

Challenging Behaviour – National Strategy Group

Mental Health Bill 2025

Understanding the impact on children, young people and adults with learning disabilities and their families, and maximising the opportunities to tackle inappropriate detention

www.challengingbehaviour.org.uk

E: nationalstrategygroup@theCBF.org.uk

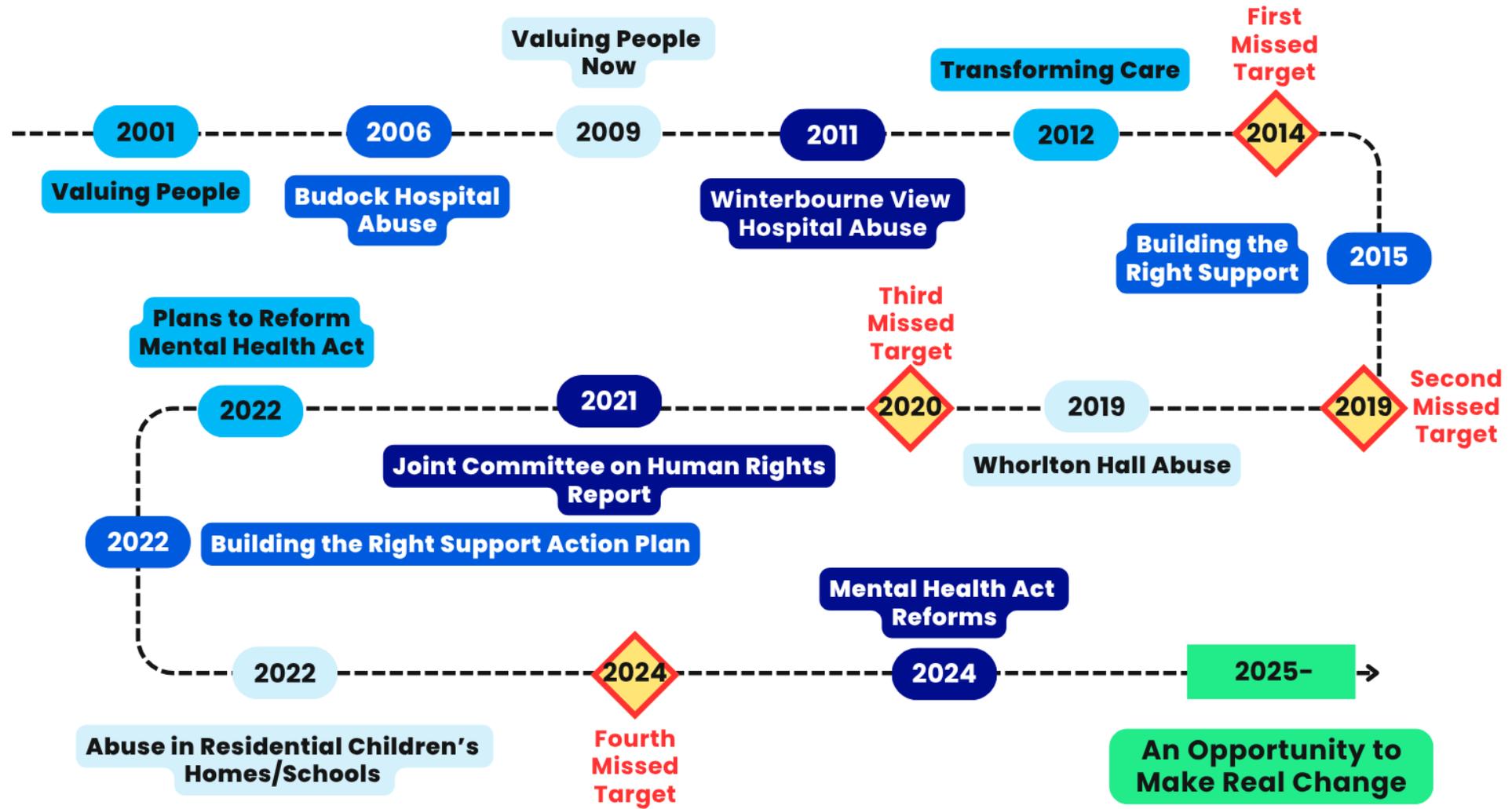
©The CBF 2025

Housekeeping



- We are recording the presentations, and these will be made available after the meeting
- Please make sure you're on mute during the presentations if you aren't speaking
- Use the chat if you have any questions or comments
- During breaks and lunch, please don't leave the meeting (you can turn off your camera and microphone)
- If you do leave the meeting, you can join again using the original link
- Email imarni.hill@theCBF.org.uk if you are having any technical problems

Making sense of our current situation



What else is happening?

- NHS England
- 10 Year Health Plan
- Casey Commission
- SEND reforms



The Mental Health Bill

The Mental Health Bill was introduced into the House of Lords on 6th November 2024. This Bill makes changes to the Mental Health Act 1983, which is the current law around who can be detained in hospital for mental health treatment, and what this looks like.



What are the main changes for people with a learning disability and autistic people?

Current situation (Mental Health Act 1983)

People with a learning disability and autistic people can be detained under 'section 2' for up to 28 days for 'assessment and treatment'

People with a learning disability and autistic people can be detained under 'section 3' for up to 6 months, which can be extended indefinitely, for 'treatment'

Care (Education) and Treatment Reviews, or C(E)TRs, are an NHS policy – all people with a learning disability and autistic people are entitled to have a C(E)TR, but there is **no requirement** for the recommendations to be followed

