

REFORMING MENTAL HEALTH LAW IN THE UK: A RIGHTS-BASED APPROACH UNDER THE DRAFT MENTAL HEALTH BILL 2025

*İNGİLTERE'DE AKIL SAĞLIĞI HUKUKUNUN REFORMU: 2025 AKIL SAĞLIĞI YASA TASARISI İLE
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ABSTRACT

A new version of the Mental Health Bill, introduced in November 2024, represents a significant legislative shift in the UK. It builds upon the 2022 draft and incorporates contemporary human rights principles and patient-centered care. This article evaluates the legal and systemic transformations proposed, critically examining their impact on patient autonomy, mental health service delivery, and legislative alignment with international standards. Key amendments include stricter detention criteria, the introduction of advance choice documents, the replacement of the 'Nearest Relative' with a Nominated Person, and expanded community-based care rights. Furthermore, the paper contrasts the 2025 Bill with international legislative models in the US, Canada, and the EU to assess its effectiveness in safeguarding mental health rights. While the Bill offers progressive reforms, challenges such as implementation logistics, financial constraints, and potential systemic biases remain.

Keywords: Mental Health, UK Legislation, Patient Rights, Human Rights Law, Ethical Considerations, Legal Framework

ÖZ

Kasım 2024'te sunulan yeni Akıl Sağlığı Yasa Tasarısı, Birleşik Krallık'ta önemli bir yasal değişikliği temsil etmektedir. 2022 taslağı üzerine inşa edilen bu yasa, çağdaş insan hakları ilkelerini ve hasta merkezli bakımı içermektedir. Bu makale, önerilen hukuki ve sistemik dönüşümleri değerlendirerek hasta özerkliği, Akıl

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Sağlığı hizmet sunumu ve uluslararası standartlarla uyum açısından etkilerini eleştirel bir şekilde incelemektedir. Önemli değişiklikler arasında daha katı gözaltı kriterleri, önceden seçim belgelerinin (advance choice documents) tanıtılması, 'En Yakın Akraba' yerine 'Aday Gösterilen Kişi' sisteminin getirilmesi ve toplum temelli bakım haklarının genişletilmesi yer almaktadır. Ayrıca makale, 2025 Yasa Tasarısı'nı ABD, Kanada ve AB'deki uluslararası yasama modelleriyle karşılaştırarak, Akıl Sağlığı haklarını koruma konusundaki etkinliğini değerlendirmektedir. Yasa Tasarısı ilerici reformlar sunarken, uygulama süreci, mali kısıtlamalar ve potansiyel sistemik önyargılar gibi zorluklar devam etmektedir.

Anahtar Kelimeler: Akıl Sağlığı, İngiltere, Hasta Hakları, Akıl Hastalıkları, Tedavi Onayı, Toplum Hizmeti

EXTENDED SUMMARY

The draft Mental Health Bill 2025 introduces substantial reforms to the UK's mental health legislation, building upon the 2022 draft while incorporating contemporary international human rights principles and a stronger emphasis on patient-centered care. This Bill seeks to address longstanding deficiencies in the Mental Health Act 1983, particularly in protecting patient autonomy, reducing coercion in treatment, and ensuring equitable access to mental health services. Key provisions include stricter criteria for detention, the introduction of Advance Choice Documents (ACDs), a shift from the 'Nearest Relative' system to a 'Nominated Person' framework, and enhanced rights to community-based care. This paper critically evaluates these reforms, examining their legal, ethical, and systemic implications.

The 2024 Bill arrives at a pivotal moment, as concerns about fairness, racial disparities, and the adequacy of current mental health laws continue to grow. The Mental Health Act 1983, once seen as progressive, has faced increasing scrutiny for permitting excessive involuntary hospitalizations and failing to safeguard the rights of patients, particularly those from minority ethnic backgrounds. The Wessely Review (2017) highlighted systemic issues, prompting legislative action to modernize the framework. While the 2022 Bill introduced necessary revisions, the 2024 version further refines these measures, strengthening patient rights and aligning UK law with international human rights standards, including the UN Convention on the Rights of Persons with Disabilities (CRPD).

A central focus of the Bill is redefining the scope of mental health legislation. New definitions clarify what constitutes a mental disorder, ensuring that autism and learning disabilities alone cannot serve as grounds for detention unless accompanied by additional mental health conditions requiring treatment. The Bill enforces stricter criteria for involuntary hospitalization, mandating that such actions only be taken when there is substantial evidence of immediate risk to the individual or others. Additionally, treatment under detention must provide a demonstrable benefit, reinforcing the principle of the least restrictive alternative.

The legislation also prioritizes autonomy and informed consent. The introduction of ACDs ensures that patients can outline their treatment preferences in advance, granting them greater control over their care.

The ‘Nominated Person’ framework replaces the outdated ‘Nearest Relative’ system, allowing individuals to choose a trusted advocate rather than relying on a legally designated family member. This change enhances patient agency, particularly for those without close familial support or with complex personal circumstances.

