

Mental Health Bill [HL]

RUNNING LIST OF ALL AMENDMENTS ON REPORT

*Tabled up to and including
19 March 2025*

The amendments are listed in accordance with the following Instruction –

Clauses 1 to 3	Clauses 24 to 39
Schedule 1	Schedule 3
Clauses 4 to 23	Clauses 40 to 56
Schedule 2	Title

[Amendments marked ★ are new or have been altered]

After Clause 3

BARONESS BROWNING

After Clause 3, insert the following new Clause –

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

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

“Case F	P has autism or a learning disability and is not subject to any of the mental health regimes	See paragraph 5A”
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- (2) In Schedule 1A to the Mental Capacity Act 2005, paragraph 5, at end insert –

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

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

(3) The first condition is that P objects to being –

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

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

- (5) In determining whether or not P objects to something, regard must be had to all the circumstances (so far as they are reasonably ascertainable), including the following –
 - (a) P’s behaviour,
 - (b) P’s wishes and feelings, and
 - (c) P’s views, beliefs and values.
- (6) But regard is to be had to circumstances from the past only so far as it is still appropriate to have regard to them.
- (7) For the avoidance of doubt, Case F and this paragraph do not apply to determine P’s ineligibility in respect of admission for assessment of mental disorder.””

Member's explanatory statement

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

Clause 4

BARONESS BUTLER-SLOSS

Clause 4, page 7, line 32, at end insert –

- “(v) a person or persons with parental responsibility who have not received a court order restricting the exercise of their parental responsibility.”

After Clause 4

BARONESS HOLLINS

★

After Clause 4, insert the following new Clause –

“Notification of long-term segregation

After section 125F of the Mental Health Act 1983, insert –

“125FA Notification requirements for long-term segregation for patients with learning disabilities or autism

- (1) Where a patient with a learning disability or autism or someone awaiting an autism assessment is subject to long-term segregation under this Act, the responsible clinician must ensure notification of the placement in long-term segregation is sent within 72 hours to –
 - (a) the Secretary of State or a body designated by the Secretary of State,
 - (b) the hospital managers (or equivalent governing body), and
 - (c) the relevant NHS commissioner.
- (2) Notification under subsection (1) must include –

- (a) the date and time segregation commenced,
- (b) the clinical justification for segregation,
- (c) the measures planned to minimise the duration of segregation, and
- (d) a care and treatment plan outlining therapeutic interventions proposed.””

Member's explanatory statement

This amendment seeks to increase oversight, transparency, and accountability in the use of long-term segregation for patients with learning disabilities or autism under the Mental Health Act.

BARONESS HOLLINS

★ After Clause 4, insert the following new Clause –

“Long-term segregation: safeguarding and oversight

After section 125F of the Mental Health Act 1983, insert –

“125FA Safeguarding and oversight for patients with learning disabilities or autism in long term segregation

- (1) Where long-term segregation is applied to a patient with a learning disability or autism or someone awaiting an autism assessment under this Act, the Secretary of State or a body designated by the Secretary of State must initiate an investigation where –
 - (a) the conditions of long-term segregation fail to comply with the minimum standards set out in the Code of Practice issued under section 118 of this Act,
 - (b) the patient is subject to continuous long-term segregation exceeding 15 consecutive days,
 - (c) the patient is subject to multiple episodes of long-term segregation which, in total, exceed 15 days within any 30-day period, or
 - (d) long-term segregation is applied to a patient who is under the age of 18.
- (2) Where an investigation under subsection (1) identifies breaches of human rights or failures to implement care that is the least harmful and restrictive, the designated body must promptly notify the Secretary of State.
- (3) Upon receiving notification under subsection (2), the Secretary of State must initiate a safeguarding review into the use of restrictive practices concerning the patient.””

Member's explanatory statement

This amendment seeks to increase transparency and external oversight in the use of long-term segregation for patients with learning disabilities or autism under the Mental Health Act.

