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Modernising the Mental Health Act

Ed Davie 13 June 2022

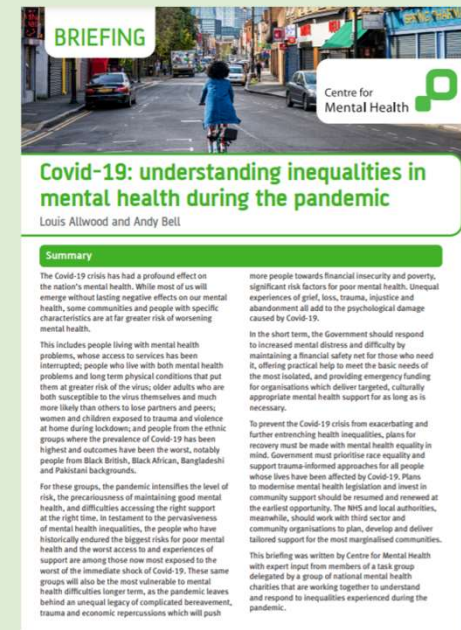
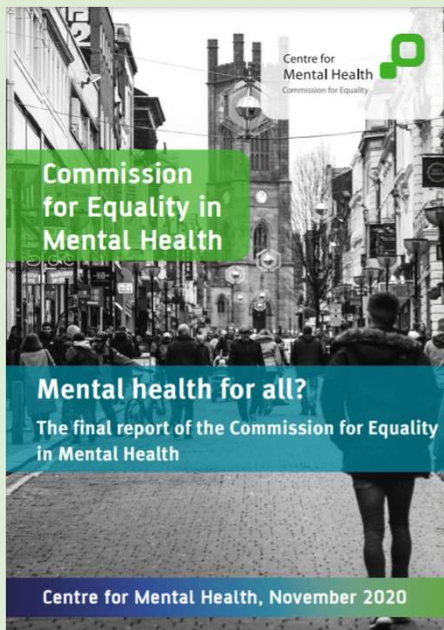
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What we do and why

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- Research that makes a difference
- Translating evidence into policy & practice
- Supporting & evaluating innovation
- Better mental health for all...



Modernising the Mental Health Act

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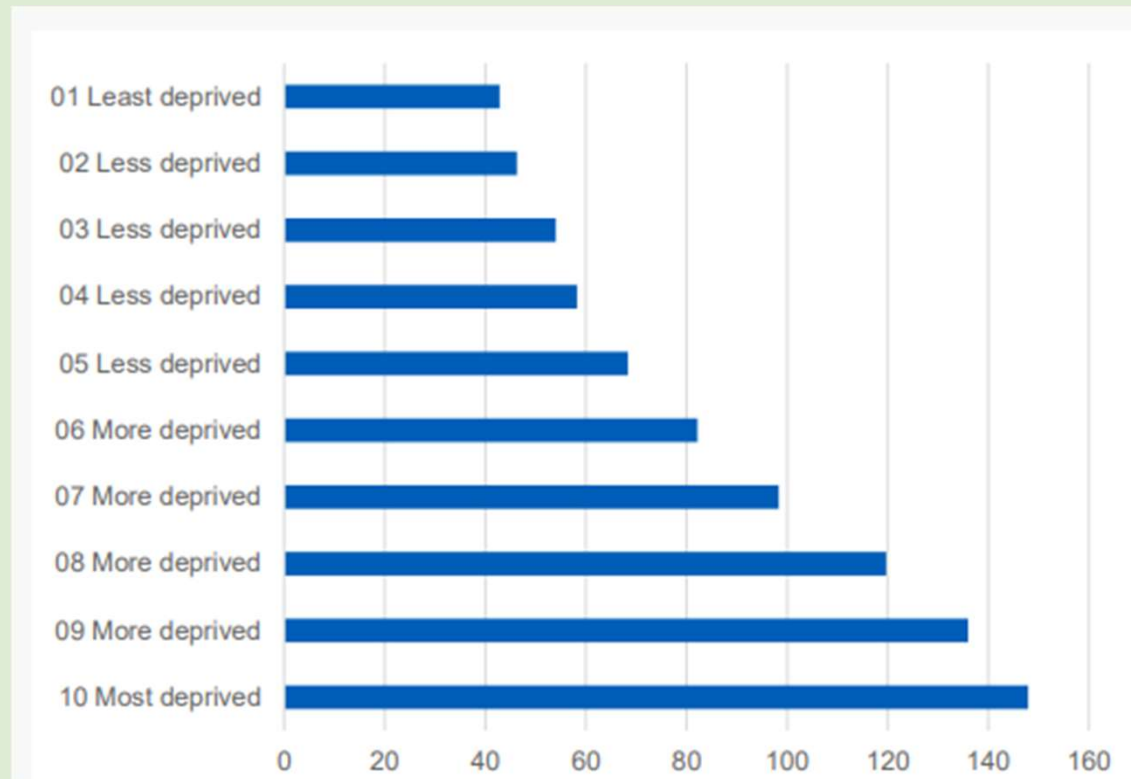


