their necessity and effectiveness.

Clause 8

BARONESS TYLER OF ENFIELD

Clause 8, page 14, line 13, at end insert “including the setting in which treatment takes place”

Member's explanatory statement

This amendment ensures that the definition of appropriate medical treatment includes the setting in which treatment takes place.

EARL HOWE
LORD KAMALL

Clause 8, page 14, line 17, at end insert –

- “(iii) seeks to minimise the patient’s distress and promote psychological wellbeing and recovery from any childhood trauma;”

EARL HOWE
LORD KAMALL

Clause 8, page 14, line 22, at end insert “and which seeks to minimise the patient’s distress and promote their psychological wellbeing and recovery from any childhood trauma”

Member's explanatory statement

This amendment seeks to promote a therapeutic environment and culture which recognises patients’ trauma and minimise the use of medical treatment as a form of coercive control.

BARONESS TYLER OF ENFIELD

Clause 8, page 14, line 22, at end insert –

“(c) appropriate medical treatment must also have regard for the principle of therapeutic benefit stipulated in section 118(2B).”

Member's explanatory statement

This amendment incorporates the principle of therapeutic benefit, as outlined in section 118(2B), into the framework of appropriate medical treatment principles.

Clause 10

BARONESS WHITAKER
LORD BRADLEY
LORD PATEL

Clause 10, page 16, line 13, at end insert –

“(ii) at the end of paragraph (b) insert –

“and may include a speech and language therapist.””

Member's explanatory statement

This amendment would enable a speech and language therapist to act as a responsible clinician.

Clause 11

BARONESS TYLER OF ENFIELD

Clause 11, page 17, line 6, at end insert “including the full range of non-drug-based interventions”

Member's explanatory statement

This amendment ensures that non-drug based forms of medical treatment are identified as options for patients.

BARONESS TYLER OF ENFIELD

Clause 11, page 17, line 6, at end insert –

- “(aa) consider whether non-drug-based interventions may be more appropriate in place of, or in addition to, drug-based therapies for patients who are diagnosed with autism or a learning disability, or where autism or a learning disability is suspected, who are –
- (i) hospitalised under the relevant sections in Part 3 of this Act, and
 - (ii) do not have a co-existing psychiatric disorder.”

Member's explanatory statement

This amendment ensures that non-drug-based interventions are considered for patients with autism or a learning disability that are detained.

BARONESS WHITAKER
LORD BRADLEY
LORD PATEL

Clause 11, page 17, line 33, at end insert –

- “(g) consider and adjust for a patient’s communication disability, difficulty, or difference.”

Member's explanatory statement

This amendment would ensure effective and meaningful participation by patients in their treatment and care by ensuring any communication, difficulty, or difference they had was considered and adjusted for as part of the treatment decision process.

EARL HOWE
LORD KAMALL

Clause 11, page 17, line 33, at end insert –

- “(1A) Where the approved clinician considers that treatment appropriate to a patient (taking into account the matters specified in subsection (1)) is available, the clinician must offer such treatment to the patient.”

Member's explanatory statement

This amendment would ensure that any patient detained in an inpatient mental health unit is offered such treatment as may be appropriate to them if such treatment is available.

LORD KAMALL
EARL HOWE

Clause 11, page 17, line 39, at end insert –

- “(2A) For a patient who is known to have autism or a learning disorder, any departure from the patient’s preferred treatment as expressed by either the patient’s nominated person or the patient’s advance choice document, requires the agreement of two qualified professional clinicians.”

Member's explanatory statement

This amendment states that two qualified clinicians must agree if there is any departure from a patient’s preferred treatment.

Clause 19

BARONESS TYLER OF ENFIELD
LORD SCRIVEN

Revised version of the amendment printed on 10 December 2024

Clause 19, page 28, line 27, at end insert –

- “(7) In section 24 of the Mental Capacity Act 2005 (Advance decisions to refuse treatment: general), after subsection (5), insert –
- “(6) For an “Advance decision” in relation to a treatment for a mental disorder under the provisions of the Mental Health Act 1983, a person may make a decision once they have reached 16.””

Member's explanatory statement

This amendment extends advance decisions to those who are 16 and over.

EARL HOWE
LORD KAMALL

Clause 19, page 28, line 27, at end insert –

- “(7) The Mental Capacity Act 2005 is amended as follows.
- (8) In section 24 (Advance decisions to refuse treatment: general), after subsection (5) insert –
- “(6) For an “Advance decision” in relation to a treatment for a mental disorder under the provisions of the Mental Health Act 1983, a person may make a decision at an age earlier than 18 to be specified by the Secretary of State in regulations.
- (7) Before making regulations under subsection (6) the Secretary of State must consult such persons as they consider appropriate.”

(9) In section 65(2) (Rules, regulations and orders), before paragraph (a) insert –

“(za) regulations under section 24 (Advance decisions to refuse treatment: general),”

Member's explanatory statement

This amendment would ensure that a statutory framework is developed for assessing a young person's capacity to make an advance decision in relation to a treatment for a mental disorder under the provisions of the Mental Health Act 1983, binding in healthcare settings.

Clause 20

EARL HOWE
LORD KAMALL
BARONESS BROWNING

Clause 20, page 29, line 2, at end insert –

“(ba) is a patient who has been informally admitted to a mental health unit in accordance with section 131, or”

Member's explanatory statement

This amendment would ensure that patients who are admitted informally to a mental health unit will also benefit from a care and treatment plan.

BARONESS WATKINS OF TAVISTOCK
BARONESS BERRIDGE

Clause 20, page 29, line 3, at end insert –

“(d) is a qualifying informal patient as defined in section 130CA who is under 18.”

Member's explanatory statement

This amendment seeks to ensure that care and treatment plans must be provided to qualifying informal patients as defined in section 130CA of the Mental Health Act 1983 (inserted by Schedule 3 of this Bill) who are under 18.

LORD DAVIES OF BRIXTON
BARONESS TYLER OF ENFIELD

Clause 20, page 29, line 18, at end insert –

“(iii) the discussion of the person's finances and financial situation.”