Dynamic support registers (DSRs) are an NHS policy – they are registers that identify people with a learning disability/autistic people who are at risk of admission to inpatient units, and why they are at risk

Under the Mental Health Bill 2025

People with a learning disability and autistic people can be detained under 'section 2' for up to 28 days for 'assessment and treatment'

People with a learning disability and autistic people can **only be detained under section 3 if they also have a mental health condition** – learning disabilities and autism **aren't** mental health conditions

C(E)TRs are statutory processes to identify and make recommendations for how social care, education, and/or health needs can be met – responsible clinicians, commissioners, integrated care boards (ICBs) and local authorities must **'have regard'** to these recommendations

DSRs are a statutory measure that identify people with a learning disability/autistic people who have 'specified risk factors for detention' – ICBs must **'have regard'** to information in the DSR when they are commissioning services, and local authorities must **'have regard'** to it when they are 'exercising their market function'

What impact will these changes have?

- When these changes are made, people with a learning disability and autistic people will no longer be able to be detained under the Mental Health Act for more than 28 days if they do not have a mental health condition
- There should be stronger duties to provide the right community support
- Integrated care boards and local authorities will need to “seek to ensure that the needs of people with autism or a learning disability can be met without detaining them” under the Mental Health Act
- There will need to be a shift from hospital services to community services – including better housing options, access to healthcare (including mental healthcare), social care, and educational provision

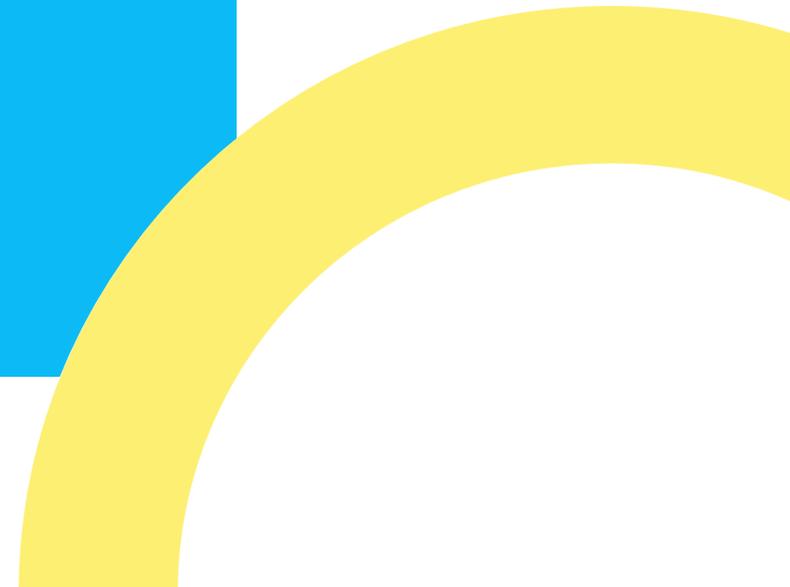
“Sufficient community support”



