



MENTAL HEALTH SCRUTINY GROUP

DYDDIAD Y CYFARFOD: DATE OF MEETING:	02 September 2025
TEITL YR ADRODDIAD: TITLE OF REPORT:	Review of the Mental Health Act Update
CYFARWYDDWR ARWEINIOL: LEAD DIRECTOR:	Chief Operating Officer
SWYDDOG ADRODD: REPORTING OFFICER:	Sarah Roberts, Mental Health Legislation Manager

Pwrpas yr Adroddiad (dewiswch fel yn addas)
Purpose of the Report (select as appropriate)

Er Gwybodaeth/For Information

ADRODDIAD SCAA SBAR REPORT

Sefyllfa / Situation

As part of the annual review of the Terms of Reference for MH Scrutiny Group it was agreed that an update report on the review of the Mental Health Act would be provided on a regular basis to both MH Scrutiny and MHLC as it progresses through Parliament.

Cefndir / Background

Thalamos, a UK company who build digital tools to support professionals delivering care under the MHA and who provide the digital MHA forms to NHS England hosted a recent event at Digital Health Care Wales (DHCW) in Cardiff. A brief update was provided on the review of the MHA which was delivered by Dr Oliver Lewis KC from Doughty Street Chambers.

Asesiad / Assessment

Some of the areas highlighted as part of the review were:

Detention Criteria

The revision of the detention criteria, risk of serious harm either to themselves or others and treatment must be of therapeutic benefit. Length of initial Sec 3 will also be shortened to 3 months as will the first renewal period.

Subject to Parliamentary approval it will no longer be possible to detain a person with a learning disability or autistic person under Part II Section 3 unless they have a co-occurring mental disorder which requires hospital treatment. This won't be able to be implemented until services are available in the community to support LD and autistic patients.

Nominated Person – This will apply to patients aged 16+ whereby they can nominate in advance who their nominated person is and must do this in writing. The AMHP can appoint if the person lacks capacity at the point of detention. As part of new powers to be introduced the Nominated Person must be consulted about care plans, transfers between hospitals, renewals and extensions and can object to CTOs.

CTPs will be elevated to be a statutory requirement in England as they already are in Wales

Duty to Consult

Before discharging the RC must consult with a person who has been professionally concerned with the patient, other than an RC and the RC must consult a community clinician before commencing a CTO.

Advance Choice Documents

These should be written when a patient has capacity, and the RC must have regard to them. Health Boards will have to make information available, make arrangements for people at risk of detention and support them. Digitised ACD documents are currently being explored.

The Bill will place greater demands on community services as the shift in responsibility will be to prevent admission and the additional completion of advance choice documents.

There will be significant workforce, infrastructure and system flow implications. The timeline for implementation is expected to be up to 10 years with a staggered rollout commencing in 2027. This timeline is subject to change as new Codes of Practices for England and Wales need to be drafted and consulted upon.

The cost of resources is expected to be:

1.9 billion for NHS

396 million for local authority implementation

287 million for Courts and Tribunal service

2.5 billion for housing and care related to reforms for LD and autism

Argymhelliad / Recommendation

This update is for information only.

Amcanion: (rhaid cwblhau)

Objectives: (must be completed)

Committee ToR Reference: Cyfeirnod Cylch Gorchwyl y Pwyllgor:	Provide regular updates on review of Mental Health Act 1983
Cyfeirnod Cofrestr Risg Datix a Sgôr Cyfredol: Datix Risk Register Reference and Score:	Not applicable
Parthau Ansawdd: Domains of Quality Quality and Engagement Act (sharepoint.com)	7. All apply Choose an item. Choose an item. Choose an item.
Galluogwyr Ansawdd: Enablers of Quality: Quality and Engagement Act (sharepoint.com)	6. All Apply Choose an item. Choose an item. Choose an item.
Amcanion Strategol y BIP: UHB Strategic Objectives:	All Strategic Objectives are applicable Choose an item. Choose an item. Choose an item.

Amcanion Cynllunio Planning Objectives	Not applicable
Amcanion Llesiant BIP: UHB Well-being Objectives: Hyperlink to HDdUHB Well-being Objectives Annual Report 2021-2022	Not applicable

Gwybodaeth Ychwanegol: Further Information:

Ar sail tystiolaeth: Evidence Base:	The content of this policy is developed utilising expert advice, with reference to legislation and guidance documentation.
Rhestr Termiau: Glossary of Terms:	Contained within the body of the policy
Partïon / Pwyllgorau â ymgynhorwyd ymlaen llaw y Pwyllgor Deddfwriaeth lechyd Meddwl: Parties / Committees consulted prior to Mental Health Legislation Committee:	MH Scrutiny Group

