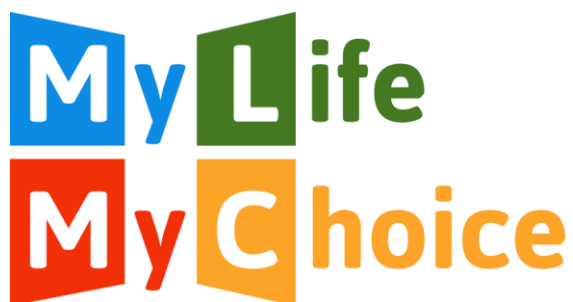


Putting Human Rights at the Centre of Changes to the Mental Health Act

An Easy Read report sharing the views of people who use, have used, or are trying to use mental health services and staff that work in mental health services.



May 2021

This Easy Read document was proofed by My Life My Choice self-advocates

What is in this Report?

Difficult Word Buster	Page 3
What is this report about?	Page 11
What is the Mental Health Act?	Page 15
Why is the Mental Health Act being changed?	Page 16
What is the Human Rights Act?	Page 19
The key rules	Page 24
The right to liberty	Page 28
The right to be free from discrimination	Page 32
The right to be free from serious harm	Page 35
The right to wellbeing, to make decisions, involvement, relationships, home and contact with loved ones	Page 39
Contact Us	Page 44

Difficult Word Buster

If you come across a word that is hard to understand and it is in the colour **red**, you can read the meaning of the word here.



Absolute Rights

Absolute rights (such as the right to life or the right to be free from serious harm) can never be taken away from you.

This means the law says that a staff member cannot treat you in a way that takes away or limits one of these rights.



Autonomy

Autonomy is about having a say about your life, care and treatment. Staff should listen to what you want and involve you in choices about your life.



Advocacy Services

Advocacy is about helping you to speak up and get the support you need.



BIHR

When we say BIHR or “we”, we mean the British Institute of Human Rights. We are a human rights charity that works across the UK.



Care Quality Commission (CQC)

The Care Quality Commission check services like GPs, hospitals and care homes to make sure they are giving good health and social care to people.

You can read more about the CQC [here](#).



Community Treatment Order (CTO)



A Community Treatment Order allows a person to leave hospital and get mental health treatment at home instead. In this report, we shorten Community Treatment Order to CTO. If a person is under a CTO, the **Mental Health Act (MCA)** is still being used, even though they are not in hospital anymore.

A CTO means a person has to follow some rules while they are at home. If they don't follow the rules they might have to go back to hospital.



Funded

Funded means the way that something is paid for. If you receive support, it might be funded by the NHS or your **local authority**.



Human Rights

Human Rights are a set of rules that protect people and tell governments how people should be treated.



Involvement

Involvement means to take part in something. You might be involved in planning how you get extra support or care.



Legal Duty

A legal duty is a rule that someone must follow. It is written in a law. For example, the Human Rights Act says that public services must protect, respect and fulfil people's human rights.



Local Authority

A local authority is an organisation in charge of **public services** in an area. Your council is a local authority.



Mental Health Act (MHA)

The Mental Health Act is a law in England and Wales. It is there to protect people who need care for their mental health.

Sometimes this is called the MHA for short.



Private

Private means information that is not available to everyone. You have a right to a private life; you do not have to tell everyone everything about your life.



Public Services

Public services are organisations that serve the public and are usually **funded** by the government. The NHS, local authorities, police, public schools, fire brigade are examples of public services.



Mental Health Act (MHA) Code of Practice

The MHA Code of Practice explains to services about how the Mental Health Act should be used and tells services what they must do.



National Institute for Health and Care Excellence (NICE) guidelines

These are guides for doctors, nurses, care workers and support workers about what works well in health and social care.



Non-Absolute Rights

A non-absolute right is a right that can't be taken away from you but can sometimes be limited.

If a non-absolute right is going to be limited, a 3-stage test needs to be passed.



NSUN (the National Survivor User Network)

NSUN is a charity and membership organisation for: people with experience of mental ill-health, distress and trauma and mental health community groups.