- ❑ 1983 Act updated (controversially) in 2007 but largely based on 1959 Act (and previous legislation from 19th century)
- ❑ 2018 Review prompted by concerns over growing and unequal use of coercion
- ❑ Draft legislation promised later this year

Poverty: Sections under the Mental Health Act by indices of deprivation

- [NHS Digital's 2019-20 Mental Health Act statistics report](#),

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Ethnic inequalities

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- 10 times as many Black people as White people get CTOs
- Four times as many Black people and twice as many Asians detained under Mental Health Act as White people

Data from Ethnic Inequalities in the UK Mental Health System – Synergi Collaborative 2017

Mental Health Act Review

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- Research: including evidence reviews, national survey & focus groups
- Call for evidence & visits
- Topic groups with focus on key aspects and issues

Key messages from the Review

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- People's wishes and preferences should carry far more legal weight
- Action is needed for people from ethnic minority communities, children and young people, people in the criminal justice system, and those with a learning disability, autism, or both
- The use of compulsion should be targeted and justifications should be transparent
- We should modernise our services as we modernise our laws

Principles

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A purpose and a set of 4 principles should be included in the Act itself:

Choice and autonomy

Least restriction

Therapeutic benefit

The person as an individual

□ So far accepted by government

Honouring wishes and preferences

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- Advance choice documents within the Act
- Choice of 'nominated person' to replace Nearest Relative
- More opportunities to challenge decisions
- Predominantly accepted by government and included in plans for the Act

Advocacy

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- ❑ Extent access to independent advocacy, including 'informal' hospital patients & people in prison awaiting transfer
- ❑ 'Opt out' service to improve accessibility
- ❑ Culturally competent advocacy essential to address racial injustice

- ❑ Agreed in principle, needs significant investment to increase capacity

Criteria for use of the Act

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- Tighten up conditions, including:
 - treatment is available which would **benefit the patient**, and not just serve public protection, which **cannot be delivered without detention**; and
 - there is a **substantial likelihood of significant harm** to the health, safety or welfare of the person, or the safety of any other person without treatment.
- Mostly accepted, with some modifications?

Care and Treatment Plan

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- ❑ Statutory duty on clinical service to produce a Care and Treatment Plan while person is sectioned
- ❑ Improved care planning, including for Section 117 Aftercare
- ❑ Accepted by government: unclear how this fits with changes to wider care planning

Autism and learning disability

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- ❑ Conflicting views about scope of the Act for autistic people and people with learning disabilities without mental illness
- ❑ Review recommended not to exclude
- ❑ Mounting concerns over failure of Transforming Care programme
- ❑ Government likely to exclude from *treatment* sections in *civil* cases

Community Treatment Orders

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- Restrict use through:
 - Applying new criteria for use of coercion
 - Higher evidence threshold of need for continued coercion outside hospital
 - Extended role for AMHP and community-based Responsible Clinician
 - Shorten renewal periods & require new orders to be made after 2 years
 - Improve access to advocacy and tribunals
- Review after five years

Criminal justice system

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- ❑ Set time limits on prison to hospital transfers
- ❑ New role to facilitate faster admissions
- ❑ Extended role for tribunals

- ❑ Mostly accepted by government (except tribunal role in discharges)
- ❑ Concerns over possible 'two tier' system

Modernise services (not just the law)

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- ❑ Patient and Carer Race Equality Framework (PCREF)
- ❑ Replace worn out buildings and facilities
- ❑ Invest in long-term support and improved crisis care
- ❑ Boost workforce in key roles
- ❑ Some progress in Long Term Plan but very little on modernising the estate

Tackling racism and racial injustice

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- ❑ Improve data on ethnicity throughout the system
- ❑ Improve representativeness of professions, especially at senior levels
- ❑ Key role for regulators to ensure equality in implementation
- ❑ NHSE Advancing Mental Health Equalities strategy taking much of this forward