- The change to the Mental Health Act that will stop people with a learning disability and autistic people who do not also have a mental health condition from being detained under section 3 will not be switched on until there is “sufficient community support” in place
- Currently, there are not enough community services to ensure that children, young people and adults with a learning disability and autistic people can have their needs met effectively in their local communities
- Without this support, there's a chance that people will a) not get the right support, b) be inappropriately criminalised, or c) be detained in hospital under other legislation, like the Mental Capacity Act and its Deprivation of Liberty Safeguards
- Getting community support right is key to making sure that these changes can be enacted and children, young people and adults with learning disabilities/who are autistic can live good lives in their local communities, rather than being detained in hospital

DHSC

Introduction



Learning Disability, Autism & SEND programme

Community Ingredients to living a good life

The NHS logo, consisting of the letters 'NHS' in white on a blue rectangular background.

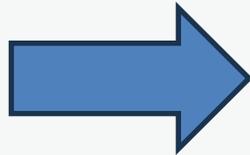
England



Why we are doing this work



- There is a plan to reform (or change) the Mental Health Act
- As part of this reform there are suggested changes to when, and for how long, autistic people and people with a learning disability can go into mental health hospital
- This means it is likely that more people will be supported in the community
- For this to happen community services also need to reform, or change
- This work is to help local areas to think about what good community support looks like to help people have good lives and only use mental health hospital care when required.
- It also links to the 10-year health plan, and NHS planning guidance.

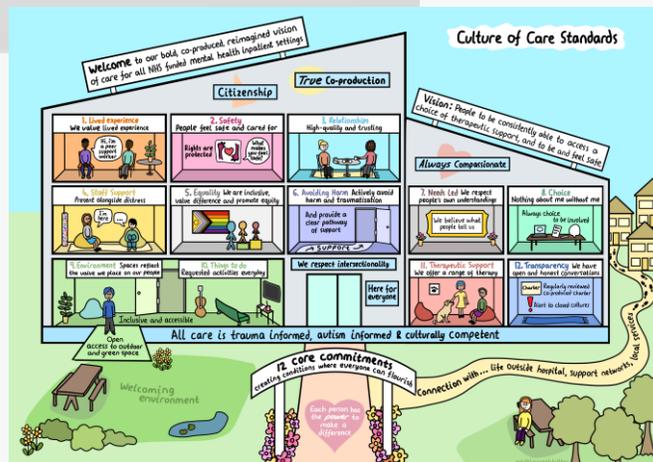




Other work in the Mental Health Act space

- **Department of Health and Social Care are the leads for Mental Health Act Implementation and we are working closely together.**
- Skills for Care (National): DHSC have commissioned Skills for Care to ask social care providers, commissioners, User Led Organisations (ULO) and Disabled People's Organisations (DPOs), about their understanding of and readiness for the proposed changes to the Mental Health Act in relation to autistic people and people who have a learning disability. This includes how ready people feel for the reforms, and what barriers, challenges and benefits are anticipated in implementing it.
- NHS England National Learning Disability and Autism Programme: Community Ingredients work which should at a high level, describe what services and support should be in place in the community for autistic people and people with a learning disability, bringing together existing policy and known expected good practice.
- Other national, regional and local cross-agency planning.

