

# Mental Health Bill [HL]

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## RUNNING LIST OF ALL AMENDMENTS ON REPORT

*Tabled up to and including  
26 March 2025*

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*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 –

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“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.”

BARONESS HOLLINS

*Revised version of the new Clause amendment to After Clause 4 printed on 19 March 2025*

Clause 4, page 10, line 5, at end insert –

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

- (1) Where long-term segregation (LTS) 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 in any of the following circumstances –
  - (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 further enhances transparency and external oversight in the use of long-term segregation (LTS) for patients of with learning disabilities or autism under the Mental Health Act.*

BARONESS HOLLINS  
LORD SCRIVEN

Clause 4, page 10, line 5, at end insert –

**“125FA Community Services Sufficiency Plan: commissioning of services for autistic people and people with a learning disability**

- (1) The Secretary of State must prepare and lay before Parliament a document setting out a plan for resourcing and commissioning sufficient community services for autistic people and people with a learning disability to ensure the operability of provisions in the Mental Health Act 2025.
- (2) The document shall be referred to as the “Community Services Sufficiency Plan”.
- (3) The Community Services Sufficiency Plan must be published within one year of the day on which the Mental Health Act 2025 is passed.
- (4) The Community Services Sufficiency Plan must include –
  - (a) a definition of “sufficient community services” in relation to autistic people and people with a learning disability, including how sufficient community services will be assessed regarding the operability of provisions in the Mental Health Act 2025;
  - (b) the actions that the Secretary of State will take to ensure community services are available to meet demand for autistic people and people with a learning disability after the end of the 28-day detention period under section 2(4) of this Act (admission for assessment);
  - (c) the actions that the Secretary of State will take to ensure that sufficient community services for autistic people and people with a learning disability are available to prevent detention under section 3 of this Act (admission for treatment);
  - (d) plans to allocate appropriate resource to ensure operability of services, including, but not limited to, financial resource;

- (e) plans to ensure that responsible bodies and individuals receive the necessary training in autism and learning disability to carry out support, diagnosis, and treatment;
  - (f) plans for data collection to support the commissioning of sufficient services for autistic people and people with a learning disability;
  - (g) targets and milestones relevant to—
    - (i) the number of autistic people and people with a learning disability who are detained under this Act, and
    - (ii) the development of sufficient community services for autistic people and people with a learning disability,
  - (h) any other information the Secretary of State deems relevant.
- (5) For a period of 10 years beginning on the day on which the Community Services Sufficiency Plan is first published, the Secretary of State—
- (a) must keep the plan under review, and
  - (b) may revise it.
- (6) If the Secretary of State revises the Community Services Sufficiency Plan, the Secretary of State must publish it as revised.”

BARONESS HOLLINS  
LORD SCRIVEN

Clause 4, page 10, line 5, at end insert—

**“125FA Monitoring the progress of the Community Services Sufficiency Plan**

- (1) The Secretary of State must publish a report monitoring the progress made towards implementing the Community Services Sufficiency Plan.
- (2) The report must first be published exactly one year after the day on which the Community Services Sufficiency Plan is first published, and every year thereafter, until either—
  - (a) the Secretary of State considers that the aims of the Community Services Sufficiency Plan have been met, or
  - (b) a period of 10 years has passed, beginning on the day on which the Community Services Sufficiency Plan is first published.
- (3) The report must include information and data which monitors—
  - (a) the progress made towards achieving the milestones and targets included in the Community Services Sufficiency Plan,
  - (b) how allocated resource has been delivered and utilised to ensure the availability of sufficient community services for autistic people and people with a learning disability in order to operate the provisions of the Mental Health Act 2025, and
  - (c) any other provisions included in the Community Services Sufficiency Plan that the Secretary of State deems relevant.”

