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**Research Briefing**

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# Mental Health Policy in England

Summary

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# Contents

# Summary

Section 1 of this briefing looks at the impact of the Covid-19 pandemic on the population's mental health and the NHS and Government response. It covers provisions in the Coronavirus Act 2020 which provided for temporary changes to the detention and treatment of patients under the Mental Health Act 1983. These provisions were not brought into force.

Section 2 provides a timeline of recent Government and NHS mental health policies in England. In February 2016 an Independent Mental Health Taskforce published The Five Year Forward View for Mental Health. This made a series of recommendations for the NHS and Government to improve outcomes in mental health by 2020/21. The Government and NHS England accepted the recommendations and committed to implementation. The NHS Long Term Plan of 7 January 2019 included further commitments to improve mental health services. In 2022 the Government issued a call for evidence to inform a new, 10-year cross-government Mental health and wellbeing plan.

Section 3 looks at mental health expenditure, including the creation of a new ring-fenced local investment fund worth at least £2.3 billion a year by 2023/24.

Section 4 covers inequalities in mental health and the strategies the Government has proposed to address them. This includes plans to promote 'levelling up' in the wake of Covid-19 and addressing racial inequalities in mental health outcomes and access to treatment.

Section 5 outlines current guidance on the use of force in mental health settings, including the Code of Practice to the Mental Health Act and NICE guidelines. It also covers provisions in the Mental Health Units (Use of Force Act) 2018, also known as 'Seni's Law', which came into force at the end of March 2022.

Section 6 sets out progress on reforming the Mental Health Act 1983. In October 2017, the Government commissioned an independent review of the Act in response to rising rates of detention and the disproportionate use of the Act among people from black and minority ethnic groups. The Government published the white paper, Reforming the Mental Health Act, in January 2021. Following a consultation period, the Government response was published in July 2021. A draft Mental Health Bill was announced in the Queen's Speech 2022.

As health is a devolved matter, the Governments of Scotland, Wales and Northern Ireland are responsible for setting their own policies in this area. Links to policies of devolved administrations are provided in section 7 of this briefing. Links to Library briefings on more specific areas of mental health policy are provided in section 8.

# 1 The Coronavirus pandemic and mental health

## 1.1 The impact of the pandemic on mental health

### General population

In 2020 the NHS Confederation published Mental health services and Covid-19: preparing for the rising tide.[1] The report set out an expected rise in demand for mental health services due to the pandemic and how mental health services could prepare for this.

The Parliamentary Office of Science and Technology (POST) produced articles on Children's Mental Health and the COVID-19 Pandemic (September 2021) and Mental health impacts of the COVID-19 pandemic on adults (July 2021). These articles explain that the pandemic has affected people's mental health and wellbeing through a combination of the wider effects of the pandemic on society (such as socio-economic disadvantages) and public health measures to prevent the spread of the virus (such as lockdowns).

The charity Mind's report, The mental health emergency: How has the coronavirus pandemic impacted our mental health (PDF) (June 2020) highlighted that more than half of adults and over two-thirds of young people said their mental health had deteriorated during the period of lockdown restrictions.[2]

The Children's Society report, Life on hold: children's well-being and Covid-19 (July 2020) raised concerns about implications of lockdown on children's wellbeing, including increasing levels of anxiety and the impact on education.[3]

Barnardo's also commissioned a survey on Generation Lockdown (June 2020), which found at least a third of children and young people were experiencing increased mental health difficulties.[4]

The Mental Health Foundation is leading an ongoing, UK wide Coronavirus: Mental Health in the Pandemic study, exploring how the pandemic is affecting

1 NHS Confederation, Mental health services and Covid-19: preparing for the rising tide, August 2020
2 Mind, The mental health emergency: how has the coronavirus pandemic impacted our mental health? (PDF), June 2020, p5
3 The Children's Society, Life on hold: children's well-being and Covid-19, July 2020
4 Barnardos, A third of children experience increased mental health difficulties during lockdown (accessed 18 March 2022)

people's mental health. The study has found the mental health effects are falling unequally across society, with people in some social groups bearing more of the mental health burden than others. The high-risk populations identified in the study include young adults (aged 18-24); people in later life who are isolated; people with pre-existing mental health problems; people with long term, disabling physical health conditions; BAME communities, and unemployed people.[5]

The Centre for Mental Health published a briefing on Covid-19 and the nation's mental health in May 2021. The briefing forecasts that:

> [...] the equivalent of 8.5 million adults and 1.5 million children and young people will require mental health support as a direct impact of the pandemic during the next three to five years. The total increase in demand is around 10 million people.[6]

The briefing also identified key groups of people who are at high risk of poor mental health as:

- People who have survived a severe Covid-19 infection;
- Health and social care workers;
- People bereaved during the pandemic; and
- People who are impacted economically by the pandemic.[7]

## People with mental health conditions

Mind, the mental health charity, published a report on the ongoing impact of the pandemic on people with mental health problems across England and Wales (July 2021). Mind heard from nearly 12,000 adults and young people with mental health problems. Almost one third of adults and over one third of young people reported their mental health had worsened over the previous year.[8] People living in a household in receipt of benefits reported particularly poor mental health outcomes.[9]

## Clinically extremely vulnerable people

Research by the Health Foundation looked at the impact of the pandemic on people identified as Clinically Extremely Vulnerable (CEV). They found people who were shielding were more likely to develop a newly diagnosed mental

5 Mental Health Foundation, Coronavirus: Mental Health in the Pandemic (accessed 23 March 2022)
6 Centre for Mental Health, Covid-19 and the nation's mental health: May 2021, May 2021, p1
7 As above, p1
8 Mind, What has the impact of the pandemic been on mental health?, July 2021, p9
9 As above, p10

health condition or start mental health treatment than the general population.[10]

## Health and social care workers

A Library insight article looks at the impact of coronavirus on the mental health of health and social care workers (18 May 2020).

A study of the impact of the COVID-19 pandemic on the mental health and well-being of UK healthcare workers (April 2021) published in the British Journal of Psychiatry found almost one third of respondents reported "moderate to severe levels of anxiety and depression". The number of health care workers reporting "very high symptoms" was more than four times higher than pre-Covid.[11]

## Racial inequalities

The Centre for Mental Health published a briefing on Covid-19: understanding inequalities in mental health during the pandemic (June 2020). This explains that people from the ethnic groups where the prevalence of Covid-19 has been highest and outcomes have been the worst, notably people from Black British, Black African, Bangladeshi and Pakistani backgrounds, are at far greater risk of worsening mental health.

The briefing explains that people from some ethnic groups may find it especially difficult to get appropriate mental health support:

> The need for culturally appropriate support is relevant for several communities which experience mental health inequalities. For example, young people, especially from Black communities, frequently report that they do not trust NHS mental health services and do not believe that they will help them or be safe to engage with. Research has shown that these young people respond better to mental health support when it is offered in a culturally appropriate format, for example, in informal settings commonly run by third sector providers or grassroots organisations (Khan et al., 2017; Stubbs et al., 2017). These small, holistic, community and relationship-based programmes often rely on building trust face to face. For them, and for the marginalised young people who rely on them for support, lockdown presents a significant challenge to the continuity of support.[12]

It explores some of the concurrent inequalities faced by people from 'BAME backgrounds', which may have worsened their mental health during the Coronavirus pandemic:

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10 The Health Foundation, Assessing the impact of COVID-19 on the clinically extremely vulnerable population, October 2021, p14

11 Gilleen J et al., Impact of the COVID-19 pandemic on the mental health and well-being of UK healthcare workers, British Journal of Psychiatry Open, 29 April 2021, p1

12 Centre for Mental Health, Covid-19: understanding inequalities in mental health during the pandemic, June 2020, p3

> We know, too, that people from some BAME backgrounds experiencing mental distress as a result of coronavirus may be doubly disadvantaged due to economic circumstances and services which frequently fail to respond to their needs in a timely and culturally informed fashion. Differences in community experiences are influenced by a range of deeply intersecting factors including geography, ethnicity and socio-economic status. People from certain ethnicities are more likely to be in lower paid work or persistent poverty, particularly Pakistani and Bangladeshi, Black African, and Black Caribbean communities. There are strong associations of poverty with mental illness and mental distress, and links between those ethnic groups which face the greatest levels of poverty and those experiencing the most restrictive forms of mental health intervention (Bhui et al., 2018).[13]

Public Health England's report on Understanding the impact of COVID-19 on BAME groups also highlighted poorer health outcomes for people with mental health problems, and within this a disproportionate impact on 'BAME communities':

