

# Mental Health Bill [HL]

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## THIRD MARSHALLED LIST OF AMENDMENTS TO BE MOVED

### IN COMMITTEE OF THE WHOLE HOUSE

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*The amendments have been marshalled in accordance with the Instruction of 25th November 2024, as follows –*

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]*

**Amendment  
No.**

**Clause 8**

EARL HOWE  
LORD KAMALL

46 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

47 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

48 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

49 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.*

**After Clause 10**

BARONESS BARKER  
BARONESS WATKINS OF TAVISTOCK

49A After Clause 10, insert the following new Clause –

**“Approved clinicians**

In Section 12(2A) of the Mental Health Act 1983 (general provisions as to medical recommendations), for “medical practitioner” substitute “professional”.”

**Clause 11**

BARONESS TYLER OF ENFIELD  
BARONESS BENNETT OF MANOR CASTLE

50 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  
BARONESS BENNETT OF MANOR CASTLE

51 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

52 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

53 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

54 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 18**

LORD SCRIVEN

54A Clause 18, page 26, line 6, after “regulations” insert “, subject to the conditions outlined in subsections (1A) to (1D)”

LORD SCRIVEN

54B Clause 18, page 26, line 10, at end insert –

“(1A) Regulations under subsection (1) may only be made to provide for circumstances where –

- (a) the treatment is immediately necessary to save the patient’s life,
- (b) obtaining a second opinion would cause a delay that places the patient at a significant and imminent risk of death or serious physical harm, and
- (c) the treatment is reversible.

(1B) Any amendment made under subsection (1) must specify the exceptional nature of the circumstances in which the second opinion may be dispensed with.

(1C) Any amendment made under subsection (1) must be reviewed periodically, and the results of such reviews must be laid before Parliament.

(1D) An amendment made under subsection (1) may not apply retrospectively and must be accompanied by a statement of reasons justifying the urgency.”

***Member's explanatory statement***

*The amendment limits the power to dispense with a second medical opinion for urgent electro-convulsive therapy to exceptional, life-threatening cases, introduces periodic reviews of its use, and ensures transparency by prohibiting retrospective application.*

**Clause 19**

BARONESS TYLER OF ENFIELD  
LORD SCRIVEN

55 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

56 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  
BARONESS TYLER OF ENFIELD

57 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  
BARONESS TYLER OF ENFIELD

58 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  
BARONESS NEUBERGER

59 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

60 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 BARKER

60A Clause 20, page 29, line 20, at end insert –

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

***Member's explanatory statement***

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

BARONESS BUTLER-SLOSS

61 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

62 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  
 BARONESS BENNETT OF MANOR CASTLE  
 BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

- 63 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.*

BARONESS KEELEY  
 LORD YOUNG OF COOKHAM

- 64 Clause 20, page 30, line 5, at end insert “and ask whether there are children in the family and take actions to respond if the children need help, or protection from harm”

*Member's explanatory statement*

*The amendment seeks to introduce a requirement to ask, if an adult is being detained under the Mental Health Act, whether there are children in the family, and to take actions to respond if the children need help or protection from harm. This mirrors the existing wording which is in place for adult social care practitioners in Working Together to Safeguard Children Statutory Guidance.*

**After Clause 22**

BARONESS TYLER OF ENFIELD  
 LORD SCRIVEN  
 BARONESS BENNETT OF MANOR CASTLE

- 65 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

66 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.*

BARONESS BENNETT OF MANOR CASTLE

67 After Clause 22, insert the following new Clause –

**“Reporting: economic and social disparities relating to community treatment orders**

- (1) Within 12 months of the day on which this Act is passed, the Secretary of State must undertake a review of economic and social disparities which relate to the use and administration of community treatment orders.
- (2) The review under subsection (1) must include, but need not be limited to –
  - (a) an assessment of whether certain economic or social 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 economic and social 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 of the way in which economic and social disparities relate to the use of community treatment orders under the 1983 Act.*

**Schedule 2**

BARONESS BENNETT OF MANOR CASTLE

68 Schedule 2, page 71, line 22, at end insert –

**“30AA Overruling a nominated person**

- (1) The appropriate tribunal may, on application made in accordance with this provision, make an order overruling a decision of a nominated person.
- (2) An order under this section may be made on the application of –
  - (a) the patient,
  - (b) an approved mental health professional,
  - (c) any person engaged in caring for the patient or interested in the patient's welfare, or
  - (d) any person with parental responsibility for the patient.
- (3) An application for an order under this provision may only be made on the grounds that –
  - (a) the nominated person unreasonably objects to the making of an application for admission for treatment or a guardianship application in respect of the patient,
  - (b) the nominated person has, without due regard to the welfare of the patient or the interests of the public, exercised the power to discharge the patient under this Act or is likely to do so, or
  - (c) the nominated person unreasonably objects to the making of a community treatment order in respect of the patient.
- (4) In this section “patient” includes any person by or for whom a nominated person is appointed.”