Member's explanatory statement

This amendment ensures that the care and treatment plan includes matters relating to the patient's financial circumstances.

BARONESS WHITAKER
LORD BRADLEY
LORD PATEL

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 –
- (a) information about a patient’s communication disability, difficulty, or difference;
 - (b) information about how any communication disability, difficulty, or difference will be identified and supported.”

Member's explanatory statement

This amendment would ensure a patient's communication disability, difficulty, or difference would be included in care and treatment plans.

BARONESS BUTLER-SLOSS

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

- “(vii) a parent, guardian or other person with parental responsibility.”

BARONESS TYLER OF ENFIELD
LORD SCRIVEN

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.

BARONESS WHITAKER
LORD BOURNE OF ABERYSTWYTH

Clause 20, page 30, line 5, at end insert “and provide information in a culturally appropriate manner.”

Member's explanatory statement

The appropriate practitioner must provide culturally appropriate information when preparing or reviewing a care and treatment plan.

After Clause 22

BARONESS TYLER OF ENFIELD
LORD SCRIVEN

After Clause 22, insert the following new Clause –

“Reporting: racial disparities relating to Community Treatment Orders

- (1) Within a period of 12 months following the day on which this Act is passed, the Secretary of State must undertake a review of racial disparities which relate to the use and administering of Community Treatment Orders.
- (2) The review under subsection (1) must include, but is not limited to –
 - (a) an assessment of whether certain racial or ethnic groups are disproportionately represented among individuals subject to Community Treatment Orders compared to their representation in the general population;
 - (b) a review of the outcomes and effectiveness of Community Treatment Orders across different racial groups, including health outcomes, and patient experiences.
- (3) The Secretary of State must lay a report of the findings of the review before Parliament within 18 months of the day on which this Act is passed.”

Member's explanatory statement

This probing amendment seeks to gauge the Government's view on prevalent racial disparities as they relate to the use of Community Treatment Orders under the Act.

LORD KAMALL
EARL HOWE

After Clause 22, insert the following new Clause –

“Duty to review community treatment orders

- (1) Within two years of the day on which this Act is passed, the Secretary of State must arrange for a review of the continuing use of community treatment orders.
- (2) The review in subsection (1) must include –
 - (a) the impact of community treatment orders on people from different ethnic minority backgrounds,
 - (b) the effectiveness of the continued use of community treatment orders in preventing readmission to hospital and detention under the 1983 Act,
 - (c) an assessment of whether community treatment orders provide net therapeutic benefits to patients, and
 - (d) a recommendation on whether the use of community treatment orders should continue.
- (3) The review in subsection (1) must be published in a report.

- (4) The Secretary of State must lay any report published under subsection (3) before both Houses of Parliament.”

Member's explanatory statement

This amendment requires the Secretary of State to initiate a review of the continued use of community treatment orders and their impacts.

Schedule 2

LORD MESTON
BARONESS BUTLER-SLOSS

Schedule 2, page 71, line 24, leave out “county court” and insert “Court of Protection”

Member's explanatory statement

This amendment comes from the position that the Court of Protection is better suited to consider and determine applications to terminate appointment of nominated persons than the county court.

BARONESS BUTLER-SLOSS

- ★ Schedule 2, page 71, line 31, at end insert—

“(d) a parent, guardian or other person with parental responsibility.”

EARL HOWE
LORD KAMALL

Schedule 2, page 73, line 13 at end insert “in the case of a patient who has not attained the age of 18 years, is able to promote and safeguard their welfare, and”.

Member's explanatory statement

These amendments are intended to encourage the development of a protocol designed to protect children and young people from the risk of exploitation or manipulation.

EARL HOWE
LORD KAMALL

Schedule 2, page 73, line 16, at end insert—

- “(1A) The Secretary of State must, after consulting such persons as they consider appropriate, publish a Code of Practice for use by an approved clinician or other medical practitioner in circumstances where a patient who has not attained the age of 18 years has appointed a person other than a parent of his as his nominated person.”

Member's explanatory statement

These amendments are intended to encourage the development of a protocol designed to protect children and young people from the risk of exploitation or manipulation.

BARONESS BUTLER-SLOSS

★ Schedule 2, page 74, line 19, at end insert –

“(vi) a parent, guardian or other person with parental responsibility has been consulted.”

Clause 31

BARONESS MERRON
LORD TIMPSON

Clause 31, page 42, line 37, leave out paragraph (a)

Member's explanatory statement

This amendment, my other amendments to Clause 31 and my new clause inserted after Clause 31 would provide for commencement two months after Royal Assent of provisions about tribunal reviews concerning patients subject to conditions amounting to a deprivation of liberty.

BARONESS MERRON
LORD TIMPSON

Clause 31, page 43, line 37, leave out from beginning to end of line 5 on page 44

Member's explanatory statement

See the explanatory statement for my amendment to Clause 31, page 42, line 37.

BARONESS MERRON
LORD TIMPSON

Clause 31, page 44, line 18, leave out “(2B) or”

Member's explanatory statement

See the explanatory statement for my amendment to Clause 31, page 42, line 37.

BARONESS MERRON
LORD TIMPSON

Clause 31, page 44, line 22, after “discharged” insert “, is subject to conditions amounting to a deprivation of liberty”

Member's explanatory statement

See the explanatory statement for my amendment to Clause 31, page 42, line 37.

BARONESS MERRON
LORD TIMPSON

Clause 31, page 44, line 28, leave out “(2B),”

Member's explanatory statement

See the explanatory statement for my amendment to Clause 31, page 42, line 37.

BARONESS MERRON
LORD TIMPSON

Clause 31, page 44, line 34, leave out “(2B),”

Member's explanatory statement

See the explanatory statement for my amendment to Clause 31, page 42, line 37.

BARONESS MERRON
LORD TIMPSON

Clause 31, page 44, line 42, leave out “(2B),”

Member's explanatory statement

See the explanatory statement for my amendment to Clause 31, page 42, line 37.