**After Clause 4**

LORD ADEBOWALE  
EARL HOWE

After Clause 4, 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.*

**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.*

**Clause 8**

EARL HOWE  
LORD KAMALL

Clause 8, page 14, line 19, at end insert –

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

EARL HOWE  
LORD KAMALL

Clause 8, page 14, line 24, after “manifestations” insert “and 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 patient’s trauma and minimise the use of medical treatment as a form of coercive control.*

**Clause 11**

BARONESS WATKINS OF TAVISTOCK  
BARONESS BARKER

- ★ Clause 11, page 17, leave out line 39 and insert “statements set out in an advance choice document).”

***Member's explanatory statement***

*This amendment seeks to align the Mental Health Act with the existing best practice on providing advance choice documents.*

**Clause 15**

EARL HOWE  
LORD KAMALL

Clause 15, page 22, line 40, at end insert –

- “(a) omit the “and” at the end of subsection (1)(a);
- (b) after subsection (1)(a), insert –
  - “(aa) provision, by artificial means, of nutrition to the patient, and””

***Member's explanatory statement***

*This amendment would introduce new safeguards for providing artificial nutrition such as naso-gastric tube feeding for patients detained under the 1983 Act.*

**Clause 18**

BARONESS MERRON

Clause 18, page 24, line 31, leave out from beginning to end of line 2 on page 25 and insert –

- “(2) The treatment may be given to a patient who has capacity to consent to the treatment only if –
  - (a) the patient has consented to it, or
  - (b) the patient has not consented but a certificate has been given by a second opinion appointed doctor under subsection (4).
- (3) The treatment may be given to a patient who lacks capacity to consent to the treatment only if –
  - (a) the giving of the treatment would not conflict with any of the following –
    - (i) a valid and applicable advance decision, or
    - (ii) a decision of a donee or deputy or the Court of Protection, or

- (b) the giving of the treatment would conflict with such a decision but a certificate has been given by a second opinion appointed doctor under subsection (5).”

*Member's explanatory statement*

*This amendment clarifies that the requirement for a certificate by a second opinion appointed doctor does not apply to urgent electro-convulsive therapy if: (1) the patient consents, or (2) the patient lacks capacity but the treatment does not conflict with an advance decision etc.*

BARONESS MERRON

Clause 18, page 26, line 4, at end insert –

**“62ZAA Life-saving section 62ZA treatment: modified procedure in exceptional circumstances**

- (1) Where –
- (a) a request is made to the regulatory authority under section 56B for the appointment of a second opinion doctor to perform the function of giving a certificate under section 62ZA in relation to any treatment, and
  - (b) the regulatory authority determines that there are exceptional circumstances which mean that there will be a delay in appointing a second opinion doctor,
- a function of a second opinion appointed doctor under section 62ZA in relation to the giving of a certificate containing a statement under subsection (4)(c)(i) or (5)(c)(i) of that section may be performed, instead, by the approved clinician in charge of that treatment.
- (2) But no treatment may be given in reliance on a certificate given by the approved clinician by virtue of subsection (1) once the second opinion doctor has been appointed under section 56B.
- (3) Each time a patient is given treatment in reliance on a certificate given by the approved clinician by virtue of subsection (1), the managers of the hospital or registered establishment in which the treatment is given must notify the regulatory authority of that treatment as soon as reasonably practicable.
- (4) The regulatory authority’s annual report under section 120D must include –
- (a) a statement of how many times the regulatory authority has made a determination under subsection (1)(b) in the period to which the report relates and a summary of the reasons why any determinations have been made, and
  - (b) a statement of how many times during that period treatment has been given in reliance on a certificate issued by virtue of subsection (1).”