***Member's explanatory statement***

*This amendment would give the Mental Health First-Tier Tribunal the power to overrule decisions of a nominated person.*

LORD MESTON  
BARONESS BUTLER-SLOSS

- 69 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

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

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

BARONESS BENNETT OF MANOR CASTLE

- 71 [*Withdrawn*]

EARL HOWE  
LORD KAMALL

- 72 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

- 73 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 BERRIDGE

74 Schedule 2, page 73, line 21, at end insert –

- “(3) Regardless of whether a person is appointed as a nominated person, if they have parental responsibility that person must be given appropriate and relevant information about care and treatment of a relevant patient.
- (4) Subsection (3) does not apply to persons with residual parental responsibility for the relevant patient when the patient is subject to a special guardianship order under section 14A of the Children Act 1989.”

***Member's explanatory statement***

*This amendment, along with another amendment in the name of Baroness Berridge, seeks to ensure that regardless of whether persons with parental responsibility are appointed as the nominated person, they should have access to the appropriate and relevant information about care and treatment of the relevant patient (unless a Special Guardianship Order has been made).*

## BARONESS BERRIDGE

75 Schedule 2, page 73, line 21, at end insert –

- “(3) A person is not eligible to be appointed as a nominated person under this Part of this Schedule if the person has parental responsibility for the relevant patient –
  - (a) where the patient is subject to a care order under the Children Act 1989,
  - (b) where the patient is subject to a special guardianship order under section 14A of the Children Act 1989,
  - (c) but has been denied contact with the relevant patient by court order, or
  - (d) where the patient is subject to a child arrangement order under section 8 of the Children Act 1989.
- (4) The Secretary of State may by regulations establish other categories of persons with parental responsibility who are not eligible to be appointed as a nominated person under this Part of this Schedule.
- (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

## BARONESS BUTLER-SLOSS

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

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

## BARONESS BERRIDGE

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

*“Challenge to appointment of nominated person*

- 3A Any challenge to the appointment of a nominated person must be made to the mental health tribunal.”

***Member's explanatory statement***

*This amendment, along with another amendment in my name to Schedule 2, page 78, line 4, seeks to ensure that any challenge to the appointment of a nominated person must be referred to the mental health tribunal rather than county court.*

## BARONESS BERRIDGE

78 Schedule 2, page 76, line 23, at end insert –

- “(c) is not an ineligible person under the criteria in sub-paragraphs 2(3) to (5) of this Schedule.”

## BARONESS BERRIDGE

79 Schedule 2, page 76, line 23, at end insert –

*“Appointing multiple nominated persons for a relevant patient*

- 8A The approved mental health professional may appoint multiple nominated persons for a relevant patient where there are multiple persons with parental responsibility (and where those persons are willing to be so appointed).”

***Member's explanatory statement***

*This probing amendment seeks to clarify how the approved mental health professional makes a nominated person appointment when there is more than one person with parental responsibility, and whether the approved mental health professional can appoint more than one nominated person with parental responsibility (where multiple persons are willing to be appointed).*

## 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

80 Schedule 2, page 76, line 30, at end insert –

“(2A) If there is a person falling within categories set out in subsection (2B), the approved mental health professional must appoint those persons as the nominated persons for the relevant patient (if they are willing to be so appointed, where relevant).

(2B) Relevant categories are –

- (a) a guardian who has been appointed for the relevant patient Special Guardianship Order under section 14A of the Children Act 1989,
- (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,
- (c) a person who has parental responsibility for the relevant patient,
- (d) a local authority by virtue of a care order within the meaning of the Children Act 1989, or
- (e) a local authority in cases where 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.”