> Stakeholders highlighted their knowledge of emerging evidence of increased acquisition risk and poorer health outcomes for people with mental illness. This was especially compounded for BAME communities for whom problematic access to primary mental healthcare and mental health promotion have been well described. There were concerns that the importance of mental ill health as a risk factor for COVID-19 was not adequately acknowledged and therefore poorly managed, with many missed opportunities for early intervention and support.
>
> Many feel that lockdown restrictions will significantly impact those with mild, moderate and severe mental illness (SMI) and those who are caring for them. Social distancing measures place restrictions on access to social support networks which are a fundamental part of BAME communities' infrastructure and culture.
>
> "Ethnic minority groups also face particular risks of social isolation and loneliness, linked to higher levels of deprivation and potential exclusion from structures and processes that promote social connectedness and a sense of belonging."[14]

## 1.2 NHS pandemic response

### First phase

On 25 March 2020, NHS England & NHS Improvement issued guidance on Managing capacity and demand within inpatient and community mental

[13] Centre for Mental Health, Covid-19: understanding inequalities in mental health during the pandemic, June 2020, p7

[14] Public Health England, Understanding the impact of COVID-19 on BAME groups, June 2020, page 37

health, learning disabilities and autism services for all ages (Updated November 2020).[15]

The guidance recognised that national measures to delay the spread of the virus would inevitably have a significant impact on both demand for, and capacity to deliver, support for people with mental health needs. It noted difficult decisions may have to be made in the context of increased demand and reduced capacity:

> In preparing for and responding to COVID-19, staff in mental health/ learning disability and autism providers may need to make difficult decisions in the context of reduced capacity and increasing demand. These decisions will need to balance clinical need (both mental and physical), patient safety and risk. Due to the need for rapid decision making, providers may choose to use an existing patient panel or an ethics committee to advise on decisions.[16]

The guidance also noted that services would be reimbursed for additional costs because of the pandemic and as such, financial concerns should not impact on service provision:

> Simon Stevens and Amanda Pritchard wrote to the NHS on 17 March 2020 with a letter entitled IMPORTANT AND URGENT – NEXT STEPS ON NHS RESPONSE TO COVID-19, which set out more detail on the financial regime under COVID-19.
>
> This confirmed that specific financial guidance on how to estimate, report against, and be reimbursed for additional costs is being issued soon. The Chancellor of the Exchequer said in Parliament that, "Whatever extra resources our NHS needs to cope with coronavirus – it will get". Therefore financial constraints must not and will not stand in the way of taking immediate and necessary action – whether in terms of staffing, facilities adaptation, equipment, patient discharge packages, staff training, elective care, or any other relevant category.[17]

The guidance also set out ways to maximise capacity in mental health services, such as redeploying staff to work in more critical areas and reducing non-essential activity.[18]

In March 2020, the UK Government announced a £5 million grant, administered by Mind, to fund additional services for people struggling with their mental wellbeing during the pandemic.[19] In May 2020, the Government announced a further £4.2 million for mental health charities, such as

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15 NHS England and NHS Improvement, Managing capacity and demand within inpatient and community mental health, learning disabilities and autism services for all ages, March 2020

16 NHS, Managing capacity and demand within inpatient and community mental health, learning disabilities and autism services for all ages (PDF), Version 1, 25 March 2020, p3

17 As above, p4

18 As above, pp4-5

19 Department of Health and Social Care press release, New advice to support mental health during coronavirus outbreak, 29 March 2020

Samaritans, Young Minds and Bipolar UK, to continue to support people experiencing mental health challenges throughout the outbreak.[20]

## Second phase

On 29 April 2020, NHS England published information on the second phase of NHS response to Covid-19. This set out priority actions for mental health providers after the initial peak of the virus:

> We are going to see increased demand for Covid-19 aftercare and support in community health services, primary care, and mental health. Community health services will need to support the increase in patients who have recovered from Covid and who having been discharged from hospital need ongoing health support. High priority actions for mental health providers in this next phase are set out in the Annex.[21]

The high priority actions for mental health and learning disability/autism services were:

- Establish all-age open access crisis services and helplines and promote them locally working with partners such as local authorities, voluntary and community sector and 111 services.
- For existing patients known to mental health services, continue to ensure they are contacted proactively and supported. This will continue to be particularly important for those who have been recently discharged from inpatient services and those who are shielding.
- Ensure that children and young people continue to have access to mental health services, liaising with your local partners to ensure referral routes are understood, particularly where children and young people are not at school.
- Prepare for a possible longer-term increase in demand as a consequence of the pandemic, including by actively recruiting in line with the NHS Long Term Plan.
- Annual health checks for people with a learning disability should continue to be completed.
- Ensure enhanced psychological support is available for all NHS staff who need it.
- Ensure that you continue to take account of inequalities in access to mental health services, and in particular the needs of BAME communities.[22]

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20 Department of Health and Social Care Press Release, £22 million awarded to life-saving health charities during virus outbreak, 22 May 2020

21 NHS, Second phase of NHS response to COVID-19, 29 April 2020, p3

22 As above, pp8-9

## Third phase

In a letter dated 31 July 2020, NHS organisations were told by NHS England and NHS Improvement that the third phase of the NHS response to the pandemic would be effective from 1 August 2020.

As part of the third phase, the NHS was advised to accelerate the return of non-Covid health services, "making full use of the capacity available in the window of opportunity between now and winter."[23]

Priority A4, relating to the restoration of mental health, learning disability and autism services, said:

> Every CCG must continue to increase investment in mental health services in line with the Mental Health Investment Standard and we will be repeating the independent audits of this. Systems should work together to ensure that funding decisions are decided in partnership with Mental Health Providers and CCGs and that funding is allocated to core Long Term Plan (LTP) priorities.
>
> In addition, we will be asking systems to validate their existing LTP mental health service expansion trajectories for 2020/21. Further advice on this will be issued shortly. In the meantime:
>
> - IAPT services should fully resume
> - the 24/7 crisis helplines for all ages that were established locally during the pandemic should be retained, developing this into a national service continue the transition to digital working
> - maintain the growth in the number of children and young people accessing care
> - proactively review all patients on community mental health teams' caseloads and increase therapeutic activity and supportive interventions to prevent relapse or escalation of mental health needs for people with SMI in the community;
> - ensure that local access to services is clearly advertised
> - use £250 million of earmarked new capital to help eliminate mental health dormitory wards.[24]

In response to a PQ, Health Minister Nadine Dorries said the Government was assessing how to support an increased demand for mental health services:

> There is broad consensus that there is the potential for an increase in demand for mental health services as a result of COVID-19 and we are working with the National Health Service, Public Health England and others to ensure ongoing assessment of the potential longer-term impacts and to plan for how to support mental health and wellbeing throughout the 'recovery' phase.[25]

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23 NHS England, Third phase of NHS response to Covid-19, 31 July 2020, p3

24 As above, p6

25 PQ 82325 [on Coronavirus: Mental Health], 10 September 2020

## Covid-19 mental health and wellbeing recovery action plan

On 27 March 2021, the Department for Health and Social Care published the COVID-19 mental health and wellbeing recovery action plan. This plan sets out a cross-Government approach for promoting good mental health and supporting people with mental health problems during the period 2021-2022.

The recovery plan consists of three objectives:

- To support the general population to take action and look after their mental wellbeing;
- To prevent the onset of mental health difficulties, by taking action to address the factors which play a crucial role in shaping mental health and wellbeing outcomes for adults and children;
- To support services to continue to expand and transform to meet the needs of people who require specialist support.[26]

The success of the plan is being measured through ongoing analysis of the population's mental health and wellbeing by the Office for Health Improvement and Disparities. This information is routinely updated and published in the COVID-19 mental health and wellbeing surveillance: report.[27] Existing metrics, found on the NHS mental health dashboard, will be used to monitor the quality and accessibility of NHS services.[28]

## Build Back Better: Our Plan for Health and Social Care

The Government's **Error! Hyperlink reference not valid.** (September 2021) policy paper aims to address the challenges caused by the pandemic on the health and social care systems. It recognises "the pandemic affected mental health, with unprecedented demands placed on staff and the public as a whole".[29] In addition to funding commitments, wider changes to support the social care system are proposed, including investment to fund mental health and wellbeing resources and provide access to occupational health to help staff recover from the impact of working during the pandemic.[30]

26 Department of Health and Social Care, COVID-19 mental health and wellbeing recovery action plan, 27 March 2021, pp5-6

27 Office for Health Improvement and Disparities, COVID-19 mental health and wellbeing surveillance: report, 8 September 2020

28 NHS mental health dashboard

29 Department of Health and Social Care, Cabinet Office, Prime Minister's Office, Build Back Better: Our Plan for Health and Social Care, 7 September 2021, para 20

