

COMMON CONCERNS

Members of the Mental Health Alliance share the following views on reform of the Mental Health Act:



Mental Health Alliance

- The aim of the new legislation should be to **reduce the need for using compulsory powers**.
- The new legislation should offer people an individual enforceable **right to a comprehensive assessment** of their needs; and to have their identified **needs met** with appropriate and good quality services.
- A **free independent advocate** should be made available to everyone at all times, from the point of assessment; and the Government should provide adequate resources for this on a national basis.
- The current law takes **insufficient account of people's capacity** to make their own treatment decisions and leaves **those deemed to lack capacity without proper protection**. New legislation must address both these issues in conjunction with wider incapacity legislation. Incapacity must not be equated with disagreeing with your doctor and must be sensitive to cultural differences.
- People with mental health problems should have the right to draw up **advance statements**¹ on their care and those they want involved in such care. Such statements should be legally enforceable such that a person who has lost capacity (whether detained or not) has the same rights as someone who has retained capacity.
- There should be a **duty for full information** to be provided on any proposed treatment and for informed consent to be sought in every case. **Special safeguards** should continue to apply to psychosurgery, ECT and long-term drug treatment and should be extended to polypharmacy², prescribing above BNF levels² and force feeding. Where treatment is given without consent it should be subject to independent review including a second medical opinion and involving consultation with patients and their representatives.
- We support the formation of new **independent tribunals** as long as they reflect the community they serve, comprise a breadth of experience (including that of service users) and receive appropriate training. There should be an independent appeals procedure against the Tribunal's initial decision.
- Whilst we recognise the Government's concern about public protection we continue to have doubts about the need for the powers proposed in relation to high risk patients. In particular we have concerns about:
 - The application of the powers to non-offenders regardless of whether or not they can be treated.
 - The availability of sufficiently accurate risk assessment procedures to ensure that only people who pose an unacceptable danger would be incarcerated under the proposals.
 - The introduction of powers before there is an adequate evidence base and without the existing pilots being fully evaluated.
 - The disproportionate impact of such powers on groups who already face discrimination in the mental health system.

¹ Also known as advance directives

² The British National Formulary (BNF) is a guide for general practitioners setting out recommended dose levels for medication. We define polypharmacy as the concurrent administration of two or more drugs for mental disorder from the same BNF class.