BARONESS BERRIDGE  
BARONESS TYLER OF ENFIELD

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.*

BARONESS BERRIDGE

81 Schedule 2, page 77, leave out lines 6 to 13 and insert—

- “(2) The approved mental health practitioner must appoint a local authority with parental responsibility for the relevant patient as the nominated person.
- (2A) If the local authority does not have parental responsibility, the approved mental health practitioner must appoint any other person who has parental responsibility for the relevant patient or has the residence of the child under a Child Arrangement Order under section 8 of the Children Act 1989 and is willing to act as the nominated person.
- (2B) The approved mental health practitioner must not appoint anyone under subsection (2A) who has residual parental responsibility following a Special Guardianship Order.”

***Member's explanatory statement***

*This amendment seeks to ensure that where the local authority has parental responsibility for a relevant patient, the local authority is appointed as the nominated person, the care order by the Family Court removes the relevance of being “willing to act” as the nominated person. This amendment seeks to align the Mental Health Act 1983 with provisions in Part III of the Children Act 1989.*

## BARONESS BERRIDGE

82 Schedule 2, page 77, line 13, at end insert—

- “(2A) Regardless of whether a person is appointed as a nominated person, if they have parental responsibility that person must be given appropriate and relevant information about care and treatment of a relevant patient.
- (2B) Subsection (2A) does not apply to persons with residual parental responsibility for the relevant patient when the patient is subject to a Special Guardianship Order under section 14A of the Children Act 1989.”

*Member's explanatory statement*

*This amendment, along with another amendment in my name to Schedule 2, page 73, line 21, seeks to ensure that regardless of whether persons with parental responsibility are appointed as the nominated person, they should have access to the appropriate and relevant information about care and treatment of the relevant patient (unless a Special Guardianship Order has been made).*

## BARONESS BERRIDGE

83 Schedule 2, page 77, line 13, at end insert—

- “(2A) If there is a person falling within categories set out in subsection (2B), the approved mental health professional must appoint those persons as the nominated persons for the relevant patient (if they are willing to be so appointed, where relevant).
- (2B) Relevant categories are—
- (a) a guardian who has been appointed for the relevant patient Special Guardianship Order under section 14A of the Children Act 1989,
  - (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,
  - (c) a person who has parental responsibility for the relevant patient,
  - (d) a local authority by virtue of a care order within the meaning of the Children Act 1989, or
  - (e) a local authority in cases where 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.”

## BARONESS BERRIDGE

84 Schedule 2, page 78, line 4, at end insert—

*“Challenge to appointment of nominated person*

- 12A Any challenge to the appointment of a nominated person must be referred to the mental health tribunal.”



**Member's explanatory statement**

*This amendment, along with another amendment in my name to Schedule 2, page 74, line 19, seeks to ensure that any challenge to the appointment of a nominated person must be referred to the mental health tribunal rather than county court.*

BARONESS BERRIDGE

85 Schedule 2, page 78, line 34, at end insert –

“(d) the person has demonstrated that they are not acting in the best interests of the relevant patient.”

**Clause 30**

BARONESS BENNETT OF MANOR CASTLE

86 Clause 30, page 41, line 1, at end insert –

“(ia) in paragraph (a), for “, (g) and (h)” substitute “and (g)”;

**Member's explanatory statement**

*The amendment would keep the safeguard of an automatic referral to the tribunal when a patient's Community Treatment Order is revoked which results in them being detained in a mental health hospital.*

**Clause 31**

BARONESS MERRON  
LORD TIMPSON

87 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

88 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

89 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

90 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

91 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

92 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

93 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

**94** 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

95 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

96 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”.*

**Clause 35**

LORD BRADLEY

- 96A** Clause 35, page 47, line 38, leave out “As soon as practicable” and insert “No later than two days”

***Member's explanatory statement***

*This amendment seeks to ensure that a referral notice is made no later than two days after an official request.*

LORD BRADLEY

- 96B** Clause 35, page 48, line 38, leave out “seek to”

***Member's explanatory statement***

*This amendment seeks to ensure that there is a requirement that referrals are made within 28 days.*

LORD BRADLEY

- 96C** Clause 35, page 48, line 46, at end insert —

“(d) a specified accountable person is appointed by the relevant referring body, who will be responsible for ensuring that the provisions within this subsection are completed within the specified time limit.”