***Member's explanatory statement***

*Where exceptional circumstances mean that a second opinion appointed doctor is not available to authorise life-saving electro-convulsive therapy, this amendment would allow the approved clinician to do so. The amendment replaces the regulation-making power currently in new section 62ZB(1).*

BARONESS MERRON

Clause 18, page 26, line 6, leave out from beginning to end of line 10

***Member's explanatory statement***

*This is consequential on my amendment to clause 18, page 26, line 4.*

BARONESS MERRON

Clause 18, page 26, line 17, leave out “or by virtue of regulations under subsection (1)”

***Member's explanatory statement***

*This is consequential on my amendment to clause 18, page 26, line 4.*

BARONESS MERRON

Clause 18, page 26, line 32, leave out subsection (7)

***Member's explanatory statement***

*This amendment leaves out text that is replaced by my new clause inserted after clause 18.*

BARONESS MERRON

Clause 18, page 27, line 15, leave out subsection (8)

***Member's explanatory statement***

*This is consequential on my amendment to clause 18, page 26, line 4.*

**After Clause 18**

BARONESS MERRON

After Clause 18, insert the following new Clause –

**“Remote assessment for treatment**

- (1) Section 119 (practitioners approved for Part 4 and section 118) is amended as follows.
- (2) In subsection (2)(a), for the first “and” substitute “or”.

(3) After subsection (2) insert –

“(2A) A person authorised by subsection (2) to carry out an interview or examination may, to the extent that they consider appropriate, carry it out –

- (a) by live audio link, or
- (b) by live video link.”

(4) In subsection (3), before the definition of “regulated establishment” insert –

““live audio link”, in relation to the carrying out of an interview or examination, means a live telephone link or other arrangement which enables the patient and the person carrying out the interview or examination to hear one another;

“live video link”, in relation to the carrying out of an interview or examination, means a live television link or other arrangement which enables the patient and the person carrying out the interview or examination to see and hear one another;”.

***Member's explanatory statement***

*This new clause would enable remote assessments to be carried out by certain people for the purpose of non-urgent electro-convulsive therapy and certain other treatments. It also replaces clause 18(7) which makes equivalent provision for urgent treatment.*

**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 MERRON

Schedule 2, page 74, line 27, leave out from “writing” to end of line 19 on page 75 and insert “signed by the patient in the presence of a health or care professional or independent mental health advocate (“the witness”),

- (c) the nominated person has signed a statement that they –
  - (i) meet the age requirement (see paragraph 2(2)), and
  - (ii) agree to act as the nominated person, and
- (d) the witness has signed a statement that –
  - (i) the instrument appointing the nominated person was signed by the patient in the presence of the witness,
  - (ii) the witness has no reason to think that the patient lacks capacity or competence to make the appointment,

- (iii) the witness has no reason to think that the nominated person lacks capacity or competence to act as a nominated person,
- (iv) the witness has no reason to think that any fraud or undue pressure has been used to induce the patient to make the appointment, and
- (v) the witness has no reason to think that the nominated person is unsuitable to act as a nominated person.”

***Member's explanatory statement***

*This changes the process for appointing a nominated person. It removes the requirement for the nominated person's signature to be witnessed and the various statements and signatures no longer have to be contained in the same instrument.*

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”

BARONESS MERRON

Schedule 2, page 77, line 27, leave out “16” and insert “18”

***Member's explanatory statement***

*This and my amendments to paragraph 10 of new Schedule 1A ensure that where a nominated person is appointed for a patient who is aged 16 or 17 and for whom a local authority has parental responsibility, the local authority is appointed as the nominated person.*

BARONESS MERRON

Schedule 2, page 78, line 5, leave out “under 16” and insert “16 or 17”

***Member's explanatory statement***

*See the explanatory statement for my amendment to Schedule 2, page 77, line 27.*

BARONESS MERRON

Schedule 2, page 78, line 6, leave out sub-paragraph (2) and insert –

- “(2) If a local authority has parental responsibility for the relevant patient, the approved mental health professional must appoint that local authority.
- (2A) If no local authority has parental responsibility for the relevant patient but the relevant patient has a competent deputy who is willing to act as the nominated person, the approved mental health professional must appoint the deputy.”