Another key component of the Bill is the transition toward community-based care, reducing reliance on institutionalization. The legislation strengthens legal obligations for mental health service providers to prioritize outpatient treatment and home-based care programs. However, implementing this shift presents challenges, including financial constraints, workforce shortages, and the need for adequate infrastructure. Without sufficient investment, the transition from hospital-based to community-based care may remain largely theoretical rather than practical.

In an international context, the 2025 Bill is assessed alongside mental health legislation in the US, Canada, and the EU. The US, for example, employs a higher legal threshold for civil commitment, requiring judicial oversight in most cases, whereas Canada’s mental health framework strongly emphasizes the least restrictive measures and patient rights. EU standards, governed by the European Convention on Human Rights, reinforce the necessity for proportionality in psychiatric detention. While the UK’s reforms bring its legal framework closer to international best practices, questions remain regarding practical enforcement and systemic biases.

Ethically, the Bill attempts to balance patient autonomy with public safety. By tightening detention criteria and requiring treatment to align with individual needs and rights, the legislation aims to reduce unnecessary coercion. However, critics argue that certain provisions still grant excessive discretionary power to healthcare providers, which could undermine patient rights in practice. Moreover, racial disparities persist, with Black and minority ethnic (BAME) individuals disproportionately detained under existing mental health laws. While the 2025 Bill introduces anti-discrimination safeguards, ongoing monitoring will be essential to assess its real-world impact.

The successful implementation of the Bill depends on overcoming several systemic challenges. Financial limitations may hinder the expansion of community-based services, and without proper training, mental health professionals may struggle to adapt to new legal requirements. Furthermore, raising public awareness about patient rights and treatment options will be crucial in ensuring that individuals, families, and healthcare providers fully understand the implications of the new law.

Therefore, while the 2025 Mental Health Bill represents a necessary and progressive step forward, its success will depend on addressing systemic biases, securing adequate resources, and ensuring effective enforcement. By refining detention criteria, enhancing patient autonomy, and prioritizing community care, the Bill aligns UK mental health law with modern human rights standards. However, further legislative refinements, robust funding strategies, and independent oversight mechanisms will be required to ensure that the reforms translate into meaningful improvements in mental health care and patient rights.

INTRODUCTION

The UK's mental health system is at a critical juncture, necessitating substantial reform to address longstanding concerns about patient rights, treatment equity, and systemic inefficiencies. The introduction of the draft Mental Health Bill 2025 marks a significant legislative shift, building on the 2022 draft while integrating contemporary human rights principles and a stronger emphasis on patient-centered care. This reform is essential, given the growing number of individuals suffering from mental health conditions and the increasing scrutiny over the fairness and effectiveness of existing mental health laws¹.

Before the enactment of the 1983 Mental Health Act, mental health legislation in the UK was fragmented and often restrictive. While the 1983 Act was progressive for its time, it has since been criticized for permitting excessive involuntary hospitalizations, disproportionately affecting marginalized communities, and failing to adequately safeguard patient autonomy. Studies indicate that detention rates under the Act have risen significantly, with Black and minority ethnic (BAME) individuals disproportionately affected. These disparities, along with concerns over the legal framework's inability to provide sufficient protections against coercion, prompted a comprehensive government review led by Professor Sir Simon Wessely in 2017. The review highlighted fundamental flaws in the mental health system and called for a shift towards rights-based care, emphasizing patient choice and community-based alternatives². In response to these challenges, the government initiated a reform process that led to the development of the Mental Health Bill 2022, which sought to modernize the system and align it with contemporary legal and human rights standards. However, further critiques and ongoing policy discussions have culminated in the 2025 Bill, which introduces more refined

¹ Patricia Allderidge, 'Hospitals, Madhouses and Asylums: Cycles in the Care of the Insane' (1979) 134 *British Journal of Psychiatry* 321; Paul Appelbaum, 'Protecting the Rights of Persons with Disabilities: An International Convention and Its Problems' (2016) 67(4) *Psychiatric Services* 366.

² Elif Çelik, 'The Role of the CRPD in Rethinking the Subject of Human Rights' (2017) 21(7) *The International Journal of Human Rights* 933.

measures to strengthen patient rights, reduce coercion, and ensure that treatment decisions align with individual needs and legal protections³.

The 2025 Bill incorporates key legislative changes aimed at restructuring the delivery of mental health care in the UK. Among its most notable provisions are the tightening of detention criteria, the introduction of Advance Choice Documents (ACDs) to enhance patient autonomy, and the replacement of the 'Nearest Relative' framework with the 'Nominated Person' system, which allows individuals greater control over who represents their interests in medical and legal decisions. Additionally, the Bill prioritizes community-based care, ensuring that hospitalization is truly a last resort rather than a default response to mental health crises⁴. This article critically evaluates the draft Mental Health Bill 2025 by examining its legal and systemic implications, comparing it with international standards, and assessing its potential impact on vulnerable populations. By analyzing the bill's legislative foundations, anticipated challenges, and broader ethical considerations, this study seeks to determine whether the proposed reforms can create a more equitable, patient-centered mental health system in the UK.