Effaith: (rhaid cwblhau) Impact: (must be completed)

Ariannol / Gwerth am Arian: Financial / Service:	Not applicable
Ansawdd / Gofal Claf: Quality / Patient Care:	To support patients seeking advocacy support under the Independent Mental Health Advocacy service
Gweithlu: Workforce:	Direct legal responsibilities for staff associated with use of Mental Health Act
Risg: Risk:	HDdUHB must have an up to date and accurate written policies to avoid risk
Cyfreithiol: Legal:	Mental Health Act 1983 Mental Health (Wales) Measure 2010
Enw Da: Reputational:	Not applicable
Gyfrinachedd: Privacy:	Not applicable
Cydraddoldeb: Equality:	Equality Impact Assessments undertaken in collaboration with Senior Equality and Diversity Officer.

X@DrOliverLewis

www.doughtystreet.co.uk

Mental Health Bill 2024 – overview and takeaways

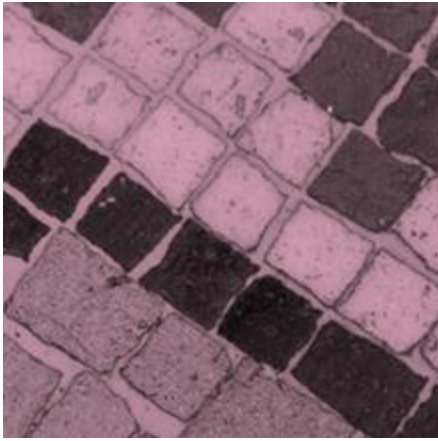
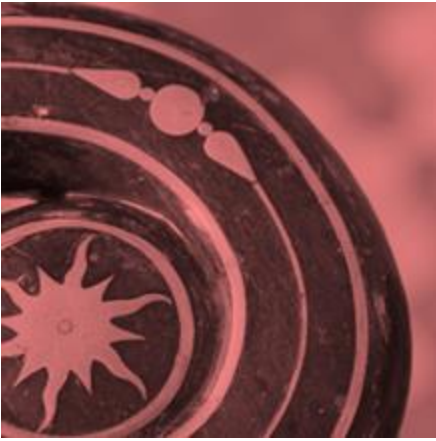


Oliver Lewis

Background

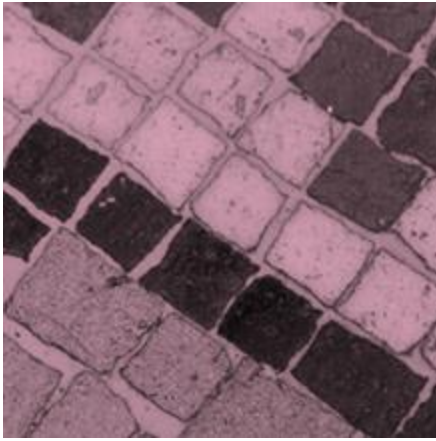
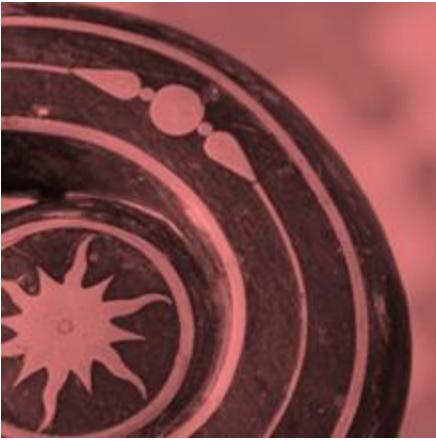
- 1959 and 1983 MH Acts
- 1992 Christopher Clunis kills Jonathan Zito
- 1998 Purpose of MH services is “to protect the public (safe, sound and supportive)” / “non-compliance is not an option”
- 1999 Richardson report, and govt Green Paper
- 2007 MHA amendments incl: LD + abnormally aggressive or seriously irresponsible conduct / CTOs / DoLS
- May 2017 PM Theresa May establishes Wessely committee, reported in Feb 2019
- Nov 2024 MH Bill is introduced in the Lords





Highlights

1. Detention periods
2. Section 3
 - a. Definitions
 - b. LD and autism
3. Nominated person
4. Care and treatment plan
5. Duty to consult
6. Advance choice document



(1) Detention periods

Section 2

- Duration remains 28 days
- Patient may apply to MHT <21 days from day of detention (up from <14 days)

Section 3

- Duration initial 3 months (down from 6 months), then 3 months (down from 6 months), then 6 months (down from 12 months), then every 12 months (same)
- Patient may apply to MHT in each period

(2) Section 3

CURRENT

(a) he is suffering from a mental disorder of a nature or degree which makes it appropriate for him to receive medical treatment in a hospital; and

(b)

(c) it is necessary for the health or safety of the patient or for the protection of other persons that he should receive such treatment and it cannot be provided unless he is detained under this section; and

(d) appropriate medical treatment is available for him.