What the work will look like (1/2)



- There are two phases to the work.
- ‘Phase 1’ or ‘Community Ingredients’ has already started.
- The outputs of ‘Phase 1’ are four images which outline, at a high level, what services and support should be in place in the community for autistic people and people with a learning disability, bringing together existing policy and known expected good practice.
- One of the four images will cover each of the following groups:
 - Autistic children and young people
 - Children and young people who have a learning disability (who may also be autistic)
 - Autistic adults
 - Adults who have a learning disability (who may also be autistic)
- There will be a one-sided explainer document to introduce the images.

What the work will look like (2/2)

One key question people have is:

"How will we know when local areas are ready for the changes in the Mental Health Act to happen?"

We think that this will be Phase 2 of the work. We will need to work with DHSC and other partners to agree:

- Are there any services or pathways that support people with a particular set of needs, where we need to be really specific about what should be in place – at a more detailed level than the Community Ingredients work?
- How will we assess whether each area has the community ingredients in place?

All of this work will need to be agreed with Ministers and with NHS England before we start to do it.





What we have done so far

We have engaged with people at:

13th March
Lived experience group – from our advisory group members

13th March
Stakeholder engagement session (Adults)

14th March
Lived experience group – family carers

19th March
Stakeholder engagement session (Adults)

19th March
Stakeholder engagement session (Children and young people)

20th March
Stakeholder engagement session (Children and young people)

20th March
Lived experience group – youth forum/network

TBC
Lived experience group – Quality Team youth forum

National Intensive Support Teams network meeting

NHSE Regional meeting

NHSE national meeting

National Housing Federation

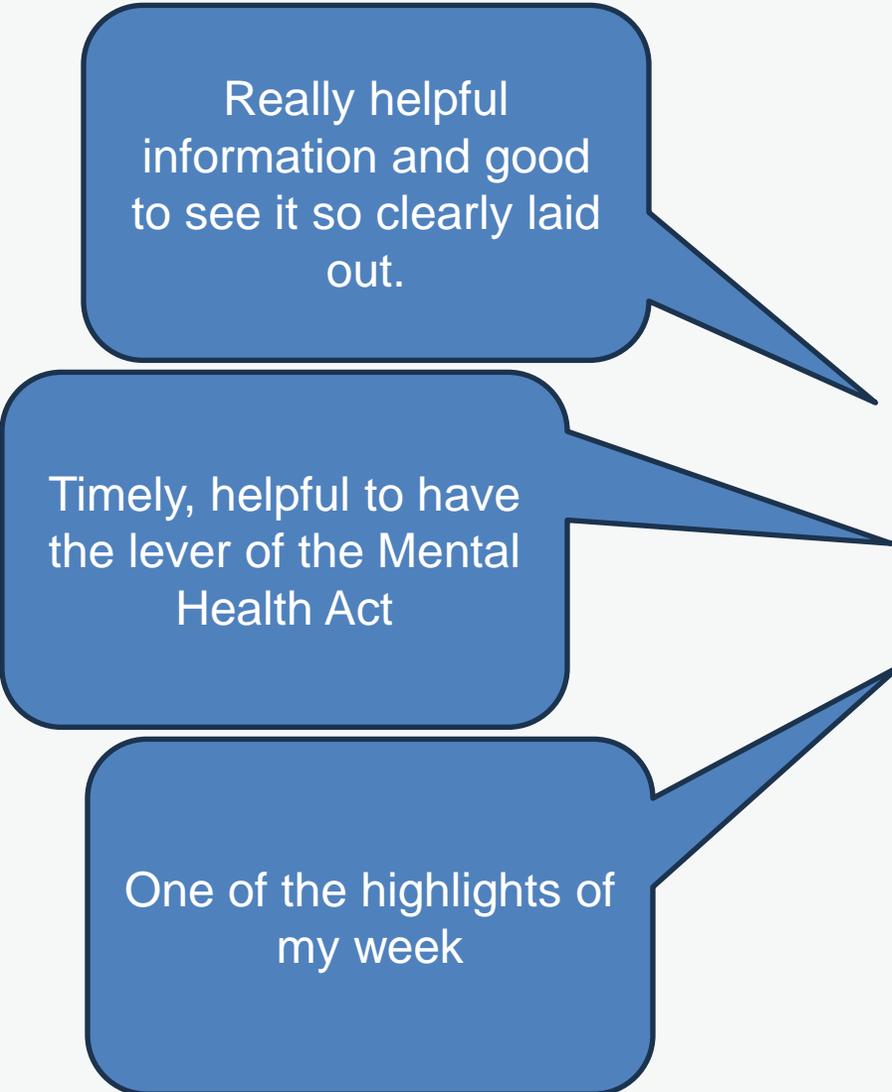
South West Learning Disability & Autism Commissioner Huddle