BARONESS HOLLINS

★ After Clause 4, insert the following new Clause —

“Long-term segregation: independent medical review

After section 125F of the Mental Health Act 1983, insert —

“125FA Independent medical review of long-term segregation of patients with learning disabilities or autism

- (1) Upon receipt of notification that a patient with a learning disability or autism or someone awaiting an autism assessment has been placed in long-term segregation under section (*Safeguarding and oversight*), the Secretary of State, or a body designated by the Secretary of State, must arrange for an independent medical practitioner or other specialist practitioner to be appointed to undertake a review within 28 days.
- (2) Where the conditions of long-term segregation fail to meet the minimum standards specified in the Code of practice issued under section 118 (Code of practice), the Secretary of State or designated body must ensure that the review under subsection (1) is expedited and undertaken as soon as practicable.
- (3) The responsibilities, procedures, and reporting requirements for independent medical practitioners appointed under this section must be detailed within the Code of practice issued under section 118.”

Member's explanatory statement

This amendment seeks to introduce an independent medical review process for patients with learning disabilities or autism placed in long-term segregation under the Mental Health Act 1983.

BARONESS HOLLINS

★ After Clause 4, insert the following new Clause —

“Segregation: oversight

After section 125F of the Mental Health Act 1983, insert —

“125FA Hospital managers' oversight of long-term segregation of patients with learning disabilities or autism

- (1) The hospital managers must appoint a Responsible Officer to oversee the care of any patient with a learning disability or autism or someone awaiting an autism assessment who is subject to long-term segregation within the hospital.
- (2) The Responsible Officer appointed under subsection (1) must —
 - (a) review each case of long-term segregation at intervals no greater than 28 days,

- (b) report the findings of each review, including any concerns identified, to the Secretary of State or a body designated by the Secretary of State,
 - (c) ensure compliance with recommendations arising from independent reviews under section (*Independent medical review*), and
 - (d) request or commission alternative services or interventions aimed at reducing or ending segregation, ensuring that less restrictive and more therapeutic alternatives are actively pursued.
- (3) The hospital managers must ensure that the Responsible Officer is independent from the direct clinical team responsible for the patient's day-to-day care.
- (4) The hospital managers must establish procedures to monitor and oversee the use of long-term segregation for patients with learning disabilities or autism or someone awaiting an autism assessment and ensure that –
- (a) every case of long-term segregation is subject to regular review by the Responsible Officer,
 - (b) restrictive practices are actively reviewed and reduced wherever possible, consistent with the principle of least restriction set out in the Code of Practice issued under section 118, and
 - (c) all external recommendations provided by the Secretary of State or the designated body, following investigations or reviews, are fully complied with.”

Member's explanatory statement

This amendment seeks to introduce mandatory hospital-level oversight of long-term segregation for patients with learning disabilities or autism and patients awaiting an autism diagnosis and ensure independent scrutiny and proactive efforts to reduce restrictive practices.

Clause 6

LORD SCRIVEN

Clause 6, page 12, line 40, at end insert –

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

- “(8) The responsible clinician must ensure that community treatment orders align with the code of practice as set out in section 118(2B).
- (9) A community treatment order shall have a maximum duration of 12 months, subject to the following provisions –
 - (a) the responsible clinician may extend the duration of a community treatment order beyond 12 months only after –
 - (i) consulting the patient, the patient's nominated persons, and any relevant mental health care professional involved in the patient's treatment or care planning;

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

Member's explanatory statement

This amendment ensures that community treatment orders align with the code of practice, limits their default duration to 12 months, requires a structured review process for extensions, mandates six-monthly reviews for extended orders, and reinforces patient consultation and oversight by mental health professionals.

Schedule 2

BARONESS BUTLER-SLOSS

Schedule 2, page 72, line 31, at end insert—

- “(d) a person or persons with parental responsibility who have not received a court order restricting the exercise of their parental responsibility.”