30 As above, para 49

## 1.3 The Coronavirus Act 2020

The mental health provisions of the Coronavirus Act 2020 (Schedule 8), had they been brought into force, would have made temporary changes to the detention and treatment of patients under the Mental Health Act 1983. During the House of Commons debate on the Coronavirus Bill, then-Secretary of State for Health and Social Care, Matt Hancock, said the Government would not choose to use such measures during normal times and they would only be necessary in circumstances where staff numbers were severely affected.[31]

The mental health provisions in the Coronavirus Act 2020 included:

- Requiring only one doctor's recommendation to detain someone in hospital for the assessment or treatment of a mental disorder, rather than the usual two required by the Mental Health Act 1983.
- For detention in places of safety (Sections 135 & 136 of the Mental Health Act), the length of time someone may be detained would be increased from 24 to 36 hours.
- For voluntary patients already in hospital, any registered medical professional or approved practitioner would be able to make a recommendation for their detention under the Mental Health Act. This would be the case if there were difficulties or delays in the Responsible Clinician carrying out this task.
- The period that a patient may be detained in hospital waiting for assessment for detention would be increased from 72 to 120 hours, under powers given to doctors, and from 6 to 12 hours, under powers given to nurses.
- For Sections 35 and 36, the time limit of 12 weeks for a period of remand to hospital for a report on the accused's mental condition, and a period of remand to hospital for treatment, would be removed.
- The maximum period within which accused or convicted persons are transferred to hospital would be extended from 14 to 28 days.[32]

The provisions were withdrawn on 9 December 2020, under the Coronavirus Act 2020 (Expiry of Mental Health Provisions) (England and Wales) Regulations 2020 as they were deemed not to be needed, despite pressures on the health system arising from the pandemic. During a Committee debate on the Regulations, the Minister for Patient Safety, Mental Health and Suicide Prevention said:

> We are highly conscious of the gravity of the effects of these provisions, should they be commenced, and the need for them has been kept under continual

31 HC Deb 23 March 2020 c42

32 The Coronavirus Act 2020, Schedule 8, Part 2

> review. We are pleased that, due to the resilience and ingenuity of NHS England, the provisions have not been needed and have never been used. We are removing them because we have listened to stakeholders and to Parliament. Three separate Select Committee reports have recommended that we take this step.[33]

The Statutory Instrument was debated by the House of Commons[34] and the House of Lords.[35] Detailed information on the provisions is available in section 4 of the Commons Library briefing Coronavirus Bill: health and social care measures.

## Impact of the provisions on human rights

The Joint Committee on Human Rights (JCHR) published a report on The Government's response to COVID-19: human rights implications (September 2020). The Committee examined the Coronavirus Act amendments to the Mental Health Act and highlighted that the provisions, if enforced, would significantly reduce the safeguards which prevent arbitrary detention:

> These provisions have not been brought into force but, if enacted, would significantly reduce the safeguards that exist to prevent arbitrary detention under Article 5 EHCR. The provisions would also enable significant watering down of the protections available in relation to compulsory medical treatment for mental disorder. Mental health stakeholders, including the Royal College of Nursing and the National Survivor User Network, have expressed grave concerns about these measures and in its evidence, the mental health charity, Mind, expressed doubt as to whether it would be human rights compliant to enact them.[36]

The JCHR also noted that the need to maintain robust safeguards to ensure mental health patients are only detained when necessary and proportionate, was heightened by the fact that those in detention were likely to be at higher risk of infection from Covid-19.[37]

33 HC Deb 18 November 2020 vol 684, c4

34 HC Deb 18 November 2020 vol 684

35 HL Deb 25 November vol 808, cols9GC-36GC

36 Joint Committee on Human Rights, The Government's response to COVID-19: human rights implications, 14 September 2020, HC 265/ HL 125 2019-21, para 126

37 As above, para 127

# 2 Mental health policies: An overview

## 2.1 NHS Five Year Forward View 2014

In 2014, NHS England and its partners published the Five Year Forward View, setting out their vision for the future of the health service. Alongside a commitment to achieving parity of esteem, it also set out ambitions for mental health:

> Over the next five years the NHS must drive towards an equal response to mental and physical health, and towards the two being treated together. We have already made a start, through the Improving Access to Psychological Therapies Programme – double the number of people got such treatment last year compared with four years ago. Next year, for the first time, there will be waiting standards for mental health. Investment in new beds for young people with the most intensive needs to prevent them being admitted miles away from where they live, or into adult wards, is already under way, along with more money for better case management and early intervention.
>
> This, however, is only a start. We have a much wider ambition to achieve genuine parity of esteem between physical and mental health by 2020. Provided new funding can be made available, by then we want the new waiting time standards to have improved so that 95 rather than 75 per cent of people referred for psychological therapies start treatment within six weeks and those experiencing a first episode of psychosis do so within a fortnight. We also want to expand access standards to cover a comprehensive range of mental health services, including children's services, eating disorders, and those with bipolar conditions. We need new commissioning approaches to help ensure that happens, and extra staff to coordinate such care. Getting there will require further investment.[38]

NHS England's Forward View into action: planning for 2015-16 set an expectation that Clinical Commissioning Group (CCG) spending on mental health services in 2015/16 should increase in real terms, and grow by at least as much as each CCG's allocation increase to support the ambition of parity between mental and physical health.[39]

38 NHS England, Five Year Forward View, October 2014, p26

39 NHS England, Forward View into action: planning for 2015-16, December 2014, p5

## 2.2 The Five Year Forward View for Mental Health 2016

The Five Year Forward View for Mental Health, a report from the independent Mental Health Taskforce to NHS England, was published in February 2016. The Taskforce made a series of recommendations for improving outcomes in mental health by 2020/21, encompassing three broad areas:

- Achieving parity of esteem between mental and physical health for children, young people, adults and older people;
- Wider, cross-Government action across areas such as employment, housing and social inclusion; and
- Tackling inequalities, including the higher incidence of mental health problems among people living in poverty, those who are unemployed and people who already face discrimination. It also addresses inequalities in access to services among certain black and minority ethnic groups, whose first experience of mental health care often comes when they are detained under the Mental Health Act, often with police involvement.[40]

The recommendations, by area, to be delivered by 2021 included:

- **Specialist community perinatal mental health**: Supporting 30,000 more new and expectant mothers through maternal mental health services each year.
- **Children and young people's mental health:** Providing mental health care to 70,000 more children and young people; of 95% of children and young people with eating disorders accessing treatment within 1 week (urgent cases) or 4 weeks (routine cases).
- **Adult common mental illness**: Increasing access to talking therapies (IAPT) to reach 25% of people in need with anxiety and depression, with a focus on integrated care for people living with long-term physical health conditions.
- **Adult severe mental illness:** 280,000 people with a severe mental illness have their physical health needs met; double the access to Individual Placement and Support (IPS) to help this group find and stay in employment.

[40] Independent Taskforce to the NHS in England, The Five Year Forward View for Mental Health, February 2016, p3

- **Mental health crisis care:** a 24/7 community-based crisis response available across England; all acute hospitals have mental health liaison services in emergency departments for people of all ages.
- **Mental health inpatient care:** an end to the practice of sending people out of their local area for acute inpatient care.
- **Suicide reduction:** A commitment to reducing suicides by 10%.[41]

In February 2016 the Government said it welcomed the report's recommendations and would work with NHS England and other partners to establish a plan for implementation.[42]

A Government statement committed to an investment of £1 billion by 2020-21:

> To make those recommendations a reality, we will spend an extra £1 billion by 2020-21 to improve access to mental health services, so that people can receive the right care in the right place when they need it most. That will mean increasing the number of people completing talking therapies by nearly three quarters, from 468,000 to 800,000; more than doubling the number of pregnant women or new mothers receiving mental health support, from 12,000 to 42,000 a year; training about 1,700 new therapists; and helping 29,000 more people to find or stay in work through individual placement support and talking therapies.[43]

The Government's response to the Taskforce was published in January 2017, accepting its recommendations in full. This response also set out measures to address Taskforce recommendations that apply beyond the NHS, for education, employment, and the wider community.[44]

NHS England's Implementation Plan (July 2016) detailed how it would deliver the recommendations. It focused on the role of the NHS in delivering its commitments and was directed at commissioners and providers to support and influence their own local plans.

Additionally, in July 2017, then-Health Secretary Jeremy Hunt launched a mental health workforce plan for implementation of the Five Year Forward View for Mental Health, which set out plans for 21,000 new posts across England by April 2021 (the Government had previously pledged an increase of 10,000 posts by this date). The plan was developed by partners including Health Education England (HEE), NHS Improvement, NHS England, and the Royal College of Psychiatrists.

The next section provides information on progress in meeting the recommendations.

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41 See Annex B of The Five Year Forward View for Mental Health for all recommendations for national bodies.