After Clause 31

BARONESS MERRON
LORD TIMPSON

After Clause 31, insert the following new Clause –

“References: restricted patients not subject to deprivation of liberty conditions

- (1) The Mental Health Act 1983 is amended as follows.
- (2) In section 71 (references by Secretary of State concerning restricted patients), for subsection (2) substitute –
 - “(2) The Secretary of State must refer to the appropriate tribunal the case of any restricted patient detained in a hospital if –
 - (a) the patient’s case has not been considered by the appropriate tribunal within the last 12 months, whether on the patient’s own application or otherwise, and
 - (b) there is no pending application or reference to the appropriate tribunal in relation to the patient’s case.”
- (3) In section 75 (applications and references concerning conditionally discharged restricted patients) –

- (a) before subsection (2C) (as inserted by section 31(3)(a) of this Act) insert –
- “(2B) Where a restricted patient has been conditionally discharged, is not subject to conditions amounting to a deprivation of liberty and has not been recalled to hospital, the Secretary of State must refer the patient’s case to the appropriate tribunal on the expiry of –
- (a) the period of two years beginning –
- (i) in the case of a patient who has previously been subject to conditions amounting to a deprivation of liberty, with the date on which the patient most recently ceased to be subject to such conditions, and
- (ii) in any other case, with the date on which the patient was conditionally discharged, and
- (b) each subsequent period of four years.”;
- (b) in subsection (2D), after “subsection” insert “(2B) or”;
- (c) in subsection (2E) omit “, is subject to conditions amounting to a deprivation of liberty”;
- (d) in subsection (2F), after “subsection” insert “(2B),”;
- (e) in subsection (2H), after “subsection” insert “(2B),”;
- (f) in subsection (3), after “subsection”, in the second place it occurs, insert “(2B),”.
- (4) The amendments made by this section apply in relation to any person who is a restricted patient within the meaning given by subsection (1) of section 79 of the Mental Health Act 1983, or is treated as a restricted patient as a result of that subsection, whether the person became such a patient (or treated as such a patient) before or after the coming into force of this section.”

Member's explanatory statement

See the explanatory statement for my amendment to Clause 31, page 42, line 37.

After Clause 32

EARL HOWE
LORD KAMALL

After Clause 32, insert the following new Clause –

“Ascertaining and learning from patients’ experiences of hospital treatment

After section 23 of the Mental Health Act 1983 (discharge of patients), insert –

“23A Ascertaining and learning from patients’ experiences of hospital treatment

- (1) Within 30 days of discharge, the patient must be offered a consultation with an independent mental health advocate to review their experiences of hospital treatment.
- (2) A report from this consultation must be produced by the independent mental health advocate in partnership with the patient.

- (3) The report in subsection (2) must be provided to the managers of the hospital within 14 days of its completion.
- (4) The managers of the hospital shall publish each year a report setting out what they have learned from patients' experiences at the hospital, and the actions they have taken.”

Member's explanatory statement

This amendment would mandate the de-briefing of mental health patients after they have left hospital.

Clause 34

BARONESS MURPHY

Clause 34, page 47, line 13, leave out subsection (2)

Member's explanatory statement

The purpose of the amendment is to query the necessity of expanding on “appropriate medical treatment”.

After Clause 37

LORD KAMALL
EARL HOWE

After Clause 37, insert the following new Clause—

“Duty to record patients not in the criminal justice system escorted to hospital by police

- (1) The Secretary of State must by regulations make provision to require the police and hospital trusts to record the number of patients who are not in the criminal justice system but are escorted to accident and emergency departments in hospitals by the police for treatment for mental disorder.
- (2) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

Clause 38

BARONESS MURPHY

Clause 38, page 52, line 5, leave out paragraph (a)

Member's explanatory statement

This amendment removes informal patients from qualifying for help from Independent Mental Health Advocates.

BARONESS WHITAKER
LORD BOURNE OF ABERYSTWYTH

Clause 38, page 52, line 11, at end insert –

“(d) provide culturally appropriate services for those patients when needed.”

Member's explanatory statement

To require providers of advocacy services to provide culturally appropriate services for patients who need them.

Schedule 3

BARONESS TYLER OF ENFIELD
LORD SCRIVEN

Schedule 3, page 82, line 35, at end insert –

“18A In section 130C (section 130A: supplemental), after subsection (3)(b), insert –

“(c) they are under 18 and are voluntarily receiving inpatient treatment in a psychiatric hospital.””

Member's explanatory statement

This amendment extends the provision of advocacy services to informal patients under the age of 18.

BARONESS MURPHY

Schedule 3, page 85, leave out lines 26 and 27

BARONESS MURPHY

Schedule 3, page 86, leave out lines 10 to 26

BARONESS TYLER OF ENFIELD
LORD SCRIVEN

Schedule 3, page 86, line 29, after “patient” insert “or English qualifying informal patient under 18”

Member's explanatory statement

This amendment extends the provision of opt-out advocacy services in England to informal inpatients under 18

BARONESS TYLER OF ENFIELD
LORD SCRIVEN

Schedule 3, page 87, line 2, after “patient” insert “or English qualifying informal patient under 18”

Member's explanatory statement

This amendment extends the provision of opt-out advocacy services in England to informal inpatients under 18

BARONESS WHITAKER
LORD BOURNE OF ABERYSTWYTH

Schedule 3, page 87, line 3, leave out the second “the” and insert “culturally appropriate”

Member's explanatory statement

To require providers of advocacy services to provide culturally appropriate services for patients who need them.

BARONESS MURPHY

Schedule 3, page 87, leave out lines 28 to 37

BARONESS MURPHY

Schedule 3, page 88, leave out lines 27 to 29

BARONESS MURPHY

Schedule 3, page 89, leave out lines 18 to 20

BARONESS MURPHY

Schedule 3, page 89, line 28, leave out paragraph 7

Clause 39

BARONESS WHITAKER
LORD BRADLEY
LORD BOURNE OF ABERYSTWYTH
LORD PATEL

Clause 39, page 52, line 25, at end insert –

“(2AA) Any information, verbal or written, given to a patient under subsections (2) and (2A) must be provided in an accessible and inclusive format.”

