

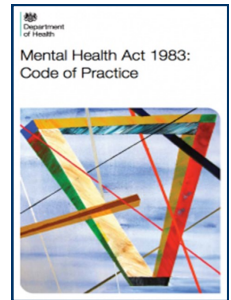


Mental Capacity Act 2005

# Mental Health Legislation

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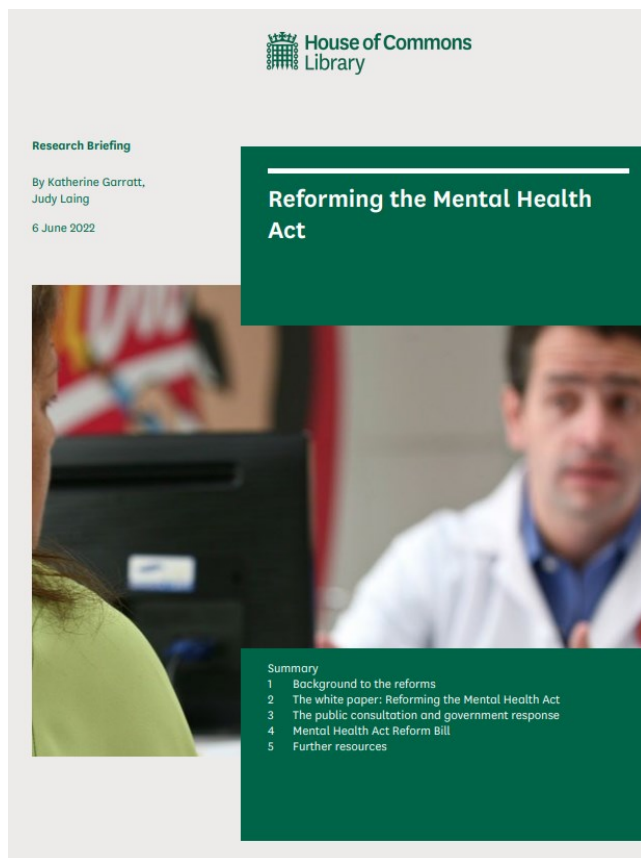


This bulletin is published for all groups of staff working within our Trust.  
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## Reforming the Mental Health Act

The Government's white paper on Reforming the Mental Health Act, published on 13 January 2021, contains wide-ranging proposals to reform the Mental Health Act 1983 (as amended in 2007) in England and Wales.

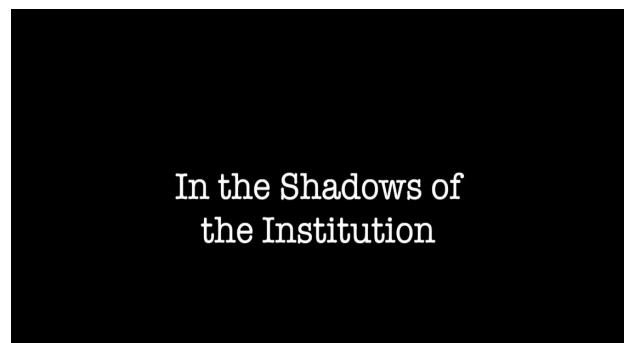
This briefing outlines the background to the reforms, some of the main proposals in the white paper and initial reactions. It also outlines the Government's response to a consultation on the white paper proposals.



You can download the briefing [here](#)

## Free book and film on deprivation of liberty

Dr Lucy Series has recently written a book, entitled *Deprivation of Liberty in the Shadows of the Institution* (Bristol University Press, 2022) about the long history and possible futures of social care detention. Because the research is funded by Wellcome, you can download a free copy of the book [here](#). Wellcome have also funded the production of a film, a collaboration between Lucy, the artist Grace Currie, and the production company Helter Skelter. The film is available [here](#).



In only just over 10 minutes, the film manages to convey a complex story about the history of deprivation of liberty it should be required viewing for all concerned (no matter their background) with this vitally important issue.

## LPS consultation extended

As you may already be aware the Government has launched a public consultation on proposed changes to the Mental Capacity Act (MCA) Code of Practice for England and Wales, which includes guidance on the new LPS system.

The DHSC has acknowledged that the LPS is a complex area and that the consultation includes a number of detailed documents for people to work through. They also recognise that it takes time for people to be able to engage with the proposals properly, consider their implications in full and respond.