42 HC Deb 23 February 2016 c153-4

43 As above

44 Department of Health, Five Year Forward View for Mental Health: government response, 9 January 2017, p2

## 2.3 The NHS Long Term Plan 2019

The NHS Long Term Plan (7 January 2019) included several commitments to improve mental health services.[45] The Government said mental health services for adults and children would be backed with additional funding of at least £2.3 billion a year by 2023/24.[46]

On 23 July 2019, NHS England and NHS Improvement published the NHS Mental Health Implementation Plan 2019/20 – 2023/24 to provide guidance for local areas on how to deliver the mental health ambitions within the Long Term Plan. The guidance is primarily aimed at the leaders of local Sustainability and Transformation Partnerships (STPs) and Integrated Care Systems (ICSs). It sets out information on funding, transformation activities and indicative workforce numbers, to inform local 5-year plans for the delivery of the NHS Long Term Plan up to 2023/24.

The Implementation Plan reported on progress towards commitments set out in the Five Year Forward View for Mental Health and made new commitments, including:

- **Specialist community perinatal mental health:** every STP in the country now has a community specialist perinatal mental health service; by 2023/24 at least 66,000 women with moderate to severe perinatal mental health difficulties will have access to community care.
- **Children and young people's mental health:** by 2023/24, 345,000 additional 0-25 year olds accessing support via NHS mental health services and Mental Health Support Teams based in schools and colleges.
- **Adult common mental illness:** by 2023/24 access to IAPT will cover total of 1.9m adults and older adults; all areas will commission IAPT-Long Term Conditions (IAPT-LTC) services.
- **Adult severe mental illness (SMI):** by 2023/24 new integrated models of community care for adults with severe mental illness; 390,000 people with SMI will receive a physical health check and 55,000 will receive employment support.
- **Mental health crisis care:** all general hospitals now have mental health liaison services; by 2023/24, there will be 100% coverage of 24/7 crisis care across all ages.
- **Mental health inpatient care:** by 2023/24, improve service user outcomes and experiences by investing in activities and interventions; reduce admission lengths to 32 days or lower.

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45 NHS England, NHS Long Term Plan, 7 January 2019, p72

46 See for example, Lords PQ response HL16476 [on Mental Health Services], 2 July 2019

- **Suicide reduction:** by 2023/24, every section of the country covered by the suicide prevention programme.[47]

The Implementation Plan introduced commitments to two new areas:

- **Problem gambling:** by 2023/24, 15 new clinics providing specialist NHS treatment.

- **Rough sleeping mental health support:** by 2023/24, new specialist provision in twenty high-need areas.[48]

The Royal College of Psychiatrists produced a useful commentary paper on the mental health proposals in the Long Term Plan.[49]

## Progress towards commitments

The NHS mental health dashboard helps measure progress against delivery of commitments in the Five Year Forward View for Mental Health and the Long Term Plan. A summary of the latest information notes "significant progress" towards all adult crisis teams operating 24/7 and an increase in the number of liaison mental health teams operating 24 hours per day. It is also noted that 91.8% of IAPT patients started treatment in less than 6 weeks and recovery is at 50.3% (over the 50% target).[50]

Since publication of the Five Year Forward View and Long Term Plan, the Health and Social Care Committee's Expert Panel has completed an Evaluation of the Government's progress against its policy commitments in the area of mental health services in England (December 2021). The Committee also completed an inquiry into children and young people's mental health (December 2021), examining progress towards the Government's ambitions to improve provision in this area.

The evaluation of the Government's progress against mental health policy commitments found:

- IAPT services for people with long-term conditions have had a positive impact. However, significant work is needed to achieve the commitment for all areas to commission these services by 2023/24.

- Progress towards achieving annual health checks for 280,000 people with severe mental illness has been inadequate.

- The commitment to reduce admission lengths to 32 days is on track. However, the therapeutic offer has not improved and there has been too

47 NHS England and NHS Improvement, NHS Mental Health Implementation Plan 2019/20 – 2023/24, July 2019, pp3-6

48 NHS England and NHS Improvement, NHS Mental Health Implementation Plan 2019/20 – 2023/24, July 2019, p7

49 Royal College of Psychiatrists, The NHS Long Term Plan in England: RCPsych Briefing, January 2019

50 NHS England, NHS mental health dashboard (accessed 15 March 2022)

little funding to upgrade the physical estates, hampering the ability of services to provide an improved offer.

- Little progress has been made towards the commitment to develop new community care models for adults with a severe mental illness by 2023/24. This was also compounded by the effects of the Covid-19 pandemic.

- Funding for the commitment to provide 24/7 crisis response has been good and the pandemic led to an accelerated effort to establish crisis lines across the country (though not all are available 24/7). However, not all crisis services include a home treatment team as an alternative to hospital admission.[51]

In March 2022 the Government published their response to the Health and Social Care Committee's expert panel evaluation.[52] The Government said they welcomed the Expert Panel's report and will consider its findings when developing the new mental health strategy. The Government have also published their response to the Children and young people's mental health report (March 2022).[53]

There is a plan to launch a public discussion paper in Spring 2022 to inform the development of a new mental health strategy.[54]

## 2.4 Stevenson/Farmer 'Thriving at Work' review 2017

In 2017 the Government commissioned an independent review into mental health and employment led by Dennis Stevenson and Mind CEO Paul Farmer, as part of a range of measures aimed at transforming mental health support in schools, workplaces and in the community. The review's report, Thriving at Work, was published in October 2017 and recommended "mental health core standards" that all employers can adopt to better support the mental health of their staff.

The core standards set out that employers should:

- Produce, implement and communicate a mental health at work plan.

51 Health and Social Care Committee Expert Panel, Evaluation of the Government's progress against its policy commitments in the area of mental health services in England, 9 December 2021

52 Department of Health and Social Care, The government's response to the Health and Social Care Committee's expert panel evaluation: the government's progress against its policy commitment in the area of mental health services in England, 17 March 2022

53 Department of Health and Social Care, Children and young people's mental health: government response, 17 March 2022

54 PQ 117017 [on mental health services], 2 February 2022

- Develop mental health awareness among employees.
- Encourage open conversations about mental health and the support available when employees are struggling.
- Provide employees with good working conditions and ensure they have a healthy work life balance and opportunities for development.
- Promote effective people management through line managers and supervisors.
- Routinely monitor employee mental health and wellbeing.[55]

In November 2017, the joint Department for Work and Pensions/Department of Health and Social Care Work and Health Unit (WHU) published the Government's response, Improving lives: the future of work, health and disability.

A response to a 2019 PQ on implementation of the recommendations in Thriving at Work said progress had been made in both the public and private sectors.[56] In particular, it was noted that in July 2018, the WHU and Local Government Association held a Public Sector Summit bringing together public sector leaders and experts to share best practice on supporting the mental health of employees.

On 17 January 2019 there was a Backbench Business Committee debate on Mental Health First Aid.[57] Background on this subject can be found in the Commons Library debate pack on Mental health first aid in the workplace.

A response to a January 2022 PQ on the adequacy of mental health support in the workplace cited the Disability Confident scheme as a step forward in giving employers skills to address employees' mental health. The response also referenced the Access to Work Mental Health Support Service and reported that an online service for employers is currently in testing.[58]

## 2.5 Cross-Government Suicide Prevention Workplan 2019

In January 2019, the Department of Health and Social Care (DHSC) announced[59] the publication of its first cross-government suicide prevention

55 Lord Dennis Stevenson and Paul Farmer, Thriving at Work: a review of mental health and employers, 26 October 2017, p6

56 PQ 210676 [on Mental Health and Employers Independent Review], 21 January 2019

57 HC Deb 17 January 2019

58 PQ 99029 [on conditions of employment: mental health], 6 January 2022

59 Department of Health and Social Care news story, First ever cross-government suicide prevention plan published, January 2019

workplan.[60] This was created in response to the Suicide prevention inquiry[61] led by the Health Select Committee, which called for a clearer implementation strategy for the overall Suicide Prevention Strategy for England (2012).[62]

This plan sets out aims for each relevant Government department. It also explains that a National Suicide Prevention Strategy Delivery Group, comprising of officials across Government and delivery agencies, will track progress against the Workplan. Pages 11-41 set out a wide range of actions that Government departments and public bodies either have taken or will take in the coming years.

The fifth progress report on implementation of the cross-government strategy (March 2021) set out additional Government support and funding for suicide prevention to address pressures caused by the Covid -19 pandemic.[63] This included £5 million to support suicide prevention work by voluntary and community sector organisations in 2021/22. The report noted, although full data is not yet available, early indications did not suggest a rise in the number of suicides when comparing pre- and post-lockdown figures for January to August 2020.