Sectioned

If you are sectioned, this means that you are kept in hospital under the powers of the **MHA**.



Wellbeing

Wellbeing is your physical and mental health and happiness. If something makes you upset or ill, it might affect your wellbeing.

What is this report about?



This report is about the planned changes to the **Mental Health Act**.

The Mental Health Act (MHA) is a law in England and Wales. It is there to protect people who need care for their mental health.



Lots of people told the government that the **MHA** wasn't working very well. It was not protecting people the way it should.



In 2017 the government looked at the **MHA**.



In 2021 they said the things they are planning to change. The government wants to know what people think about these changes.



This report shares what people think about the government's plans to change the **MHA**. It also shares the views of staff and advocates working in mental health services.



This report also includes what we at The British Institute of Human Rights (**BIHR**) told the government about the changes to the **MHA**.



Human Rights Act



This report also tells you about your **human rights** under the Human Rights Act and how the **MHA** should be used to support your rights.



National Survivor User Network

To gather people's views, BIHR and another charity called the **National Survivor User Network (NSUN)**, held two workshops on Zoom.



Mental Health Act



At these workshops we asked people to share their views on the changes to the **MHA**.



One workshop was for people who use, have used, or are trying to use, mental health services and their loved ones.



One workshop was for staff working in mental health services.



We also had an online Easy Read survey that people could answer to share their views.



We want to say thank you to everyone who came to our workshops or filled in our survey.

What is the Mental Health Act?



The **Mental Health Act (MHA)** is a law in England and Wales. It is there to protect people who need care for their mental health.



The **MHA** says when people can be made to stay in hospital, even if they might not want to be there. This is so people can get treatment for their mental health.

Why is the Mental Health Act being changed?



Lots of people told the government that the **MHA** wasn't working well.



In 2017, the Prime Minister said that the **MHA** should be looked at. A group of people were given the job of looking at the Act, and speaking to lots of people, to see what is working well and what needs to be changed.



The group found that the **MHA** was not working as well as it should. They came up with lots of ideas on how it could be made better. These ideas were put in a report. You can read the report with these ideas [here](#).

Here are some of the things the report told us:



More and more people are made to stay in hospital, or '**sectioned**', under the **MHA**.



People are staying in hospital for a very long time.



The **MHA** is being used to keep people with learning disabilities and autism in hospital.



People are being treated unfairly – black people are four times more likely than white people to be made to stay in hospital.



In January 2021, the government told us its plans to change the **MHA**. These plans are based on some of the ideas in the report. The government wants to know what people think about these changes.

What is the Human Rights Act?



In this report we talk about **human rights**. In the UK our human rights are protected by a law called the **Human Rights Act**.

You can read our longer Easy Read Guide to the **Human Rights Act** [here](#).



The **Human Rights Act** is important when talking about plans to change the **MHA** because all other laws must be used in a way that looks after your human rights.



The **Human Rights Act** means that people working in mental health services (and other **public services**) should:



Respect your human rights: not take away your rights (some rights can be limited but a test must be followed)



Protect your human rights: keep you safe from having these rights taken away.



Fulfil your human rights: Find out why something has gone wrong and make sure it doesn't happen again.

Human Rights



Even if the **MHA** changes, your rights in the **Human Rights Act** stay the same.



The **Human Rights Act** can be used to make things better for people now, and after any changes are made to the **MHA**.



What people and staff told us about the Human Rights Act

Human Rights



People and staff told us that the **Human Rights Act** is important and that this should be made clear in any changes to the **MHA**.

8 out of 10 people said that the **MHA** should say on it that staff have human rights duties.



People and staff said that it should be made even clearer to staff that they have a **legal duty** to protect, respect and fulfil human rights.



They said that the human rights legal duty should be in the new **MHA**, the **MHA Code of Practice** and made clear at any time when people are asked their views on the changes to the **MHA**.



What we told the government about human rights and the MHA.



It is important that people know that no matter what changes are made to the **MHA**, human rights must be respected, protected and fulfilled.