Government response and next steps

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- White paper followed by consultation and government response
- Draft bill for pre-legislative scrutiny expected before summer recess
- Possible links to cross-government mental health plan

Areas of contention (some of them)

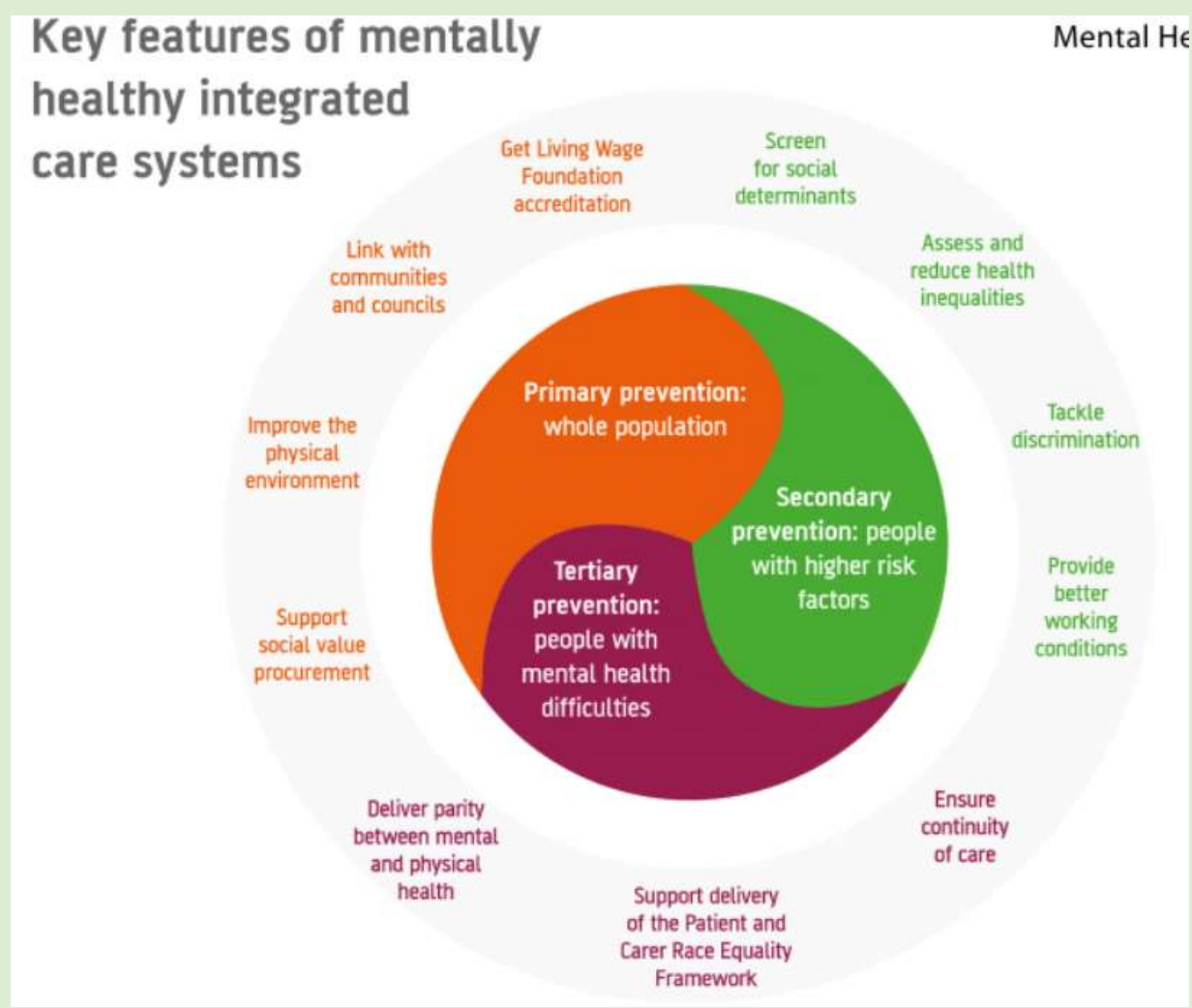
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- ❑ Links with the Mental Capacity Act and Liberty Protection Safeguards
- ❑ Safeguards and rights of children and young people (eg for Nominated Person)
- ❑ Should CTOs continue at all?
- ❑ Will the changes proposed be enough to tackle racism and discrimination?
- ❑ Do we need rights-based legislation: something different altogether?

Join our mentally healthier ICS network

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Thank you

For more information:

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