The objective to reduce suicides by 10% by 2020/21 featured in both the Five Year Forward View for Mental Health[64] and the NHS Long Term Plan[65]. This target was not met.[66] Another element of the Five Year Forward View for Mental Health was the establishment of local suicide prevention plans. The NHS Long Term Plan (2019) confirmed that all local areas have implemented such plans.[67]

Further information can be found in the Commons Library briefing paper Suicide prevention: policy and strategy.

## 2.6 National Disability Strategy 2021

In July 2021, the Government published its strategy to improve the lives of disabled people in the UK. Part one of the strategy sets out the immediate actions needed to improve the everyday lives of disabled people. Part two covers longer-term changes that will put disabled people "at the heart of

60 Department of Health and Social Care, Suicide prevention: cross-government plan, 22 January 2019
61 Health Select Committee, Suicide prevention, March 2017
62 Department of Health and Social Care, Suicide prevention strategy for England, 10 September 2012
63 Department of Health and Social Care, Suicide prevention in England: fifth progress report, 27 March 2021
64 NHS England, The Five Year Forward View for Mental Health, February 2016, p13
65 NHS England, NHS Long Term Plan, 7 January 2019, p72
66 See section 1.1 of the Commons Library Briefing on Suicide prevention: Policy and strategy for current statistics on deaths by suicide.
67 NHS England, NHS Long Term Plan, 7 January 2019, p72

government policy-making and service delivery."[68] Part three sets out the actions that will be taken by each Government department.

Key actions across the departments include:

- Targeted support for disabled people starting a business and development of a new advice hub on employment rights.
- Introducing a free arts access card to improve access to arts and culture.
- Collaborative work with Sport England to address inequalities in sport and physical activity.
- Review of support for children with special educational needs and disabilities (SEND).
- Investing in green social prescribing.
- Improving the health and social care workforce's understanding of learning disabilities and autism.
- Modernising the Mental Health Act.
- Piloting an Access to Work Passport.
- Tackling disability hate crime.[69]

## 2.7 Mental health and wellbeing plan

In April 2022, the Government launched a Mental health and wellbeing plan: discussion paper and call for evidence, which will inform a new, cross-government mental health strategy.

The discussion paper's Ministerial Foreword states:

> We want to build consensus on the priority actions we need to collectively take to reduce the number of people who go on to develop mental health conditions, especially for our children and young people and for communities at greatest risk. We want to develop plans to make sure that people at risk of developing a mental health condition or taking their life receive help at an earlier stage, and that people who are unwell are treated with compassion and get the support they need from the NHS, social care, and beyond. We also want your advice on how to fully harness the potential of technology and data to support better mental health, and how to incentivise the private sector to

[68] Disability Unit, Equality Hub, Department for Work and Pensions, National Disability Strategy, 28 July 2021

[69] As above, Part 3, pp102-118

play its part. We want to hear about the best, innovative practice that is transforming lives and tackling disparities across the country, and how to make this the norm everywhere.[70]

The discussion paper and consultation questions focus on six key areas:

1. How can we all promote positive mental wellbeing?
2. How can we all prevent the onset of mental health conditions?
3. How can we all intervene earlier when people need support with their mental health?
4. How can we improve the quality and effectiveness of treatment for mental health?
5. How can we all support people with mental health conditions to live well?
6. How can we all improve support for people in crisis?[71]

Following the consultation the Government will develop a 10-year national mental health plan. At a local level, Integrated Care Systems will be expected to implement the Government's priorities in their 5-year local plans. A refreshed suicide prevention strategy will be also published alongside the new mental health plan.

[70] Department of Health and Social Care, Mental health and wellbeing plan: discussion paper, 25 April 2022, Ministerial Foreword

[71] As above, Introduction

# 3 Mental health expenditure

The NHS England website provides an overview of mental health service information and data, including national mental health expenditure. The following information is provided on mental health services funding and investment:

> To support the ambitions within the Plan the NHS has made a renewed commitment that funding for mental health services will grow faster than the overall NHS budget, creating a new ringfenced local investment fund worth at least £2.3 billion a year by 2023/24.
>
> In consecutive years the NHS in England has met its commitment that the increase in local funding for mental health (excluding learning disabilities and dementia) is at least in line with the overall increase in the money available to CCGs. This is called the Mental Health Investment Standard (MHIS). From 2019/20 onwards, as part of the NHS Long Term Plan, the MHIS also includes a further commitment that local funding for mental health will grow by an additional percentage increment to reflect additional mental health funding being made available to CCGs.
>
> Since it was introduced in 2015/16 the MHIS has been met nationally.
>
> The latest data shows that:
>
> - The MHIS is on track to be met nationally and regionally in 2021/22, and 100% of CCGs (106 in total) planning to meet the MHIS.
> - 14.8% of local health spend is due to continue being allocated to Mental health (including learning disabilities and dementia) in 2021/22, the same as in 2020/21, and up from 14.0% in 2019/20 and 13.1% back in 2015/16.
>
> For 2018/19 and 2019/20, CCGs were required to have their reported spend on mental health externally validated with regards to meeting the MHIS. CCGs have now published their review compliance statement and reporting accountants' report on their website for both years. Issues with governance and assurance that were identified through the review process are being addressed by NHS England and Improvement's Mental Health and Finance, regional and CCG leadership teams. CCGs will again be subject to independent review of their achievement of the Mental Health Investment Standard in 2021/22 following the focus on the pandemic response in 2020/21.
>
> Additionally, some mental health services are paid for with funding delivered at the national level. When spend on specialised commissioning services is added to local CCG mental health spending, the total mental health funding (including learning disabilities and dementia) has increased from £11.0 billion in 2015/16 to £14.31 billion in 2020/21.

> The NHS Long Term Plan commitment that spending on children and young people's mental health services will increase faster than overall spending on mental health has also been met.[72]

During the report stage of the Health and Care Bill in the House of Lords, an amendment was agreed to require the Secretary of State to present a written ministerial statement at the start of each financial year setting out expected increases in spending on mental health. NHS England and Integrated Care Boards (ICBs) will also be required to include information on mental health expenditure in their annual reports.[73]

[72] NHS England, NHS mental health dashboard (accessed 15 March 2022)

[73] HL Deb 1 March 2022 c700

# 4 Mental health inequalities

## 4.1 Parity of esteem

The Coalition Government's mental health strategy, No Health without Mental Health: A cross-government mental health outcomes strategy for people of all ages (February 2011) made explicit its objective to give equal priority to mental and physical health.[74] The Implementation Framework for this strategy (July 2012) described how different bodies, such as schools, employers and local authorities, should work together to support people's mental health.[75]

The Health and Social Care Act 2012 introduced the first explicit recognition of the Secretary of State for Health's duty towards both physical and mental health.[76] This led to a commitment in the NHS constitution that the NHS is "designed to improve, prevent, diagnose and treat both physical and mental health problems with equal regard".[77]

Government Mandates to the NHS have reaffirmed the commitment to "put mental health on a par with physical health" [78] and have highlighted the need for "measurable progress" towards this aim.[79] The 2021-2022 Mandate says the NHS will "continue to treat mental health with the same urgency as physical health" and will measure progress against:

- The number of people accessing talking therapies through the IAPT service;
- The number of children and young people accessing mental health services funded by the NHS; and
- Mental health service real terms expenditure growth.[80]

During the report stage of the Health and Care Bill in the House of Lords, an amendment was made to make it clear that references to "health" in the NHS

74 Department of Health, No Health without Mental Health: A cross-government mental health outcomes strategy for people of all ages, February 2011 p2
75 Department of Health, No Health without Mental Health: Implementation Framework (PDF), July 2012
76 The specific reference to mental health was introduced as an amendment during the Bill's report stage in the House of Lords. See Lords Library Note, LLN 2013/024 (PDF).
77 Department of Health and Social Care, The NHS Constitution for England, updated January 2021
78 Department of Health and Social Care, NHS Mandate 2015 to 2016, December 2014, para 3.5
79 Department of Health and Social Care, NHS Mandate 2018 to 2019, March 2018, para 2.14
80 Department of Health and Social Care, NHS Mandate 2021 to 2022, March 2021, p19

Act 2006 include mental health. This is intended to move away from the association of "health" with physical health and towards parity of esteem.[81] A further amendment to have at least one member with mental health knowledge and expertise on Integrated Care Boards was also agreed on report.[82]

Measuring progress towards parity of esteem is difficult because there is no single measure or concept of parity.[83] Parity may be equated with equal spending, access to services or excess mortality (the impact of mental illness on life expectancy). To address the 15-20 year gap in life expectancy between people with a severe mental illness (SMI) and the general population, the Government committed to ensuring that by 2020/21, 280,000 adults with a SMI received an annual physical health check.[84] However, the Health and Social Care Committee's evaluation of progress towards this commitment said data from NHS Digital suggests this target was not met and was not on track to be met prior to the pandemic.[85]

Further information on the different concepts and barriers to achieving parity of esteem can be found in the Commons Library Insight on Mental health: Achieving 'parity of esteem' (2020).