***Member's explanatory statement***

*See the explanatory statement for my amendment to Schedule 2, page 77, line 27.*

BARONESS MERRON

Schedule 2, page 78, line 14, leave out “other case,” and insert “case in which sub-paragraphs (2) and (3) do not identify who is to be appointed”

***Member's explanatory statement***

*See the explanatory statement for my amendment to Schedule 2, page 77, line 27.*

BARONESS MERRON

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

- “10A (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 16.
- (2) If a local authority has parental responsibility for the relevant patient, the approved mental health professional must appoint that local authority.
- (3) If no local authority has parental responsibility for the relevant patient but there are one or more other persons who have parental responsibility and who are willing to act as the nominated person, the approved mental health professional must appoint one of them.
- (4) In any case in which sub-paragraphs (2) and (3) do not identify who is to be appointed, 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 largely replicates the effect of existing paragraph 10 of new Schedule 1A but ensures that where a nominated person is appointed for a patient who is aged under 16 and for whom a local authority has parental responsibility, the local authority is appointed as the nominated person.*

**Clause 30**

BARONESS MERRON

Clause 30, page 42, line 1, leave out “50” and insert “36”

***Member's explanatory statement***

*This is consequential on my amendment to leave out clause 50.*

**After Clause 33**

EARL HOWE  
LORD KAMALL

After Clause 33, 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) A patient who has been detained under this Part of this Act must, within 30 days of their discharge, be offered a consultation with an independent mental health advocate to review their experiences of hospital treatment.
- (2) A report from any consultation undertaken pursuant to subsection (1) shall be produced by the independent mental health advocate in partnership with the patient.
- (3) The report referred to in subsection (2) shall 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 36**

BARONESS MERRON

Clause 36, page 52, line 4, leave out subsection (5) and insert –

“(5) In section 143 (general provisions as to regulations, orders and rules) –

(a) for subsection (2) substitute –

“(2) The following are subject to annulment in pursuance of a resolution of either House of Parliament –

- (a) any Order in Council under this Act;
- (b) any order made by the Secretary of State under section 54A or 68A(7);
- (c) any statutory instrument containing regulations made by the Secretary of State under this Act, other than regulations made under section 48B(3);
- (d) any statutory instrument containing rules made under this Act.”;

(b) after subsection (3) insert –

“(3ZA) A statutory instrument containing regulations under section 48B(3) (whether alone or with other provision) 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 is consequential on my amendment to clause 18, page 26, line 6.*

**After Clause 37**

BARONESS FOX OF BUCKLEY

★ After Clause 37, insert the following new Clause –

**“Appropriate ongoing treatment for released prisoners**

After section 53 of the Mental Health Act 1983, insert –

**“53A Appropriate ongoing treatment for released prisoners**

- (1) When a prisoner who has been treated for a mental disorder under this Act is released, the relevant detention authority must ensure that appropriate arrangements are put in place for their continued treatment in the community.
- (2) A relevant detention authority in subsection (1) includes all those listed in section 48B (supplementary) and any other relevant centres associated with criminal justice detention.””

***Member's explanatory statement***

*This amendment seeks to ensure that prisoners who are treated for a mental disorder under the Mental Health Act 1983 and are then released have access to continued treatment in the community.*

**Clause 43**

EARL HOWE  
LORD KAMALL

★ Clause 43, page 54, line 36 leave out from beginning to end of line 2 on page 55 and insert –

- “(1) All eligible patients 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,
  - (b) has been diagnosed with a mental disorder which may lead to the possibility they will be detained under this Act in the future, or
  - (c) is an English qualifying informal patient (see section 130CA).

- (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 WATKINS OF TAVISTOCK  
BARONESS BARKER

- ★ Clause 43, page 55, line 27, at end insert “and has relevant wishes or feelings they wish to express”

***Member's explanatory statement***

*This amendment seeks to align Mental Health Act 1983 with the existing best practice on providing advance choice documents.*

BARONESS WATKINS OF TAVISTOCK  
BARONESS BARKER

- ★ Clause 43, page 56, line 2, at end insert –

**“1300 Advance choice documents: duty**

Any person or body discharging relevant functions under this Act must consider, so far as relevant and reasonably ascertainable, any wishes, feelings, beliefs and values contained in an advance choice document.”