***Member's explanatory statement***

*This amendment seeks to ensure that there is an accountable person, who will ensure that transfer to hospital takes place within 28 days.*

LORD STEVENS OF BIRMINGHAM

- 97** Clause 35, page 49, line 3, after “accommodation” insert “unless arising because beds are at that time being occupied by other patients who have waited more than 28 days to return to prison”

***Member's explanatory statement***

*This amendment and another one by Lord Stevens of Birmingham seek to reciprocate the expectation of timely transfer of patients between prisons and hospitals, so that access to needed hospital care is not delayed because of blocked beds.*

LORD STEVENS OF BIRMINGHAM

- 98** Clause 35, page 50, line 15, after “accommodation” insert “unless arising because beds are at that time being occupied by other patients who have waited more than 28 days to return to prison”

**Member's explanatory statement**

*This amendment and another one by Lord Stevens of Birmingham seek to reciprocate the expectation of timely transfer of patients between prisons and hospitals, so that access to needed hospital care is not delayed because of blocked beds.*

**After Clause 37**

LORD KAMALL  
EARL HOWE

99 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

100 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  
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

101 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

**102** 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

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

BARONESS MURPHY

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

BARONESS TYLER OF ENFIELD  
LORD SCRIVEN

**105** 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

**106** 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  
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

- 107 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

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

BARONESS MURPHY

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

BARONESS MURPHY

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

BARONESS MURPHY

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

**Clause 39**

BARONESS WHITAKER  
LORD BRADLEY  
LORD BOURNE OF ABERYSTWYTH  
LORD PATEL

- 112 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  
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

- 113** 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

- 114** 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

- 115** Clause 42, page 54, leave out lines 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  
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

- 116 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

- 117 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

- 118 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

119 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

120 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  
BARONESS NEUBERGER

121 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

122 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

123 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  
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

124 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

125 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

126 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

127 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

128 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 46**

LORD BRADLEY

128A After Clause 46, insert the following new Clause –

**“Implementation report: removal of police stations and prisons as places of safety**

- (1) Within 6 months of the day on which this Act is passed, the Secretary of State must publish a report on how they will effectively implement the provisions contained with section 46 (Removal of police stations and prisons as places of safety) within the time limit specified by section 53(3A) (Commencement).
- (2) The report must include an assessment of –
  - (a) how His Majesty’s Government will provide alternative places of safety with adequate capacity and geographical distribution,
  - (b) the availability of remand to hospital under section 36 of the Mental Health Act 1983 (Remand of accused person to hospital for treatment) and,

- (c) any plans to extend section 36(1) of the Mental Health Act 1983 to Magistrates' courts.

(3) The Secretary of State must lay a copy of the report before Parliament.”

***Member's explanatory statement***

*This amendment (connected with another in the name of Lord Bradley) seeks to ensure that the Secretary of State must publish a report on how they plan to implement the provisions contained within Clause 46 in an effective and timely manner.*

BARONESS MAY OF MAIDENHEAD

**128B** After Clause 46, insert the following new Clause—

**“Removal of patients by authorised persons**

- (1) The Mental Health Act 1983 is amended as follows.
- (2) In section 135 (warrant to search for and remove patients)—
- (a) in subsection (1), after “constable”, insert “or authorised person”;
  - (b) in subsection (1A), after “constable”, insert “or authorised person”;
  - (c) in closing words of subsection (2), after “constable”, insert “or authorised person”;
  - (d) in subsection (3ZA)(a)(ii), after “constable”, insert “or authorised person”;
  - (e) in subsection (7)(b), after “constable”, insert “or authorised person”.
- (3) In section 136 (removal etc of mentally disordered persons without a warrant) –
- (a) in subsection (1), after each instance of “constable”, insert “or authorised person”;
  - (b) in subsection (1A), after “constable”, insert “or authorised person”;
  - (c) in subsection (1B), after “constable”, insert “or authorised person”;
  - (d) in subsection (2A)(a)(ii), after “constable”, insert “or authorised person”.

***Member's explanatory statement***

*This amendment and others in the name of Baroness May seek to introduce a new category of “authorised person” who can carry out detentions under the 1983 Act to offer better inter-agency response. The proposed amendments would remove the need for the presence of police at mental health incidents in the absence of any risk.*

**After Clause 47**

LORD BRADLEY

**128C** After Clause 47, insert the following new Clause—

**“Implementation report: mental health care for bailed defendants**

- (1) Within six months of the day on which this Act is passed, the Secretary of State must publish a report on how they will effectively implement the provisions

contained within section 47 (Remand for a person's own protection etc) within the time limit specified by section 53(3A) (Commencement).