I. EVOLUTION OF MENTAL HEALTH LEGISLATION IN THE UNITED KINGDOM

Mental health legislation in the UK has evolved significantly over time, with various reforms aimed at improving the treatment, care, and protection of individuals with mental health conditions. The foundational statute in this area is the Mental Health Act 1983, which remains the key legislation governing the delivery of mental health services and the rights of service users. The Act outlines the conditions under which individuals can be admitted to psychiatric hospitals without their consent (commonly referred to as 'sectioning'), particularly when they are deemed a danger to themselves or others due to a serious mental disorder requiring treatment⁵.

³ Ryu Cheng, 'Sociological Theories of Disability, Gender and Sexuality: A Review of the Literature' (2009) 19(1) *Journal of Human Behaviour in the Social Environment* 112.

⁴ Rowena Daw, 'The Case for a Fusion Law: Challenges and Issues' in Bernadette McSherry and Ian Freckelton (eds), *Coercive Care: Rights, Law and Policy* (Routledge 2013) 93.

⁵ Elisa Holmes, 'Anti-Discrimination Rights without Equality' (2005) 68(2) *The Modern Law Review* 175.

Over the years, the 1983 Mental Health Act has undergone several amendments to enhance patient rights and improve service provision. A significant modification occurred in 2007, introducing Supervised Community Treatment (SCT) to offer alternatives to compulsory hospitalization while refining the criteria for detention. Despite these efforts, criticisms persisted regarding the Act's limitations in ensuring equitable treatment, safeguarding patient rights, and addressing disparities affecting vulnerable populations, particularly ethnic minorities.

Recognizing these concerns, the UK government commissioned a comprehensive review of the Mental Health Act in 2017, led by Professor Sir Simon Wessely. The review identified major deficiencies, including excessive involuntary detentions, racial disparities in enforcement, and a lack of mechanisms to ensure patient autonomy. The final report called for systemic reforms to prioritize patient choice, improve care quality, and strengthen protections against unnecessary coercion.

Following the review, the draft Mental Health Bill 2025 was introduced to modernize the legislative framework. This Bill sought to tighten detention criteria to ensure individuals are only sectioned when absolutely necessary, enhance patient autonomy by introducing Advance Choice Documents (ACDs) to allow individuals to pre-specify treatment preferences, replace the Nearest Relative system with a Nominated Person framework, giving patients greater control over who advocates on their behalf, expand community-based care services, shifting away from reliance on institutionalization, and address racial and systemic inequalities, ensuring greater fairness in the application of mental health laws.

The draft Mental Health Bill 2025 was introduced into Parliament in 2024, by the Minister responsible for mental health, Baroness Merron. Once enacted, it is envisaged that the legislation will be phased in over eight to ten years to enable services to prepare for the changes. Reforms of existing mental health legislation have been ongoing since the publication of the Independent Review of the Mental Health Act in 2018, with a primary focus on reducing detentions and addressing racial inequalities within the system. One of the most significant changes in the new bill is that having a learning disability or autism will no longer be a reason for detention under Section 2 of the Act unless an

individual requires assessment for a co-occurring mental disorder. This provision will only be enacted when the government is confident that sufficient alternatives to admission are in place for people with learning disabilities and autistic individuals ⁶.

Overall, the 2025 Mental Health Bill contains only minor changes from the 2022 draft. However, it further refines legal protections, ensuring that the principles of patient autonomy, proportionality, and community-based care remain central to UK mental health law. The UK's approach to mental health legislation is undergoing a fundamental transformation, shifting from a historically paternalistic model to one that prioritizes patient dignity, autonomy, and recovery-focused care. The legislative process remains dynamic, with policymakers, advocacy groups, and healthcare professionals contributing to the ongoing refinement of the law. As the 2025 Mental Health Bill progresses through Parliament, further adjustments may be made to enhance its effectiveness, ensuring that it delivers meaningful improvements in mental healthcare delivery and patient protection⁷.

II. MATERIAL AND METHODS

This paper aims to systematically examine the scope and implications of the draft Mental Health Bill 2025 in the UK. The research methodology includes a comprehensive analysis of the bill's provisions, an evaluation of its potential impact on mental health care, and a comparative assessment with international legal standards. The study adopts a multifaceted approach, combining legislative review, expert commentary, stakeholder feedback, and comparative legal analysis to provide a well-rounded understanding of the proposed reforms.

A detailed reading of the draft Mental Health Bill 2025 was conducted to identify its core legislative elements, focusing on its legal, ethical, and systemic transformations. Key topics covered in the bill, such as detention criteria, patient autonomy, racial disparities, and community-based care, were critically examined to assess how they align with modern mental health needs and international human rights obligations.

⁶ Brendan D. Kelly, 'Mental Health Legislation and Human Rights in England, Wales and the Republic of Ireland' (2011) 34(6) *International Journal of Law and Psychiatry* 439-454.

⁷ Kelly (n 6) 440.

To assess the broader implications of the bill, this study incorporates perspectives from various stakeholders, including mental health professionals, legal experts, advocacy groups, policymakers, and individuals directly affected by mental health legislation. Their insights provide valuable context regarding the bill's strengths, potential shortcomings, and areas requiring further refinement. Public consultations, parliamentary debates, and expert panel discussions were reviewed to capture a diverse range of opinions on the proposed reforms.