***Member's explanatory statement***

*This amendment seeks to ensure that clinicians and relevant bodies consider the information contained in the advance choice document and use it to inform care and treatment given under the Mental Health Act 1983.*

**Clause 50**

BARONESS MERRON

Leave out Clause 50

***Member's explanatory statement***

*The material in this clause is, so far as it needs to be retained, inserted into clause 36 (see my amendment to that clause).*

**After Clause 51**

BARONESS MERRON

After Clause 51, insert the following new Clause—

**“Review of duty to notify incidents**

- (1) The Secretary of State must carry out a review into—
  - (a) whether regulation 18 of the Care Quality Commission (Registration) Regulations 2009 (S.I.2009/3112) (duty to notify incidents) ought to be extended to require a notification to be given in any other cases in which a person under the age of 18 is admitted to a hospital or registered establishment for medical treatment for, or assessment in relation to, mental disorder, and
  - (b) whether the time period mentioned in regulation 18(2)(h) of those Regulations remains appropriate.
- (2) The Secretary of State must prepare and publish a report setting out the conclusions of the review.
- (3) The Secretary of State must lay a copy of the report before Parliament.
- (4) The report must be laid and published before the end of the period of 2 years beginning with the day on which this Act is passed.
- (5) In this section the following expressions have the meaning given by section 145 of the Mental Health Act 1983—
  - “hospital”;
  - “medical treatment”;
  - “mental disorder”;
  - “registered establishment”.”

***Member's explanatory statement***

*This requires the Secretary of State to carry out a review into the circumstances in which incidents involving mental health patients under the age of 18 ought to be notified to the Care Quality Commission.*

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.*

BARONESS HOLLINS  
LORD SCRIVEN  
*Revised version of the amendment printed on 19 March 2025*

After Clause 51, insert the following new Clause –

**“Segregation: code of practice**

- (1) The Mental Health Act 1983 is amended as follows.

- (2) In section 118, at end insert –
- “(8) The Code of Practice issued under this section must be revised to include updated guidance regarding the procedures for the use of long-term segregation (LTS) for patients with learning disabilities or autism or someone awaiting an autism assessment.
- (9) The revised Code of Practice must specifically address –
- (a) the definition of LTS;
  - (b) minimum standards and safeguards for patients subject to long-term segregation.””

***Member's explanatory statement***

*This amendment mandates a timely revision of the MHA Code of Practice (Section 118) to provide clear, updated guidance on the use of long-term segregation (LTS) for patients with learning disabilities or autism. It seeks to ensure that safeguards and procedures governing LTS are consistent and subject to appropriate oversight.*

BARONESS HOLLINS

LORD SCRIVEN

*Revised version of the amendment printed on 19 March 2025*

After Clause 51, insert the following new Clause –

**“Accountability for non-compliance with the code of practice**

- (1) The Mental Health 1983 Act is amended as follows.
- (2) After section 118 insert –

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

- (1) Where failure to comply with the Code of Practice under section 118 results in a breach of a detained patient’s rights or safeguards, the Secretary of State or a designated body must investigate and ensure corrective action is taken.
- (2) The procedures for compliance enforcement, remedial actions, and regulatory oversight must be specified in the Code of Practice under section 118 this Act.””

***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 KEELEY

After Clause 51, 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 aftercare 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 a 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).*

## BARONESS HOLLINS

## LORD SCRIVEN

*Revised version of the new Clause amendment to After Clause 4 printed on 19 March 2025*

After Clause 51, insert the following new Clause –

**“Notification of long-term segregation**

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

**“142D 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 notify the Secretary of State or a body designated by the Secretary of State within 72 hours.
- (2) The contents of the notification under subsection (1) must be specified in the Code of Practice under section 118 of the Mental Health Act 1983.”



