

Briefing on the Mental Health Bill – Second Reading (Commons)

Key Stats

- There are 2,025 autistic people and people with a learning disability in mental health hospitals in England
- 92% of these people are detained under the Mental Health Act 1983
- The average length of stay for current inpatients is 4.7 years
- There are 225 autistic people and people with a learning disability detained who are under 18
- The number of autistic people without a learning disability detained has increased by 136% since March 2015
- In March 2025 there were 6,975 reported uses of restrictive interventions against people with a learning disability and/or autistic people in mental health hospitals. Of these, 2,030 were against children.

Background

Under the Mental Health Act 1983 (MHA), **autistic people and people with a learning disability can be detained in mental health hospitals indefinitely just because they are autistic or have a learning disability**. This is wrong – autism and learning disability are not mental health conditions and they should not be treated as such in law.

There is wide recognition that mental health hospitals are often inappropriate for autistic people and people with a learning disability. Once detained, they can get stuck for many years in these settings, which can be deeply overwhelming and damaging, and lead to lifelong trauma. Latest available data shows the key reasons for delayed discharge are lack of suitable housing and lack of social care. We also continue to hear worrying stories of abuse, overmedication, unnecessary restraint, and seclusion in these settings

This is a human rights scandal – in 2019, the [Joint Committee on Human Rights](#) concluded that the human rights of many autistic people and people with a learning disability are being breached in mental health hospitals.

In 2015, a policy programme called [Building the Right Support \(BtRS\)](#) was established to get autistic people and people with a learning disability out of hospital and supported in the community. In 2022, the previous government published its [BtRS Action Plan](#) which is now out of date.

The policy programme has not resulted in the change promised, and all national targets to reduce inpatient numbers have been missed. Most recently this includes [missing the 2019 NHS Long Term Plan target](#) to reduce the detention of autistic people and people with a learning disability to half of 2015 levels by March 2024. Shockingly, the number of autistic people detained has actually increased during this period.

It is clear that legislative change is needed, and we cannot risk any further delay.

Proposed Reforms to the MHA in the Bill

The draft Mental Health Bill (MHB) was first published in 2022 by the previous government and went through pre-legislative scrutiny by a [Joint Committee](#). The 2025 Bill remains largely the same as the draft version, and was introduced to the House of Lords in November 2024. No significant amendments relevant to autism and learning disability were made in the Lords.

Change to Detention Criteria

The most significant change in the Bill is the removal of autism and learning disability from the definition of mental disorder under s.3 (admission for treatment) of the MHA. This vital change means autistic people and people with a learning disability cannot be detained for

treatment unless they have a co-occurring mental health condition which requires in-patient mental health care.

The Government has said that “the proposed changes to the detention criteria for people with a learning disability and autistic people will only be switched on when systems are able to demonstrate sufficient level of community support” (pg. 72 of the impact assessment).

Ensuring an appropriate level of services in the community is absolutely crucial in supporting autistic people and people with a learning disability to be discharged out of hospital, preventing needs from escalating, and admission to mental health hospitals in the first instance.

However, without a comprehensive and fully resourced plan to build capacity in the community and enable this change to be switched on, we are concerned this vital reform could be delayed indefinitely.

Care (Education) and Treatment Reviews (C(E)TRs)

[C\(E\)TRs](#) are reviews for adults and children who are autistic or have a learning disability to help to speed up discharges, prevent admission, and ensure the person is being appropriately cared for. The Bill will make C(E)TRs statutory in in-patient settings. The responsible commissioner, clinician, Integrated Care Board (ICB), and local authority must have ‘regard’ to the recommendations arising from C(E)TRs.

We would like to see a stronger duty on responsible parties to follow recommendations from C(E)TRs. Currently, we are aware that recommendations are often not followed in a timely manner.

Risk Registers

The Bill makes risk registers (also known as [Dynamic Support Registers](#)) statutory. These registers are for autistic people and people with a learning disability who are at risk of admission or readmission. ICBs and local authorities must have ‘regard’ to this information to meet the needs of autistic people and people with a learning disability in the community.

Risk registers will be key to ensuring people get timely support in the community. We would like to see this language strengthened so there is a duty to provide support and there is a duty on local authorities and ICBs to work together to meet needs and prevent detentions.

Key Ask on the Mental Health Bill

It is absolutely crucial that the right support is in place in the community, including social care, community teams/intensive support teams, suitable housing, and alternative accommodation. This will ensure the change to detention criteria for autistic people and people with a learning disability is workable – we cannot risk any unnecessary delays in ending this human rights scandal.

There is currently no active plan for how this will be achieved. The Government has confirmed there will be a yearly written statement to update Parliament on implementation of the Bill in its entirety, but this does not go far enough in terms of the planning needed for autism and learning disability support, services, and suitable housing.

The Government must publish a comprehensive plan for how it intends to ensure the change to detention criteria can be commenced and ensure accountability in this process. We would like to see this change commenced by 2027 in line with modelling in the impact assessment.

Any plan must include targets, milestones, and relevant actions being taken to ensure ‘sufficient support’ in the community, with yearly reports to monitor progress. Any plan must also be co-produced with autistic people and people with a learning disability, their family and carers, relevant professionals, and advocacy groups.

The plan should consider the level of services as outlined in the [Building the Right Support Service Model](#), including:

- Suitable housing and skilled social care providers;
- Access to crisis team support 24/7, including hands on practical support;
- Provision of alternative accommodation (e.g., crash pads) if the person needs time out in a crisis situation;
- Trained support workers supporting in the family home;
- Suitable and flexible respite;
- Access to occupational therapy to undertake sensory assessments;
- Better access to psychological therapeutic approaches.

We have drafted an amendment, in partnership with NHS Confederation, which would obligate the Government to publish a plan. We would be happy to share this with interested Parliamentarians.

Questions for Second Reading:

- Will the Government commit to working with autistic people and people with a learning disability, care providers, families and advocacy groups to produce and publish a plan for building sufficient support in the community?
- What guarantees can the Government provide that, at the very least, it will commence the change to detention criteria for autistic people and people with a learning disability within the expected 10-year implementation period?
- In a number of Integrated Care Systems (ICSs) progress is going backwards, with the adult inpatient rate for people with a learning disability and autistic people now higher now than earliest available data – what is the Government doing now to intervene and ensure adequate investment in community support and suitable housing in every ICS area?

If you would like to meet to discuss these issues further please reach out to a member of the policy and public affairs teams at any of our organisations:

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