WRITTEN EVIDENCE SUBMITTED BY LIBERATION (MHB25)

FOR THE PUBLIC BILL COMMITTEE ON THE MENTAL HEALTH BILL [LORDS] 2025

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Executive summary

Introduction

Liberation is an England-wide organisation led by people with lived experience of the mental health system. We promote full implementation of the UN Convention on the Rights of Persons with Disabilities (UNCRPD). In line with our membership, this submission focuses essentially on implications of the Mental Health Bill [Lords] 2025 for adults with mental health diagnoses.

Liberation's reactions to the Bill

Whilst welcoming the government recognition that a rethink of mental health legislation is badly needed, Liberation has serious concerns about the Bill's direction:

1. Its ill-founded approach to risk management

Recommendations: these are for the government to

i. Make full use instead of evidence about risk management provided by the World Health Organisation and the UN Office of the High Commissioner for Human Rights
ii. Replace the Bill's retention of involuntary detention and forced treatment with evidence-based approaches that are both effective and therapeutic.

2. The reduced legal rights that the Bill continues to give mental health patients

Recommendations: these are for the government to:

i. Make sure that people with mental health diagnoses are accorded legal rights equal to those held by non-disabled people
ii. In marked contrast to the Bill, enact legislation which is therefore genuinely compliant with the UNCRPD.

3. The Bill's failure to be fit for the 21st century

Recommendations: these are for the government to:

i. Acknowledge the serious shortcomings in the Mental Health Bill

ii. Make changes grounded both in the UNCRPD's Committee's concluding observations and recommendations and in its Deinstitutionalisation Guidelines and General Comment 5.

4. The inadequate opportunities to influence the Bill

Recommendations: these are for the government to:

i. Acknowledge the consultation shortfalls that have occurred in relation to people with lived experience
ii. Now start addressing fully the serious human rights concerns raised by Liberation and its membership.

Conclusions

Urgent government action is crucial. The Bill is not compliant with the UNCRPD and remains seriously discriminatory.

Information about Liberation

1. Liberation is a user-led organisation, founded in 2020, which operates at a grass roots level. Its aim (supported by 27 other, mostly user-led organisations, as well as a range of individuals) is to promote full human rights for people with lived experience of mental distress/trauma (mostly, but not always people given a mental health diagnosis). In particular, we promote the fundamental rights set out in the UN Convention on the Rights of Persons with Disabilities (UNCRPD). We operate in England, but have links with other countries as well, both inside and outside the UK.

2. Because Liberation's aim is to support adults experiencing mental distress/trauma, this submission will focus essentially on the implications of the Mental Health Bill 2025 from a mental distress perspective and in relation to people aged 18 upwards.

Liberation's reactions to and recommendations for the Mental Health Bill [Lords] 2025

3. We very much value recognition from the previous and current government that a rethink of mental health legislation is badly needed. However, we have serious concerns about the direction taken by the Mental Health Bill. These concerns are set out in the points which follow below.

The Bill's approach to risk management

4. For Liberation, a major issue is that the Bill remains rooted in misguided assumptions about addressing risk. It is portrayed as taking an approach to risk which provides a good balance between increased rights which patients should have and the need to ensure patient and public safety and so aiming to reduce involuntary detentions in psychiatric hospitals and forced treatment, but not to end these. However, this stance seriously fails to take account of important evidence available from the World Health Organisation (WHO) and the UN Office of the High Commissioner for Human Rights (OHCHR) (Box 2, pp. 15-16).

5. Key points from the WHO and OHCRH are that:

- There is inadequate research evidence that involuntary detention and forced treatment are effective in preventing risk

- In addition, there is extensive evidence that, rather than protecting people who might harm themselves because they are at crisis point, involuntary detention and forced treatment are themselves a source of trauma and associated with neglect and abuse by staff and high deaths levels among patients. In the UK, this is all too apparent in areas such as Greater Manchester, Essex and Norfolk and Suffolk. For example, not only is it now known that there were 2,000 deaths of mental health inpatients in Essex between 2000 and 2023, but the Lampard Inquiry's chair is already expecting the actual number to be 'significantly in excess of this'
- There is also considerable evidence that people with mental health diagnoses are more likely to be victims of violence than violent
- Where there are genuine risks, not only is there a growing body of non-coercive approaches that can be used instead, but these approaches have been shown to lead to better outcomes.

6. It is, therefore, highly concerning that the Mental Health Bill continues to draw on the use of detention and forced treatment to prevent risk.

Recommendations

7. These are for the government to:

iii. Make full use of the above evidence from the WHO and OHCHR
iv. Replace the Bill's retention of involuntary detention and forced treatment with evidence-based approaches that are both effective and therapeutic.