A comparative analysis was also conducted by examining mental health legislation in jurisdictions such as the United States, Canada, and the European Union. This approach situates the UK's reforms within an international context, highlighting best practices and identifying common challenges in harmonizing mental health law with global human rights standards, particularly in relation to the UN Convention on the Rights of Persons with Disabilities (CRPD). By drawing on international legal precedents, this study evaluates whether the 2025 Bill sufficiently addresses patient rights, equity in mental health care, and systemic barriers to access.

The results of this research are presented through a structured thematic analysis, categorizing findings based on key legal and policy dimensions. The Results section provides a detailed breakdown of the bill's provisions, while the Discussion section critically assesses its potential impact on mental health governance and service delivery. The Conclusion synthesizes the findings, offering policy recommendations and identifying areas for further legislative refinement to ensure that the draft Mental Health Bill 2025 leads to meaningful and effective reforms in the UK's mental health system.

III. RESULTS

A. Definitions and Scope of the Act

The draft Mental Health Bill 2025 introduces significant revisions to the definitions and scope of the Mental Health Act, refining the classification of mental disorders and the legal framework governing detention and treatment. These changes reflect an evolving understanding of mental health and seek to address systemic challenges,

including disproportionate detentions, outdated legal provisions, and inconsistencies in the application of mental health laws.

This modification aligns with a broader movement towards reducing unnecessary institutionalization and ensuring that alternative, community-based support structures are in place. The bill also strengthens detention criteria, requiring clearer justifications for compulsory hospitalizations to prevent arbitrary or excessive use of involuntary treatment.

Additionally, the 2025 Bill places a stronger emphasis on patient autonomy, introducing Advance Choice Documents (ACDs) to allow individuals to pre-specify their treatment preferences. This ensures that decisions about care align more closely with personal rights and informed consent principles. The bill also replaces the ‘Nearest Relative’ framework with a ‘Nominated Person’ system, granting patients greater control over who represents their interests in medical and legal decisions.

These legislative refinements mark a shift towards a rights-based approach to mental health care, emphasizing proportionality, necessity, and the least restrictive alternative to hospitalization. The changes are intended to bring the UK’s mental health law in closer alignment with international human rights standards, particularly those outlined in the UN Convention on the Rights of Persons with Disabilities (CRPD). As a result, the bill not only modernizes legal definitions but also strengthens the safeguards against coercion and arbitrary detentions, reinforcing a more patient-centered mental health system.

1. Changes in Definitions

The draft Mental Health Bill 2025 introduces significant changes in how mental illness is evaluated for hospitalization and treatment under existing laws. The revised legislation aims to refine the definitions of mental disorders, ensuring a more precise and legally consistent framework that prevents unnecessary institutionalization. A key amendment is the exclusion of autism and learning disabilities as sole grounds for detention under Section 2 of the Act. Under the new law, individuals with these conditions can only be detained if they have a co-occurring mental disorder that meets the established criteria for hospitalization. This reflects a contemporary understanding of neurodiversity,

advocating for non-coercive, community-based approaches to support individuals rather than relying on outdated institutional care models⁸.

2. Scope Concerning Detentions and Treatments

The criteria for detention and treatment under the Act have been significantly modified to introduce more stringent conditions for involuntary hospitalization. The Bill now requires substantial evidence that a person's condition poses a high risk of serious harm to themselves or others before detention can be justified. This revision aims to curb the overuse of involuntary hospitalization and ensure that such measures are only employed when absolutely necessary.

In addition to stricter detention criteria, the Bill mandates that any treatment provided under detention must have a demonstrable benefit to the individual. This change challenges the previous broader criteria that often permitted compulsory treatment without sufficient justification. The revised legislation prioritizes the least restrictive treatment options available, considering the individual's overall health and well-being.

3. Capacity and Consent

The draft Mental Health Bill 2025 brings significant revisions to the legal parameters surrounding capacity and consent, reinforcing patient autonomy and reducing the potential for human rights violations in mental health care. One of the most transformative aspects of the new law is the requirement that involuntary detention can only occur if there is a clear and immediate risk of harm to the individual or others. This measure ensures that detention is a last resort, used only when no other less restrictive alternatives are available. This prevents unnecessary and non-beneficial interventions, ensuring that medical decisions align with patient well-being and autonomy.

Further revisions to the Act strengthen informed consent procedures, requiring that patients receive comprehensive information about their treatment options and the potential consequences of accepting or declining specific interventions. Individuals are

⁸ Lawrence Gostin, *Public Health Law: Power, Duty, Restraint* (2nd edn, University of California Press 2008); Cevdet Aykan, *Akıl Sağlığı ve Hastalığı* (Ankara 1969) 21; Turgut Akıntürk and Derya Ateş Karaman, *Türk Medeni Hukuku, Yeni Medeni Kanuna Uyarlanmış Aile Hukuku* (Beta Yayıncılık 2010) 243; Bilge Öztan, *Aile Hukuku* (AÜHF Yayınları 1983) 236.

presumed to have the right to refuse treatment unless they lack decision-making capacity, in which case appropriate legal safeguards must be in place to protect their rights. Additionally, the Bill reinforces the role of advance decisions regarding treatment preferences, ensuring that prior patient directives are respected unless there is a compelling justification for deviation. These provisions enhance patient self-determination and ensure that individuals' previously expressed treatment choices remain valid even if they lose capacity in the future⁹.