So, the **Human Rights Act** and the legal duty should be part of all staff training and included in anything else that is done to make the changes to the MHA.

The key rules (guiding principles)



One of the main changes the government wants to make to the **MHA** is **that that they want there to be 4 key rules for staff to follow.**



1. Choice and autonomy – Mental health staff should listen to what people getting care think and what choices they make.



2. Least Restriction – People should only be in hospital if they really need to be there.



3. Therapeutic Benefit – Hospital care should only be to help people get better. This is so they can go home as soon as possible.

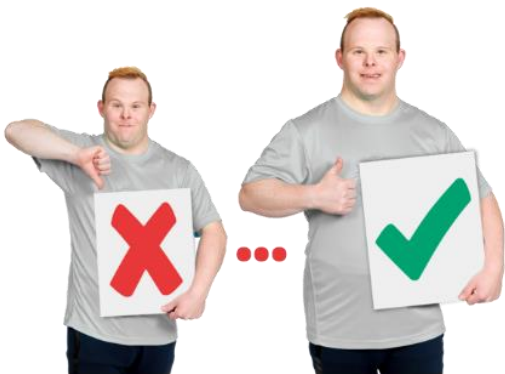


4. The person as an individual – Mental health staff should think about each person and what is right for them. Everyone should be treated fairly.



What people and staff told us about these key rules (guiding principles)

6 out of 10 people and staff said that the plans to include the guiding principles in the **Mental Health Act** and the **Code of Practice** was good, but not good enough.



This number was really high, 9 out of 10 amongst people who use, have used or are trying to use mental health services.



People on our workshops told us what they think should happen to make sure that these principles happen in real life and not just on paper. Some of these ideas are below.



People who use or are trying to use mental health services (and their loved ones) should be told about these principles in way that they can understand.

You can read our guide on the right to accessible information [here](#).



These principles should be included in people's care plans and they should be easy to find in mental health services. For example, there should be posters and leaflets in GP's surgeries and in hospitals.



Everyone working in community care and within organisations involved in mental health care, such as the **Care Quality Commission (CQC)**, **National Institute for Health and Care Excellence (NICE) guidelines**, charities, and user and carer organisations should know about these principles and make sure they stick by them.



Staff working in all **public services**, including mental health services, should get training to make sure they know about these principles and stick by them all the time.



What we told the government about the guiding principles



The guiding principles need to be part of the everyday work of all mental health services and other services such as physical health care and the police.

We told the government the ideas above as ways to make sure these principles are followed.

The right to liberty



The right to liberty in the **Human Rights Act** protects against big controls on your movement. For example, if you are told you are not allowed to leave a place, such as a care home or hospital.



The right to liberty is a **non-absolute right**. This means that when making a decision that will limit this right, staff must think about all the things they could do and pick the least restrictive one.

You can read more about this right [here](#).



What people and staff told us about the government's plans and the right to liberty



6 out of 10 felt that the principle of “least restriction” being included only on paper was not enough.



They told us what they think should happen to make sure that the right to liberty is respected, protect and fulfilled and that principle of “least restrictive” is followed in real life.

Some of these ideas are below.



More money should be spent on community mental health services which are created with and for the people they support.



People should be able to use independent **advocacy services** whenever they are using mental health services. This should be fully paid for by the government.



Community Treatment Orders (CTOs) should have a time limit. After this limit is passed, the CTO should be looked at again to make sure it is still the best option for the person.



Anyone under a CTO should be able to make a complaint. This should be listened to and dealt with quickly.

HUMAN RIGHTS

What we told the government about the right to liberty



We need to make sure the right to liberty is protected, respected and fulfilled any time someone uses, or tries to use mental health services.



Any time that a decision is made that will limit someone's right to liberty, staff need to make sure that it is the least restrictive option. We shared the ideas above as ways to make sure this is followed.

The right to be free from discrimination



This right is about not being treated worse than other people because of who they are like their race, age, gender or for more than one reason (for example, being a young black disabled person).