***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

LORD SCRIVEN

*Revised version of the new Clause amendment to After Clause 4 printed on 19 March 2025*

After Clause 51, insert the following new Clause –

**“Long-term segregation: independent medical review**

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

**“142D Independent medical review of long-term segregation of patients with learning disabilities or autism**

- (1) Where a patient with a learning disability, autism, or awaiting autism assessment is placed in long-term segregation under section 142D (Notification requirements for long-term segregation for patients with learning disabilities or autism), the Secretary of State or a designated body must arrange for an independent review within 28 days.
- (2) The responsibilities, procedures, and reporting requirements for such reviews must be specified in the Code of Practice under section 118 of the Mental Health Act 1983.”

***Member's explanatory statement***

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

BARONESS HOLLINS

LORD SCRIVEN

*Revised version of the new Clause amendment to After Clause 4 printed on 19 March 2025*

After Clause 51, insert the following new Clause –

**“Segregation: oversight**

- (1) The Mental Health Act 1983 is amended as follows.
- (2) After section 118 insert –

**“118A 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 role, responsibilities, and review procedures of the Responsible Officer must be specified in the Code of Practice under section 118 of the Mental Health Act 1983.””

***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.*

EARL HOWE  
LORD KAMALL  
BARONESS BROWNING

After Clause 51, insert the following new Clause –

**“Age appropriate treatment for children**

- (1) Section 131A of the Mental Health Act 1983 is amended as follows.
- (2) After subsection (1), insert –
- “(1A) A patient to whom this section applies must not be detained in, or admitted to, an adult ward unless the managers of the hospital consider that –
- (a) there are exceptional circumstances which justify the patient’s detention in, or admission to, an adult ward, and
  - (b) the decision is in accordance with the best interests of the child.”
- (3) After subsection (3) insert –
- “(3A) Where a patient has been detained in, or admitted to, an adult ward, the managers of the hospital must record in writing the reasons for the admission, including –
- (a) the reason, or reasons, why other options for accommodation were not available or suitable for the patient,
  - (b) details of the measures to be taken by the hospital to ensure that while the patient is detained or otherwise accommodated in the adult ward, the patient is provided with care in a safe environment, and
  - (c) unless it has been determined that an adult ward is the most appropriate environment for the patient in accordance with subsection (1A), the steps being taken by the hospital to transfer the patient to more appropriate accommodation.
- (3B) Where a patient is detained in, or admitted to, an adult ward or placed out of area and the detention or admission is of more than 24 consecutive hours’ duration, the managers of the hospital must notify the regulatory authority without delay setting out why they consider that the requirements under subsection (1A) above are met and providing the information set out in subsection (3A).

- (3C) Subsection (3E) applies when the managers of a hospital accommodate a patient for a consecutive period of at least 28 days.
- (3D) Subsection (3E) applies where the managers of a hospital –
- (a) detain a patient in, or admit a patient to, an adult ward, or
  - (b) detain or admit a patient who –
    - (i) was ordinarily resident immediately before being detained or admitted in the area of a local authority other than the local authority within whose area the hospital is situated, or
    - (ii) was not ordinarily resident within the area of any local authority.
- (3E) Where this subsection applies the managers of the hospital must inform the appropriate officer of the responsible local authority without delay –
- (a) of the patient's detention or admission, and
  - (b) when the patient's detention or admission ceases.”
- (4) Leave out subsection (4) and insert –
- “(4) In this section –
- “adult ward” means a ward in a hospital to which persons aged 18 or over are detained in or admitted to;
- “the appropriate officer” means –
- (a) in relation to a local authority in England, their director of children's services, and
  - (b) in relation to a local authority in Wales, their director of social services;
- “hospital” includes a registered establishment;
- “the responsible authority” means –
- (a) the local authority appearing to the managers of the hospital to be the authority within whose area the child was ordinarily resident immediately before being detained or admitted, or
  - (b) where it appears to the managers of the hospital that the patient was not ordinarily resident within the area of any local authority, the local authority within whose area the hospital is situated.””