4. Advance Directives and Nominated Representatives

The draft Mental Health Bill 2025 introduces critical reforms to enhance patient autonomy and decision-making through the use of advance directives and the replacement of the nearest relative system with a nominated representative framework. Advance directives allow individuals to specify their treatment preferences in advance, ensuring that their choices are respected even if they later lose decision-making capacity. This reform aims to protect patient rights by preventing unnecessary coercion and ensuring that treatment aligns with the individual's values and prior wishes.

The transition from the nearest relative model to the nominated representative system marks a significant shift in mental health law. Under previous legislation, a patient's closest relative was automatically assigned as their legal advocate, often without consideration of the patient's preferences. The new system grants individuals the right to designate a trusted person of their choosing, empowering them to make decisions on their behalf in medical and legal contexts. This change enhances patient agency and ensures that advocacy in mental health cases is based on trust and informed choice rather than automatic familial assignment¹⁰.

5. Rights of Persons with Mental Illness

The draft Mental Health Bill 2025 strengthens legal protections for individuals with mental illnesses, prioritizing human rights, dignity, and access to fair treatment. A key component of the new legislation is the reduction of involuntary hospitalizations by

⁹ Kelly (n 6) 440.

¹⁰ Kay Wilson, *Mental Health Law: Abolish or Reform?* (Oxford University Press 2021) 48.

enforcing stricter detention criteria and ensuring that hospitalization is a last resort rather than a default response. The Bill also expands access to community-based mental health services, reinforcing the principle that care should be provided in the least restrictive setting possible¹¹. Additionally, the legislation includes specific measures to address racial and socio-economic disparities in mental health care.

The Bill also reinforces legal safeguards to prevent abuse and mistreatment within mental health facilities. Patients are granted greater rights to challenge detention decisions, request reviews, and access independent legal counsel. These provisions align with international human rights standards and ensure that individuals receiving mental health treatment are protected from unnecessary restrictions on their freedom and dignity¹².

6. Roles of Government, Mental Health Authorities, and Registration Procedures

The draft Mental Health Bill 2025 introduces significant modifications to the roles and responsibilities of government agencies, mental health authorities, and regulatory bodies overseeing mental health services. These changes aim to enhance oversight, improve service coordination, and ensure higher standards of care across the UK.

A major innovation in the new legislation is the establishment of a statutory Mental Health Commissioner, whose primary role is to protect, monitor, and promote the rights and well-being of individuals receiving mental health care. The Commissioner will oversee the implementation of the Mental Health Act, ensuring compliance with legal protections and human rights standards. In addition, the Commissioner will have the authority to investigate complaints, monitor detention practices, and recommend necessary improvements to national and local policies. This position is intended to provide independent oversight and accountability, strengthening patient rights and preventing systemic abuses.

¹¹ Terry Carney, 'Supported Decision-Making in Australia: Meeting the Challenge of Moving from Capacity to Capacity-Building?' (2017) 35(2) *Law in Context* 44; Kelly (n 6) 440.

¹² Kelly (n 6) 440.

A key reform involves expanding the responsibilities of Integrated Care Boards and Local Authorities in coordinating and delivering mental health services. Integrated Care Boards will be responsible for ensuring that mental health care services meet local population needs, developing strategic plans that integrate inpatient, outpatient, and community-based care. They will also allocate resources effectively to support the implementation of the Bill's provisions. Local Authorities will play a crucial role in providing accessible community-based mental health services, facilitating the transition of individuals from hospital to community settings, and ensuring that adequate support systems are in place to prevent unnecessary institutionalization. In addition, Local Authorities will be tasked with promoting mental health awareness and preventive strategies, reinforcing a holistic and proactive approach to mental health care¹³.

The draft Mental Health Bill 2025 also introduces stricter licensing and regulatory requirements for mental health service providers, ensuring that all professionals and facilities meet enhanced quality and ethical standards. These regulatory controls include more rigorous screening, ongoing professional development requirements, and enhanced accountability measures. The Bill mandates regular audits, inspections, and compliance reviews to ensure that mental health services operate transparently and uphold best practices in patient care.

Additionally, the new Bill strengthens surveillance and enforcement mechanisms, introducing more frequent inspections and increased penalties for non-compliance. Regulatory bodies will have expanded authority to impose sanctions on mental health service providers who fail to meet legal and ethical requirements. These provisions aim to prevent mistreatment, uphold patient rights, and ensure that individuals receiving mental health care are treated with dignity and respect.

