
Response from the Royal College of Psychiatrists:

Estimating the impact of proposed reforms to the Mental Health Act on the workload of psychiatrists

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Introduction

The Mental Health Act is the law in England and Wales that sets out when a person with a mental illness can be detained in hospital for assessment or treatment that is necessary for the person's health or safety, or for the protection of other people. At times, this law is applied when a person is unable or unwilling to agree to admission.

Following an independent review of the Mental Health Act in 2018 by Professor Sir Simon Wessely¹, a series of changes to law and practice were proposed. The Department of Health and Social Care's White Paper, *Reforming the Mental Health Act*², builds on these proposals.

The Royal College of Psychiatrists (RCPsych) broadly welcomes the proposed reforms to the Mental Health Act. They provide an opportunity to ensure the existence of a modern legislative framework for the medical treatment of people with mental illness. They also have the potential to improve patient care and the support given to patients, their families, and their carers, as well as ensure that an individual's dignity, autonomy, and human rights are protected when subject to the Act.

We particularly welcome efforts to address the disproportionate impact of the Act on people from Black, Asian and minority ethnic backgrounds, which aligns with our Equality Action Plan³ and our concerns about the structural, institutional, cultural, historical, and process-driven discrimination that these groups suffer.

The proposed reforms will also mean significant changes to the way patients receive care, their ability to challenge decisions and influence their own care and treatment, and how those with intellectual disability and autism engage with services. All of which equate to significant changes in the way mental health professionals work, placing more demands on their time. The impact of this will vary across services.

Successful implementation of the reforms is therefore contingent on investment to ensure an expanded and fully trained mental health workforce is in place to deliver them. This is in addition to the numbers required to meet the NHS Long Term Plan commitments. Without the required investment, proposed changes to improve patient rights and safeguards, as well as improve the services they receive, will not be realised.

To understand the views of RCPsych members on the proposed changes to the Mental Health Act, a survey was conducted in March 2021⁴. It revealed that 71.05% of respondents said that substantial investment would be required to ensure a sufficient

workforce is in place in order to successfully implement the proposed changes to mental health tribunals.

Respondents were also asked to indicate what changes, other than those made to the law, would be required to make the proposal on making care and treatment plans statutory successful. Their responses are as follows:

- 86.42%: increased workforce recruitment
- 83.11%: increased financial resources for services
- 78.64%: increased training
- 70.2%: changes to the culture of working
- 0.83%: no change required.

It is clear that to implement the changes we need more healthcare professionals. However, in the mental health sector, the challenge of recruiting enough skilled staff to meet the needs of patients is not new nor easy to solve.

Current workforce constraints mean that changes to the Mental Health Act cannot be absorbed within the existing workforce. While funding announced by the Government for workforce expansion in March 2021⁵ is a good first step, much more will be required.

To support policy-makers prepare for successful implementation of the reforms, RCPsych commissioned The Strategy Unit to provide an independent assessment of the impact of the proposed changes to the Mental Health Act on the psychiatric workforce. This was with the aim of better understanding how many additional psychiatrists would be required to deliver the reforms in the proposed year of implementation, and 10 years later. Now that we know those numbers, we need assurances that the system will be provided with the required resource to make these reforms a success.

It is worth highlighting that The Strategy Unit has undertaken a parallel analysis on behalf of Health Education England (HEE) and the National Workforce Skills Development Unit, which addresses the impact of the proposed changes to the Mental Health Act on multi-professional Approved Clinicians. Our hope is that both pieces of research will be reviewed together to inform workforce and implementation plans.

Research findings

The Strategy Unit's approach was to understand the obligation that the Mental Health Act currently places on psychiatrists, and to estimate how the frequency and duration of tasks might change if the planned reforms are implemented.

The approach involved the following steps:

- 1 Reviewing the White Paper to identify commitments that may generate new activities or alter the frequency or duration of existing activities carried out by psychiatrists.
- 2 Estimating the frequency with which these activities are likely to occur in 2023/24 and 2033/34.

- 3 Deploying an abbreviated form of the Delphi method to derive duration estimates. This involved a workshop with 16 psychiatrists, representing a range of specialties, to elicit and combine expert opinion on quantities of interest.
- 4 Bringing the data together to estimate the number of Full-Time Equivalent (FTE) psychiatrists that would be required to carry out the reforms in 2023/24 and 2033/34.