BARONESS BUTLER-SLOSS

Schedule 2, page 75, line 19, at end insert—

- “(vi) the witness has, where applicable, consulted a person or persons with parental responsibility who have not received a court order restricting the exercise of their parental responsibility”

After Clause 51

BARONESS HOLLINS

★ After Clause 51, insert the following new Clause –

“Segregation: code of practice

After section 118 of the Mental Health Act 1983, insert –

“118A Code of practice revision relating to long-term segregation for patients with learning disabilities or autism

- (1) The Code of practice issued under section 118 of this Act must be revised within four months from the date on which the Mental Health Act 2025 comes into force, to include updated guidance regarding the procedures for the use of long-term segregation for patients with learning disabilities or autism or someone awaiting an autism assessment.
- (2) The revised Code of Practice must specifically address –
 - (a) the definition of long-term segregation,
 - (b) criteria for initiating, continuing, and ending long-term segregation,
 - (c) minimum standards and safeguards for patients subject to long-term segregation,
 - (d) requirements for regular review, oversight, and independent scrutiny of cases involving long-term segregation, and
 - (e) the roles and responsibilities of healthcare professionals and oversight bodies in relation to long-term segregation for patients with learning disabilities or autism.””

Member's explanatory statement

This amendment seeks to mandate a revision of the Code of Practice under section 118 of the Mental Health Act 1983.

BARONESS HOLLINS

★ After Clause 51, insert the following new Clause –

“Accountability for non-compliance with the code of practice

After section 118 of the Mental Health Act 1983 insert –

“118A Accountability for non-compliance with the code of practice

- (1) Where a failure to comply with the code of practice issued under section 118 results in a breach of a detained patient’s rights or safeguards under this Act, the Secretary of State, or a body designated by the Secretary of State, must investigate and ensure appropriate corrective action is taken.
- (2) Following an investigation under subsection (1), the Secretary of State or designated body will issue a compliance notice to the relevant hospital managers, responsible clinician, or NHS body.

- (3) The compliance notice under subsection (2) must specify –
 - (a) the provisions of the code of practice with which there has been non-compliance,
 - (b) the actions required to remedy the identified non-compliance, and
 - (c) the timeframe within which these remedial actions must be completed.
- (4) A recipient of a compliance notice under subsection (2) must –
 - (a) rectify any identified breach affecting patient safety or rights,
 - (b) submit a detailed action plan to the Secretary of State or designated body within 28 days, outlining measures to prevent future breaches, and
 - (c) provide written evidence demonstrating compliance to the Secretary of State or designated body within the timeframe specified in the notice.
- (5) If repeated or systemic non-compliance is identified, the Secretary of State or designated body must –
 - (a) impose specific conditions or restrictions on the hospital’s registration,
 - (b) initiate formal regulatory enforcement actions, or
 - (c) refer individuals or organisations involved to the Care Quality Commission or relevant professional regulatory bodies.
- (6) To ensure transparency and public accountability, the Secretary of State must publish an annual report detailing –
 - (a) the number and nature of compliance notices issued, and
 - (b) outcomes of the corrective and enforcement actions taken under this section.””

Member's explanatory statement

This amendment introduces explicit accountability for hospitals and relevant NHS bodies in situations where non-compliance with the Mental Health Act’s Code of Practice results in harm or breaches of the legal rights of detained patients.

BARONESS TYLER OF ENFIELD

After Clause 51, insert the following new Clause –

“Mental Health Commissioner

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

“Mental Health Commissioner

142D 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”.
- (5) The Mental Health Commissioner may appoint staff to the Office of the Mental Health Commissioner they consider necessary for assisting in the exercise of their functions in section 142E.

142E 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, the Mental Health Act 1983, and the Mental Capacity Act 2025 particularly regarding the provision of treatment, care, and detention of people with a mental disorder.
- (2) 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.
- (3) 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.
- (4) Subject to any directions from the Secretary of State, the Commissioner may take action necessary or expedient in connection for the purposes of their functions.
- (5) This may include –

- (a) collaborating with health services, public authorities, charitable organisations, and other relevant entities, including NHS bodies, the Care Quality Commission, and the Parliamentary and Health Service Ombudsman;
- (b) ensuring enforcement authorities and public bodies under the Mental Health Act 1983 have the necessary capacity and resources to adequately discharge duties under the Mental Health Act 1983 and this Act.

142F Appointment, Tenure, and Remuneration of the Mental Health Commissioner

- (1) The Secretary of State may by regulation make provision for the appointment, tenure, removal, and general terms of appointment of the Mental Health Commissioner.
- (2) The Secretary of State may also by regulation determine the Commissioner's remuneration, allowances, and pension entitlements.