It also includes not treating you differently when you are in a very different situation or need a different type of support.



What people and staff told us about the government's plans and the right to be free from discrimination



Only 4 out of 10 people thought that the government's plans would protect the right to be free from discrimination.



They told us what they think should happen to make sure that the right to be free from discrimination is protected, respected, and fulfilled. Some of these ideas are below.



Anybody using mental health services should be able to use **advocacy services**. These should be fully paid for by the government.



The voices and experiences of people that have been treated differently must be listened to. What people say should be part of all plans that the government have to make sure different groups of people are not treated worse than others.



What we told the government about the right to be free from discrimination



To make sure the right to be free from discrimination is protected, respected and fulfilled, no one should be treated worse than other people whenever they are using mental health services. We shared the ideas above as ways to make sure that no one is treated worse than other people.

The right to be free from serious harm



In the Human Rights Act this is called the right to be free from inhuman and degrading treatment.

This is an **absolute right**. It is always unlawful to treat someone in this way.

This right protects against very serious harm, including abuse or neglect. This is treatment which:



- Makes you very frightened or worried
- Causes you a lot of pain
- Makes you feel worthless or hopeless
- Makes you feel very embarrassed



What people and staff told us about the government's plans and the right to be free from serious harm



Only 1 in 4 people thought that the government's plans in would protect the right to be free from serious harm.



They told us what they think should happen to make sure that the right to be free from discrimination is protected, respected, and fulfilled. Some of these ideas are below.



People should only be kept in hospital using the Mental Health Act when it will help them get better and there is no other way to support them outside of hospital.



People should be able to get the mental health support they need in their community.



What we told the government about the right to be free from serious harm



The right to be free from serious harm is an **absolute right**. This means that no one should experience serious harm when they are using, or trying to use, mental health services.



People should be given information on their rights in a way that they can understand. There should be clear processes for when people feel that they are at risk of serious harm (or any other rights abuse).

We also shared all the ideas above with the government.

The right to wellbeing, to make decisions, involvement, relationships, home and contact with loved ones



In the Human Rights Act, this is called the right to respect for private and family life, home and correspondence. You can read more about this right [here](#).

This is about lots of everyday life issues. This right protects:



Your **private** information, including keeping personal information confidential.



You having control over your own body and life.

Your **involvement** in decisions about care and treatment, including where you live.



Your **wellbeing**, including being free from abuse or neglect.



You being part of your community, if you want to.



This is a **non-absolute right**. That means any restrictions of this right need to pass the 3 tests: lawful, for a good reason and thought about properly.



Staff must think about all the things they could do and pick the least restrictive one. You should be involved in these talks.



What people and staff told us about the government's plans and the right wellbeing, to make decisions, involvement, relationships, home and contact with loved ones



Only 1 in 4 people thought that the government's plans would protect the right to wellbeing, to make decisions, involvement, relationships, home and contact with loved ones.



They told us what they think should happen to make sure that the right to wellbeing, to make decisions, involvement, relationships, home and contact with loved ones is protected, respected, and fulfilled. Some of these ideas are below.



Anybody using mental health services should be able to use **advocacy services**. These should be fully paid for by the government.



The voices and experiences of people that have used, are using or are trying to use mental health services must be listened to. People should be supported to share their views.



What we told the government about right to wellbeing, to make decisions, involvement, relationships, home and contact with loved ones



The right to wellbeing, to make decisions, involvement, relationships, home and contact with loved ones must be protected, respected and fulfilled.



This has to happen every day when people are using mental health services, not just in plans or in the law.



We shared the ideas above as ways to make sure that this right is protected every day.

Contact Us



To talk to us about this report please get in touch with us.



We don't have a phone number as because we can't use our office right now, but you can email us. Carlyn and Eilidh led the workshops and wrote this report. Their contact information is below.



Eilidh is a Human Rights Officer at BIHR. You can contact her by email on eturnbull@bihr.org.uk



Carlyn is the Policy and Programmes Manager at BIHR. You can contact her by email on cmiller@bihr.org.uk