Member's explanatory statement

This amendment would ensure any information given to a patient about how to complain was in a format they could understand.

Clause 40

BARONESS WHITAKER
LORD BOURNE OF ABERYSTWYTH

Clause 40, page 53, line 6, at beginning insert “provide culturally appropriate information on”

Member's explanatory statement

To ensure that information provided for community patients is culturally appropriate to ensure they fully understand their rights.

Clause 41

BARONESS WHITAKER
LORD BRADLEY
LORD BOURNE OF ABERYSTWYTH

Clause 41, page 54, line 4, at end insert –

- “(6) Any information, verbal or written, given to a patient under subsection (1) must be provided in accessible and inclusive format.”

Member's explanatory statement

This amendment would ensure any information given to a patient was in a format they could understand.

Clause 42

EARL HOWE
LORD KAMALL

Clause 42, page 54, leave out from line 9 to 15 and insert –

- “(1) An eligible patient shall have a right to create an advance choice document.
- (1A) For the purposes of this section, an “eligible patient” is a patient who –
- (a) has previously been detained under Part 2 or Part 3 of this Act, or
 - (b) has been diagnosed with a mental disorder which may lead to the possibility they will be detained under this Act in the future.
- (1B) NHS England and each integrated care board must make such arrangements as it considers appropriate for –

- (a) ensuring that all eligible patients for whom it is responsible for the purposes of this section are informed of their right to create an advance choice document, and
- (b) helping an eligible patient to create an advance choice document.”

Member's explanatory statement

This amendment gives all eligible patients the statutory right to create an advance choice document if they so wish.

BARONESS WHITAKER
LORD BOURNE OF ABERYSTWYTH

Clause 42, page 54, line 15, at end insert “in a culturally appropriate manner.”

Member's explanatory statement

To ensure that when ICBs, NHS England and Local Health Boards (Wales) are helping people to make an Advance Choice Document they do so in a culturally appropriate manner.

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 WHITAKER
LORD BRADLEY
LORD BOURNE OF ABERYSTWYTH
LORD PATEL

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

- “(c) making the advance choice document available in an accessible and inclusive format.”

Member's explanatory statement

This amendment would ensure that the advance choice document was made available in a format that the patient could understand.

BARONESS WHITAKER
LORD BRADLEY
LORD PATEL

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

- “(c) providing help to people with communication disability, difficulty, or difference to create advance choice documents.”

Member's explanatory statement

This amendment would ensure that a patient with communication disability, difficulty, or difference was supported to create an advance choice document.

BARONESS MURPHY

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

- “(c) ensuring that those eligible to make an advance choice document have access to an independent mental health advocate specially trained to facilitate the creation of such documents.”

Member's explanatory statement

This amendment seeks to provide access to a specially trained advocate for patients making an advance choice document because evidence suggests this could increase take-up of the right to make such a document.

LORD DAVIES OF BRIXTON
BARONESS TYLER OF ENFIELD

Clause 42, page 54, line 37, at end insert –

- “(3A) An “advance choice document” under subsection (3) should include consideration of the person’s financial circumstances.”

Member's explanatory statement

This amendment ensures that the advance choice document includes matters relating to the patient’s financial circumstances.

BARONESS BROWNING
LORD PATEL

★ Clause 42, page 54, line 37, at end insert –

- “(3A) An advance choice document must include information contained in any registered lasting power of attorney for those who lack capacity.”

BARONESS BROWNING

Clause 42, page 55, line 8, at end insert –

- “(5) When conducting their duties under this section, NHS England and integrated care boards must have regard to the information included in risk registers.
- (6) For the purposes of subsection (5) a “risk register” means the register in section 125D.”

Member's explanatory statement

This amendment seeks to help facilitate the creation of Advance Choice Documents for those enrolled onto a risk register, by requiring the relevant authorities to have regard to the information in risk registers.

BARONESS WHITAKER

Clause 42, page 55, line 15, at end insert “in a culturally appropriate manner”

Member's explanatory statement

To ensure that when ICBs, NHS England and Local Health Boards (Wales) are helping people to make an Advance Choice Document they do so in a culturally appropriate manner.

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.

BARONESS WHITAKER
LORD BRADLEY
LORD PATEL

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

- “(c) providing help to people with communication disability, difficulty, or difference to create advance choice documents.”

Member's explanatory statement

This amendment would ensure that a patient with communication disability, difficulty, or difference was supported to create an advance choice document.

Clause 43

BARONESS MERRON

Clause 43, page 55, line 35, after “provided” insert “or arranged”

Member's explanatory statement

See the explanatory statement for my amendment to Clause 4, page 5, line 20.

After Clause 45

BARONESS BROWNING

After Clause 45, insert the following new Clause –

“Power of Tribunals to require a report

In section 72 of the Mental Health Act 1983 (Power of Tribunals), after subsection (7) insert –

- “(8) The Tribunal may require a local authority, or an NHS body, to arrange for a report regarding such matters relating to a patient as the tribunal may direct to be made –
- (a) by one of its officers or employees;
 - (b) by such other person as the authority, or the NHS body, considers appropriate.”

Member's explanatory statement

This amendment would recreate the powers the Court of Protection has under section 49 of the Mental Capacity Act 2005, in section 72 of the MHA 1983 to assist discharge.

After Clause 50

LORD ADEBOWALE

★ After Clause 50, insert the following new Clause –

“Costed plan to ensure community provision for individuals with learning disabilities and autism who are at risk of detention

- (1) Within 18 months of the day on which this Act is passed, the Secretary of State must publish a fully costed plan which will show how Integrated Care Boards and Local Authorities will ensure provision of adequate community services for individuals with learning disabilities and autistic people who are at risk of detention under Part 2 of the Mental Health Act 1983.
- (2) As part of the development of that plan, a formal consultation process must take place to determine how the decision to enact the relevant parts of this Act will be made.
- (3) The consultation must include input from –

- (a) relevant stakeholders, including individuals with learning disabilities and autistic people;
- (b) carers for people with learning disabilities and autistic people;
- (c) healthcare professionals;
- (d) advocacy groups.”