- (2) The report must include an assessment of how His Majesty's Government will ensure appropriate care and support for defendants with mental health conditions who, under the provision in section 47, cannot be kept in custody for their own protection.
- (3) The report must review –
  - (a) the extent to which services providing such care and support have adequate capacity, and
  - (b) their geographical distribution.
- (4) The Secretary of State must lay a copy of the report before both Houses of Parliament."

***Member's explanatory statement***

*This amendment (connected to another in the name of Lord Bradley) seeks to ensure that the Secretary of State publishes a report on how they plan to implement the provisions contained within clause 47 in a timely manner, and in a way which ensures that bailed defendants with mental health conditions (who can no longer be remanded for their own protection) receive appropriate care and support.*

**After Clause 50**

BARONESS TYLER OF ENFIELD

**129** 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

130 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  
 BARONESS BENNETT OF MANOR CASTLE

**131** 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

**132** 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

**133** 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  
BARONESS BENNETT OF MANOR CASTLE

**134** 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  
BARONESS BENNETT OF MANOR CASTLE  
BARONESS NEUBERGER

135 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

136 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

137 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

138 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

139 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

140 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

**141** 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

**142** 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

**143** 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  
BARONESS TYLER OF ENFIELD

144 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

145 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

146 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 MESTON  
BARONESS BERRIDGE  
BARONESS BENNETT OF MANOR CASTLE

**147** 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.*

LORD CRISP  
BARONESS HOLLINS

148 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.””

BARONESS KEELEY  
BARONESS BARKER

149 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).*

LORD ADEBOWALE

150 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 BENNETT OF MANOR CASTLE

151 After Clause 50, insert the following new Clause—

**“Requirement to report on provision of resources for services in the community**

Two years after the day on which this Act is passed, and every three years thereafter, the Secretary of State must report to Parliament on—

- (a) the level of staffing and other resources available to, and outcomes for, community care services provided for treating mental disorders in England;
- (b) the development and piloting of innovations in community services for mental disorders (including early interventions that prevent the need to deploy the provisions of this Act), their effectiveness and the degree to which successful pilots have been rolled out across services;
- (c) the level of resources, nature and outcomes of relevant programmes working to reduce the social stigma and social disadvantage suffered by individuals affected by the Mental Health Act 1983.”

***Member's explanatory statement***

*This amendment seeks to create a mechanism by which parliament can have a continuous assessment of the degree to which adequate resources are being delivered to and attention paid to community care services.*

BARONESS BENNETT OF MANOR CASTLE

152 After Clause 50, insert the following new Clause—

**“Requirement to report on research and training resources**

Two years after the day on which this Act is passed, and every three years thereafter, the Secretary of State must report to Parliament on—

- (a) the resources available within England to support research into mental health care for people with autism and learning difficulties, and care for

- people with autism and learning difficulties who are liable to be detained under the Mental Health Act 1983, and
- (b) the adequacy of training provided to relevant staff in new understandings and methods in relation to mental health care for people with autism and learning difficulties, and care for people with autism and learning difficulties who are liable to be detained under that Act.”

***Member's explanatory statement***

*This amendment seeks to probe ways in which the Government intends to make provision for, and monitor the progress of, research and transfer of research findings into clinical and community practice.*

BARONESS BENNETT OF MANOR CASTLE

*This amendment is intended to replace Amendment 71*

**153** After Clause 50, insert the following new Clause –

**“Prohibition of delivery by for-profit companies**

- (1) Any new facilities or organisations created to deliver the provisions of this Act must not be operated by for-profit companies.
- (2) Within five years of the day on which this Act is passed, the Secretary of State must ensure that all facilities or organisations delivering the provisions of the Mental Health Act 1983 in the control of for-profit companies are transferred to not-for-profit or state entities.”

***Member's explanatory statement***

*This amendment seeks to remove the profit motive from services covered under this Act.*

BARONESS BENNETT OF MANOR CASTLE

**154** After Clause 50, insert the following new Clause –

**“Powers of tribunals to determine challenges against treatment decisions**

After section 77 of the Mental Health Act 1983 (general provisions concerning tribunal applications) insert –

**“77A Powers of tribunals to determine challenges against treatment decisions**

- (1) The Secretary of State may by regulations make provision about the powers of the appropriate tribunal to –
  - (a) consider and determine questions relating to care and treatment during the course of an application or reference made under sections 66 to 71 (applications and references relating to discharge);
  - (b) consider and determine questions relating to care and treatment other than during the course of an application or reference made under sections 66 to 71 (applications and references relating to discharge).

