



## National Care Forum response to the Mental Health Reform Act proposals – summary of key points -April 2021

### National Care Forum

#### Who are we?

**The National Care Forum (NCF)** is the membership organisation for not-for-profit organisations in the care and support sector. NCF supports its 130 members to improve social care provision and enhance the quality of life, choice, control and wellbeing of people who use care services. We are the voice of the not-for-profit care and support sector. Our members:

- ✓ Provide care and support to around 170,000 people
- ✓ Operate over 9200 services
- ✓ Provide more than 45,000 care home places
- ✓ Employ over 93,000 staff & some 13,500 volunteers

### Introduction

The National Care Forum has consulted closely with its members. Around a third provide services to support people with mental health problems, two fifths offer services to support people with a learning disability and a third offer supported housing services

We have structured our comments to focus on three key themes: the impact of the proposals on people, on care providers and on the wider system.

### What do the reforms mean for people?

Our members strongly welcome the proposals' aim to give individuals more control and a greater say in their treatment. The inclusion of the proposed advance decisions about what treatments individuals do and do not want is welcome as are the proposals to put care and treatment plans on a statutory footing. Enabling more choice and more control for people has been a fundamental of health and care policy and reform for many years now and this realignment of the Act is welcome.

#### What is missing?

**A corresponding increase in community mental health services to support people in the community:** As not-for-profit care and support providers, our members expressed considerable concerns about the fact that the Act is silent on the other measures that need to be in place to keep everyone safe and supported, outside of hospital.

It is clear that there is already a significant shortage of community resources available to meet the needs of individuals who have mental health problems and need support that is more intensive. This means that detention and formal admission to hospital has, to date, sometimes been the only option available in an emergency. The Act needs to take the opportunity to enshrine complementary commitments to ensure that there is corresponding increase in community mental health support to guarantee that those who will now longer be subject to detention do instead get timely and effective mental health support outside hospital

The proposal to change the criteria for detention is intended to reduce the number of individuals who would meet the criteria for detention and therefore it is essential that the Mental Health Act reform proposals go further to ensure that:

- Access to informal admission for individuals who require this (by consent) is enhanced with further funding and resourcing.
- There is increased and improved funding, resourcing and commissioning of mental health services in the community, to ensure that individuals who require these services can access them without the need for inpatient care / where they do not meet these new criteria for detention. This must include the development and resourcing of prevention services.
- The range of specialist community mental health services is increased, to ensure timely access to effective treatment to support prevention, reduce the risk of and deterioration and to enable people to manage their mental health in an ongoing way

As the criteria for detention under the Act quite rightly become more stringent, there is an urgent and compelling concern about what measures will be put in place for individuals who would previously have been admitted to hospital but will now remain in the community. Current experience highlights that there is little specialised help or support for social care providers – particularly out of working hours. NCF members welcome the proposals but strongly believe that much more needs to be done to ensure the community support is ready, adequately trained and resourced to support people experiencing mental health problems/ crises.

One of our member's express the following ideal:

*“When people go into [a mental health] crisis (this does not happen that often), if there is nowhere that people can go, then they need to have [specialists] (with a sharp mental health understanding) who can help out of hours. There needs to be more resources and a team available 24/7 on speed dial.”*

## What do the reforms mean for providers of care and support?

NCF members provide a wide range of care and support services to support individuals with mental health problems and people with a learning disability and / or autism. A handful also

run independent hospitals for older adults. The collective shared experience and expertise of our membership is very relevant here as around one third of our members provide services to support people with mental health problems, two-fifths offer services to support people with a learning disability and a third offer supported housing services.

Social care's role in supporting people with mental health problems has been largely overlooked in these proposals but effective mental health services are key to providing good mental health support to those that use and need social care.

### **What is missing?**

**A recognition that social care provision needs effective and timely community mental health services to support people in the community:** A clear and consistent concern highlighted relates to the lack of any mention in these proposals of the significant additional resources and planning that will be required to increase the level and range of community mental health support services and specialisms.

The proposals need much more clarity on the duties and expectations needed to ensure a significant expansion of and improvement to community mental health support. The current system is already under significant pressure, with our members reporting considerable difficulties faced by the people they support in accessing community mental health services, alongside long delays where services do exist and a lack of specialist services in the community.

Implementing the proposed reforms without setting out clear commitments to improve the level and range of community mental health support services and specialisms will simply result on more pressures within an already struggling system and the risk of gaps in community mental health support. This will have very significant implications for both the individuals who need timely and effective community mental health services and for the providers of care and support services working with those people.

NCF members expressed concerns that the pressures on their workforce will increase significantly as they struggle to support individuals who would previously have been admitted to hospital but now will remain in the community where levels of community health support are insufficient. And while hospital detention may not be the right solution for individuals experiencing mental health crises, existing accommodation based services/ supported housing will also not be the right option at times of crisis to ensure their safety, that of others living there and the safety of staff.

### **What do the reforms mean for the wider system?**

The Mental Health Act reform document proposes duties for NHS and LA commissions to ensure the 'adequacy' of support from community services for people with a learning disability or autism. It also proposes to mandate the creation of local 'at risk' or 'support' registers for these groups.

The question is, of course, who decided what is adequate? The commissioners or those actually using the services? Our members have made it very clear that if current funding levels remain the same for commissioners, the expectation would seem to be for commissioners to address all the issues highlighted in the reform proposals without having the resources to do it. 'Adequacy' would inevitably be defined by funding pressures and not need. As with social care, eligibility requirements would be further narrowed leading to many with unmet needs until someone reaches crisis. It would not promote prevention.