Member's explanatory statement

This amendment requires a costed plan to ensure that ICBs and LAs are able to provide adequate community services for individuals with learning disabilities and autistic people at risk of detention under Part 2 of the 1983 Act, informed by a consultation with a range of stakeholders.

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
BARONESS MURPHY
LORD BRADLEY

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.
- (3) 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”.
- (4) The role in subsection (3) 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.””

BARONESS PARMINTER

After Clause 50, insert the following new Clause –

“Notification of specialist eating disorder units having arrangements for special cases

In section 140 (Notification of hospitals having arrangements for special cases) of the Mental Health Act 1983, after “hospitals” insert “or specialist eating disorder units””

Member's explanatory statement

This amendment seeks to extend the provisions related to the reception of patients in cases of special urgency and the accommodation of under-18s in specially suitable facilities which apply to hospitals under section 140 of the 1983 Act to include specialist eating disorder units.

BARONESS TYLER OF ENFIELD
LORD SCRIVEN

Revised version of the amendment printed on 5 December 2024

After Clause 50, insert the following new Clause –

“Addressing and reporting on racial disparities and other inequalities in the use of the Mental Health Act 1983

After section 120D of the Mental Health Act 1983, insert –

“120E Mental health units and services to have a responsible person

- (1) A relevant health organisation that operates a mental health unit or community mental health service for qualifying patients must appoint a responsible person for that unit or service for the purposes of addressing racial disparities and other disparities based on protected characteristics related to functions discharged under the Mental Health Act 1983.
- (2) The responsible person must –
 - (a) be employed by the relevant health organisation, and
 - (b) be of an appropriate level of seniority.

- (3) Where a relevant health organisation operates more than one mental health unit or service, that organisation must appoint a single responsible person in relation to all of the mental health units or services operated by that organisation.
- (4) A patient is a qualifying patient if they are –
 - (a) liable to be detained under this Act, otherwise than by virtue of section 4 or 5(2) or (4) or section 135 or 136;
 - (b) subject to guardianship under this Act;
 - (c) a community patient.

120F Policy on racial disparities and other disparities based on protected characteristics

- (1) The responsible person must publish a policy on how the unit plans to reduce racial disparities and other disparities based on protected characteristics in that unit or service.
- (2) The policy published under subsection (1) must cover the following topics –
 - (a) the application of the guiding principles to all aspects of operation of this Act;
 - (b) staff knowledge and competence in connection with promoting equality and anti-discriminatory practice in relation to this Act;
 - (c) workforce demographics, recruitment, retention and progression;
 - (d) implementation of the patient and carer race equality framework (England only) and any other requirements of relevant national policies;
 - (e) care planning and decision-making in the use of this Act including section 56A (making treatment decisions);
 - (f) the availability of alternatives to detention and involuntary treatment;
 - (g) take-up of independent mental health advocacy;
 - (h) the cultural appropriateness of independent mental health advocacy;
 - (i) access to and use of advance choice documents;
 - (j) what steps will be taken to reduce racial disparities and other disparities based on protected characteristics in that unit or service.
- (3) Where a responsible person is appointed in relation to all of the mental health units operated by a relevant health organisation, the responsible person must publish a single policy under subsection (1) in relation to those units or services.
- (4) Before publishing a policy under subsection (1), the responsible person must –
 - (a) consult any persons that the responsible person considers appropriate;

- (b) have regard to the following matters –
 - (i) the views, wishes and feelings of people from racialised communities who have been detained;
 - (ii) the views, wishes and feelings of people with other protected characteristics who have been detained.
- (5) The responsible person must keep under review any policy published under this section.
- (6) The responsible person may from time to time revise any policy published under this section and, if this is done, must publish the policy as revised.
- (7) If the responsible person considers that any revisions would amount to a substantial change in the policy, the responsible person must consult any persons that the responsible person considers appropriate before publishing the revised policy.

120G Training in racial disparities and other disparities based on protected characteristics

- (1) The responsible person for each mental health unit or service must provide training for staff that relates to addressing racial disparities and other disparities based on protected characteristics in that unit or service.
- (2) The training provided under subsection (1) must include training on the topics covered in section 120F(2).
- (3) Subject to subsection (4), training must be provided –
 - (a) in the case of a person who is a member of staff when this section comes into force, as soon as reasonably practicable after this section comes into force, or
 - (b) in the case of a person who becomes a member of staff after this section comes into force, as soon as reasonably practicable after they become a member of staff.
- (4) Subsection (3) does not apply if the responsible person considers that any training provided to the person before this section came into force or before the person became a member of staff –
 - (a) was given sufficiently recently, and
 - (b) is of an equivalent standard to the training provided under this section.
- (5) Refresher training must be provided at regular intervals whilst a person is a member of staff.
- (6) In subsection (5) “refresher training” means training that updates or supplements the training provided under subsection (1).

120H Annual report by the Secretary of State

- (1) As soon as reasonably practicable after the end of each calendar year, the Secretary of State must conduct a review in consultation with relevant bodies with commissioning functions on the use of treatment and detention measures contained in the Mental Health Act 1983 broken down by race and other demographic information.
- (2) Having conducted a review under subsection (1), the Secretary of State must publish a report on the progress made in reducing inequalities in treatment outcomes and the use of detention measures in the use of this Act on people who have protected characteristics under the Equality Act 2010.””