North-East & Yorkshire Learning Disability & Autism Programme Strategic Delivery Board

BASW England Disabled Children's Subgroup

Rightful Lives

Devon LDN commissioners



Really helpful information and good to see it so clearly laid out.

Timely, helpful to have the lever of the Mental Health Act

One of the highlights of my week

Through this work, we have engaged with....

- Over 100 people within Stakeholder Engagement sessions, from around 50 organisations
- Around 60 people through other existing forums
- Around 20 people with lived experience and their families
- Representatives from across the country

We have sent an additional MS Form for feedback

People were asked two questions...

For the wider engagement sessions:

1. What else does existing policy, guidance, literature and research tell us should be in place?

Then..

2. For phase 2 – are there specific gaps within NHS community policy or guidance which would be helpful to pick up...

A) For autistic children and young people? /
For autistic adults?

B) For children and young people with a learning disability (who may also be autistic)? / For adults with a learning disability (who may also be autistic)?

For people with lived experience:

1. In your experience what is working well to help autistic people and people with a learning disability to stay well and live good lives in the community? *(Adapted to reflect the experience of attendees)*

Then..

2. In your experience what is could be better to help autistic people and people with a learning disability to stay well and live good lives in the community? *(Adapted to reflect the experience of attendees)*



Feedback from the engagement sessions



Key overarching principles



Rights

Key values/principles people told us need to be included:

- Holistic and Person-Centred Care
- Lived Experience: Being clear that the person and their family should be involved at every stage of the pathway
- Equality: 'All means all' - reasonably adjusted services across primary and secondary care
- Localised care and support
- Needs-led not diagnostically driven: No 'wrong front door'
- Support must be framed against legislative responsibilities and people's rights

Things that should be in place and that work well



- People should be supported in education and employment – for example through Partnerships for Inclusion of Neurodiversity in Schools (PINS) and Independent Placement and Support (IPS)
- When people need care and support in the community, this should be delivered through high quality organisations who provide a personalised offer from well trained staff
- People should have timely access to healthcare which meets their physical needs – this could be through reasonably adjusted services, annual health checks, and liaison nurses



Things that should be in place and that work well



- Everyone who needs one should have a care and support plan, for example an Education, Health and Care Plan (EHCP)
- People should have help to understand what kind of housing they could have and how they could get it, and be helped to get a home which meets their needs – this could include accessing Disabled Facilities Grants
- People should be supported to get to know new people that they like (or love), and have help to keep relationships that they already have – for example through support for families, gig buddy schemes, short breaks, opportunities to develop friendships

Things that should be in place and that work well



- People and their families should be involved in planning and designing community services to make sure that they meet the needs of the local population – this could include quality checking, and strategic partnership boards
- Community services should be planned and designed based on the needs of people in that area – for example through the use of dynamic support registers and care, education and treatment reviews
- People should have independent support to 'navigate' the system – for example through key-working services and advocacy

Things that should be in place and that work well



- People should have access to planned mental health services – whether these are specifically for this population group, or reasonably adjusted ‘mainstream’ services such as crisis resolution and home treatment teams
- People should have support to avoid a mental health crisis, and support during times of crisis – this could include intensive support services, mental health crisis teams, 24/7 mental health hubs, accommodation-based alternatives to admission such as crisis beds, crisis plans
- People should have support to reduce their likelihood of offending, and to understand the criminal justice system – for example through the use of criminal justice liaison and diversion services

Suggestions about what would be helpful from an NHS policy perspective



- Policy about long-term, sustainable community-based support, including prevention, early intervention, ‘waiting well’, employment, social inclusion
- Clarity around the pathway for autistic adults (outside of guidance already in place)
- Resources about how to (in practice) reasonably adjust healthcare settings, building on the work around sensory and including primary care
- Resources around accommodation-based alternatives to hospital
- Resources relating to short breaks – what does good look like?