142G 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 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.

142H Regulations

- (1) Regulations under sections 142F and 142G are to be made by statutory instrument.””

Member's explanatory statement

This amendment establishes the office of the Mental Health Commissioner and makes provisions for relevant duties and responsibilities.

BARONESS TYLER OF ENFIELD

After Clause 51, insert the following new Clause –

“Review and reporting on inequalities in Mental Health Act Measures

- (1) As soon as reasonably practicable after the end of each calendar year, the Secretary of State or appropriate national authority must conduct a review, in consultation with relevant bodies with commissioning functions, on the use of treatment and

detention provisions 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 or appropriate national authority must publish a report on the progress made in reducing inequalities in treatment outcomes and the use of detention under the Mental Health Act 1983 on people who have protected characteristics under the Equality Act 2010.
- (3) In this section “the appropriate national authority” means –
 - (a) in relation to services or unit whose area is in England, the Secretary of State;
 - (b) in relation to units or services whose area is in Wales, the Welsh Ministers.”

Member's explanatory statement

This amendment requires the Secretary of State or Welsh Ministers to review and report annually on the use of treatment and detention measures under the Mental Health Act 1983, analysing data by race and other demographics to assess progress in reducing inequalities for those with protected characteristics under the Equality Act 2010.

BARONESS TYLER OF ENFIELD

After Clause 51, insert the following new Clause –

“Addressing and reporting on racial disparities and other inequalities

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 related to functions discharged under this Act and the Mental Health Act 2025.
- (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.

120F Policy on racial disparities

- (1) The responsible person must publish a policy on how the unit plans to reduce racial disparities in that unit or service.
- (2) The policy published under subsection (1) must cover but is not limited to the following topics –

- (a) steps being taken to reduce racial disparities and other disparities in that unit or service;
 - (b) staff knowledge and competence in connection with anti-discriminatory practice in relation to this Act;
 - (c) disparities in 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 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 and may revise it periodically, publishing the revised version if changes are made.

120G Training on racial disparity policy

The responsible person for each mental health unit or service must provide training for staff that relates to addressing racial disparities in that unit or service and the topics covered in section 120F(2).

120H Recording of discharge of functions under this Act broken down by race and other demographic information

- (1) The responsible person for each mental health unit or service must keep a record of the use of functions discharged under this Act, broken down by race and other demographic information.
- (2) The responsible person must keep the record for three years from the date on which it was made.””

Member's explanatory statement

This amendment requires mental health units and community services to appoint a senior responsible person to address racial disparities in the use of the Mental Health Act 1983, publish a policy on reducing inequalities, and provide staff training on anti-discriminatory practices.

BARONESS TYLER OF ENFIELD

After Clause 51, insert the following new Clause –

“Workforce sufficiency assessment by Integrated Care Boards

After section 142C of the Mental Health Act 1983 (inserted by section 51 of this Act), insert –

“142D Workforce sufficiency assessment by Integrated Care Boards

- (1) Each Integrated Care Board must conduct a workforce sufficiency assessment every two years to evaluate whether it has sufficient workforce resources to deliver services under this Act effectively.
- (2) The assessment may include –
 - (a) an analysis of current workforce levels across all relevant service areas;
 - (b) identification of workforce shortfalls;
 - (c) an evaluation of the impact of staff shortages on patient care and service delivery;
 - (d) proposals to address workforce challenges.
- (3) Integrated Care Boards may consult any relevant personnel or organisations they deem appropriate when conducting the assessment.
- (4) Each Integrated Care Board must publish a report outlining its findings upon completing the assessment.
- (5) The first reports must be published 12 months after the day on which the Mental Health Act 2025 is passed.””

Member's explanatory statement

The amendment requires Integrated Care Boards to produce a biennial report assessing workforce sufficiency, identifying shortages, and proposing measures to address workforce challenges in delivering services.

LORD MESTON
BARONESS BUTLER-SLOSS
BARONESS TYLER OF ENFIELD

After Clause 51, 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 weigh 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 subsection (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.

Mental Health Bill [HL]

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*Tabled up to and including
19 March 2025*

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