BARONESS TYLER OF ENFIELD
LORD SCRIVEN

After Clause 50, insert the following new Clause –

“General duty to secure sufficient resources for services in the community

- (1) It is the general duty of integrated care boards to ensure, insofar as is reasonably practical, that services in the community responsible for delivering care, treatment, or detention provisions under the Mental Health Act 1983 and this Act have the necessary resources, including financial support, to meet service demands.
- (2) Additional forms of resource may be determined by integrated care boards in consultation with relevant local authorities or health care service providers and may include –
 - (a) sufficient numbers of trained medical professionals;
 - (b) purpose-built facilities for patient care;
 - (c) community services responsible for out-patient care.”

Member's explanatory statement

This amendment places a general duty on integrated care boards to ensure that services in the community have the necessary level of resource to meet demand on services to ensure that the provisions of the bill function as intended.

LORD DAVIES OF BRIXTON
BARONESS TYLER OF ENFIELD

After Clause 50, insert the following new Clause –

“Mental Health Crisis Breathing Space

Any person detained under sections 3, 37, 41 or 47 of the Mental Health Act 1983 must be offered support from the mental health crisis breathing space debt respite scheme.”

Member's explanatory statement

This amendment ensures that MHCBS, a debt respite scheme, is offered and available to patients detained under sections 3, 37, 41 and 47 of the Mental Health Act 1983.

BARONESS TYLER OF ENFIELD

After Clause 50, insert the following new Clause –

“Report: statutory competency test for under-16s

Within 12 months of day on which this Act is passed, the Secretary of State must undertake a review of whether a statutory competency test for under-16s would be expedient for the purposes of this Act or the Mental Health Act 1983.”

Member's explanatory statement

This amendment requires the Secretary of State to undertake a review of whether a statutory competency test for under-16s would be expedient for the purposes of this Bill and the Mental Health Act 1983.

LORD KAMALL
EARL HOWE

After Clause 50, insert the following new Clause –

“Duty to report on systems to prevent illegal drug use in mental health units

- (1) The regulatory authority must publish a report on the efficacy of systems designed to prevent the introduction of illegal drugs into mental health units in hospitals under their inspection.
- (2) The report under subsection (1) must be published within twelve months of the day on which this Act is passed, and annually thereafter.”

LORD KAMALL
EARL HOWE

After Clause 50, insert the following new Clause –

“Report on the potential over-representation of black men in secure mental health units and among patients subject to CTOs

- (1) The Secretary of State must publish a report to assess the factors underlying the potential over-representation of black men –
 - (a) in secure mental health units, and
 - (b) among patients subject to community treatment orders.
- (2) The report under subsection (1) must be published within two years of the day on which this Act is passed.
- (3) The report under subsection (1) must be laid before both Houses of Parliament.”

LORD KAMALL
EARL HOWE

After Clause 50, insert the following new Clause—

“Report: community-based services

- (1) The Secretary of State must publish a report to assess whether there should be more community-based services for community patients in order to prevent detention under the Mental Health Act 1983.
- (2) The report under subsection (1) must include consideration of staffing requirements for community-based services, in particular the need for mental health nurses.
- (3) The report under subsection (1) must be published within two years of the day on which this Act is passed.
- (4) The report under subsection (1) must be laid before Parliament.”

LORD KAMALL
EARL HOWE

After Clause 50, insert the following new Clause—

“Report on alternative places of safety for patients liable to be detained under the Mental Health Act 1983

- (1) Within one year of the day on which this Act is passed, the Secretary of State must publish a report to assess alternative places of safety for patients liable to be detained under the Mental Health Act 1983.
- (2) The report under subsection (1) must include consideration of—
 - (a) community care, including community crisis houses, and
 - (b) placing a duty on NHS England to establish a plan to offer alternative places of safety.”

EARL HOWE
LORD KAMALL

After Clause 50, insert the following new Clause—

“Meaning of “serious harm”

- (1) The Mental Health Act 1983 is amended as follows.
- (2) In section 34(1) (interpretation of Part II), at the appropriate place insert—

““serious harm” means death or serious personal injury, whether physical or psychological.””

Member's explanatory statement

This amendment probes the Government's intended definition of “serious harm”

EARL HOWE
LORD KAMALL

After Clause 50, insert the following new Clause—

“Accessibility for children with physical disabilities

- (1) The Mental Health Act 1983 is amended as follows.
- (2) In section 131A (Accommodation etc for children), after subsection (4) insert—
 - “(4A) Where a child who is accommodated under this section has needs arising from a physical disability, the managers, in determining the suitability of the environment in which the child is accommodated, must ensure that such reasonable adjustments to the environment are made as they consider necessary.”

Member's explanatory statement

This amendment seeks to ensure improvements in accessibility for children with physical impairments who are accommodated in mental health inpatient units.

EARL HOWE
LORD KAMALL
BARONESS TYLER OF ENFIELD

After Clause 50, insert the following new Clause—

“Transparency and notifications of children placed on adult wards

- (1) The Mental Health Act 1983 is amended as follows.
- (2) In section 131A (Accommodation etc for children), after subsection (3) insert—
 - “(3A) If—
 - (a) the person consulted under subsection (3) considers that it is in the child’s best interests to be detained in a part of a hospital simultaneously occupied by an adult patient (“an adult ward”) and a child is then so accommodated, or
 - (b) the child is detained in a hospital situated outside the local authority area in which the child is ordinarily resident,
 the managers of the hospital must inform such persons in the employ of the local authority in whose area the hospital is situated as they consider appropriate for ensuring the child’s welfare.
 - (3B) If, after being detained on an adult ward for a total of 28 days (whether continuous or not), or after each successive 28 days as the case may be, a child continues to be detained, the managers of the hospital, having again consulted a person appearing to them to be suitable to be consulted—
 - (a) must make a further determination that the environment in which the child is accommodated continues to be in their best interests, and

- (b) must notify such persons as they consider appropriate in the employ of the local authority in whose area the hospital is situated that the child continues to be so detained.
- (3C) In subsections (3A) and (3B) “local authority” means “unitary county council, two tier county council or metropolitan borough”.
- (3) In section 131A, after subsection (4) insert—
 - “(4A) Where during the period covered by a hospital’s published report a child has been accommodated in an adult ward, the hospital must publish in the report –
 - (a) the number of children so detained during the period, and
 - (b) the number of children so detained for a total of more than 28 days.
 - (4B) The regulatory authority must publish annually statistics showing—
 - (a) the number of children accommodated on an adult ward in hospitals in England and Wales during the relevant period, and
 - (b) the number of children so detained for a total of more than 28 days.
 - (4C) In this section “the relevant period” means a period which the regulatory authority shall deem appropriate.”

