

Mental Health Bill [HL]

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

[Supplementary to the Second Marshalled List]

Amendment
No.

Schedule 2

BARONESS BERRIDGE

79A★ Schedule 2, page 76, line 27, leave out “16” and insert “18”

Member's explanatory statement

This amends paragraph 9 of Schedule A1 of the Mental Health Act 1983 (inserted by this Bill) so the process for appointing a nominated person in that paragraph only applies to adults who lack capacity to do so.

BARONESS BERRIDGE

80A★ Schedule 2, page 77, leave out lines 3 to 23 and insert—

“10 (1) This paragraph applies where an approved mental health professional is deciding who to appoint as a nominated person for a relevant patient who is aged under 18.

(2) Where—

(a) the relevant patient is in the care of a local authority by virtue of a care order within the meaning of the Children Act 1989, or

(b) the rights and powers of a parent of the relevant patient are vested in a local authority by virtue of section 16 of the Social Work (Scotland) Act 1968,

the authority shall be deemed to be the nominated person of the patient in preference to any person.

(3) Where sub-paragraphs (2)(a) and (b) do not apply and where a person within the following list is willing to act as the nominated person, the approved mental health professional must appoint such a person (giving preference to those mentioned first in the list)—

(a) a guardian who has been appointed for the relevant patient,

- (b) a person who is named in a child arrangements order (as defined by section 8 of the Children Act 1989) as a person with whom the relevant patient is to live, or
 - (c) a person who has parental responsibility for the relevant patient.
- (4) In this paragraph “guardian” includes a special guardian within the meaning of the Children Act 1989 but does not include a guardian under section 7 of this Act.
- (5) Where there is more than one person who meets the descriptions in sub-paragraphs (3)(a), (b) and (c) then the approved mental health professional must in deciding who to appoint as nominated person –
 - (a) take into account the relevant patient’s past and present wishes and feelings so far as reasonably ascertainable, or
 - (b) where it has not been possible to ascertain the relevant patient’s past and present wishes, preference must be given to the eldest person.
- (6) In any other case, the approved mental health professional must, in deciding who to appoint, take into account the relevant patient’s past and present wishes and feelings so far as reasonably ascertainable.”

Member's explanatory statement

This amends paragraph 10 of Schedule A1 of the Mental Health Act 1983 (inserted by this Bill) so the process for appointing a nominated person for all children and young people under 18 is consistent and provides a clear framework to AMHPs for who should be appointed where a child or young person lacks competence or capacity to do so.

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17 January 2025