The DHSC have therefore decided to extend the consultation period by one week. This means that the consultation will now remain open until Thursday 14th July 2022.

You can find all of the consultation documents and respond via the online consultation survey by [clicking here](#).

- if you need further information or have a comment or query, please contact the Mental Health Act Team on 024 7693 2520
- Head of Mental Health Legislation - Steve Trunk 024 7693 2530 or 07748 321939 [steven.trunk@covwarkpt.nhs.uk](mailto:steven.trunk@covwarkpt.nhs.uk)
- Newsletter Author - Steve Trunk

## **From the Web:**

### **The “you’ve got the capacity to choose to kill yourself” phenomenon, and what we can do about it**

Lucy Series discusses how those with a diagnosis of ‘personality disorder’, who are autistic, or categorised as a ‘high intensity’ user of services – find themselves being told in moments of crisis when they are asking for help that since they have ‘mental capacity’ the decision to take their own life is their own and they do not need further input from mental health services. Read her blog [here](#).

### **Article 2 v Article 5**

Mental Health Cop discusses the situation whereby someone requires hospital admission under the MHA, but there’s no bed, and the dilemma emerges about how the situation should be managed until such time as a bed is found? It can give rise to a perceived conflict between Article 2 and Article 5 ECHR obligations. Read his thoughts [here](#)

### **Updated MAPPA guidance**

Multi-agency public protection arrangements are in place to ensure the successful management of violent and sexual offenders. This [guidance](#) sets out the responsibilities of the police, probation trusts and prison service. It also touches on how other agencies may become involved, for example the Youth Justice Board will be responsible for the care of young offenders.

### **Progress review on restraint, segregation and seclusion in care settings**

Since the CQC published its Out of sight – who cares? report in October 2020, which looked at the use of restraint, seclusion and segregation in care services, the regulator has published its [second report](#) commenting on the progress achieved so far and the areas where further work is still needed. In its full report the CQC made a total of 17 recommendations. Mills and Reeve discuss this further [here](#).

### **Heard about the national DoLS court?**

You may have heard from other sources regarding a ‘national DoLS court’ for under 18’s.

Alex Ruck Keene explains [here](#) about the initiative; which is responding to the increasing numbers of High Court cases being asked to authorise DoL for those under 18 via its inherent jurisdiction. The initiative launches on the 4th of July 2022.

### **Guidance note: Deprivation of Liberty and those aged under 18**

This [guidance](#) is produced to help practitioners navigate the complex waters relating to deprivation of liberty relating to those under 18, complexity arising both from the substantive law (i.e. how does the concept of deprivation of liberty apply to those under 18?) and procedural law (i.e. how should deprivations of liberty be authorised?) .

### **Executive functioning and the Mental Capacity Act**

A recently published Safeguarding Adults Review has highlighted the issue of executive functioning and the Mental Capacity Act. The report noted: ‘The SLAM IMR observes that: “There was an absence of full exploration of mental capacity. Statements such as “he has capacity to keep using” were used ... The IMR concludes with the following recommendation for action: “Interaction of mental capacity and executive functioning needs to be considered when making assumptions about capacity in the context of self-neglect, mental ill health and substance misuse...”’ Download the report from this [link](#).

### **Shifting the Dial: evaluating a community programme to promote young Black men’s mental health**

Young Black men are overrepresented in restrictive mental health settings, but are less likely to get early community-based mental health support. This [report](#) shares learning from a three-year project to promote the mental health and wellbeing of young Black men in Birmingham. The project built upon the findings from CMH’s evaluation of an earlier pilot, Up My Street. Shifting the Dial has worked with more than 500 young Black men, offering peer support, mentoring, theatre productions, skills development and community events.

## **Mental health legislation policies**

To support staff finding mental health legislation related policies in a timely manner a subfolder has been created, which holds all Mental Health Act and Mental Capacity Act related policies.

To access the policies:

Please access the [policies page](#).

## **Narrated presentations**

We have placed narrated presentations and films on the [learning and latest news section](#) of our intranet page:

DoLS  
Using the Mental Capacity Act  
Using the MCA in the community  
Inpatients—consent to treatment  
CTOs  
Scrutiny of MHA papers  
What is section 135 of the MHA?  
Provision of Rights  
The role of the IMHA  
The role of the IMCA

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