Member's explanatory statement

This amendment would ensure that there is both transparency and clinical rigour in any decision to accommodate a child in a hospital environment in which adults are simultaneously accommodated.

EARL HOWE
LORD KAMALL

After Clause 50, insert the following new Clause—

“Appropriate treatment for children

- (1) The Mental Health Act 1983 is amended as follows.
- (2) In section 131A (Accommodation etc. for children), after subsection (2), insert—
 - “(2A) Sleeping accommodation simultaneously occupied by an adult shall not be deemed suitable for a patient who has not attained the age of 18 years unless this is demonstrably in their best interests and the child, being of sufficient age and understanding, agrees to this.
 - (2B) For the purpose of determining the child’s best interests, the managers shall in particular have regard to—
 - (a) the ascertainable wishes and feelings of the child concerned (considered in the light of their age and understanding);
 - (b) the ascertainable wishes and feelings of the child’s parents or anyone else who has parental responsibility for them;
 - (c) the child’s physical, emotional and educational needs;

- (d) the likely effect on the child of the sleeping accommodation proposed or provided;
- (e) the child's age, sex, background and any other personal characteristics which affect the suitability of the sleeping accommodation proposed or provided;
- (f) any harm which the child has suffered or is at risk of suffering;
- (g) the likely duration of the proposed or provided sleeping accommodation;
- (h) the distance between the hospital and the child's home area;
- (i) any other matters relating to the rights of the child.”

Member's explanatory statement

This amendment would prohibit placing a child in an adult ward unless demonstrably in the child's best interests.

EARL HOWE
LORD KAMALL

After Clause 50, insert the following new Clause –

“Consultation on mandatory training

- (1) Within twelve months of the day on which this Act is passed, the Secretary of State must publish a review on mandatory training for persons who treat patients with learning disabilities and autism under provisions of the Mental Health Act 1983.
- (2) The Secretary of State must consult such persons as they consider necessary to determine the extent to which appropriate training has been delivered to such persons.
- (3) The Secretary of State must lay the review under subsection (1) before Parliament.”

Member's explanatory statement

This amendment seeks to ensure that there is transparency over the extent to which mandatory training on the needs of those with autism or a learning disability is being delivered to relevant healthcare staff who are treating them for a mental disorder.

EARL HOWE
LORD KAMALL

After Clause 50, insert the following new Clause –

“Recording of use of force on mental health patients

- (1) Each NHS facility must keep a record of any use of force on a patient who is at that facility for the purpose of treatment for mental disorder or assessment for mental disorder, by staff who work in that facility and in relation to the patient's diagnosed or suspected mental disorder, in accordance with this section.

- (2) Subsection (1) does not apply in cases where the use of force is negligible.
- (3) Whether the use of force is “negligible” for the purposes of subsection (1) is to be determined in accordance with guidance published by the Secretary of State.
- (4) The record must include the following information –
 - (a) the reason for the use of force;
 - (b) the place, date and duration of the use of force;
 - (c) the type or types of force used on the patient;
 - (d) whether the type or types of force used on the patient formed part of the patient’s care plan;
 - (e) name of the patient on whom force was used;
 - (f) a description of how force was used;
 - (g) the patient’s consistent identifier;
 - (h) the name and job title of any member of staff who used force on the patient;
 - (i) the reason any person who was not a member of staff in the facility was involved in the use of force on the patient;
 - (j) the patient’s diagnosed or suspected mental disorder;
 - (k) the relevant characteristics of the patient (if known);
 - (l) whether the patient has a learning disability or autistic spectrum disorders;
 - (m) a description of the outcome of the use of force;
 - (n) whether the patient died or suffered any serious injury as a result of the use of force;
 - (o) any efforts made to avoid the need to use force on the patient;
 - (p) whether a notification regarding the use of force was sent to the person or persons (if any) to be notified under the patient’s care plan.
- (5) The facility must keep the record for 3 years from the date on which it was made.
- (6) In subsection (4)(g) the “patient’s consistent identifier” means the consistent identifier specified under section 251A of the Health and Social Care Act 2012.
- (7) This section does not permit the facility to do anything which, but for this section, would be inconsistent with –
 - (a) any provision of the data protection legislation, or
 - (b) a common law duty of care or confidence.
- (8) In subsection (7) “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).
- (9) In subsection (4)(k) the “relevant characteristics” in relation to a patient mean –
 - (a) the patient’s age;
 - (b) whether the patient has a disability, and if so, the nature of that disability;
 - (c) the patient’s status regarding marriage or civil partnership;
 - (d) whether the patient is pregnant;
 - (e) the patient’s race;
 - (f) the patient’s religion or belief;
 - (g) the patient’s sex;

- (h) the patient's sexual orientation.
- (10) Expressions used in subsection (9) and Chapter 2 of Part 1 of the Equality Act 2010 have the same meaning in that subsection as in that Chapter."

Member's explanatory statement

This amendment would require NHS facilities to keep a record of any use of force on a patient who is at that facility for the purpose of treatment for mental disorder or assessment for mental disorder.

