

Mental health and the law: from coercion to patient voice

Mental Health Act 1983 and MHA
Review

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**‘Hi, I’m
Steve’**

My experience

- **Lived Experience Consultant, 300 Voices** – developed a sophisticated engagement model to bring together service users, families, MH staff and the police
- **Vice chair, Mental Health Act Review** – led work on developing recommendations to improve experiences and outcomes for black people
- **Chair, Diversity Council (Digital MH org)** –



My experience

- **Trustee, 2 x national mental health organisations**
– scrutinising performance on equality and diversity
- **NHS RHO Mental Health WG – Co-Chair**
- **Advisor** to government and health service on equality and diversity
- **Conference speaker and trainer**



Queen's Birthday Honours List 2019



The MHA

Review process



Mental Health Act 1983

CHAPTER 20

ARRANGEMENT OF SECTIONS

PART I

APPLICATION OF ACT

Section

1. Application of Act: "mental disorder".

PART II

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

Procedure for hospital admission

2. Admission for assessment.
3. Admission for treatment.
4. Admission for assessment in cases of emergency.
5. Application in respect of patient already in hospital.
6. Effect of application for admission.



MHA Review Terms of Reference

Look at how the legislation in the Mental Health Act 1983 is used and how practice can improve.

The purpose of the review was to understand the reasons for:

- rising rates of detention under the Act
- the disproportionate number of people from black and minority ethnic groups detained under the Act
- processes that are out of step with a modern MH

Background and problems that we faced

- The complex balance between respecting a person's autonomy and the duty of a civilised State to protect the vulnerable.
- The problem of fear – held by patients, the public, and professionals involved in the system.
- The rise of coercion and the continuing legacy of stigma, discrimination and racism in society.



A balancing act – why need an MHA

‘An individual's right to autonomy with the desire of a civilised society to protect its most vulnerable’



Fear

‘Professionals are fearful that unless they adopt a cautious, risk averse approach to their patients, they will find themselves being publicly shamed for those occasions when those same people cause serious harm to themselves or others.’



Fear

‘Patients are often fearful not only of the consequences of such illness but of how they will be treated by society in general and the mental health system in particular. They do not always experience kindness, particularly where the state's powers of coercion have been invoked.’



Risk aversion and its consequences

‘Rates of severe mental illness have not changed substantially over the period’

‘Risk aversion has played a substantial role in this rise, and contributes to some of problems that we report in creating and sustaining a genuinely therapeutic atmosphere for those detained.’



Ethnicity, Racism, and Discrimination

‘Too often and in too many areas the experiences of those of black African and Caribbean heritage is one of either being excluded or detained’



Towards a rights-based Mental Health Act

‘necessity of rebalancing 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 the ability of patients to make choices even when their own circumstances make this far from easy.’



Severe mental illness has been overlooked

‘We need investment in alternatives to detention, a reinvigoration of our community services focussing on a much broader and swifter offer of alternatives to compulsory treatment.’



The MHA &

Black people



Photo courtesy Peer Support Space/Facebook



Over-representation in crisis & secure services

People of African and Caribbean heritage are

40% more likely

than white British people to come into contact with mental health services through the criminal justice system, rather than primary care



Over-representation in crisis & secure services

Adults of black Caribbean heritage are

significantly more
likely to be
readmitted



Over-representation in crisis & secure services

Also more likely to be subjected to

restrictive practices

such as high dose antipsychotic meds,
physical restraint and seclusion.



Over-representation in crisis & secure services

Significant,

over-representation

In psychiatric intensive care / secure care services.

Longer hospital stays



Under representation in treatment...

People of African and Caribbean heritage are

less likely to be
offered

psychological therapies / sessions will finish
early and abruptly.



A new set of principles

A **purpose and a set of principles** should be included in the Act itself.

There should be four new principles covering:

- **Choice and autonomy**
- **Least restriction**
- **Therapeutic benefit**
- **The person as an individual.**



A new set of principles

Choice and autonomy



A new set of principles

Least restriction



A new set of principles

Therapeutic benefit



A new set of principles

The person as an individual



A new set of principles

Choice and autonomy

Least restriction

Therapeutic benefit

The person as an individual.

Common sense? Maybe

Routinely delivered? No



The voice of lived experience

Centre for
Mental Health



**Report on the Key Themes from the
Mental Health Act Survey**

Independent Mental Health Act Review

**Prepared by
Dr Graham Durcan & Androulla Harris**

**Centre for Mental Health
November 2018**



“a necessary evil” (LEX632).

“...In hindsight absolutely yes. It saved my life. At the time I would have argued there was nothing wrong with me...” (LEX459)



“...It has at times been the best approach, it kept me alive when I would have definitely died without it...” (LEX926)

“...Being detained saved their lives...”
(CAR47)

”...at the time my wife was at a high risk of suicide so the section probably saved her life...” (CAR1336)



“...At a time when you are vulnerable and seriously ill you find yourself losing your rights and any say in anything. This isn't healthy for anyone. I felt as though I was being judged and ordered around. An advocate helped me more than once and made complaints too. My views and feelings were dismissed by [psychiatrists] ...” (LEX1704)



“...at other times and for other people it has been an unhelpful, traumatising and horrendous experience, which has led to/ created/ exacerbated a range of mental health triggers and experiences...” (CAR6)