Suggestions about what would be helpful from an NHS policy perspective



- Resources around what end of life care, including dementia care and palliative care, should look like for people with a learning disability
- Further developing the key worker offer/system navigation offer
- Resources about the care and support people receive after their discharge
- National guidance for community forensic teams
- National guidance for Community Learning Disability Teams, building on Senate guidance
- Specific pathway work for people with profound learning disabilities, including the primary and secondary care they receive

What will happen next



- Most of the engagement with people for Phase 1 has been completed
- We are pulling together all the feedback from people
- We hope to commission someone to develop the images, and to have the writing for Phase 1 completed by the summer
- We are also going to pull all the feedback we have been given into a single place so that this can be kept in case it is needed for Phase 2
- We will write to people to tell them what Phase 2 will look like, and how people can be involved – this will be after the work has been scoped and agreed with DHSC and NHS England.



Questions

Reflections on the changes and what they mean for you

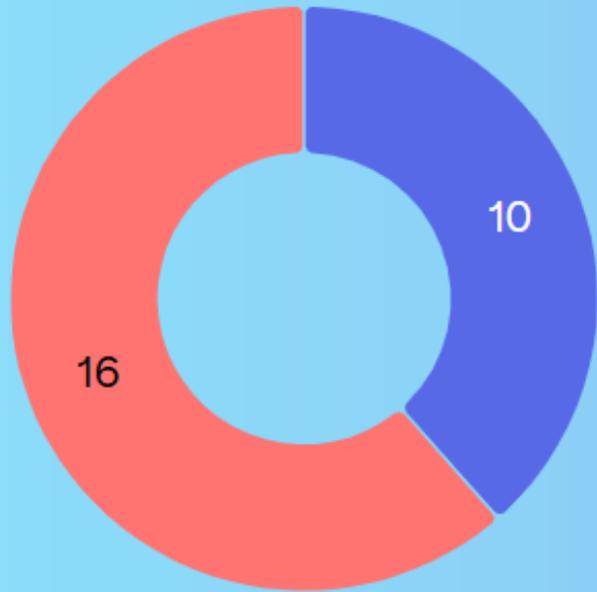
Use code **32067447** at [menti.com](https://www.menti.com)

A thick yellow arc is positioned in the bottom right corner of the slide, curving from the bottom edge towards the right edge.

Join at menti.com | use code **7951 0137**

Mentimeter

Before this morning's presentations, how much did you know about the changes that will be made by the Mental Health Bill?

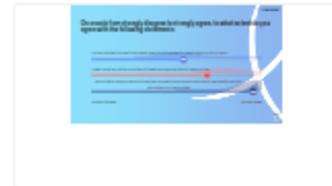
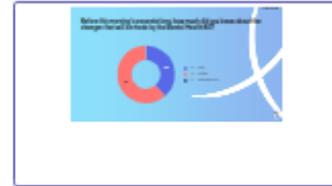


- 10 A lot
- 16 A little
- 0 Nothing at all



Menti
CB-NSG 01.05.25

Choose a slide to present



Join at menti.com | use code 7951 0137

Mentimeter

What are your initial thoughts on what these changes will mean for you? This could be as a family carer, as a clinician, as a researcher etc.

I will need to consider education and training for health and care professionals.

No confident that the resources and community support will be there to facilitate these changes in reality.

A lever to making things better.