## 4.2 Access and waiting time standards

In 2018, then-Prime Minister, Theresa May, requested a review of NHS access standards. A Mental health clinically-led review of standards: Models of care and measurement was consulted on in 2021.[86] The consultation response was published in February 2022.[87] It is hoped that the introduction of further mental health standards will help towards reducing geographical and racial disparities in accessing care and improve parity of esteem between mental and physical health.

The proposed new standards are:

- For a 'very urgent' presentation to a community-based mental health crisis service, a patient should be seen within 4 hours from referral, across all ages.

81 HL Deb 1 March 2022 c699
82 As above, c755
83 House of Commons Library, Mental health: Achieving 'parity of esteem', January 2020
84 Department of Health and Social Care, Five Year Forward View for Mental Health, January 2017, p14
85 Health and Social Care Committee, The Health and Social Care Committee's Expert Panel: Evaluation of the Government's progress against its policy commitments in the area of mental health services in England, December 2021, p59
86 NHS England and NHS Improvement, Mental health clinically-led review of standards: Models of care and measurement, 22 July 2021
87 NHS England and NHS Improvement, Mental health clinically-led review of standards: Consultation response, 22 February 2022

- For an 'urgent' presentation to a community-based mental health crisis service, a patient should be seen within 24 hours from referral, across all ages.

- For a referral from an emergency department, patients should have a face-to-face assessment by mental health liaison, or children and young people equivalent service commence within 1 hour.

- Children, young people and their families/carers presenting to community-based mental health services, should start to receive help within four weeks from request for service (referral). This may involve immediate advice, support or a brief intervention, help to access another more appropriate service, the start of a longer-term intervention or agreement about a patient care plan, or the start of a specialist assessment that may take longer.

- Adults and older adults presenting to community-based mental health services should start to receive help within four weeks from request for service (referral). This may involve the start of a therapeutic or social intervention, or agreement about a patient care plan.[88]

There was strong support in the consultation for the introduction of new access and waiting time measures for mental health.[89] Subject to Government agreement, the next step will be to develop an implementation plan for the new measures.

## 4.3 Advancing Mental Health Equalities Strategy

In October 2020, NHS England and NHS Improvement published the first Advancing Mental Health Equalities strategy, summarising the core actions the NHS will take, in collaboration with the Advancing Mental Equalities Taskforce, to bridge the gaps for communities fairing worse than others in mental health services.[90] It is also an important element of overall NHS plans to accelerate action to address health inequalities in the next stage of responding to Covid-19.

The strategy recognises that different groups access services differently and report having different levels of satisfaction with the healthcare they receive. Different groups receiving the same treatment also have different recovery outcomes. There are three workstreams relating to:

- Supporting local health systems to address mental health inequalities;

88 NHS England and NHS Improvement, Mental health clinically-led review of standards: Models of care and measurement, July 2021, pp4-5

89 NHS England and NHS Improvement, Mental health clinically-led review of standards: Consultation response, 22 February 2022

90 NHS England and NHS Improvement, Advancing Mental Health Equalities, 16 October 2020

- Improving the quality and flow of data to inform intelligent insights and decision making to advance mental health equalities; and
- Working closely with partners to promote a diverse and representative workforce at all levels of the system.[91]

There is a commitment to develop, test and roll out a Patient and Carer Race Equality Framework to help mental health trusts work with ethnic minority communities to fight stigma and inequalities across the sector.[92]

Implementation of the strategy will be overseen and monitored by the Advancing Mental Equalities Taskforce. A suite of reducing health inequalities resources have been published, and further tools are planned with the aim of making demonstrable progress by 2023/24.[93]

## 4.4 Levelling up the United Kingdom

On 2 February 2022 the Government published the Levelling Up the United Kingdom White Paper.[94] It sets out how the Government will spread opportunity more equally across the UK. The white paper includes clear and ambitious medium-term goals relating to a number of areas, including for health and wellbeing. For example, by 2030 the gap in Healthy Life Expectancy between local areas where it is highest and lowest will have narrowed, and by 2035 it will rise by 5 years.[95] By 2030, wellbeing will have improved in every area of the UK, with the gap between top performing and other areas closing.[96]

The prevention of mental ill health is also considered key to addressing mental health inequalities across the UK in the wake of the Covid-19 pandemic. Prevention of mental ill health features in the Government's Build Back Better[97] policy and the House of Lords Covid 19 Committee's report on Living in a COVID World: A Long-term Approach to Resilience and Wellbeing.[98]

91 NHS England and NHS Improvement, Advancing Mental Health Equalities Strategy, September 2020, pp7-15
92 As above, p2
93 As above, p16
94 HM Government, Levelling Up the United Kingdom, September 2021
95 As above, p7
96 As above, p7
97 HM Treasury, Build Back Better: Our plan for growth, March 2021
98 Covid-19 Committee, Living in a COVID World: A Long-term Approach to Resilience and Wellbeing, 16 March 2022, HL 117 2021-22

# 5 Use of force in mental health settings

## 5.1 Policies on the use of force

### Mental Health Act 1983

The Mental Health Act 1983: Code of Practice (the Code) provides statutory guidance on restrictive interventions for people receiving treatment for a mental disorder in a hospital, which are defined as follows:

> Restrictive interventions are deliberate acts on the part of other person(s) that restrict a patient's movement, liberty and/or freedom to act independently in order to:
>
> - take immediate control of a dangerous situation where there is a real possibility of harm to the person or others if no action is undertaken, and
> - end or reduce significantly the danger to the patient or others.[99]

The guidance applies to all people receiving treatment for a mental disorder, whether or not they are detained under the Mental Health Act.

The Code states that when restrictive interventions are required, they should:

- be used for no longer than necessary to prevent harm to the person or to others
- be a proportionate response to that harm, and
- be the least restrictive option.[100]

It also states that service providers should have programmes in place to reduce the use of restrictive interventions.

The Code requires all hospitals to have a policy on training for staff who may be exposed to violence or aggression in their work, or who may need to be involved in the application of a restrictive intervention.[101]

The Code's section on physical restraint says that if physical restraint is necessary, patients should not be deliberately restrained in a way that impacts on their airway, breathing or circulation. Full account should also be

[99] Department of Health, Mental Health Act 1983 Code of Practice, January 2015, para 26.36
[100] As above, para 26.37
[101] As above, para 26.175

taken of their physical health, and staff should constantly monitor their airway and physical health throughout the intervention.[102]

The Code says that where physical restraint has been used, staff should record the decision and the reasons for it, including details about how the intervention was implemented and the patient's response.[103]

In October 2020, the Care Quality Commission (CQC) published a thematic review of restraint, seclusion and segregation for autistic people, people with learning disability and/or a mental health condition. Out of Sight – who cares? was carried out in response to serious concerns about potential breaches of human rights due to the use of restraint, seclusion, and segregation in care settings. The review found people were not getting the care they need and there were many examples of care that was undignified, inhumane and which potentially breached people's basic human rights.[104]

The Department of Health and Social Care responded to the CQC's report in July 2021 and committed to a number of actions.[105] In particular, the DHSC said "there must be transparent reporting about the use of restrictive interventions in order to improve practice and minimise all types of force used on patients so that it is genuinely only used as a last resort."[106] This is a central aim of the Mental Health Units (Use of Force) Act 2018, covered in section 5.2 below.

The CQC has published two progress reports on the recommendations set out in Out of Sight – who cares?[107] The March 2022 review found that none of the recommendations have been fully achieved and four have been partially achieved.[108]

## Positive and Safe programme

In April 2014 the Department of Health launched a two-year Positive and Safe programme, which aimed to reduce use of restrictive interventions across all health and adult social care.

As part of this, the Department published new guidelines on ending the deliberate use of face-down restraint for people receiving care. Positive and Proactive care: Reducing the need for restrictive interventions, provided non-statutory guidance for adult health and social care staff to develop a culture

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102 Department of Health, Mental Health Act 1983 Code of Practice, January 2015, para 26.71

103 As above, para 26.72

104 Care Quality Commission, Out of sight – who cares?, October 2020, p46

105 Department of Health and Social Care, DHSC's response to CQC's Out of sight- who cares? Restraint, seclusion and segregation report, July 2021

106 As above

107 Care Quality Commission, Restraint, segregation and seclusion review: Progress report (December 2021), December 2021 and Care Quality Commission, Restraint, segregation and seclusion review: Progress report (March 2022), March 2022

108 Care Quality Commission, Restraint, segregation and seclusion review: Progress report (March 2022), March 2022

where restrictive interventions are only ever used as a last resort, and only then for the shortest possible time.

