

Ministerial Statement on the Mental Health Bill 23/03/06

Rosie Winterton MP, Minister of State, Department of Health

I should like to set out the Government's plans for a Mental Health Bill.

Mental health legislation is about the circumstances in which people with a mental disorder can be treated without their consent, in order to protect them and/or others from harm; and the processes that have to be followed if someone is to be treated without consent. The majority of people with a mental disorder will not require treatment under mental health legislation. At any point in time, 1 in 6 of the population has a common mental health problem. At 31 March 2004, there were about 14,000 patients who were being detained and treated in hospital for a mental disorder.

Through sustained investment and ongoing service reform, the mental health system is progressively achieving success in many areas. However it is important that the present mental health legislation is amended to keep pace with changes in service delivery, to provide safeguards for patients and to prevent harm to individual patients and to the wider public.

We have spent the last 7 years consulting on, discussing and redrafting the Mental Health Bill. The draft Bill achieves many of our intentions but we have been reviewing its length and complexity. We have listened to the Joint Committee and our stakeholders, and have looked again at the arguments about amending the Mental Health Act 1983.

As a result, we will introduce a shorter, streamlined Bill that amends the Act. It will reflect the impact of service modernisation and will provide legislation that is easier to understand and implement. It will also help deliver our other objectives: to promote patient safeguards and to protect patients and the public from harm.

The Bill to amend the 1983 Act will:

Introduce supervised treatment in the community for suitable patients following an initial period of detention and treatment in hospital. This will help ensure that patients comply with treatment and enable action to be taken to prevent relapse and readmission to hospital. The Introduction of treatment in the community reflects modern service provision and enabling patients to be treated according to their individual needs and circumstances.

Expand the skill base of professionals who are responsible for the treatment of patients treated without their consent.

Improve patient safeguards by taking order-making powers with regard to the Mental Health Review Tribunal. We are currently considering across government the precise terms of the changes, and will continue to consult with stakeholders.

Reflect a widespread consensus and the views of the Joint Committee and will introduce a new, simplified single definition of mental disorder.

Keep, as recommended by the Joint Committee, the exclusion for drug and alcohol dependency, and preserve the effect of the Act as it relates to people with learning disabilities.

replace the 'treatability' test with a test that appropriate treatment must be available. Unlike the treatability test, the availability of appropriate treatment will be a requirement for all the groups of patients, regardless of their particular diagnosis. This is important to ensure that patients are not brought under compulsory powers unless appropriate treatment is available.

We will amend the current Act to remedy an ECHR incompatibility in relation to the Nearest Relative. At the same time, we will bring the Act into line with the Civil Partnership Act 2004 in relation to the Nearest Relative provisions.

The Bill will be used as the vehicle for introducing the Bournemouth safeguards, through amending the Mental Capacity Act 2005. These safeguards are for people who lack capacity and are deprived of their liberty but do not receive mental health legislation safeguards.

We will address safeguards for children treated on the basis of parental consent through the Children Act 1989. Children detained under the Mental Health Act will continue to receive the same safeguards as adults. We will also look at ways that we can continue to pursue other patient safeguards, such as advocacy, through other means.

We shall publish very soon a report on the outcome of the public consultation on Bournemouth and the key features of our Bournemouth proposals.