



The Mental Health Bill 2006

“What about meeting children’s needs?”



The organisations above fully support this briefing and its aims for children.

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YoungMinds is a member of the Mental Health Alliance and endorses Alliance policies.



Amendment Content	Rationale
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The Mental Health Bill – what about meeting children’s needs?

The new Mental Health Bill amends the 1983 Mental Health Act in a limited fashion. The amendments it proposes to place on statute next year do not address the needs of children and young people under the age of 18, and this places the bill at odds with the Children's Acts.

Why is this a problem?

Children are not the same as adults. They have differing levels of development and dependency and they process and react to problems in a different way. The under 18s need expert, age-appropriate assessment and treatment. Under 18s are treated under the Mental Health Act each year and treatment may take place in a Child and Adolescent mental health unit or on an adult ward. There is a national shortage of age appropriate provision, particularly in the North of England. However, central statistics do not require this information to be held centrally, so the evidence is piecemeal – but for example:

- In Lancashire and Cumbria, 90 under 18s were held on adult wards last year.
- The Mental Health Act Commission logged 270 under 18s admitted under compulsion over an 18 month period 1999-2001, 62% were admitted under the MHA to adult wards, 87.4% of these were 16 and 17.
- Approximately 1/5 of CAMHS occupied bed days for under 18s are on adult wards.

In addition, children live in households with adults with mental ill health. Under the new community treatment plans for service users still subject to compulsory treatment, children will be living with adults who, prior to the changes in the law, would have been in hospital. Their needs and rights must be protected by any changes to legislation.

YoungMinds’ View

The rights of a child treated under compulsion should be equivalent to those of a child looked after. Being treated under compulsion has lifetime consequences. These young people are vulnerable, many become homeless, many self medicate with alcohol and illegal drugs, they can become chronic revolving door patients because they fear engagement with statutory services and they often find it hard to get work. We already have structures, teams and legal processes to support young people leaving care and extending this to young people who are treated under compulsion will add less than 200 cases per year across England.

Mental health commissioners and providers must be placed under a statutory duty of care to meet the needs of children and young people subject to the Act, and assess the needs of children and young people in households where someone has been compelled to reach treatment.

AGE APPROPRIATE AMENDMENTS		
1	<p>Admission to age appropriate setting Children and young people under the age of 18 must be admitted to an age appropriate setting. Health Authorities must be placed under a legal obligation to assess the appropriate needs of a child under the age of 18 who may be admitted to an adult ward, and purchase appropriate care if it is deemed inappropriate for the child to be admitted to an adult ward. Children under the age of 16 must always be admitted to a CAMHS facility.</p>	<p>Young people are still admitted inappropriately to adult wards, paediatric wards and occasionally to Local Authority Secure settings. CAMHS units are not always the most appropriate setting for older adolescents but there must be an assessment of the therapeutic benefit and safety of a young person before they are admitted to an adult ward. According to the NSF Implementation Report on Standard 9, 17.3% of occupied bed days for 16/17 year olds were on adult wards.</p> <p>PCT funding crises in some areas has led to some beds being cut and access to adolescent units being blocked because of funding – e.g. in Wakefield, the adult unit has been deemed unsafe for under 18s, but there is no funding for private CAMHS beds. In Lancashire and Cumbria last year 90 under 18s were admitted to adult wards. Young people may be subject to harassment and abuse – and may suffer significant traumatic stress which affects their ability to engage with services in the future. If the appropriate treatment test is introduced this may be deemed to cover this area.</p>
2	<p>Age appropriate supervision The clinical supervisor of a child or young person admitted under compulsion must be a CAMHS specialist.</p>	<p>This is within the Scottish Mental Health Act 2003 – it acknowledges the special needs of children and young people.</p> <p>In addition, Standard 9 (para. 9.8) of the National Service Framework (NSF) for Children, Young People & Maternity Services states that <i>'The different range and prevalence of serious disorders in childhood compared with adolescence means that services for these two broad age groups have to cater for a different range of needs, which need to be reflected in the specific skills of the staff working with them.'</i> It would seem appropriate for compulsory admissions to be subject to the same rigorous specific skills requirements.</p>
3	<p>Age appropriate medical assessment prior to imposition of compulsion by a CAMHS specialist There should be at least one CAMHS specialist involved should a young person under 18 need to be detained under the Act.</p>	<p>This was a recommendation by the Joint Committee on the Draft Mental Health Bill. Children and young people are not the same as adults, they process difficulty and distress in a different way. See comment above concerning age appropriate supervision.</p>
4	<p>Section 117 aftercare For under 18s to be the equivalent</p>	<p>Will give young people admitted under compulsion same rights as children leaving care: financial</p>