The guidance specified that face-down (prone) restraint should not be used:

> People must not be deliberately restrained in a way that impacts on their airway, breathing or circulation. The mouth and/or nose must never be covered and techniques should not incur pressure to the neck region, rib cage and/or abdomen. There must be no planned or intentional restraint of a person in a prone/face down position on any surface, not just the floor.[109]

Positive and proactive care also introduced new monitoring and governance mechanisms to hold services to account for making these improvements. It was accompanied by investment of £1.2 million in staff training to help avoid the use of restrictive interventions.[110]

## NICE guidance

The National Institute of Health and Care Excellence (NICE) guidelines on Violence and aggression: short-term management in mental health, health and community settings (May 2015) recommend ways to reduce the use of restrictive interventions, such as through staff training and de-escalation techniques. NICE guidelines are not mandatory but provide evidence-based recommendations for commissioners and providers of healthcare.

The guidelines say a restrictive intervention should only be used if de-escalation techniques and other preventative strategies have failed and there is a risk of harm to the service user or other people if no action is taken. They also say sufficient numbers of trained staff, including a doctor trained in resuscitation, should be immediately available.[111]

The NICE quality standard on Violent and aggressive behaviours in people with mental health problems (June 2017) also says restrictive interventions should only be used if other preventative strategies have failed. They should be used for no longer than necessary and de-escalation should continuously be attempted.

The quality standard recommends that people using mental health services who have been violent or aggressive should be supported to identify successful de-escalation techniques and make advance statements about the use of restrictive interventions. If a restrictive intervention is used, the patient's physical health should be monitored during and after physical restraint.

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109 Department of Health, Positive and Proactive Care: reducing the need for restrictive interventions, April 2014, para 70

110 Department of Health, New drive to end deliberate face down restraint, 3 April 2014

111 NICE guideline, Violence and aggression: short-term management in mental health, health and community settings, 28 May 2015, pp30-31

### Patient ethnicity

Concerns have been raised in Parliament and among stakeholder groups about the disproportionate use of physical restraint on people from certain minority ethnic groups, particularly from black African and Caribbean communities.

In October 2017, the Cabinet Office published the Race Disparity Audit, which found that black Caribbean adults were the most likely to have been detained under the Mental Health Act[112], but did not make specific reference to the use of force in mental health settings.

The Home Affairs Select Committee published a report on Policing and mental health (PDF) in February 2015. The report highlighted concerns that the black community more commonly reported the use of force:

> There are real concerns that black and ethnic minority people are disproportionately detained under s. 136 (of the Mental Health Act 1983). Matilda MacAttram of Black Mental Health UK said there was still a feeling in the black community that the young black men are presumed to be dangerous based on their physical appearance, and this perception determines how they are labelled and the treatment they receive. At events organised by the Centre for Mental Health to hear views on experiences of detention under s. 136, black people more commonly reported the use of force and that force was used at an earlier stage during contact with the police. Deborah Coles of INQUEST, agreed that there was a prevailing assumption that people with mental health illness would be dangerous, and that is doubled if the person is from the African Caribbean community. She said the answer was largely to do with training.[113]

## 5.2 The Mental Health Units (Use of Force) Act 2018

The Mental Health Units (Use of Force) Act 2018 provides for the oversight and management of use of force in relation to patients in mental health units and similar settings in England. It received Royal Assent on 1 November 2018 but did not immediately come into force. The Act was introduced as a Private Member's Bill following the death of Olaseni Lewis, a 23-year-old who died soon after being restrained by 11 police officers in a psychiatric hospital.

On 25 May 2021, the Government launched a consultation on draft statutory guidance for the Act.[114] The consultation ended in August 2021 and the final

[112] Cabinet Office, Race Disparity Audit, October 2017, page 49

[113] Home Affairs Select Committee, Policing and Mental Health (PDF), 6 February 2015, HC 202 2013-14, para 71

[114] Department of Health and Social Care, Mental Health Units (Use of Force) Act 2018: statutory guidance for NHS organisations in England and police forces in England and Wales – draft for consultation, May 2021

statutory guidance was published alongside the Government response to the consultation on 7 December 2021.[115]

Most provisions in the Act came into force on 31 March 2022, to allow mental health units time to prepare for the new requirements and take account of the statutory guidance.[116]

The provisions introduce statutory requirements in relation to the use of force in mental health units. Service providers are required to keep a record of any use of force, have a written policy for the use of force, commit to a reduction in the use of force, and provide patients with information about their rights in relation to the use of force. The provisions also place an obligation on mental health providers operating a mental health unit to appoint a 'responsible person' who is accountable for ensuring the requirements in the Act are carried out. The Act also includes a provision (Section 8) for new duty on the Secretary of State to produce an annual report on the use of force at mental health units.

In the case of death or serious injuries following the use of force, the Act requires mental health units to have regard to all relevant NHS and Care Quality Commission (CQC) guidance. This effectively puts NHS England's Serious Incident Framework on a statutory footing. The NHS is currently preparing for the introduction of a new Patient Safety Incident Response Framework (PSIRF) to replace the Serious Incident Framework. Preparations for implementation are expected to be a gradual process, with early adopters working on a transition phase with full introduction of the PSIRF by the end of 2022.

In addition to provisions on the use of force in mental health units, the Act includes provisions on the use of body cameras worn by police officers who attend mental health units for any reason.

The final statutory guidance clarified definitions of the types of force and settings the Act applies to, and to the responsible person, including the skills and experience needed for the role. The guidance is intended for use by NHS hospitals and independent hospitals (providing NHS-funded care) in England providing care and treatment to patients with a mental disorder. It covers:

- how they should meet the legal obligations placed on them by the Act;
- best practice advice; and
- the obligations on police officers from Wales when in mental health units in England.

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115 Department of Health and Social Care, Mental Health Units (Use of Force) Act 2018: statutory guidance for NHS organisations in England, and police forces in England and Wales, 7 December 2021

116 HC Deb 7 December 2021

Background information on the passage of the Bill is available in the Library briefing: Mental Health Units (Use of Force) Bill 2017-19: Committee Stage Report.

# 6 Reform of the Mental Health Act 1983

## 6.1 Independent Review 2018

In October 2017, the Government commissioned Sir Simon Wessely to lead an independent review of the Mental Health Act 1983 (the Act).[117]

This followed concerns about high rates of detention under the Act and the disproportionate use of the Act among people from black and minority ethnic (BAME) groups. The Five Year Forward View for Mental Health (February 2016) recommended action to substantially reduce detentions under the Act and targeted work to reduce the significant overrepresentation of BAME and any other disadvantaged groups within detention rates.[118]

The Department of Health and Social Care asked the independent review to make recommendations for improvement in the following areas:

- rising rates of detention under the act
- the disproportionate number of people from black and minority ethnicities detained under the act
- stakeholder concerns that some processes relating to the act are out of step with a modern mental health system.[119]

An interim report (PDF) was published in May 2018 summarising the review's progress and the priority issues that had emerged. [120]The final report - Modernising the Mental Health Act: Increasing choice, reducing compulsion - was published in December 2018. The review recommended reforming the Act "to rebalance the system to be more responsive to the wishes and preferences of the patient, to take more account of a person's rights, and to improve as much as possible the ability of patients to make choices even when circumstances make this far from easy."[121]

117 Written Statement HCWS143, Independent Review of the Mental Health Act, 9 October 2017
118 Independent Taskforce to the NHS in England, The Five Year Forward View for Mental Health, February 2016, recommendation 22
119 Department of Health and Social Care, Terms of Reference – Independent Review of the Mental Health Act 1983, 4 October 2017
120 Department of Health and Social Care, Independent review of the Mental Health Act: interim report, 1 May 2018
121 Department of Health and Social Care, Modernising the Mental Health Act – final report from the independent review, December 2018, p16

The review made 154 recommendations grouped under four key principles (choice and autonomy, least restriction, therapeutic benefit, and the person as individual), covering areas such as decision making about care and treatment, family and carer involvement, tackling rising rates of detention and the experiences of people from ethnic minority communities.[122]

## Government response to the independent review

The Government initially accepted two recommendations: introducing statutory advance choice documents, so that people's wishes and preferences carry far more legal weight, and creating a new 'nominated person' role, chosen by the patient to support them, to replace the current nearest relative provisions.[123]

In June 2019, the Government accepted further recommendations to tackle the disproportionate number of people from BAME groups who are detained under the Act, and further steps to end the use of police stations as a place of safety. The NHS Long Term Plan (2019) also set out actions to improve crisis care and community mental health services, in line with the review's recommendations to improve community provision for people with serious mental illness.[124]