In terms of the 'at-risk' or 'support' registers, our members advise that these already exist in some areas and can work well but only if they are part of a properly resourced prevention strategy. In their experience, the registers work on a priority basis. NHS and LA commissioners have to prioritise which people are at a higher risk, which inevitably means that those deemed at a medium or lower risk receive less priority and 'get put on the backburner' rather than having preventative strategies implemented because these cannot be resourced. In reality, these people are not supported or prioritised then until they become high risk.

### **What is missing?**

**A focus on prevention:** Funding for system-wide prevention measures would help people before they reach crisis. The proposals seem to be silent on any opportunities to bolster duties and expectations at a local level in terms of preventative and early intervention community mental health services and, of course, this would need clarity on additional funding and resource.

**Better clarity and definition of 'adequacy' of supply of community services:** we welcome this new duty and strongly recommend that this needs to be co-produced with those that use services, their families and their care providers. It also needs to be properly resourced.

**Commitments on resources to accompany the new duties for commissioners:** the Act must include commitments to ensure that there is investment in resources and funding to enable commissioners to fulfil these duties properly if these reforms are to truly transform care for these groups.

**Understanding the importance of good quality accommodation and support in mental health care and treatment:** safe, good quality accommodation options are a key part of supporting people's mental health. Our members advise that this is an area that needs more focus in these reforms as it is fundamental to enabling a range of community mental health services to provide better support. As one of our members said '*On discharge, too often individuals get a pokey flat, which does nothing for promoting positive mental health. We need good quality housing stock, designed and bespoke to the people.*'

**Recognising the reality for some older people with enduring mental health problems:** For some older people (over 65s), it is important to recognise that their care and treatment may well mean that for some of them the independent hospital setting may actually be

their home for life, as their enduring mental health needs and challenges mean that it is not possible for them to reside in nursing or residential care.

**Linking to the Care Act 2014:** We also wish to raise a number of wider points to do with the Care Act 2014. An opportunity has been missed to highlight the principles of the Care Act. Mainly:

- The wellbeing principle
- The importance of preventing, reducing or delaying needs
- When intervening focusing on meeting needs rather than providing services
- Cooperation between partner agencies so that these principles can be realised for people holistically and in ways that make sense to each person individually
- The co-production of treatment, care, support, services and systems with the people that need these

In its current form, the reform proposals do not seem to recognise or enable the Care Act Principles. This is a missed opportunity to join up the legislation and to complement the work of adult social care to support people with mental health problems and people with a learning disability/ autistic people.

**How regulation can help:** NCF members told us that they felt that the CQC could play a more supportive role in the regulatory aspects of the development of new services for people with mental health problems and for those with a learning disability and/ or autism and very complex needs. We need regulation that recognises that some adaptability is required when working with mental health.

We are not suggesting the need for an extension of monitoring powers, rather a different way of using existing powers.

We would also call for wider support for families, to explain what is in the community for their support and who should they contact when there is a crisis. This could form part of the new duties on LA assurance as well as existing duties for other parts of the health and care system.

Taking all of the above together, NCF believes it is essential that:

1. The Act must enshrine complementary commitments to ensure that there is corresponding increase in community mental health support to make sure that those who will no longer be subject to detention get timely and effective mental health support outside hospital instead.
2. The role of multiagency working is strengthened in the Act. Local community mental health systems of support must wrap more effectively around the individuals who need support and the social care providers work with them. Social care providers

need to be able to draw upon the expertise of multiagency support in order to make decisions that are person-centred, sustainable and support people to live safely and independently within the community

3. The government must commit funding and resources to develop the right housing and social care support, especially for people with a learning disability and autistic people if these reforms are to truly transform care for these groups
4. A greater focus needs to be placed on prevention, maintenance to avoid relapse and rehabilitation as well as how this might be resourced and funded. Prevention in particular is the forgotten resource. Far too often do individuals have repeated preventable mental health crises and detentions.
5. The new duties for commissioners need to be co-produced with those that use services, their families and their care providers, especially in relation to ensuring 'adequacy' of supply for community services for people with a learning disability and autistic people. They also need to be better resourced.
6. There needs to be wider support for families to explain what is in the community for their support and who should they contact when there is a crisis. This could be included in the commissioners' duties

## Wider Reform of Health and Social Care

The Mental Health Act reforms are just one of a number of attempts to reform the Health and Social Care system currently happening simultaneously. The perception from those outside government is that these attempts do not appear to be joined-up in any meaningful way. This includes:

- Mental Health Act Reform
- Health and Social Care White Paper (The Integrated Care Systems in particular)
- Public Procurement Green Paper (will have implications for Adult Social Care commissioning and procurement)
- Forthcoming Adult Social Care Reform White Paper

It is really important that any reforms introduced do not constrain the future reform of Adult Social Care and are coherent and complementary.

**For further information or a conversation, please contact:**

**Liz Jones**, Policy Director [Liz.Jones@nationalcareforum.org.uk](mailto:Liz.Jones@nationalcareforum.org.uk)

**Nathan Jones**, Senior Policy, Research and Projects Officer:  
[Nathan.Jones@nationalcareforum.org.uk](mailto:Nathan.Jones@nationalcareforum.org.uk)