Overall, the draft Mental Health Bill 2025 seeks to create a more accountable, transparent, and patient-centered mental health care system, ensuring that services are delivered in alignment with contemporary human rights principles and evolving best practices. By enhancing oversight, regulatory compliance, and service coordination, the

¹³ Francesca Klug, *Values for a Godless Age: The Story of the UK's New Bill of Rights* (Penguin Books 2000) 15.

Bill aims to improve patient outcomes and foster a more effective and equitable mental health care framework across the UK¹⁴.

7. Oversight and Supervision of Mental Health Care

The draft Mental Health Bill 2025 introduces significant improvements in the powers and responsibilities of Mental Health Tribunals and Review Boards, enhancing oversight, ensuring the protection of individual rights, and promoting equitable treatment and detention processes. These changes aim to create a more accountable and patient-centered mental health care system.

Under the new legislation, Mental Health Tribunals and Review Boards have been granted expanded functions, particularly in overseeing the implementation of the Mental Health Act in cases involving detention and compulsory treatment. These bodies now have greater authority to review decisions regarding patient care, mandate reassessments when necessary, and ensure that all compulsory measures remain justified and in the best interest of the individual¹⁵. Their expanded role includes conducting periodic evaluations of mental health facilities to confirm compliance with legal and ethical standards. They are also tasked with providing recommendations to improve service quality and ensure that the principle of least restrictive treatment is consistently upheld, prioritizing community-based care whenever feasible¹⁶.

A major development introduced by the new Bill is the implementation of supervised discharge. This measure provides individuals who have been previously detained under the Mental Health Act with structured support in a community setting while ensuring continuity of care. Supervised discharge is designed to ease the transition from hospital-based treatment to independent living, reducing the risk of relapse and providing a structured support system for those reintegrating into society. The regulations governing supervised discharge require that individualized care plans be established, specifying the type and extent of supervision and support provided. These plans are subject to ongoing

¹⁴ John Gray, *Liberalisms (Routledge Revivals): Essays in Political Philosophy* (Routledge 2013) 25.

¹⁵ Klug (n 13) 12.

¹⁶ Paul Bowen, *Blackstone's Guide to the Mental Health Act 2007* (Oxford University Press 2007) 25.

review by Mental Health Review Boards to ensure their continued relevance and effectiveness¹⁷.

The Bill also introduces stricter guidelines for the use of Community Treatment Orders (CTOs). These legal provisions allow individuals who have been detained in a hospital to be discharged under specific conditions, such as adhering to prescribed treatments, attending appointments, or residing in designated locations. Under the revised framework, the continuation of CTOs is subject to more rigorous evaluation, ensuring that any imposed conditions are the least restrictive necessary for appropriate care. Additionally, Mental Health Review Boards now have the authority to periodically review and, where appropriate, terminate CTOs if they are no longer necessary or if they impose undue restrictions on personal freedoms.

The expansion of the roles and responsibilities of Mental Health Tribunals and Review Boards, alongside the introduction of supervised discharge and the enhanced regulation of CTOs, marks a significant shift toward a more transparent and patient-oriented mental health system. The reforms outlined in the draft Mental Health Bill 2025 aim to establish stronger safeguards against rights violations while ensuring that treatment approaches remain flexible and responsive to individual needs¹⁸.

8. Ethical Frameworks and Procedural Safeguards in Mental Health Care

The draft Mental Health Bill 2025 emphasizes the importance of ethical standards and patient-centered care in mental health services, reinforcing the principle that individuals should receive treatment in a manner that upholds their dignity, autonomy, and rights. This legislative shift seeks to address systemic inequities, ensure compliance with human rights standards, and create a more equitable framework for mental health care delivery¹⁹.

¹⁷ Steve Kisely and others, 'An Eleven-Year Evaluation of the Effect of Community Treatment Orders on Changes in Mental Health Service Use' (2013) 47(5) *Journal of Psychiatric Research* 650-656.

¹⁸ Martha Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge University Press 2000) 62.

¹⁹ Brendan D. Kelly, 'The Irish Mental Health Act 2001' (2007) 31 *Psychiatric Bulletin* 21-24.

A central component of the reforms is the reduction of coercive practices and the prioritization of least restrictive treatment options. The bill mandates that hospitalization and compulsory treatment should only be applied when absolutely necessary and that every effort should be made to offer care in community-based settings where possible. This shift aligns with international human rights principles, particularly those outlined in the UN Convention on the Rights of Persons with Disabilities (CRPD), ensuring that mental health services are structured to respect individual freedom and self-determination.

To enhance transparency and accountability, the bill introduces stricter regulatory oversight to monitor mental health service providers. This includes more frequent audits, mandatory compliance reviews, and expanded reporting requirements to track detention rates, racial disparities, and treatment outcomes. These measures are designed to prevent discriminatory practices, ensuring that mental health services operate with fairness and impartiality. By requiring regular evaluations of mental health facilities and professionals, the legislation seeks to create a higher standard of care that is consistent across the UK.

Another key reform involves the expansion of ethical safeguards to protect individuals from undue treatment or neglect. Patients are now granted greater rights to refuse treatment unless they lack decision-making capacity, and the use of Advance Choice Documents (ACDs) ensures that individuals' treatment preferences are respected. The bill also reinforces the role of advocacy in mental health services, ensuring that patients have access to independent legal counsel and that their cases are subject to periodic review by Mental Health Tribunals and Review Boards.