The Bill's approach to equality for people given mental health diagnoses

8. A further, fundamental concern for Liberation is that the Bill continues to give people with mental health diagnoses – and people with learning difficulties, or autism – fewer legal rights than other patients. The Bill is designed just to give us 'greater' choices and autonomy, not the same legal rights that other patients have. Thus, for people with mental health diagnoses:

- The Bill's aim is to decrease, not end detention in psychiatric hospitals, involuntary treatment, including community treatment orders (CTOs), and guardianship. There is also provision now for 'Supervised Discharges'

- Although there is due to be a new clinical checklist which stipulates that clinicians should support patients with decision-making and consider their wishes, including those expressed through Advance Choice Documents, clinicians will still be able to treat people against their will
- People chosen for the new role of 'Nominated Person' will not be able to overrule clinicians. The same will remain true of advocates

9. Such provisions remain in serious breach of the UNCRPD, including the right to equal recognition before the law (Article 12); equal access to justice (Article 13); liberty and security of the person (Article 14); independent life and community inclusion (Article 19). This is still more concerning given that, as recently as last year, the further special inquiry report which the UNCRPD Committee issued about the UK's progress specifies that such provisions fail to represent compliance with the Convention, are part of a basic lack of progress on the UK government's part.

10. As has been stated above, there is no justification on risk grounds (see above). Rather, as Gooding (2017)[1] has said:

'Indeed, the literature suggests that the public protection measures contained in mental health law are overblown, ineffective and unreasonable, particularly when tied to a diagnosis of mental disorder. This would suggest that the 'risk of harm to others' justification is informed by disability-based prejudice, or 'sanism' as Perlin has termed it. As for the protection of people from themselves, can it be said that the present legal system is actually protecting people with psychosocial disability [a mental health diagnosis] from harming themselves, even in acute crisis? Again, the literature does not support this view'.

11. The continuing discrimination embedded in the Bill is compounded by:

- A differential approach to different patients. For example, significant parts of new provisions in the Bill do not apply to patients in the criminal justice system

[1] Gooding, P. (2017) *A New Era for Mental Health Law and Policy. Supported Decision-Making and the UN Convention on the Rights of Persons with Disabilities.* Cambridge: Cambridge University Press, pp. 110-111.

- Intersectional shortcomings. In contravention of points p, q, r and s in the Preamble to the UNCRPD and Articles 5 and 6, the Bill continues to have no specific focus on people with mental health diagnoses who experience additional discrimination because of their ethnicity, socioeconomic status, gender, gender identity, older age, sexual orientation, physical/sensory impairments, or dementia. This, too, is a very troubling aspect of the Bill for Liberation
- Overreliance on existing mechanisms to address intersectional shortcomings in the Bill. Neither the Code of Practice, nor the Equality Act 2010 have so far proved an adequate basis for pre-empting intersectional discrimination; thus, for example, statistics from NHS England Digital in 2023/2024 show that black people remained three and a half times more likely to be detained in a psychiatric hospital and seven times more likely to be put on a CTO. In addition, it is hard to feel confidence in a Patient and Carer Race Equality Framework which is itself in breach of the human rights that people with mental health diagnoses should have under the UNCRPD: contains no call to bring psychiatric detention and forced treatment to an end.

Recommendations

12. These are for the government to:

iii. Make sure that people with mental health diagnoses are accorded legal rights equal to those held by non-disabled people

iv. In marked contrast to the Bill, enact legislation which is genuinely compliant with the UNCRPD.

The extent to which the Bill is 'fit' for the 21st century

13. A major disappointment for Liberation is that changes put forward in the Bill remain rooted in traditional ways of thinking instead of representing the radical reforms that will be needed if new legislation is genuinely to be fit for the 21st Century. Rather than the fundamental flaws in the Mental Health Act 1983 and Mental Health Act 2007 being recognised, the assumption is that 'improvements' to existing legislation will achieve what is needed. That is far from being the case. Nor

will government plans to increase numbers of mental health professionals and services serve the purpose if these continue to operate under defective legislation.

14. Involuntary hospitalisation remains a key part of the Bill, at the expense of any adequate focus on community resources, still more so in the case of people with mental health diagnoses. If involuntary hospitalisation is not only to be reduced, but to be brought to an end, in compliance with Article 19 of the UNCRPD, an extensive range of community facilities will be vital. These will need to represent a social model approach to disability, not a transfer into the community of the currently dominant medical model approach, or of approaches which remain institutional in nature.

15. An essential part of this will be for the government to acknowledge fully the UNCRPD Committee's findings about progress in the UK with Articles 19 (on independent living and community inclusion), 27 (on work and employment) and 28 (on an adequate standard of living and social protection). The conclusion of the further special inquiry report mentioned in paragraph 9 above, was that 'no significant progress has been made' since the 'grave, or systematic violations of the rights of persons with disabilities' which the Committee had identified in 2017.

16. It is, therefore, of major concern that outstanding problems remain under the current government. As has been indicated above, the content of the Bill falls well short of Article 19. In addition, there are serious, ongoing issues with the implementation of Articles 27 and 28. For example, the Pathways to Work Green Paper sets out proposals for further welfare benefit cuts which are likely not only to cause severe hardship in general, but again to have a disproportionate impact on disabled people. An estimate from the DWP itself is that, in addition to the 250,000+ households which the cuts, if agreed, will push into poverty, the cuts will also affect the 700,000 families already experiencing poverty – and that many of these families are households with a disabled person. The Money and Mental Health Policy Institute has highlighted that people experiencing mental distress/trauma will be hit especially badly. In turn, a loss of benefits is likely to exacerbate homelessness, as the *Disability News Service* has pointed out.