BILL

(a) the patient is suffering from **psychiatric disorder** of a nature or degree which makes it appropriate for the patient to receive medical treatment in a hospital;

(b) serious harm may be caused to the health or safety of the patient or of another person unless the patient receives medical treatment;

(c) it is necessary, given the nature, degree and likelihood of the harm, for the patient to receive medical treatment;

(d) the necessary treatment cannot be provided unless the patient is detained under this Act; and

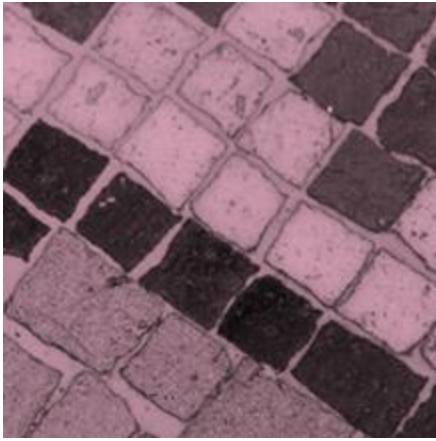
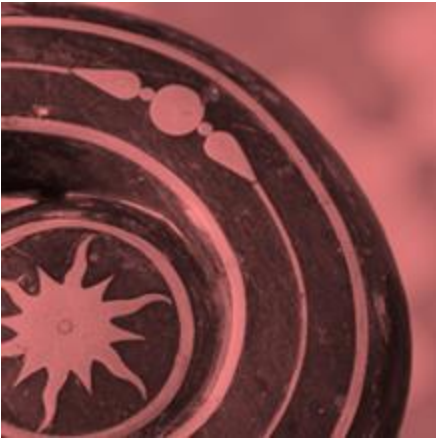
(e) appropriate medical treatment is available for the patient.

LD and autism removed from s3

“autism” means a lifelong developmental disorder of the mind that affects how people perceive, communicate and interact with others

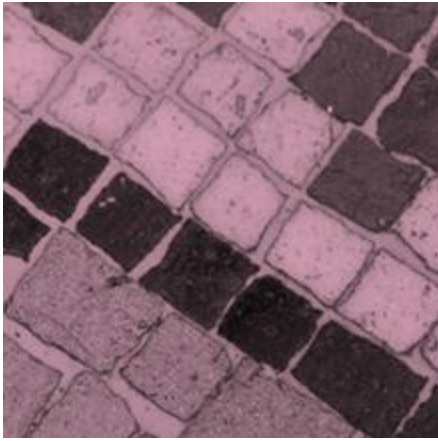
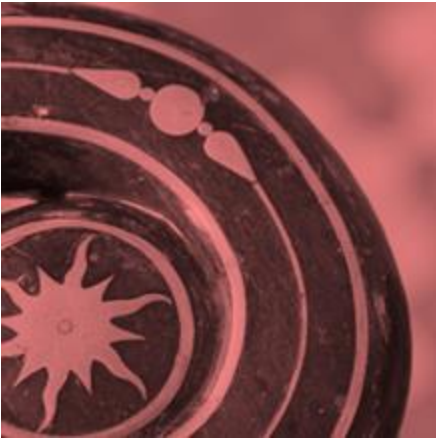
“learning disability” means a state of arrested or incomplete development of the mind which includes significant impairment of intelligence

“**psychiatric disorder**” means mental disorder other than autism or learning disability



(3) Nominated person

- Nearest relative function abolished
- Age 16+: NP must be 16+. Under 16: NP must be 18+
- Patient can nominate NP in advance in writing
- If patient will be detained and lacks capacity, AMHP can appoint a NP
- New powers: NP must be consulted about statutory care and treatment plans, renewals and extensions of detention, transfer to another hospital, and power to object to a CTO

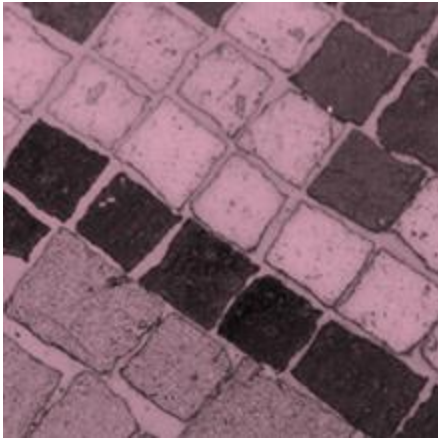
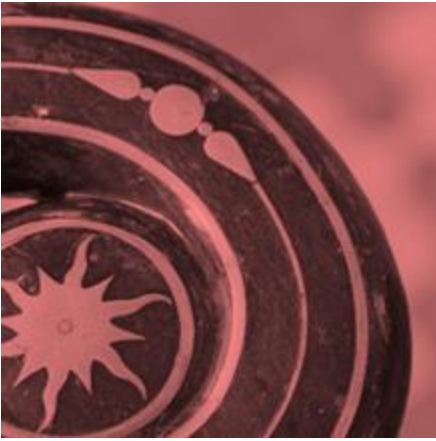