- (2) Regulations may make provision about pilot schemes relating to either paragraph (1)(a) or (1)(b).”

***Member's explanatory statement***

*This amendment would allow the Minister to set up pilots under which the Mental Health Tribunal could determine challenges against treatment decisions.*

BARONESS HOLLINS  
LORD CRISP

155 After Clause 50, insert the following new Clause –

**“Notification of long-term segregation**

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

**“142C Notifiable event**

- (1) A notification of any use of long-term segregation (LTS) for a patient detained under this Act must be issued to the Care Quality Commission, the hospital’s Board of Directors and the relevant NHS Commissioner within 72 hours of the person being placed in LTS.
- (2) If LTS is used in the following circumstances an investigation must be initiated by the Care Quality Commission –
  - (a) a person’s LTS exceeds 15 consecutive days,
  - (b) a person’s LTS takes place in multiple periods totalling more than 15 days within a 30-day period,
  - (c) LTS is used for a person under the age of 18, or
  - (d) LTS is used for a disabled person, including a person with learning disabilities or an autistic person when their condition would be exacerbated by such measures.
- (3) The code of practice provided for by section 118 must be revised within four months of the day on which the Mental Health Act 2025 is passed to modify the processes involved in using LTS to include the following –
  - (a) minimum standards for the accommodation of those in LTS, which must include furniture for eating, sleeping and activities, access to separate toilet and washing facilities, natural light, a clock, digital and communication technology and direct access to outside space;
  - (b) minimum requirements for meaningful and therapeutic human contact;
  - (c) maximum duration and frequency of use for LTS;
  - (d) mandatory training in autism and learning disability in the context of LTS for clinical staff, administrative staff and NHS Commissioners;
  - (e) the requirements for notification set out in subsection (1);
  - (f) requirements for registering safeguarding concerns.

- (4) LTS will be reclassified as “solitary confinement” if it fails to meet the minimum standards prescribed in the code of practice provided for by section 118, and any use of solitary confinement in this context must be investigated by the Secretary of State.
- (5) Any organisation detaining patients under this Act must appoint a Responsible Officer to—
  - (a) review all cases of long-term segregation and prolonged detention,
  - (b) report their findings to the Care Quality Commission, and
  - (c) ensure ongoing compliance with recommendations from Independent Care (Education) and Treatment Reviews as they relate to LTS.”

***Member's explanatory statement***

*LTS involves social isolation and enforced separation from peers and can contribute to an increase in mental distress and behaviour that challenges both the person themselves and others making rehabilitation difficult. The amendment aims to legislate for minimum standards and limit its use.*

BARONESS HOLLINS  
LORD CRISP

156

After Clause 50, insert the following new Clause—

**“Mandatory Independent Care (Education) and Treatment Reviews for all patients detained in long-term segregation**

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

**“142D Mandatory ICETRs for all patients detained in long-term segregation**

- (1) Upon receipt of notification of the use of long-term segregation (LTS) under section 142C (notifiable event), the Care Quality Commission must appoint a qualified professional to conduct an Independent Care (Education) and Treatment Review of its use.
- (2) The independent reviewer must—
  - (a) conduct a face-to-face assessment of the patient,
  - (b) consult with the patient’s family or carers, where appropriate,
  - (c) review the patient’s care and treatment plan, including the rationale for continued segregation, and
  - (d) assess whether alternatives, including ward or community-based alternatives, were explored prior to the implementation of LTS, and evaluate the rationale provided for not utilising such alternatives, if applicable.
- (3) Where the assessment under subsection (2)(d) reveals that alternatives were not adequately considered, the independent reviewer may require the detaining organisation to—
  - (a) provide justification for this omission, and

- (b) outline steps to ensure that alternative options are considered in future cases.
- (4) The independent reviewer has authority equivalent to a Second Opinion Appointed Doctor to—
  - (a) confirm the appropriateness of the LTS,
  - (b) recommend amendments to the treatment plan, and
  - (c) require alternative interventions if LTS is deemed inappropriate.””