***Member's explanatory statement***

*Inserted subsection (1A) seeks to ensure that children are only placed on adult wards where there are exceptional circumstances, and it is in their best interests. (3A)-3(E), and (4A) seek to ensure the presence of procedural safeguards, when determining the reasons behind, and suitability of, admitting a child to a hospital environment in which adults are simultaneously accommodated or in an out of area placement.*

## LORD STEVENS OF BIRMINGHAM

★ After Clause 51, insert the following new Clause –

**“Funding and reporting**

- (1) For each financial year until all sections of this Act have come into force, of the total health service expenditure by the bodies (taken together) in subsection (2), the proportion which relates to mental health spending –
  - (a) under the Mental Health Act 1983, and
  - (b) under this Act or which, in future, would be made under provision inserted into the Mental Health Act 1983 by this Act,(taken together) must not decrease.
- (2) The bodies are the Department of Health and Social Care, NHS England and integrated care boards.”

***Member's explanatory statement***

*This amendment seeks to ensure that, within whatever overall health service funding is set by Government, the share spent on mental health in England does not fall while the Act is being implemented.*

LORD KAMALL  
EARL HOWE

★ After Clause 51, insert the following new Clause –

**“Duty to review the functions of the regulatory authority**

- (1) Within the period of one year from the passage of this Act, the Secretary of State must carry out a review of the regulatory authority’s role under the Mental Health Act 1983.
- (2) The review under subsection (1) must include an assessment of the effectiveness of the regulatory authority’s role –
  - (a) in carrying out its duties under the Mental Health Act 1983, and
  - (b) in regulating the provision of mental health services under the Mental Health Act 1983.
- (3) The review under subsection (1) must also include an assessment of whether the regulatory authority will be able to effectively carry out its duties under this Act.
- (4) The Secretary of State must publish the results of the review in a report and must lay that report before both Houses of Parliament.”

## BARONESS FOX OF BUCKLEY

★ After Clause 51, insert the following new Clause –

**“Review: causes and consequences of rates of diagnosis of mental disorders**

- (1) Within three months of the day on which this Act is passed, the Secretary of State must commission a review to investigate the effect of –
  - (a) any increase in young people being diagnosed with mental disorders, and
  - (b) unregulated practitioners and online tools which diagnose mental disorders,on the availability of services to treat people with a mental disorder under the Mental Health Act 1983.
- (2) The Secretary of State must publish the review and lay it before both House of Parliament.”

***Member's explanatory statement***

*This amendment seeks to ensure that the Secretary of State undertakes a review of the effect of rates of diagnosis of mental disorder on the availability of services which treat people with mental disorder under the Mental Health Act 1983.*

## Clause 52

## BARONESS MERRON

Clause 52, page 64, line 23, at end insert –

- “(3A) A statutory instrument containing (alone or with other provision) regulations under this section that amend or repeal provision made by primary legislation may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (3B) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

***Member's explanatory statement***

*This amendment and my other amendments to clauses 52 and 53 would ensure that regulations made under the consequential amendment powers in the Bill that amend or repeal primary legislation are subject to the affirmative resolution procedure.*

## BARONESS MERRON

Clause 52, page 64, line 24, leave out subsection (4)

***Member's explanatory statement***

*See the explanatory statement for my amendment to clause 52, page 64, line 23.*

**Clause 53**

BARONESS MERRON

Clause 53, page 65, line 1, at end insert –

- “(4A) A statutory instrument containing (alone or with other provision) regulations under this section that amend or repeal provision made by primary legislation may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.
- (4B) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of Senedd Cymru.”

***Member's explanatory statement***

*See the explanatory statement for my amendment to clause 52, page 64, line 23.*

BARONESS MERRON

Clause 53, page 65, line 2, leave out subsection (5)

***Member's explanatory statement***

*See the explanatory statement for my amendment to clause 52, page 64, line 23.*

**Clause 55**

BARONESS HOLLINS

Clause 55, page 65, line 9, at end insert –

- “(A1) Section 3 comes into force no later than two years after the day on which this Act is passed.”



# Mental Health Bill [HL]

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## RUNNING LIST OF ALL AMENDMENTS ON REPORT

*Tabled up to and including*

*26 March 2025*

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*26 March 2025*

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