Mental Health Bill: Second reading debate briefing

Blooming Change Mental Health Bill working group
(Part of Article 39 children's rights charity)
November 2024

Blooming Change is a group set up and supported by Article 39 in 2021. Members are children and young people who have experienced being detained under the Mental Health Act 1983 (MHA 1983) as children. We work together to make mental health inpatient units in England, and the laws and rules they follow, much better for all children and young people. We want them to be safe, respectful, and humane.

- Our accounts of restraint and seclusion were included in the Mental Health Units (Use of Force) Act 2018 statutory guidance
- We've designed and now deliver a specialist training course to independent mental health advocates across England
- Article 39's Director gave oral and written evidence to the Joint Committee on the Draft Mental Health Bill, based on our concerns and priorities. These were subsequently reflected in the Committee's recommendations
- We took part in an Article 39 project commissioned by the Department of Health and Social Care to find out young people's perspectives on reforming the MHA 1983

Article 39 is a small, independent charity which fights for the rights of children and young people in institutional settings such as mental health units, children's homes and prisons. We promote and protect children's rights in England through: awareness-raising of the rights, views and experiences of children; legal education; practice development; and policy advocacy, research and strategic litigation. Our name comes from Article 39 of the United Nations Convention on the Rights of the Child, which entitles children who have suffered abuse or other rights violations to recover in environments which nurture their health, self-respect and dignity.

Since the publication of the Draft Mental Health Bill in 2022, Blooming Change has been working together to make sure new mental health legislation works for children and young people, and addresses our specific experiences of mental health inpatient units. We must use this opportunity to introduce vital safeguards for highly vulnerable children and young people who require hospital treatment for their mental health. **We have seven priority areas for the Mental Health Bill**: ending abusive restraint in mental health units; access to therapy in mental health units; ensuring the particular needs of children and young people with autism or learning disabilities are met; ending the placement of children on adult wards; protecting the rights of patients with physical impairments in mental health units; protecting young people from exploitation in the appointment of a nominated person; and patient debriefing after leaving a mental health unit.

1. Ending abusive restraint in mental health units

We are very concerned about abusive restraint in mental health inpatient units. Every member of Blooming Change has experienced this at one time or the other; some of us have lots of experience of abusive restraint. The Mental Health Bill does not address restraint (apart from if a patient tries to leave hospital), though two of the Bill's four principles in Clause 1 – 'least restriction' and 'therapeutic benefit' – are very relevant. Blooming Change wants to ensure that staff are trained in alternative de-escalation methods. We also want laws around restraint to apply to all hospital settings including general hospitals, such as the duty to record when a restraint has taken place. We know that many children and young people are admitted to general hospitals for mental health reasons, and they should have the same protection from abusive restraint.

Since the Mental Health Units (Use of Force) Act 2018 came into effect in March 2022, there has been no visible change to restrictive interventions that children in inpatient units are subject to. According to NHS data, in 2023/24, 932 children in mental health units were subject to restrictive intervention. In total, 84,626 restrictive interventions were carried out on these children, which is a 51% increase from the year before.[1] **This is the highest number of restrictive interventions recorded since figures were made available in 2019, despite the number of children in mental health units appearing to decrease.**

In our experience, abusive restraint is entrenched in mental health inpatient units. Investigations by the media and others echo what we ourselves have experienced. This summer, a national newspaper reported that CCTV had captured children "being dragged across [the] floor" by staff in a children and young people's mental health inpatient unit in Coventry.[2]

Many Blooming Change members have shared their experiences of restraint, including:

"I never, ever felt any safer in a restraint. I've been elbowed in my nose where my nose then bled. Like how is that meant to make me feel safe, or to stop me doing what I'm doing?"

"The amount of people I know, including myself, who have been physically injured from restraint. I've had long-term issues with my feet and on my notes it said I might have to have foot amputation due to being stood on [by restraining staff] which caused an infection."[3]

2. Access to therapy in mental health units

The Mental Health Bill contains no explicit provision around access to therapy or support from psychologists in mental health inpatient units. As one Blooming Change member stated, **"without therapy, mental health units become prison**s".

Blooming Change wants an amendment to the Bill which ensures there are psychologists in all mental health inpatient units. We want a flexible approach meaning it would be compulsory for mental health inpatient units to offer therapy, but not compulsory for patients to accept and receive it. We would also want no expectation that if you receive therapy, you then have to stay in hospital for longer. This should avoid therapy being used coercively like medication often is.

Blooming Change members have been child patients in mental health inpatient units with no access to therapy. We believe strongly that this defeats the intended purpose of inpatient units to improve our mental health:

"In the wards I've been on they just drugged us and restrained us. We should have had actual therapy to process what's going on in our minds and work out the best plan for hospital and when you're discharged. Since this wasn't the case for us, we left with even more trauma and no help in place so then we would end up back in hospital and the cycle would repeat. So much pain could have been prevented had the wards had better things in place."

"Admissions shouldn't just be for detention, and a place to just be kept, they should be a place for rehabilitation and recovery."