	for looked after children leaving care.	support, care pathway planning, a named adviser, accommodation and support in education and training up to 25. This also reflects the requirements of the NSF (see Standard 9, paras 9.13-9.14) concerning the importance of aftercare, particularly in ' <i>...the maintenance of treatment gains made during admission</i> '.
5	<p>Consent to treatment</p> <p>Young people between the ages of 16 and 18 can consent to informal admission and to treatment. Young people who do not consent must be admitted under the Mental Health Act.</p>	16/ 17 year olds who are deemed competent can consent to admission to hospital and to treatment, but if they refuse admission or treatment they may be admitted under parental authority of the Family Law Reform Act 1969. It is a nonsense that a young person who is deemed to be competent enough to accept treatment is able to be overruled by parents. Although this appears to have been accepted in the wording of the amendments 4a, sections 64B, 64E and 64F which deal with community treatment in particular, and there is case law upholding this principle we are aware of incidences where parental consent has been used to admit 16 and 17 year olds who have not consented to treatment.
6	<p>Treatment</p> <p>ECT should not be given to young people under the age of 18 unless they can give full informed consent and there is agreement from a doctor as a second opinion. If a young person is not competent to consent ECT can only take place if there is agreement from a second opinion and those with parental responsibility.</p>	ECT is a serious procedure. Although it is rarely used on young people there should be safeguards within the Bill.
7	<p>Duty of care to meet best interests of child</p> <p>The Mental Health Act should include a requirement for CSO to refer a child resident in a home in which a member of the household is subject to compulsory powers to social services for an assessment within the current framework.</p>	Children in families where someone residing with the child (for example a parent, sibling, partner of a parent or grandparent) is subject to compulsory powers is likely to have significant unmet needs. In the case of service users under SCT, the child will be living with someone who is still receiving compulsory treatment and their needs must be taken into account by professionals assessing the service user.

8	<p>Independent Advocacy Provision of independent advocacy for all children and young people under the age of 18 detained under compulsory powers.</p>	<p>Children and young people need access to independent advocates who can ensure their rights are safeguarded. Children and young people who consent may also have their rights ignored, and may not be aware of their rights at all. Children and young people admitted to inpatient units should have similar rights as that under the Children's Act. It is very difficult for children to overturn parental responsibility (it requires a court order) so children who do not feel their views are heard by parents and staff have to see extreme measures to be heard, possibly compromising their relationship with parents.</p>
TRIBUNAL AMENDMENTS		
9	<p>Tribunal Mental Health Tribunals must include a children's professional where the patient is a child or young person under the age of 18.</p>	<p>The Tribunal must include the expertise required to determine the mental health needs of children and young people. Children and young people differ from adults because of their social situation e.g. family and school and developmental level.</p>
10	<p>Tribunal Guarantee that child or young person will be reviewed automatically after 28 days, 3 months then every 6 months thereafter.</p>	<p>The amendment proposes that children i.e. under 18 will be reviewed automatically every six months. At present, under 16s who do not request a hearing are reviewed annually, over 16s and under 18s are reviewed automatically every three years. One year is a very long time in the life of an under 16 year old, and three is even worse for 16-18 year olds, and this time is increased by the time it takes a tribunal to be called. This means that children under section have the same rights to review as looked after children as per Children's Act 1989 Section 85.</p>

Code of Practice issues

The Bill also has a code of practice attached – there are issues regarding good practice that should be included in the code even if they are not on the face of the bill.

CPA for young people under the age of 18 must include the full needs of the child or young person including those outside mental health.	The psychosocial needs of the child or young person need to be included in their care plan, e.g. parent/carer, child and nominated person and advocate school and college, other relevant services, services such as YOT, social services.
Children admitted under compulsory powers must have their educational needs met.	A child admitted to an inpatient unit must have their educational needs assessed and met – this is particularly important if the admission is to an adult ward.