Opportunity for change

Concern that proven effective community supports will not be in place to support people when required

I am within children's social care and my concerns would be about community resources.

As a lawyer- more work navigating the changes for clients.

All the more reasons to keep talking about the importance of housing and thinking through with everyone about what that means in practice.

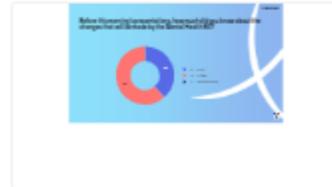
More support to create a community readiness model rather than a person readiness model

As a family carer, I find the changes are



Menti
CB-NSG 01.05.25

Choose a slide to present



Join at menti.com | use code **7951 0137**

Mentimeter

On a scale from strongly disagree to strongly agree, to what extent do you agree with the following statements:

I know how the changes in the Mental Health Act are likely to affect me/my family/my work

3.2

I need more information about what these changes are going to mean for me

3.7

I would like to know more about how the changes to NHS England will impact people with learning disabilities and their families

4.8

Strongly disagree

Strongly agree

5



25



Menti

CB-NSG 01.05.25



Choose a slide to present



How language makes a difference to practice: thinking about the term "challenging behaviour"

Kate Sanger, Linda Hume, and Dr Nick Gore



This is what I see as Challenging Behaviour!



Neck scratched in shop after Laura taking a £60 toy and refusing to give it back!



A headbutt due to the program finishing that Laura was watching

Bite due to not wanting to go in car after trip out

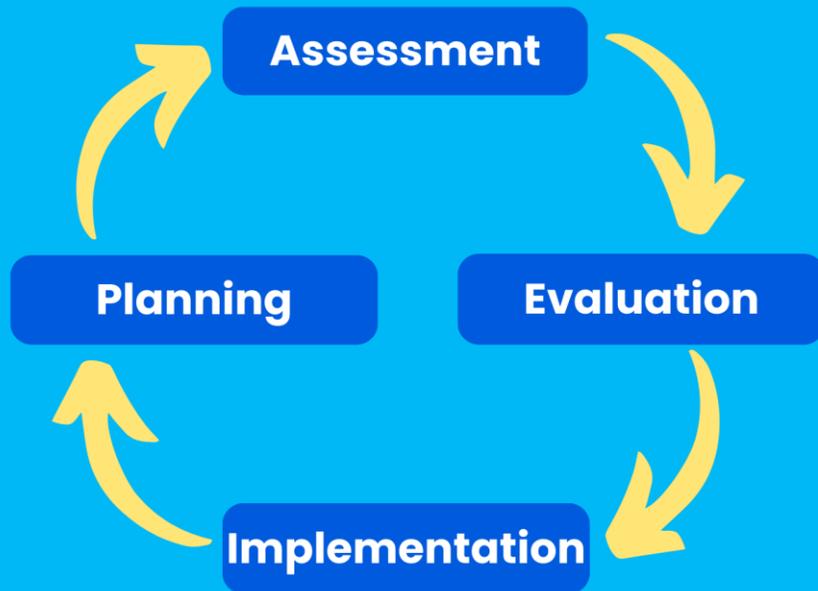


A bite to my arm, due to shopping finishing and returning to car

Why do I use the term "challenging behaviour"?

- Laura is 32 but has the cognitive development of 18 months—3 years!
- She is not distressed when stealing things off the shelves in shops
- She doesn't understand that goods have to be paid for.
- She is enjoying herself and doesn't want the activity to stop.
- All the events above are not due to distress, she is quite happy, however it is very challenging for her family and those supporting her.
- She will challenge you to change the environment for her, she will challenge when the system isn't meeting her needs!
- This is a better description of Laura's actions to tell you something is wrong either internally or external
- Distressed Behaviour puts the onus totally on Laura!

Why terminology matters



A clear definition means we know what we are talking about, and should direct what we need to do

- Creates an understanding of risk, a sense of urgency and a personalised person-centered approach to assessment and planning
- Clarity on what is specifically challenging, for whom and why – should prompt broad disciplinary working
- Decades of evidence-based practice & research should facilitate access to the right service at the right time for personalised outcomes

What are we doing?