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[1] Mental Health Bulletin, 2023-24 Annual report, England inpatients reference tables, available at https://digital.nhs.uk/data-and-information/publications/statistical/mental-health-bulletin/2023-24-annual-report#resources

[2] The Independent, *CCTV uncovers children's hospital staff 'dragging patients across floor' in NHS-funded unit*, August 2024.

[3] Article 39, *In what world is this hospital care? Young people's views on fixing the Mental Health Act 1983*, December 2023, p. 15.

3. Ensuring the particular needs of children and young people with autism or learning disabilities are met

Most recent NHS data indicate 200 children with autism and/or learning disabilities were in mental health inpatient units in September 2024, 78% of whom were detained under the MHA 1983.[4] For children with autism and/or learning disabilities who also have a mental health problem and are detained in mental health inpatient units, Blooming Change wants the Bill to ensure staff are properly trained on how to support these children and their needs. We also want the sensory experience of being in mental health inpatient units to be improved.

A recent Care Quality Commission (CQC) investigation found that staff lack the knowledge and skills to provide individualised care for children with autism and/or learning disabilities, and they resort to restraint when children communicate distress through certain behaviours or agitation.[5]

Speaking about the mental health inpatient unit environment and how this impacted their care, one Blooming Change member said:

"The ward environment overwhelmed me, and I feel this made my mental health worse. Sometimes my meltdowns would lead to me being restrained or medicated which worsened them. I feel like nobody was willing to consider autism as playing a role until I got much older, but the trauma caused by being misdiagnosed, overmedicated, and misunderstood had already been done."

Moreover, in November 2022, ITV reported on Hayden, a 10-year-old boy with autism and learning disabilities who had been sectioned under the MHA 1983, and who spent four weeks "staring at bare walls with nothing but a plastic mattress on the floor".[6] Hayden's mother said:

"It just made us feel like he was a problem and not a human being…There weren't really any attempts to make it better for him, to make it more personal to him so it would be more comfortable. It was like a holding pen. It was in this environment where Hayden was supposed to be assessed for what care he might need. But it was the environment that made him worse…He wasn't allowed out to see fresh air for 2, 3, 4 days at a time. He was stuck in that room and medicated to stay asleep effectively."

4. Ending the placement of children on adult wards

We are very disappointed that the Mental Health Bill contains no protections for children being placed on adult mental health wards. Blooming Change wants the Bill to either bring a complete end to children being placed on adult mental health wards, or for a legal time-limit (72 hours for example).

The current MHA 1983: Code of Practice states that it is government policy that under 16s should not be admitted to an adult ward[7], however the legal definition of a child is under 18.

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[4] Learning Disability Services Monthly Statistics, AT: September 2024, available at https://digital.nhs.uk/data-and-information/publications/statistical/learning-disability-services-statistics/at-september-2024-mhsds-august-2024

[5] Care Quality Commission (CQC), *Experiences of being in hospital for people with a learning disability and autistic people*, November 2022.

[6] ITV News, *'It was like a prison': Autistic boy kept in hospital for month after mum asked for help with care*, November 2022.

[7] Department of Health and Social Care, *Mental Health Act 1983: Code of Practice*, 2015, p. 190.

Protection from being placed on adult wards should apply for all children up to age 18. In 2016, the government pledged that "inappropriate use of beds in paediatric and adult wards [would] be eliminated" by 2020/21.[8] This has not happened. According to most recent data from the CQC, **196 children were admitted to adult mental health units in 2022/23**.[9]

Members of Blooming Change have shared harrowing accounts of being on adult wards, and also mixed-sex wards. One member recalled:

"I was on an adult unit for over 50 days [as a child], and during those 50 days I wasn't allowed to mix with anyone else…I got no input apart from physical restraint, that was the only thing I had for over 50 days straight. There's lots of like naked people and stuff that you would sometimes see on CAMHS wards but not to the extent that you see on adult wards.

The staff on the ward were not trained on child restraint so often I ended up really hurt…it would be like really big men who were used to going up to forensics to restrain people, and then coming to restrain me, a little girl at the time basically. It was horrific…I couldn't even have my teddy at one point and that was my one bit of comfort."[10]

It should be noted that Article 37(c) UNCRC requires that children and adults in detention should be separated unless it is in the best interests of the individual child. After hearing evidence from Article 39 (which included Blooming Change accounts), the Joint Committee on the Draft Mental Health Bill wrote in its final report that the government must take this opportunity to **"strengthen the protections in the Mental Health Act against children and young people being placed in inappropriate settings, such as adult wards"**.[11]

5. Protecting the rights of patients with physical impairments in mental health units

Although not mentioned in the Mental Health Bill, we are concerned about the added difficulties for children in mental health inpatient units who have physical impairments. Blooming Change wants the Bill to improve accessibility for children with physical impairments in mental health inpatient units, including accessible bedrooms and accessible care and treatment. We also want physical health to be considered when discussing care needs.