The numbers set out in the research, therefore, relate only to the impact of the proposed reforms. It is imperative that the numbers are interpreted as being additional to those required to deliver NHS Long Term Plan commitments, meet increased demand for mental health services, fill existing vacancies within services, and replace those leaving the profession.

It is important to acknowledge the complexity involved with quantifying the workforce implications of the reforms. Estimating how the rate of detentions will change over the coming years is particularly complicated, which is why RCPsych commissioned The Strategy Unit to model different growth scenarios.

- **No growth:** By 2023/24, an additional 325 FTE psychiatrists will be needed, costing £39m per year by 2023/24. By 2033/34, a further 92 FTE psychiatrists will be needed, costing £50m per year by 2033/34 (including £39m cited to 2023/24). This is over and above the current workforce for the relevant grades (5,815 FTE psychiatrists)⁶.
- **Continuation of recent growth:** By 2023/24, an additional 335 FTE psychiatrists will be needed, costing £40m per year by 2023/24. By 2033/34, a further 185 FTE psychiatrists will be needed, costing £63m per year by 2033/34 (including £40m cited to 2023/24).
- **Department of Health and Social Care estimated growth:** By 2023/24, an additional 333 FTE psychiatrists will be needed, costing £40m per year by 2023/24. By 2033/34, a further 161 FTE psychiatrists will be needed, costing £60m per year by 2033/34 (including £40m cited to 2023/24). The Strategy Unit found that the primary driver of additional psychiatrists was the amount of extra time required per tribunal hearing. Based on expert opinion about the extra time required, sensitivity analyses shows that if the upper quartile of opinions were used, 457 psychiatrists would be required by 2023/24 and a further 221 by 2033/34.

During this research, it became clear that RCPsych members are concerned about the assumption that detentions under the Act will decrease or be moderated. While the reforms will no doubt affect the number of detentions, there are several other factors that can affect this. For example, greater need for mental health services, including crisis care; uncertainty over whether the NHS Long Term Plan commitments are deliverable; and the long-term wider health and economic impacts of the pandemic.

Inequalities in health and care is another important factor. The pandemic has had devastating effects on ethnic minorities and is widening further the health inequalities that exist. There are complex and entrenched causes of health inequalities and their impact on detention, including service provision, accessibility, societal injustices, and ingrained inequalities – all of which extend well beyond the scope of this legislation.

These factors signal that the Government has potentially underestimated the impact of the reforms on the workforce. That aside, the research shows that under each scenario an expanded psychiatric workforce is required to deliver the proposed reforms. The required expansion is solely based on the impact of the reforms, and therefore must be viewed as being additional to increases required to deliver the NHS Long Term Plan and meet increased demand for services.

Policy response

While RCPsych welcomes the proposed reforms to the Mental Health Act to improve patient care and increase safeguards, it cannot be emphasised enough that they are not deliverable without the required investment in the psychiatric workforce.

It is important that the workforce requirements associated with changes to the Mental Health Act are not viewed in isolation. Expanding the mental health workforce is already critical to delivering the NHS Long Term Plan ambitions and meeting heightened demand due to COVID-19 yet remains widely recognised as one of the biggest risks to achieving both.

There has been significant difficulty in increasing the psychiatric workforce over the past five years. The Five Year Forward View for Mental Health and NHS Long Term Plan both included indicative workforce requirements to deliver service ambitions and improve mental healthcare. However, despite welcome investment in the psychiatric workforce to date, the requirements have not been met nor are they on track to be met.

In the plan to deliver the Five Year Forward View for Mental Health⁷ – *Stepping forward to 2020/21: The mental health workforce plan for England*⁸ – there was a target to employ 570 more consultant psychiatrists by March 2021. By this date, only 209 (37%) posts were filled⁹ compared with March 2017 (the Government’s baseline date). Furthermore, the NHS Long Term Plan¹⁰ is meant to build on the planned workforce set out in the Five Year Forward View. Yet as of June 2021¹¹, the NHS was almost 400 consultant psychiatrists behind the target for 2020/21, and therefore on course to miss the Long Term Plan target by 2023/24. However, that is not to say that no progress has been made. Across the grades assessed within The Strategy Unit’s research, there has been an increase of 327 psychiatrists between March 2017 and March 2021.

The issues with meeting workforce targets are, in part, because workforce planning has come too late in the planning cycle. For example, the workforce plan for the Five Year Forward View for Mental Health was published over a year later. It is also due to short-term workforce planning that fails to understand the length of time it takes to train staff, which is evidenced by two one-year People Plans that do not align with the workforce targets required to implement the NHS Long Term Plan.