(4) Care and treatment plan

- Compulsory for each detained patient
- Consultation with patient and NP required
- Hospital managers must monitor compliance

(5) Duty to consult

- Before discharging from section, RC must consult with person who has been professionally concerned, who belongs to a profession other than the RC (e.g. social worker)
- Before putting a patient on a CTO, RC must consult with community clinician

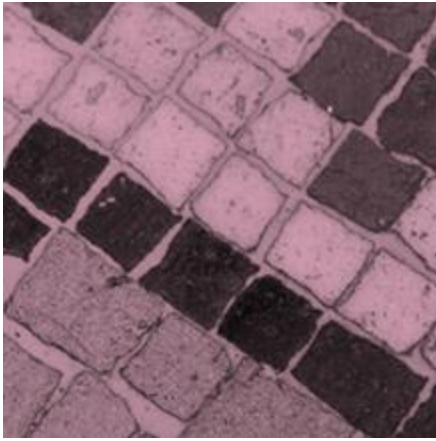
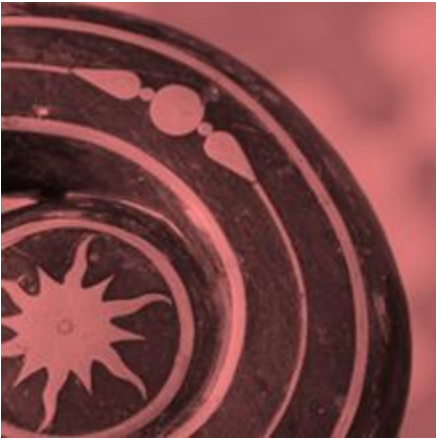


(6) Advance choice document

- ACD written when patient has capacity
- Expressing decisions, wishes or feelings about any relevant matter about (a) future admission for treatment for mental disorder when (b) patient lacks capacity in relation to that matter
- Clinician has duty to “have regard to” ACD
- Duties on Welsh HBs to
 - make info available
 - make arrangements for people at risk of MHA detention to be informed of their right to make an ACD and
 - if they'd like, be supported to make one



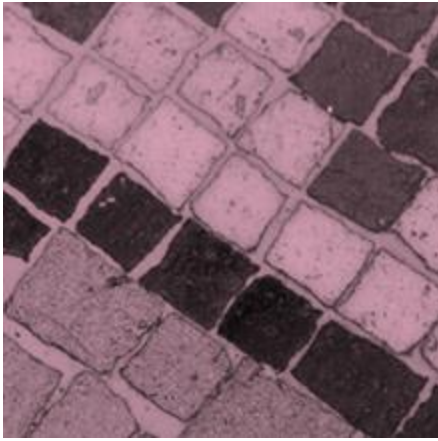
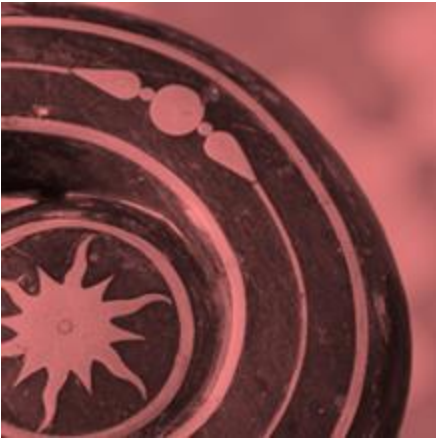
Time and resources for implementation



Up to 10 years, staggered rollout from 2027

Estimated ongoing costs for resourcing the reforms and upfront training costs of existing staff :

- £1.9 billion for the NHS
- £396 million for local authorities
- £287 million for HM Courts and Tribunal Service and the Legal Aid agency (due to more frequent Tribunal referrals),
- £2.5 billion for housing and care related to reforms for individuals with learning disabilities and autism



Takeaways

1. Emphasis on autonomy, greater demands on community services to provide timely, appropriate support
2. Significant hospital and community workforce, infrastructure and system flow implications
3. Map roles within the service that will be most affected and begin building capability early
4. Manage staff and patient expectations with clear internal and external comms

o.lewis@doughtystreet.co.uk