LORD CRISP
BARONESS HOLLINS

★ After Clause 50, insert the following new Clause—

“Withdrawal treatments for dependency on psychiatric medication

- (1) The Mental Health Act 1983 is amended as follows.
- (2) After section 142B insert—

“142C Withdrawal treatments for dependency on psychiatric medication

- (1) Each integrated care board must provide local, in-person, specialist withdrawal treatments for patients dependent on psychiatric medication prescribed during the course of their treatment by services under this Act, consisting of—
- (a) personalised tapering plans produced by clinicians,
 - (b) psychosocial support, including peer-led groups, and
 - (c) specialist withdrawal counselling and psychological therapies.
- (2) Each integrated care board must ensure that relevant healthcare professionals are aware of, and trained in, services offered under subsection (1).
- (3) Each integrated care board must make an annual report to the Secretary of State on the availability, uptake and outcomes of treatments provided under subsection (1).
- (4) The Secretary of State must lay before Parliament any report made under subsection (3).
- (5) The Secretary of State must establish a 24-hour helpline and an online platform offering evidence-based guidance and support for patients receiving treatment under this Section.””

LORD MESTON
BARONESS BERRIDGE

After Clause 50, insert the following new Clause –

“Determination of ability to decide for persons under 16

- (1) For the purposes of this Act and the Mental Health Act 1983, a person aged under 16 (referred to in this section as a child) is able to make the relevant decision if they can –
 - (a) understand the information relevant to the decision;
 - (b) retain the information;
 - (c) use or weight that information as part of the process of making the decision;
 - (d) communicate their decisions (whether by talking, using sign language or any other means).
- (2) Where a child is able to decide in accordance with paragraph (1) above, that child will be competent for the purpose of this Act.
- (3) A child is not to be regarded as unable to understand the information relevant to a decision if he is able to understand an explanation of it given to him in a way that is appropriate to his circumstances (using simple language, visual aids or any other means).
- (4) A person determining a child’s ability to decide under this section must –
 - (a) have due regard to Article 12 of the United Nations Convention on the Rights of the Child adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 (“the Convention”), and
 - (b) must be able to show reasonable grounds for their belief that the child is or is not able to make the relevant decision.
- (5) When considered by any appropriate court or tribunal, any question whether a child is able to make the relevant decision within the meaning of this Act must be decided on the balance of probabilities.”

Member's explanatory statement

This amendment inserts a test for determining a child’s ability to make decisions (competence) under the Mental Health Act.

BARONESS KEELEY
BARONESS BARKER

★ After Clause 50, insert the following new Clause –

“Human Rights Act 1998: provision of treatment for a mental disorder as a public function

- (1) This section applies where –
 - (a) a patient is receiving after-care under section 117 of the Mental Health Act 1983,

- (b) a patient is accommodated in a hospital for the purpose of being given medical treatment for mental disorder, or
 - (c) a person's health or social care arrangements in connection with their mental disorder give rise to a deprivation of their liberty, within the meaning of that term as under Article 5(1) of the European Convention on Human Rights.
- (2) The provider of treatment or care under subsection (1) is to be taken for the purposes of section 6(3)(b) of the Human Rights Act 1998 (acts of public authorities) to be exercising a function of a public nature, if the treatment or care is arranged by or paid for (directly or indirectly, and in whole or in part) by a local authority in England, Wales or Scotland, or by an NHS Health Board, an NHS Integrated Care Board, or by a Health and Social Care Trust."

Member's explanatory statement

This amendment ensures the Human Rights Act 1998 applies when people receive outsourced mental health treatment or after-care, or are deprived of their liberty in connection with a mental disorder. It addresses a gap in human rights protection exposed by Sammut & Ors v Next Steps Mental Healthcare Ltd & Anor [2024] EWHC 2265 (KB).

After Clause 51

BARONESS MERRON

After Clause 51, insert the following new Clause –

“Power of Welsh Ministers to make consequential provision

- (1) The Welsh Ministers may by regulations made by statutory instrument make provision that is consequential on this Act.
- (2) The only provision that may be made by virtue of this section is provision that would be within the legislative competence of Senedd Cymru if contained in an Act of the Senedd.
- (3) Regulations under this section may amend, repeal or revoke provision made by or under primary legislation passed –
 - (a) before this Act, or
 - (b) later in the same session of Parliament as this Act.
- (4) In this section “primary legislation” means –
 - (a) an Act, or
 - (b) an Act or Measure of Senedd Cymru.
- (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of Senedd Cymru.”

Member's explanatory statement

This confers a regulation-making power on the Welsh Ministers to make consequential provision that is within devolved legislative competence. The Secretary of State has an equivalent power under Clause 51.

Clause 53

BARONESS MERRON
LORD TIMPSON

Clause 53, page 64, line 2, leave out “33, 34,” and insert “29(2), 31, 33, 34(1) and (3)(b),”

Member's explanatory statement

This amendment would provide for certain provisions currently commenced by regulations to be commenced two months after Royal Assent (and vice versa).

LORD STEVENS OF BIRMINGHAM
BARONESS TYLER OF ENFIELD
LORD KAMALL
BARONESS NEUBERGER

Clause 53, page 64, line 7, at end insert “but not later than five years after the day on which this Act is passed”

Member's explanatory statement

This amendment ensures that the Act will come into force no later than five years after Parliament has agreed it. This allows flexibility for phased implementation, while ensuring that the measures in the Act cannot be deferred excessively or indefinitely.

LORD STEVENS OF BIRMINGHAM
BARONESS TYLER OF ENFIELD
LORD KAMALL
BARONESS NEUBERGER

Clause 53, page 64, line 16, at end insert –

- “(9) Until all sections of this Act have come into force, the proportion of the expenditure incurred by NHS England and integrated care boards during each year (taken together) that relates to mental health must not fall as a share of their expenditure (taken together) on all health services.
- (10) The Comptroller and Auditor General must certify after each financial year whether the requirement in subsection (9) has been met, taking account of reports produced in accordance with section 3(3) of the Health and Care Act 2022.”

Member's explanatory statement

This amendment ensures that mental health funding is not cut as a share of overall health service funding until this Act is fully implemented. The amendment supports the principle of “parity of esteem” by putting a “floor” under aggregate mental health services funding shares in England.

Mental Health Bill [HL]

RUNNING LIST OF ALL
AMENDMENTS IN COMMITTEE OF THE WHOLE HOUSE

Tabled up to and including

9 January 2025

9 January 2025

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