There appears to be a lack of discussion or research around the experiences of patients with physical impairments as one Mental Health Act reviewer explained to the CQC:

"Issues around physical disability are interesting because I think a lot of the wards that I have visited, they're just not fit for purpose…it just seems to be overlooked sometimes. It's not even recognised as something that's an issue."[12]

One Blooming Change member shared how the inaccessibility of the unit they were in had a huge impact on their access to treatment:

"I am physically disabled and for me the room to speak to the psychologist was upstairs in the unit and there was no way for me to access that space. I kept being told she would come

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[8] NHS, *Implementing the Five Year Forward View for Mental Health*, 2016, p. 7.
[9] CQC, *Monitoring the Mental Health Act in 2022/23*, March 2024, p. 41.
[10] Article 39, *In what world is this hospital care? Young people's views on fixing the Mental Health Act 1983*, December 2023, p. 28.
[11] Joint Committee on the Draft Mental Health Bill, *Draft Mental Health Bill 2022*, January 2023, p. 75.
[12] CQC, *Monitoring the Mental Health Act in 2021/22, Ward environments*, December 2022.

down to see me somewhere else during my stay but it didn't happen so for me my physical impairments meant I didn't get equal access to the support."

6. Protecting young people from exploitation in the appointment of a nominated person

The Mental Health Bill introduces a new role of nominated person to replace the nearest relative. With this new role, a young person would have freedom to choose their nominated person. This person should know what the young person's wishes and feelings are and support the young person while they are detained under the MHA 1983.

Blooming Change wants to see amendments to the role of nominated person which ensures abusive family members, partners, friends or others are not able to fulfil the role of the nominated person, to stop them from being able to control the young person's care.

One Blooming Change member reflected on their past relationships and how the nominated person role could have impacted their care in a mental health inpatient unit:

"When I was younger, I was in quite an abusive relationship with my ex-partner who was coercively controlling, physically abusive, everything…If I had gone back into hospital whilst I was with him I would have chosen him as that [nominated] person because I would have had no other choice to do that as he'd isolated me from all of my friends and family…I wouldn't have got the care I needed. He'd stopped me from taking all my medication, he'd make me do things that would worsen my mental health and encourage me to do things. Now I'm out of that situation, I can see that it would have potentially been very dangerous for me in that time to have that responsibility [to choose a nominated person]."[13]

Another member pointed out the relationships that form within mental health inpatient units and how this could interfere with the proposed nominated person role:

"When you're in hospital, I know that everyone's unwell, but like you can meet people who aren't great influences and then if you both leave but they get admitted again, or if you get admitted again, what if one of you get roped into being the nominated person?...Your nominated person could also result in you not getting the best care because people know how to play the system."[14]

7. Patient debriefing after leaving a mental health unit

Blooming Change wants to see children's experiences of mental health inpatient units to be acknowledged after being discharged through the form of a debrief process, and for this to become a statutory process via an amendment to the Mental Health Bill. This is with the view to both record experiences of children and hold institutions accountable, and to also support children and young people to heal from their experiences of being in hospital for mental health reasons.

This raises an even larger concern around how children are leaving mental health inpatient units with more trauma than when they first entered, with one Blooming Change member sharing:

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[13] Article 39, *In what world is this hospital care? Young people's views on fixing the Mental Health Act 1983*, December 2023, p. 22.
[14] Article 39, *In what world is this hospital care? Young people's views on fixing the Mental Health Act 1983*, December 2023, p. 22.

"I've never felt more unsafe than when I've been on wards. I think they're the most scary place that a child or young person could ever be. It's a catchphrase, 'hospital makes you worse'…Everyone makes jokes about going into hospital with one problem and then leaving with trauma, new behaviours, new diagnoses, assaults, PTSD – it's awful."[15]

Another member mentioned that in childbirth, mothers who have experienced a traumatic birth of their child are offered debriefings with the aim to reduce psychological trauma.[16] This member questioned:

"Why is the importance of having a debrief following a traumatic and difficult psychiatric admission not recognised in this same way, particularly for children?"

We also want it to be much easier for children and young people to be able to access information about their time in a mental health inpatient unit, including about the medication and treatment they received. Talking about medication, one Blooming Change member stated:

"It should not be so difficult to request records after a mental health inpatient stay. I reacted badly to a medication during my stay and the unit didn't pass any information on to others involved in my care. It took months to gain access to my records to find out the medication name and I then had to inform my GP and other professionals myself to stop it being prescribed again. The burden was put on me to obtain record."

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Blooming Change's Mental Health Bill working group is available to meet with Peers interested in hearing the direct views and experiences of children and young people who have been detained under the MHA 1983.

We will be working on the Bill throughout its passage through Parliament, and very much hope Peers will consider tabling amendments that reflect our priorities.

[15] Article 39, *In what world is this hospital care? Young people's views on fixing the Mental Health Act 1983*, December 2023, p. 10.
[16] Cochrane, *Debriefing interventions for the prevention of psychological trauma in women following childbirth*, April 2015.