17. Although, on the face of it, the government's current plans to increase employment are in line with Article 27, the reality is likely to be rather different. Using

welfare benefit cuts to get more people into work is not a sound approach, as Pybus has highlighted in *Transforming Society*. For example, living on a low income causes acute mental stress because it leaves people struggling to pay for even basic essentials such as food and, in turn, this results in their being ill-equipped to cope with work. Benefit cuts can only compound the problem. A reduction in, or loss of PIP is also likely to reduce numbers of disabled people in work; many rely on it for meeting work-related expenses. In addition, there are serious issues with the government's Access to Work scheme, for example resource shortfalls and very long waits to access the scheme.

18. It will be vital that, instead, the vision set out in the UNCRPD Deinstitutionalisation Guidelines and General Comment 5 is embedded in the approach which the government takes. This will require facilities such as decent housing; accessible communication, buildings and transport; social media access; an adequate standard of living; personal assistance; circles of support and individual support networks; peer-led services and crisis provision; services which are appropriate in terms of a person's intersectional identity; full access to mainstream facilities and mainstream community living, including education, employment, cultural, religious and political life. It will be crucial, too, that support packages provided are chosen by individuals themselves, so that they fit their actual needs.

19.Howevr, at the moment, the Mental Health Bill lags behind genuine progress towards the UNCRPD occurring in a number of other countries, even if they are not yet fully compliant with the Convention. Examples include:

- The innovative model used in Trieste, Northern Italy; here, involuntary detentions in psychiatric hospitals have mainly been replaced by wide-ranging and accessible community-based services, together with a whole person approach
- Act 8/2021 in Spain. This recognises all adults' legal capacity and stipulates that disabled people, including people with mental health diagnoses and people with learning difficulties, should receive the same legal treatment as non-disabled people. Whilst some improvements to the Act remain needed, it represents a very significant step

- The General Health Law 2022, in Mexico, which prohibits involuntary treatment and hospitalisation of people experiencing a mental health crisis, and the ground-breaking National Civil Procedure Code which is being initiated for implementation purposes.
- The Gerstein Crisis Centre in Canada. This offers a non-coercive service for people at crisis point
- The Personal Ombudsman Project in Sweden. This exemplifies a UNCRPD-compliant way of utilising supported decision-making in place of substitute decision-making.

20. These examples demonstrate that, even if there are significant obstacles, it is fully possible to make genuine progress with implementing the UNCRPD.

Recommendations

21. These are for the government to:

iii. Acknowledge the serious shortcomings in the Mental Health Bill
iv. Make changes grounded both in the UNCRPD's Committee's concluding observations and recommendations and in its Deinstitutionalisation Guidelines and General Comment 5.

What influence people with mental health diagnoses have had over the Bill

22. This has again been an issue of serious concern. As has been mentioned in paragraph 1, Liberation is a group led by people with lived experience of a mental health diagnosis which campaigns for the full human rights that people with mental health diagnosis should have under the UNCRPD. However, despite our lived experience and concern for equality, we have persistently encountered an apparent lack of willingness on the government's part to listen to us and provide us with a meaningful influence over the Bill.

23. For example:

- In almost all cases, letters of concern that we have sent to key members of the government have received no reply

- At the end of last year, I had the opportunity, as Liberation's founder, to meet individually with two representatives from the DHSC and last month to join a consultation meeting with DHSC members; the latter was mainly attended by mental health professionals and non-user led charities, but included one or two representatives from user-led groups too. These invitations might have been an important step forward. However, in both cases, responses received came across as closed and dismissive
- Liberation submitted written evidence about the Bill to the Joint Committee on Human Rights (JCHR) and was invited to submit oral evidence at the JCHR's round table for a small number of people with lived experience of a learning difficulty/autism or of a mental health diagnosis. Again, both opportunities might have led to a genuine opportunity to influence the content of the Bill. However, despite protests from Liberation, the summary of points made at the round table omit key evidence supplied and, in the JCHR's report, there is an almost complete failure to make use of Liberation's written evidence, despite support that we also have from others
- Compounding the above is the fact that, although Liberation has voiced persistent worries about serious intersectional shortcomings in the Bill (see paragraph 11 above), there has been a continuing failure to address these.

24. These shortcomings are a major breach of the government's responsibilities under the UNCRPD, in particular of Article 4.3:

'In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations'.

25. The situation is still more disappointing given the government's stated wish to make sure that people with lived experience of using mental health services have a real influence over the content of the Mental Health Bill.

Recommendations

26. These are for the government to:

iii. Acknowledge the consultation shortfalls that have occurred
iv. Now start addressing fully the serious human rights concerns raised by Liberation and its membership.

Conclusions

27. Urgent government action is crucial. The Bill is not compliant with the UNCRPD and remains seriously discriminatory.