***Member's explanatory statement***

*This amendment seeks to ensure that therapeutic alternatives are considered by requiring independently chaired reviews for any person detained in LTS.*

LORD DAVIES OF BRIXTON

157 After Clause 50, insert the following new Clause—

**“Arrangements for finding beds for patients**

- (1) Section 140 (notification of hospitals having arrangements for special cases) of the Mental Health Act 1983 is amended as follows.
- (2) After “authority” insert “, ambulance authority and chief constable”.
- (3) After paragraph (a), insert—
  - “(aa) for the reception of patients who require admission to hospital and are currently under detention by the police service;”.
- (4) At end insert—
  - “(2) It shall be the duty of every integrated care board and Local Health Board to ensure that patients who are assessed as requiring admission to hospital under this Act are admitted in a timely and appropriate manner.
  - (3) It shall be the duty of every integrated care board and Local Health Board to appoint a designated officer that is responsible for ensuring the arrangements required in subsections (1) and (2) are functional.””

***Member's explanatory statement***

*This amendment seeks to clarify the responsibilities of integrated care boards and Local Health Boards to find beds for patients in a timely manner.*

LORD DAVIES OF BRIXTON

158 After Clause 50, insert the following new Clause—

**“Removal etc of mentally disordered persons without a warrant**

- (1) Section 136 (removal etc of mentally disordered persons without a warrant) of the Mental Health Act 1983 is amended as follows.
- (2) In subsection (1)—

- (a) for “a constable” substitute “an authorised professional”;
  - (b) for “the constable” substitute “the authorised professional”;
  - (c) after “persons” insert “detain that person for a period no longer than one hour for the purpose of consultation with any of the following”;
  - (d) for paragraphs (a) and (b) substitute –
    - “(a) a registered social worker or mental health nurse that has received appropriate training on mental health detentions,
    - (b) a medical practitioner who has received appropriate training on mental health detentions,
    - (c) an approved mental health professional, or
    - (d) a person of a description specified in regulations made by the Secretary of State.”
- (3) After subsection (1) insert –
- “(1ZA) If an authorised professional, after discharging their duties under section 136(1), is satisfied that a person continues to meet the threshold for detention specified in section 136(1), they may –
- (a) remove the person to a place of safety within the meaning of section 135(6), or
  - (b) if the person is already at a place of safety within the meaning of that section, keep the person at that place or remove the person to another place of safety.”
- (4) In subsection (1A) –
- (a) for “a constable” substitute “an authorised professional”,
  - (b) after “(1)” insert “and (1ZA)”.
- (5) In subsection (1B) –
- (a) after “(1)” insert “and (1ZA)”,
  - (b) for “a constable” substitute “an authorised professional”.
- (6) For (1C) substitute –
- “(1C) An authorised professional is –
- (a) a registered paramedic,
  - (b) a registered social worker,
  - (c) a registered midwife,
  - (d) a registered nurse,
  - (e) a registered medical practitioner,
  - (f) an approved mental health professional,
  - (g) a police officer, or
  - (h) a person of a description specified in regulations made by the Secretary of State.”
- (7) In subsection (2A), for paragraphs (a) and (b) substitute “the period of 24 hours beginning when a person is informed that they are detained under section 136(1) and the person is no longer free to leave.”

- (8) After subsection (2A), insert –
- “(2B) Once a person detained under section 136(1) arrives at a place of safety, it is the responsibility of the place of safety to take over the detention of the individual.”
- (9) In subsection (3), for “A constable” substitute “An authorised professional”.
- (10) After subsection (4), insert –
- “(4A) A person detained under this section may be released at any time during the permitted period of detention, if it is apparent to an authorised professional that the person no longer requires immediate care and control.
- (4B) The authorised professional must consult with a practitioner specified in section 136(1) before releasing the individual under subsection (4A).”

*Member's explanatory statement*

*This amendment seeks to improve the rules relating to processing of mentally disordered persons without a warrant.*

BARONESS BERRIDGE

159

After Clause 50, insert the following new Clause –

**“Notification to local authorities of children detained or admitted as voluntary patients**

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

**“142C Notification to local authorities of children detained under this Act or admitted as voluntary patients**

- (1) The approved mental health practitioner must notify local authorities of children detained under this Act or admitted as voluntary patients in situations where a child has been –
- (a) detained in or admitted to a hospital for more than 28 days,
  - (b) placed in a part of a hospital simultaneously occupied by an adult patient (“an adult ward”), or
  - (c) detained in a hospital situated outside the local authority area in which the child is ordinarily resident.
- (2) The approved mental health practitioner must make the notification under subsection (1) within 28 days of any of the conditions in paragraphs (a) to (c) being met.”