- Continuing to share family carer experiences and perspectives and CBF resources
- Developing a paper talking about the original definition of challenging behaviour, what it is and how it impacts people's lives and some of the alternatives that are increasingly in use
- Establishing a working group to help shape refined wording for a definition of challenging behaviour
- Considering empirical work to survey views and impact of terms on service responses

How to get involved

Fill out this form to let us know if:

You are interested in joining a mailing list about this work

You would be interested in joining a conversation/focus group about the term "challenging behaviour" between now and the autumn

You would be interested in providing comments/feedback on the work that is being done, e.g., on a revised definition of challenging behaviour





How the Bill becomes law

- The Mental Health Bill was introduced in the House of Lords in November, and has gone through 1st and 2nd Readings, Committee Stage, Report Stage, and 3rd Reading – during this time, the Bill has been debated and some amendments have been made by members of the House of Lords and by the Government
- The Bill has just been introduced into the House of Commons
- In the House of Commons it will go through the same process
- Once it has gone through the House of Commons it will go back to the House of Lords for any changes to be approved as both Houses need to agree on the final wording of the Bill
- If the Bill is passed by Parliament, it will then go to the King to grant Royal Assent – making it an Act of Parliament (law)
- We do not yet know timings for future stages as these are subject to Parliamentary timetabling

Once the Bill is law

- The Mental Health Bill becoming law will not mean that the changes in it will take place immediately – these will be phased in at different points
 - There is not currently a planned date for the learning disability and autism detention criteria change to come into force – this will happen “when strong community support is available”
 - Under the Bill, the Secretary of State has to produce:
 - Regulations about Dynamic Support Registers, including the factors which increase the probability of a person being detained.
 - Guidance for **responsible clinicians, commissioners, integrated care boards**, and **local authorities** about their functions relating to C(E)TRs, the DSR and ‘seek[ing] to ensure that the needs of people with autism or a learning disability can be met without detaining them under Part 2’
 - There will also be a review of the Mental Health Act Code of Practice
- 

Once the Bill is law

- When the Bill was in the House of Lords, Baroness Merron (the Parliamentary Under-Secretary of State for Patient Safety, Women's Health and Mental Health) made the following Government commitments:
 - To monitor the number of people with a learning disability/autistic people who are detained under the Mental Capacity Act, to publish this figure, and to act if the Mental Capacity Act is being used to detain people with a learning disability/autistic people inappropriately
 - To lay a yearly Written Ministerial Statement in both the House of Commons and the House of Lords that sets out what work has been done over the last 12 months to implement the Bill, and plans for how future reforms will be implemented – including progress on the learning disability/autism reforms and plans for community provision

The difference that good community support makes to our lives

Campaign 4 Change and SeeAbility





The Challenging
Behaviour Foundation

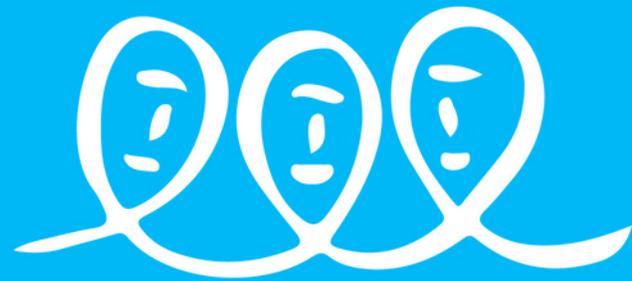
'The difference good community support makes to everyday life'

Discussion Group: People with lived experience for CB-National Strategy Group

info@thecbf.org.uk

www.challengingbehaviourfoundation.org.uk

©The CBF 2024



The Challenging Behaviour Foundation

making a difference to the lives of people with severe learning disabilities

nationalstrategygroup@theCBF.org.uk

www.challengingbehaviour.org.uk

©The CBF 2025