

Baroness Buscombe
Chair
Joint Committee on the Draft Mental Health Bill
UK Parliament

11 October 2022

Dear Peta

Draft Mental Health Bill

Thank you for your letter of 23 September about your Committee's scrutiny of the draft Mental Health Bill ("the draft Bill").

Legislative and policy contexts in Wales and England

Many of the legislative changes proposed in the draft Bill will apply in Wales and in England. The different legislative and policy contexts in respect of mental health in Wales and England will therefore need to be taken into account in the development and scrutiny of the legislation, and in its implementation, to ensure that any changes complement rather than complicate the current legislative and policy framework in Wales. You may be aware, for example, that the [Mental Health \(Wales\) Measure 2010](#) already makes provision in Wales for some of the proposals set out in the draft Bill, such as advocacy services for people receiving voluntary inpatient treatment and the right to a Care and Treatment Plan.

Ensuring that the legislative and policy contexts in both Wales and England are fully considered and reflected in the Bill and its implementation is particularly important as people who are resident in Wales may receive treatment in England, and vice versa.

Mental health inequalities

One of the aims of the draft Bill is to reduce inequalities experienced under the 1983 Act, including the disproportionate numbers of people from ethnic minority or racialised communities,

neurodivergent people, or people with a learning disability who are detained (or inappropriately detained) under the 1983 Act.

As you note in your letter, we are currently holding an inquiry into mental health inequalities. We expect to report on our inquiry later this year, and will share a copy of our report with you in due course. In the meantime, the annex to this letter highlights some of the issues emerging from our work that may be relevant to your scrutiny of the draft Bill.

Legislative consent

As set out in the Explanatory Notes to the draft Bill, many of the provisions would trigger the legislative consent process as and when any Bill is introduced. It is likely that the subsequent legislative consent memorandum would be referred to us for scrutiny. We will therefore follow your work and the evidence you receive with interest, and would be grateful to receive a copy of your report in due course.

If you would like any further information, please contact the clerk to the Health and Social Care Committee, Helen Finlayson, at seneddhealth@senedd.wales or on 0300 200 6341.

Yours sincerely

A handwritten signature in black ink that reads "Russell George". The signature is written in a cursive style with a long horizontal flourish underneath.

Russell George MS
Chair, Health and Social Care Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg. We welcome correspondence in Welsh or English.

Annex: Mental health inequalities: emerging issues

Our inquiry

Information about our [inquiry into mental health inequalities](#) is available on our website at www.senedd.wales/seneddhealth. To inform our work, we have:

- Issued a [written call for evidence](#) between 10 January and 24 February 2022.
- Held a series of [focus groups](#) during February and March 2022 with people who have lived experience of mental health inequalities.
- Held an [informal stakeholder discussion](#) with people with lived experience of neurodiversity on 8 June 2022.
- [Visited](#) EYST Cymru and Barnardo's Cymru on 23 June 2022.
- Held a series of [focus groups](#) during August 2022 with relevant workforce groups.
- Held oral evidence sessions with key stakeholders on [24 March](#), [4 May](#), [19 May](#), [8 June](#) and [6 July 2022](#), and with the Deputy Minister for Mental Health and Wellbeing and the Deputy Minister for Social Services on [28 September 2022](#).
- Established an online advisory group, comprising people with lived experience of mental health inequalities, to provide advice during the final stages of the Committee's inquiry.

Trust in mental health services

Our online advisory group told us that one of the key barriers to improving mental health and tackling mental health inequalities was that people in need of mental health support in an urgent or emergency situation were often dealt with by the police, and might risk being detained under the 1983 Act.

This echoed views raised in focus groups with people with lived experience of mental health inequalities; for example one participant described their fears about the implications of the 1983 Act for Autistic people, noting that it was a barrier that deterred them from seeking mental health support from their GP:

"Autism is still classed as grounds to be able to section people—when you have a GP who doesn't understand autism and they have that power it's really scary."¹

¹ Health and Social Care Committee, [Mental health inequalities: engagement findings](#), March 2022

Similarly, the Centre for Mental Health told us that some marginalised or racialised communities may be concerned that seeking mental health support could result in detention:

“Marginalised young people express fears that health professionals are no different to the police and they won’t be safe if they engage. Mental health services need to be actively anti-racist – taking proactive steps to combat and reverse ingrained patterns of oppression and injustice towards racialised communities.”²

Policing

The Centre for Mental Health told us that people from racialised communities are:

“...less likely to be referred for mental health support by their GP but more likely to come into contact with services through the police, four times as likely as white people to be sectioned under the Mental Health Act, and ten times more likely to be given a community treatment order after they leave hospital”.³

In oral evidence, the Centre for Mental Health’s representative added that different approaches may be taken to policing different groups or communities on the basis of their age or ethnic background. He noted that that detentions under the 1983 Act were increasing, which could exacerbate existing trauma and inequality:

“...the more we see the use of coercion in the mental health system, the more people are detained under the Mental Health Act 1983, which sadly is rising year after year after year, we know that can do harm long term. It may be necessary to save a life, but potentially those experiences of coercion can reinforce some of those traumatic experiences people have been through, and we know that's used unequally. So, if you are from an African or Caribbean background, you're something like four times more likely than a white person to be subject to the mental health Act, and there's something deeply, deeply wrong about that”.⁴

Llamau described an incident in which a number of police officers and several vehicles had responded to a young person who was suicidal, which they said “frightened the young person and didn’t help with their mental health crisis”.⁵ Similarly, Life Warriors, a peer-led therapeutic support group for people with a diagnosis of (or who identify with the characteristics of) ‘personality disorder’, told us:

² MHI.80.Centre for Mental Health

³ MHI.80.Centre for Mental Health

⁴ Health and Social Care Committee, *Record of Proceedings* [paragraphs 162 and 176], 24 March 2022

⁵ MHI.56.Llamau

"[The police] are most often first responders to someone in mental health crisis, so do need those specialist skills to remain person centred at times where people need help the most. "In moments of crisis, I am vulnerable and frightened, yet I am thrown in the back of a van and treated like a criminal, not explaining where we are or where we are going". "If they understood us, they would be much kinder than they are".⁶

Other stakeholders also highlighted the need for police forces to have the right training to deal appropriately with people (including children and young people) experiencing mental health issues or crises, including training in mental health awareness and suicide prevention.⁷

Service accessibility and capacity

Professor Keith Lloyd of the Royal College of Psychiatrists outlined the potential consequences if mental health services were not sufficiently accessible or welcoming to people from all communities according to their needs. He also highlighted the interaction between accessibility and broader systemic and structural racism and discrimination:

"Services are less friendly and welcoming, or appear less friendly and welcoming, to people from some communities than others. Black people of Caribbean and African heritage are all significantly more likely to be compulsorily admitted under the mental health Act than their white British counterparts. And that's multifactorial. It's about when people seek help, it's about whether the services are accessible, it's about perception of risk—there's a whole range of things. There's also a growing body of research to suggest that those who are exposed consistently to systemic racism are more likely to experience mental health problems such as psychosis and depression".⁸

Ashra Khanom of the Neath Port Talbot Black Minority Ethnic Community Association spoke about the experience of people from ethnic minority communities. She highlighted a range of barriers to accessing services, including insufficient capacity or flexibility, a lack of cultural awareness and sensitivity, stigma, fears of medication, inadequate translation services, and a workforce that does not reflect the diversity of Wales' communities, as well as financial barriers relating to travel or childcare.⁹

When asked about the availability of translation services, Professor Lloyd said that improved access to translation services for people in crisis situations would be "one simple measure that could be addressed to help quite a significantly disadvantaged sub-group of people who use our services."¹⁰

⁶ [MHI.17.Life.Warriors](#)

⁷ For example, [MHI.75.DPJ.Foundation](#), [MHI35.Barnardo's.Cymru](#)

⁸ Health and Social Care Committee, [Record of Proceedings \[paragraph 156\]](#), 6 July 2022

⁹ Health and Social Care Committee, [\[Record of Proceedings \[paragraphs 218, 233, 271, 311, 322 and 343\]](#), 19 May 2022

¹⁰ Health and Social Care Committee, [Record of Proceedings \[paragraph 157\]](#), 6 July 2022

Other stakeholders have called for better mental health awareness and training across public services. For example, Cymorth Cymru said:

“Someone experiencing homelessness and a mental health crisis may not access mental health services through traditional routes, such as calling their GP. Instead, this crisis may be encountered by other public services such as the police, social workers or housing officers, who may not be trained in how to deal with trauma or mental health crises. People might end up being dismissed due to their homelessness, or being taken into custody if there has been disruption in public places or homelessness services. This can delay or prevent access to the treatment and support that people need for their mental health”¹¹

The Wallich described the impact of the pandemic on access to mental health crisis services, and explained that inadequate capacity to support people who are in severe mental distress, or at risk of harming themselves or others, could result situations deteriorating and the police being called. It said that in such circumstances “people in severe mental distress have ended up being detained in a police cell”, which it described as “the punishment and criminalisation of people simply for having an acute episode of mental illness”.¹²

Availability of data

Mind Cymru said that analysis of the 1983 Act section 135 and 136 dataset suggested that:

“...in 2020 Black people in Wales were almost three times more likely than White people to be detained by police under section 135 and 136 of the Mental Health Act”.¹³

Our predecessor Committee in the Fifth Senedd held an [inquiry into mental health in policing and police custody](#) in 2019, which, among other issues, identified concerns about the availability and robustness of equalities data on the operation of the 1983 Act. We recently wrote to the Deputy Minister for Mental Health and Wellbeing to request an update on the Fifth Senedd Committee’s recommendations, in particular how the Welsh Government’s work to implement the recommendations is contributing to tackling mental health inequalities. We will be happy to share the Deputy Minister’s response with you when it is available.

¹¹ [MHI 89 Cymorth Cymru](#)

¹² [MHI 60 The Wallich](#)

¹³ [MHI 47 Mind Cymru](#)