Prime Minister Theresa May set out a number of Government plans for early action:

- the first ever Race Equality Framework will ensure NHS mental healthcare providers work with their local communities to improve the ways in which patients access and experience treatment, and ensure data on equality of access is monitored at board level and acted on
- working with Black African and Caribbean community groups alongside others to develop a White Paper formally setting out a response to Sir Simon's review
- further work towards eradicating the use of police cells as a place to detain people experiencing mental illness ahead of banning it in law, building on the Prime Minister's work to end this practice for under-18s
- launching a pilot programme of culturally-sensitive advocates in partnership with local authorities and others, to identify how best to represent the mental health needs of ethnic minority groups
- a partnership between the Care Quality Commission and Equality and Human Rights Commission to review how they can use their regulatory powers to better support equality of access to mental health services

[122] For the full list of recommendations, see pages 297-314

[123] Written Statement HCWS1149, Final report of the Independent Review of the Mental Health Act, 6 December 2018

[124] PQ 284614 [on Mental Health Act 1983 Independent Review], 9 September 2019

- an open call for research into how different ethnic minority groups experience mental health treatment and how this can be improved by the National Institute for Health Research.[125]

## 6.2 Reforming the Mental Health Act White Paper

The Department of Health and Social Care published the white paper Reforming the Mental Health Act on 13 January 2021. [126] It set out a package of reforms which build on recommendations made by the review in 2018. The white paper is guided by four key principles and proposed many other changes to the Act, which broadly mirror those proposed by the independent review.[127] Part 3 of the white paper set out the Government's response in full to each of the review's recommendations.

The Government consulted on the white paper and published its response on 24 August 2021.[128]

The Secretary of State for Health and Social Care, Sajid Javid, wrote to Jeremy Hunt, Chair of the Health and Social Care Committee in February 2022 to confirm the Government's intention to legislate to reform the Mental Health Act. In the letter, he said:

> We will be seeking changes to the Mental Health Act to empower individuals to shape their own care and treatment, providing them with greater choice and influence over their care. We want to improve the Act so that it works to ensure patients receive therapeutic benefit when made to stay in hospital for their mental health. We will also restrict the use of the Act for people with a learning disability and autistic people.[129]

The Queen's Speech in May 2022 included an announcement on draft legislation to reform the Mental Health Act.[130] The briefing notes to the speech stated:

> These are once in a generation reforms to bring the Mental Health Act into the 21st century and give people greater control over their treatment and receive the dignity and respect they deserve.[131]

125 No 10 press release, Measures to end unequal mental health treatment kickstarted by PM, 17 June 2019
126 Department of Health and Social Care, Reforming the Mental Health Act, January 2021
127 Department of Health and Social Care, Landmark reform of mental health laws, 13 January 2021
128 Department of Health and Social Care, Reforming the Mental Health Act: government response, 24 August 2021
129 Rt Hon Sajid Javid MP, Letter to Health and Social Care Committee, 25 February 2022
130 Prime Minister's Office, Queen's Speech 2022, 10 May 2022
131 Prime Minister's Office, Queen's Speech 2022: background briefing notes, 10 May 2022

Initial responses to the announcement of the Draft Bill from mental health charities and stakeholder groups have welcomed the coming changes.[132]

The draft Bill will be subject to pre-legislative scrutiny before it is introduced in Parliament.

Further details on the reform process and various reports are available in the Commons Library Briefing, Reforming the Mental Health Act.[133]

[132] See Mind, Mind responds to Queen's Speech with comments on Mental Health Bill, Conversion 'therapy' ban, Human Rights Act reform, and lack of Employment Bill, 10 May 2022; Mencap Press Release, "Reforms to the Mental Health Act are a vital step in protecting human rights" - Mencap responds to the Queen's Speech, 10 May 2022; Royal College of Psychiatrists, Royal College of Psychiatrists responds to the Queen's speech, 11 May 2022.

[133] Commons Library briefing CBP-9132, Reforming the Mental Health Act

# 7 Scotland, Wales and Northern Ireland

## Scotland

In March 2017 the Scottish Government announced a new ten-year Mental Health Strategy, focused on improving access to services and supporting earlier intervention. The 40 actions in the strategy include increasing the mental health workforce in A&E, GP practices, police station custody suites and prisons – supported by £35 million additional investment over the next five years for 800 extra workers.[134]

The main mental health legislation in Scotland is the Mental Health (Care and Treatment) (Scotland) Act 2003[135], as amended by the Mental Health (Scotland) Act 2015.[136]

A review of Scottish Mental Health Law is currently underway. The proposals for changes to the law were published in March 2022 and a public consultation was held until May 2022.[137]

The Scottish Government published its Suicide Prevention action plan: Every life matters in August 2018, which sets a target to further reduce the rate of suicide by 20% by 2022.[138] The plan sets key actions to achieve this target, such as the creation of a National Suicide Prevention Leadership Group, that will support the delivery of local prevention plans, backed by £3 million funding over the course of the current Parliament.

An overview of mental health policy in Scotland can be found on the Scottish Government's Mental health webpage.

## Wales

In October 2012, the Welsh Government published Together for mental health: our mental health strategy, a 10-year strategy for improving the lives of people using mental health services, their carers and families.[139]

134 Scottish Government, Mental Health Strategy 2017-2027, 30 March 2017. See also Scottish Government, Mental health strategy 2017-2027: first progress report, 26 September 2018, and Scottish Government, Mental health: PfG delivery plan, 19 December 2018.

135 Mental Health (Care and Treatment) (Scotland) Act 2003

136 Mental Health (Scotland) Act 2015

137 Mental Health Law Review Executive Team, Scottish Mental Health Law Review consultation, March 2022

138 Scottish Government, Suicide prevention action plan: every life matters, 9 August 2018

139 Welsh Government, Together for mental health: our mental health strategy, 31 October 2012

To support the implementation of the strategy, the Welsh Government have produced implementation plans. The Mental health delivery plan 2019 to 2022 has been revised to include responses to the impact of the Covid-19 pandemic on mental health.[140]

In July 2015, the Welsh Government published Talk to me 2: Suicide and self harm prevention strategy 2015 to 2022, setting out the steps it would take to reduce suicide and self-harm rates in Wales.[141]

The current Mental Health Act 1983 applies in England and Wales. Health policy is devolved to Wales and the recent White Paper on Reforming the Mental Health Act represents the position of the UK Government, which commissioned the initial review of the Act.[142] A Welsh response is in the process of translation.[143]

## Northern Ireland

In June 2021, the Northern Ireland Government published a new Mental Health Strategy 2021-2031.[144] A funding plan has been published alongside the strategy.[145]

A long-term strategy for reducing suicide and self-harm rates, Protect Life 2 - Suicide Prevention Strategy was published in September 2019.[146]

The Government in Northern Ireland is in the process of implementing a new Mental Capacity Act (NI) 2016.[147] This legislation will bring together mental capacity and mental health into one law. When the legislation is fully commenced, it will replace the Mental Health (Northern Ireland) Order 1986 for anyone over the age of 16.[148]

The Northern Ireland Assembly Research and Information Service have published a briefing on Mental Health in Northern Ireland (PDF) (2017).

140 Welsh Government, Mental health delivery plan 2019 to 2022, 23 November 2021
141 Welsh Government, Talk to me 2: Suicide and self harm prevention strategy 2015 to 2022, 16 July 2015
142 Department of Health and Social Care, Reforming the Mental Health Act, January 2021, p18
143 Department of Health and Social Care, Reforming the Mental Health Act (accessed 25 March 2021)
144 Northern Ireland Executive, Mental Health Strategy 2021-2031, 29 June 2021
145 Northern Ireland Executive, Mental Health Strategy 2021-31 funding plan, 29 June 2021
146 Northern Ireland Executive, Protect Life 2 - Suicide Prevention Strategy, 10 September 2019
147 Northern Ireland Assembly, Mental Capacity Act (Northern Ireland) 2016
148 Northern Ireland Executive, Mental Capacity Act Background (accessed 25 March 2022)

# 8 Further reading

The Government provides information on current mental health policy on its page on mental health service reform.

NHS England provides information on its work to improve mental health services - see mental health.

The mental health charities Mind and Rethink Mental Illness provide accessible information on mental health policy and practice.

## House of Commons Library briefings

- Mental health statistics: prevalence, services and funding in England
- Suicide Prevention: Policy and Strategy
- The White Paper on Reforming the Mental Health Act
- Women's Mental Health
- Children and young people's mental health – policy, CAMHS services, funding and education
- Support for UK Veterans
- Perinatal mental illness
- NHS Key Statistics: England, February 2022
- Access and waiting time standards for early intervention in psychosis
- The impact of Covid-19 on mental health and human rights

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