The number of FTE psychiatrists at all grades has also seen a slow rate of growth. Between June 2011 and June 2021, the number of FTE psychiatrists at all grades working for NHS organisations increased by 11.6%, whereas over the same period, the number of all other doctors across Hospital and Community Health Services rose by 30.4%¹². Between March 2011 and March 2021, only 146 psychiatrists (at the relevant grades used by The Strategy Unit) were added to the workforce.

In that context, responding to people who need care and support due to the pandemic is already challenging. NHS England estimate at least 1.5 million people are eligible for care but are yet to receive it¹³.

The long-standing workforce crisis in mental health cannot continue to be ignored.

RCPsych makes the following recommendations to the Government:

1 At the 2021 Spending Review, invest a cumulative £82m (at current prices) by 2024/25 in the psychiatric workforce required to deliver the proposed reforms to the Mental Health Act

RCPsych is clear that while reforms to the Mental Health Act are an important way of improving patient care, there is a risk they will not be successfully implemented without the investment required in ensuring the workforce is in place to deliver them.

At the 2021 Spending Review, we urge the Government to ensure funding is allocated to deliver the requisite workforce for the reforms. Assuming that implementation of the reforms will begin in 2023/24, we recommend that the Government invest a cumulative £82m over the Spending Review period to cover the 349 psychiatrists that are required. This total is derived from the Strategy Unit's estimated cost for that initial cohort of psychiatrists in 2023/24 (£40m) and the beginning of an incremental additional growth in requisite investment of £2m more each year to 2033/34 inclusive (£42m in 2024/25).

Investment should additionally include the costs associated with meeting the workforce requirements of the Approved Clinician workforce identified by a parallel HEE-commissioned analysis conducted by The Strategy Unit.

Following 2024/25, the Government should also commit to further annual investment in the psychiatric workforce to reach £60m by 2033/34, to ensure continued implementation of the reforms is successful.

On its own, investment will not immediately deliver the number of extra psychiatrists that are needed. Investment should, therefore, be accompanied by a workforce plan to ensure the required workforce is in place at the time of implementation. The workforce plan should be led by the Department of Health and Social Care, HEE and NHS England and Improvement.

The impact of taking the reforms forward without investing in the workforce would be significant, with other parts of the system being most affected. In this instance, we would recommend that the timeframes for implementation be revised. RCPsych would be happy to engage with the Department on this point.

2 Amend the Health and Care Bill to require the Secretary of State for Health and Social Care to, at least once every two years, report independently verified assessments of current and future workforce numbers

Becoming a psychiatrist takes time. Research shows that the average time taken from medical qualification to consultancy is 11 years¹⁴. This can mean that service

plans are developed which fail to keep pace with the trajectory of the workforce. This can lead to a failure to meet service targets, as well as an overstretched and demoralised workforce. The Health and Care Bill presents an important opportunity to change this.

At present, the workforce provision in the Bill is inadequate. While the RCPsych welcomes efforts to provide clarity on how workforce planning and supply operates at a national, regional, and local level, it does not go far enough. It will not provide the transparency and accountability that is required to deliver the workforce that is needed, nor will it provide clarity on whether the system is training and retaining enough people to deliver services both now and in the future.

Alongside several other organisations¹⁵, we propose an amendment to Clause 33 so that every two years the Secretary of State for Health and Social Care must also publish independently verified assessments of current and future workforce numbers consistent with the Office for Budget Responsibility long-term fiscal projections.

Such an amendment would ensure future alignment between service planning and workforce planning, leading to service plans that are grounded in the realities of workforce capacity. Ultimately, it would avoid a situation in which identified improvements to patient care are not deliverable due to workforce constraints.

3 Publish a long-term workforce plan to enable the delivery of key NHS commitments and meet increased demand for mental health care

Alongside a specific workforce plan to deliver the Mental Health Act reforms, RCPsych recommends the publication of comprehensive NHS workforce strategy, following publication of HEE's new strategic framework. This should focus on staff recruitment, training, and retention.

This strategy should be accompanied by a multi-year settlement for workforce training and education to allow for the growth in the mental health workforce, including via new roles, necessary to deliver the NHS Long Term plan and proposed standards from the Clinically-led Review of NHS Standards, as well as meet increased demand for mental health care.

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