

The Mental Health Act 1983 (amended 2025)

The Mental Health Act 1983 (amended 2025), which was formally introduced to Parliament in the House of Lords as a Bill on 6 November 2024, has received royal assent in the House of Commons.

Rising rates of detention, racial disparities in the use of detention and community treatment orders, and the inappropriate detention of autistic people and people with a learning disability are key drivers for the reformed Act. Importantly, this legislative change seeks to strengthen patients' voices and improve experiences of care and treatment.

We welcome the reform of the previous Mental Health Act (1983) (MHA). We believe the revised legislation will provide a solid foundation to enable greater involvement and control for patients over their care and treatment decisions, and will support the delivery of care and treatment in a way that is less reliant on the use of detention. These are hugely important steps forward.

But the legislation alone will not be enough to achieve this and we therefore look forward to additional measures being taken forward, which were raised during parliamentary debates. We particularly look forward to the provision of suitable community-based services as an alternative to detention, and investment in the sector to grow the workforce. These will be fundamental to fully realising the aims of the Act.

We will work with the Department of Health and Social Care to revise the MHA Code of Practice in 2026. Our aim is to ensure that it has a strong focus on the guiding principles of choice and autonomy, least restriction, therapeutic benefit and treating a person as an individual.

The Act is likely to be implemented over a 10-year period, and we will develop our processes in parallel, so that they enable us to monitor the new provisions in accordance with our statutory roles.

The Act has notable implications for our second opinion appointed doctor (SOAD) service and we anticipate a significant increase in demand for this service. This is because the reforms reduce the length of time a detained patient can be treated without their consent before a second opinion is required. Under the provisions of the Bill, the authorisation by a SOAD for urgent treatment for electroconvulsive therapy (ECT) changes and will increase protection for patients. The Bill states that urgent ECT can only be given to a patient who has capacity but does not consent, or to a patient who currently lacks capacity to consent but has a valid advance decision in place to refuse ECT, if certified by a SOAD. The need for us to provide a SOAD within urgent timescales creates complexities, and we are exploring how we can cater for these changes and the anticipated rise in demand for the SOAD service.

We will continue to work with the Department of Health and Social Care to address the challenges created by the national shortage of consultant psychiatrists, who make up our SOAD service, and current funding arrangements.

The scope and range of our monitoring activities will need to broaden to encompass new legislative provisions. Therefore, we will involve our Experts by Experience and advocacy groups in our updated approach wherever possible. This will enable us to check whether the key aims of the reforms are being met – including enhancing patients' rights and safeguards and giving them a meaningful voice in their care and treatment.

We welcome the government's commitment to monitor and evaluate the impact of the reforms in terms of addressing racial inequalities. We are fully supportive of the Patient and Carer Race Equality Framework, launched in October 2023, which we discuss further in this report, and we will ensure it both informs and shapes our safeguarding of people's rights.

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