



# Reforming the Mental Health Act

## Government response to consultation

Presented to Parliament  
by the Secretary of State for Health and Social Care and the  
Lord Chancellor and Secretary of State for Justice  
by Command of Her Majesty

July 2021

CP 501



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# Ministerial Foreword

This report represents a significant milestone on the road to reform of the Mental Health Act. It summarises the invaluable and constructive responses we have heard from the public and stakeholders during our consultation on the White Paper *Reforming the Mental Health Act*. We are pleased to see that there is a broad support for our proposed reforms. We thank all those who contributed – these are once in a generation reforms and we will continue to collaborate in developing and refining them.

We have consulted with people who use services, their families and carers, and with professionals involved in the Act. We have heard, too, from the stakeholder organisations that represent service providers, professionals, and service users. Our consultation work has been extensive – including a close review and evaluation of written responses, in parallel, we have held policy development workshops with experts that have explored proposals in depth, and high quality work led by Rethink Mental Illness and the British Institute of Learning Disability (BILD) with service users on what they think about the proposals. This report summarises this activity, and reports on what you have been telling us.

The scale of this work is a testament to the importance of getting these reforms right, and to the commitment shown by thousands of people to engage and to find solutions and improvements to mental health legislation.

This activity has all taken place while the NHS is still responding to the challenges of the pandemic, and we recognise that the sector has given significant time and effort to engage during difficult circumstances. Our COVID-19 Mental Health and Wellbeing Recovery Plan, backed with £500 million of new funding, is expanding services for people with mental health needs, to respond to the impacts of the pandemic.

Our job is now to continue to develop a new Bill to reform the Mental Health Act.

We have listened, we will continue to listen, and we will deliver on enacting mental health legislation fit for the 21st Century – legislation which will provide for the protections and support for people with severe mental health needs, which will strengthen their voice, choice and rights, support the increased use of community alternatives to hospital, will limit the use of the Act for people with learning difficulties or autistic people, will improve support for offenders with acute mental disorders, and which will aim to address the racial disparities that have too long been part of the way the Act has been used.



**The Rt Hon SAJID JAVID MP Secretary  
of State for Health and Social Care**



**The Rt Hon ROBERT BUCKLAND MP  
Secretary of State for Justice**



# Executive Summary

The Government and NHS England and Improvement (NHSEI) are delivering the most ambitious programme to transform mental health care that England has ever known.

We are committed to legislate so that patients suffering from mental health conditions, who may require care under the Mental Health Act, have greater control over their treatment and receive the dignity and respect they deserve.

The Independent Review of the Mental Health Act, chaired by Professor Sir Simon Wessely, which reported in December 2018, concluded that the Act does not always work as well as it should for patients, nor for their families and carers. It proposed recommendations for change.

In response to the Independent Review, the Government published a White Paper, which accepted the vast majority of the Review's recommendations and sought views on the impact of these recommendations and how best to implement them in practice. This report sets out what respondents have said.

## Public consultation

We ran a 14-week public consultation, receiving more than 1,700 responses. In parallel, to the consultation, we held 19 policy development workshops to get richer insights from service users, clinicians, and those with lived experience of detention under the Act, on the details of the proposals.

Overall, there has been an overwhelmingly positive response to the proposals. Respondents generally approved of the guiding aims behind the reform agenda, and agreed with key proposals for change including changes to the detention criteria, replacing the Nearest Relative role with the Nominated Person role, and considering A&E holding powers. Some of the proposals put forward in the White Paper are complex, and we are grateful for the constructive input we have had from stakeholders.

Some respondents raised particular concerns around how the reforms to the Act will apply to children and young people. We are committed to ensuring that children and young people benefit from the reforms we plan to introduce and that their rights are protected and upheld. We are aware that there are particular considerations and sensitivities involved in caring for children and young people. We will work closely with stakeholders to develop our proposals so that, where appropriate, adjustments are made in recognition of the particular needs and vulnerabilities of this patient group, and that the reforms fit with existing legislation that applies to children and young people.

We have also heard useful insights on how we can ensure the effective implementation of some of our proposals. We will continue to work through these considerations with stakeholders, and refine proposals accordingly, over the coming months and years. For example, following stakeholder feedback, we will draw on feedback as we take forward Advance Choice Documents and statutory Care and Treatment Plans and the role of the Tribunal in challenging treatment, to ensure that these proposals have the desired impact and produce meaningful results in terms of improving patient experience and strengthening choice and autonomy.

In a small number of areas, the consultation response did not support the direction of travel set out in the White Paper. For example, our engagement has made clear there is very limited support for the proposal to change the interface between the Mental Health Act and the Mental Capacity Act in the context of detention. In light of the feedback received, we do not intend to take forward the reform for the interface, as set out in the White Paper, at this time. We will seek to build the evidence base on this issue through robust data collection, to better understand the application of the interface. In addition, we will continue to engage with stakeholders to understand what support and guidance could help improve application of the current interface.

## **Next steps**

The proposals made in the White Paper represent once in a generation reforms to the Mental Health Act, which will see that patients have greater rights under the Act and more choice and autonomy when it comes to their care and treatment. These changes, in parallel with the work being undertaken by NHSEI to transform mental health services, will see that people receive earlier support and better mental health services in the community and, where admission to hospital is the best option, improvements to patient experience and faster discharge when detention is no longer appropriate. The consultation response is a critical milestone in taking forward these planned improvements.

The positive response we have received to the proposed reforms at consultation has served to underline the importance of the reform agenda and the need to modernise the Mental Health Act. We will now work closely with stakeholders to build on what we have learnt at consultation, and to test and develop our policy proposals to make sure that our approach is right and that everyone benefits from the reforms. This will include continued engagement with service users, carers, individuals with lived experience of detention, and groups disproportionately subject to the Act.

As set out in the White Paper, the proposals that require additional funding, continue to be subject to future funding decisions, including at Spending Review 2021. We will continue to work on a Bill to reform the Act, taking into consideration the valuable feedback we have received at consultation. We intend to bring forward a Mental Health Bill, which will give effect to many of the changes we wish to make, when Parliamentary time allows.























































































































































































































































