Additionally, the bill addresses the long-standing issue of racial and socio-economic disparities in mental health care. Studies have shown that Black, Asian, and Minority Ethnic (BAME) individuals are disproportionately detained under mental health laws. The new provisions require health authorities to actively monitor and address such disparities by implementing anti-discrimination policies, ensuring fair treatment practices, and providing culturally appropriate mental health services. By increasing oversight in these areas, the bill aims to create a more just and inclusive mental health system.

The emphasis on ethical standards and patient-centered care reflects a broader transformation in mental health law. By embedding principles of dignity, respect, and fairness into the legislative framework, the draft Mental Health Bill 2025 seeks to ensure

that individuals with mental health conditions receive high-quality care while maintaining their fundamental rights. These reforms mark a crucial step towards a more humane, transparent, and effective mental health care system in the UK.

The draft Mental Health Bill 2025 introduces significant reforms to the processes of admission, treatment, and discharge, ensuring that individuals receive care that is ethical, patient-centered, and aligned with modern human rights standards. These changes aim to reduce unnecessary institutionalization, improve the quality of care, and ensure that individuals are discharged safely with appropriate support.

The new legislation imposes stricter criteria for involuntary admission to mental health facilities. Under the revised framework, individuals can only be detained if there is substantial evidence that their condition poses an immediate and serious risk to themselves or others. This reform is designed to prevent arbitrary detentions and ensure that hospitalization is used as a last resort rather than a default response to mental health crises. Additionally, independent review mechanisms have been strengthened, granting Mental Health Tribunals and Review Boards greater oversight to reassess detention decisions and guarantee compliance with legal and ethical standards²⁰.

In terms of treatment, the Bill emphasizes patient autonomy and informed consent. The use of Advance Choice Documents (ACDs) allows individuals to document their treatment preferences in advance, ensuring that their rights and wishes are respected. Forced treatment without a compelling medical justification is significantly restricted, and all treatment plans must demonstrate clear therapeutic benefits. This shift moves away from paternalistic approaches to mental health care, instead promoting collaborative decision-making between patients and healthcare providers.

The discharge process has also been revised to provide greater continuity of care and reduce the risk of relapse. The Bill introduces structured discharge planning, requiring that individuals transitioning out of institutional care receive personalized support plans to help them reintegrate into the community. Supervised discharge programs ensure that

²⁰ Bronagh Byrne, 'Dis-Equality: Exploring the Juxtaposition of Disability and Equality' (2018) 6(1) Social Inclusion 9.

individuals who need continued monitoring and assistance receive appropriate follow-up care, reducing the likelihood of hospital readmission.

Additionally, the Bill mandates enhanced tracking of discharge outcomes to prevent premature releases and address gaps in aftercare. Service providers are now required to monitor patients post-discharge, intervening where necessary to provide additional support. This approach aligns with the broader goal of shifting towards community-based mental health care, ensuring that individuals receive ongoing treatment in environments that prioritize rehabilitation and recovery²¹.

By reforming admission, treatment, and discharge procedures, the draft Mental Health Bill 2025 seeks to establish a fairer, more effective mental health system. The emphasis on ethical care, patient rights, and community integration ensures that individuals receive the support they need while maintaining their dignity and autonomy throughout their mental health journey.

IV. DISCUSSION

The draft Mental Health Bill 2025 introduces a transformative shift in the UK's mental health care system, with significant implications for service delivery, patient rights, and legislative oversight. This section evaluates the expected impact of the new law, particularly in addressing longstanding concerns identified in the 2017 review of the Mental Health Act, and assesses whether the amendments effectively resolve these systemic issues.

One of the most profound changes brought by the new legislation is the transition from a predominantly clinical, hospital-based model to a more community-driven approach to mental health care. By strengthening community-based support services and emphasizing preventive measures, the Bill aims to reduce unnecessary hospitalizations and ensure that individuals receive care in less restrictive environments. This shift is consistent with international best practices and is expected to contribute to a reduction in

²¹ Toni Gomory and others, 'Madness or Mental Illness? Revisiting Historians of Psychiatry' (2013) 23 *Current Psychology* 119.

the stigma associated with mental illness, thereby increasing access to timely and appropriate care²².

A key objective of the Bill is to enhance procedural safeguards during admission, treatment, and discharge. By tightening the criteria for involuntary admission and reinforcing oversight mechanisms, the legislation ensures that detention is only applied when absolutely necessary. Enhanced monitoring of treatment plans and structured discharge planning will further improve the effectiveness and operational efficiency of mental health services. These measures are designed to provide timely, disorder-specific treatment that evolves with patient needs, ultimately leading to better clinical outcomes and improved patient satisfaction.