*Member's explanatory statement*

*This amendment seeks to amend the Mental Health Act 1983 to introduce a statutory notification of local authorities about children detained or admitted as voluntary patients to hospital for more than 28 days, in adult wards or outside the local authority area in which they usually reside.*



## BARONESS BERRIDGE

160 After Clause 50, insert the following new Clause –

**“Children detained under the Mental Health Act 1983 taken to be in need**

- (1) Section 17 of the Children Act 1989 (provision of services for children in need, their families and others) is amended as follows.
- (2) In subsection (10), after paragraph (c) insert –
  - “(d) they are detained under the Mental Health Act 1983,””

***Member's explanatory statement***

*This amendment would ensure that any child who is detained under the Mental Health Act 1983 is taken to be a child in need under section 17 of the Children Act 1989.*

## BARONESS FOX OF BUCKLEY

160A After Clause 50, insert the following new Clause –

**“Review: impact of this Act on the prison estate**

- (1) Within 12 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 in youth offender institutions,
  - (b) IPP prisoners,
  - (c) female prisoners, and
  - (d) 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 prison 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 prisons and to assess whether the Act provides for adequate support for ongoing treatment and care in these settings.*

## BARONESS TYLER OF ENFIELD

**160B** After Clause 50, insert the following new Clause –

**“Duty to promote mental health well-being**

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

**“Duty to promote mental health well-being**

- (1) It is a general duty of local authorities and any body in carrying out functions under this Act or the Mental Health Act 2025 to promote mental health well-being.
- (2) In carrying out the duty under subsection (1), local authorities and commissioning bodies must have regard to –
  - (a) the prevention of mental illness,
  - (b) the promotion of positive mental health,
  - (c) the reduction of stigma and discrimination associated with mental health conditions, and
  - (d) the provision of accessible and appropriate support services to individuals experiencing mental health challenges.
- (3) Local authorities and commissioning bodies must publish an annual report outlining the steps taken to discharge their duty under subsection (1), including an assessment of –
  - (a) progress in improving mental health well-being in their area for persons affected by the provisions of this Act, and
  - (b) any barriers to promoting mental health well-being for such persons and proposed actions to address them.
- (4) The Secretary of State may issue guidance on the discharge of the duty under subsection (1), and local authorities and commissioning bodies must have regard to such guidance.””

**Clause 51**

LORD SCRIVEN

**160C** Clause 51, page 63, line 29, at beginning insert “Other than provision mentioned in subsection (5),”

LORD SCRIVEN

**160D** Clause 51, page 63, line 30, at end insert –

- “(5) Where a statutory instrument amends or revokes primary legislation under this section, the statutory instrument may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

**Member's explanatory statement**

*This amendment ensures that when primary legislation is amended or revoked, regulations follow the affirmative procedure.*

**After Clause 51**

BARONESS MERRON

**161** 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

**162** 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

- 163** 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 BRADLEY

- 163A** Clause 53, page 64, line 7, at end insert “subject to subsection (3A).  
(3A) Before section 35 comes into force, the Secretary of State must—  
(a) publish guidance on the definition of “exceptional circumstances” specified in section 35 and,  
(b) lay this guidance before both Houses of Parliament.”

***Member's explanatory statement***

*This amendment seeks to ensure that Clause 35 only comes into force once the Secretary of State has clarified the meaning of “exceptional circumstances” used in that Clause.*

LORD BRADLEY

- 163B** Clause 53, page 64, line 7, at end insert “subject to subsection (3A).  
(3A) Section 46 comes into force 12 months after this Act is passed, if not previously commenced by regulations under subsection (3).”

***Member's explanatory statement***

*This amendment seeks to ensure that Clause 46 comes into force a maximum of 12 months after the date on which the Bill is passed.*

LORD BRADLEY

- 163C** Clause 53, page 64, line 7, at end insert “subject to subsection (3A).  
(3A) Section 47 comes into force 12 months after this Act is passed, if not previously commenced by regulations under subsection (3).”

***Member's explanatory statement***

*This amendment seeks to ensure that Clause 47 comes into force a maximum of 12 months after the date on which the Bill is passed.*

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

**164** 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]

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THIRD MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

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*21 January 2025*

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