Patient rights and autonomy are also strengthened through several critical provisions. The introduction of Advance Choice Documents (ACDs) and the Nominated Person framework ensures that individuals have greater participation in decisions regarding their care. These mechanisms empower patients to outline their treatment preferences in advance and select a trusted individual to advocate on their behalf, reinforcing principles of self-determination and informed consent. Furthermore, the Bill's commitment to reducing disparities in mental health care access and outcomes is reflected in its targeted measures to address the disproportionate impact of mental health detentions on minority ethnic groups. By mandating data collection on racial disparities and implementing targeted interventions, the legislation aims to promote greater fairness and inclusivity in mental health service delivery.

A key aspect of this evaluation is determining whether the Bill successfully resolves the issues highlighted in the 2017 review of the Mental Health Act. The review identified several systemic problems, including the excessive and inappropriate use of detention powers, inadequate patient-centered care, and significant disparities in the application of mental health laws affecting minority communities. The new legislation addresses these concerns through various reforms. By establishing higher thresholds for detention and implementing rigorous review mechanisms, the Bill introduces safeguards to minimize

²² Tom Burns, *Psychiatry: A Very Short Introduction* (Oxford University Press 2006).

unnecessary involuntary treatment, ensuring that individuals are only detained under well-justified circumstances. The expansion of community-based care and the increased role of patient participation in treatment planning directly respond to the recommendations for a more person-centered approach, ensuring that care aligns with patients' needs, preferences, and rights²³.

Additionally, the Bill directly confronts racial disparities in mental health law enforcement by implementing a structured framework for identifying and reducing inequities. The collection and analysis of demographic data will facilitate targeted strategies to ensure that mental health services are delivered equitably across different communities. These reforms seek to establish a more just and inclusive mental health care system, reducing the disproportionate impact of detention and compulsory treatment on marginalized populations.

Overall, the draft Mental Health Bill 2025 represents a crucial step forward in modernizing the UK's mental health care framework. By prioritizing patient rights, strengthening oversight mechanisms, and shifting towards a more preventive, community-oriented model, the legislation aligns with both national and international human rights standards. While its successful implementation will require continuous monitoring and adaptation, the Bill provides a solid foundation for a fairer and more effective mental health care system²⁴.

CONCLUSION

The draft Mental Health Bill 2025 represents a comprehensive reform of mental health law in the UK, bringing significant improvements to patient rights, service delivery, and legal oversight. By implementing these changes, the legislation aims to transform mental health services, ensuring stronger protections for individuals and addressing long-standing systemic deficiencies. These reforms align with international standards for

²³ Sarah Conly, *Against Autonomy: Justifying Coercive Paternalism* (Cambridge University Press 2012).

²⁴ Bassier, Lee Ann, 'Human Dignity' in Marcia H Rioux and others (eds), *Critical Perspectives on Human Rights and Disability Law* (Martinus Nijho Publishers 2011) 17.

mental health care and mark a crucial step toward creating a more compassionate, equitable, and effective mental health system.

One of the most notable amendments in the Bill is the revised structure for admission and discharge procedures, introducing stricter criteria for both voluntary and involuntary admissions. These measures are designed to prevent misuse of detention powers, enhance transparency, and increase accountability in mental health service provision. Additionally, the legislation places strong emphasis on continuity of care through structured discharge planning, reducing re-hospitalization rates and ensuring that individuals receive sustained support post-treatment.

The introduction of Advance Choice Documents (ACDs) and the replacement of the 'Nearest Relative' with the 'Nominated Person' framework significantly enhance patient autonomy and self-determination. These reforms empower individuals to take a more active role in their treatment decisions, ensuring that their voices are heard and respected. Furthermore, the transition from an institutionalized model to a community-based, patient-centered approach seeks to reduce reliance on hospitalization, encourage social integration, and combat the stigma associated with mental health conditions.

The Bill also includes targeted measures to address and eliminate racial and other forms of discrimination in mental health services, ensuring that all individuals receive equal access to high-quality care. By advocating for a rights-based approach, the legislation reflects a broader societal commitment to treating mental health with the same priority as physical health. These changes are expected to result in improved health outcomes, greater patient satisfaction, and a more resilient public healthcare system.

While the Bill introduces progressive reforms, its full and effective implementation will present challenges. The success of community-based care models and the overall efficacy of the new mental health services framework will largely depend on adequate resource allocation. Without sufficient funding and infrastructure, these models may struggle to deliver their intended benefits. Furthermore, the expanded roles and responsibilities of mental health professionals necessitate comprehensive training and workforce development to ensure that they can effectively meet the demands of the reformed system.

Continuous monitoring and evaluation will be essential to assess the effectiveness of these new policies and practices. This includes tracking the success of anti-discrimination measures, ensuring that service providers adhere to legal safeguards, and evaluating whether the system can adapt to the evolving needs of patients. Additionally, ongoing engagement with patients, families, mental health professionals, and the wider community will be crucial in maintaining public trust in mental health services and ensuring that the reforms remain responsive to diverse population needs.

As the implementation of the Mental Health Bill progresses, it is essential for all stakeholders to remain committed to its principles and work collaboratively to address emerging challenges. Through shared commitment and sustained efforts, the vision of a fairer, more effective, and rights-based mental health care system can be realized, ultimately improving the lives of those experiencing mental health conditions.

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