

Navigating the changes of the Mental Health Act for people with learning disabilities

Clinical Lead and Training Department Newsletter

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People with learning disabilities face many challenges that can often go unnoticed, from healthcare to mental health and benefits. With changes in legislation and wider government reform, it is important for care providers to understand these changes so they can offer informed, effective support to people with learning disabilities. Maria Blackwell explores these changes, why they are relevant and how they could affect the lives of those with learning disabilities that are supported in social care.

What are learning disabilities?

Learning disabilities are a reduced intellectual ability which can affect an individual's ability to manage day-to-day activities. This can include learning new skills, understand information and cope independently. The [NHS](#) states that a learning disability "affects the way a person learns new things throughout their lives".

Learning disabilities can occur from birth or caused by an injury (such as traumatic brain injury) or contracting an illness that can affect the brain (such as meningitis). They can also co-exist with other disabilities. There are different levels of severity of learning disabilities. They are classified as:

- mild
- moderate
- severe
- profound.

According to statistics published by [Mencap](#), there are 1.5 million people in the UK with a learning disability and therefore it is important for a care provider to understand how these can

Changes in admission under detention to a hospital for psychiatric treatment

Another change has been that people with learning disabilities and autism are now no longer able to be sectioned under Section 3 of the MHA based on their disability, unless there is a criminal or forensic reason to do so. The only other reason for detention under Section 3 is if detention is due to a co-existing mental health issue. They can be sectioned under Section 2, but the maximum detention for this is 28 days and the average detention for those with learning disabilities is 42 days.

The parameters and risk level has been heightened for detention, so the risk needs to be severe for action under the MHA to be taken. The main difference is that now not only does the patient have to pose a risk of "serious harm" to themselves or others, but the likelihood now must also be "substantial" for the detention to be approved. For issues relating to mental health, there also must be a significant chance of therapeutic outcome for an individual for there to be a consideration of input from mental health teams. Therapeutic outcome means that a person should have significant longer-term benefit to their overall health and wellbeing. This includes:

- improved mental health
- better coping skills to avoid mental health or behavioural escalation
- improved relationships
- increase in self-awareness
- ability to cope better with day-to-day activities

There has also been the removal of Community Treatment Orders (CTOs) for people with learning disabilities and autism. CTOs are treatment plans that allow individuals with severe mental health

affect someone's life. Over 1 million adults accessed long or short-term care in 2023/24, which highlights the importance of a care provider having a good understanding of learning disabilities and the effect on someone's life. It is important to remember that everyone is affected differently by a learning disability, and no two people experience it the same.

It is important for learning disabilities to not be confused with learning difficulties. Learning difficulties do not affect intellect. It is a term to describe diagnosis such as dyslexia, dyscalculia and dysgraphia.

Changes in the Mental Health Act 1983 (2025 changes)

The Mental Health Bill 2025 received royal assent on the 18 December 2025 and provided the reforms for the Mental Health Act (MHA) 1983 (amended 2025). It has significantly changed things for people with learning disabilities and autism.

One major change is that learning disabilities and autism are no longer classified as a mental health disorder, which they previously were, when the act was introduced in 1983. It is also aiming for a shift towards more community based and person-centred care whilst trying to bridge the gaps between healthcare, social care and mental health care to provide a more holistic approach.

Advocacy and support for the individual

Under the MHA changes, an individual has a right to an independent advocate if they are being detained under the MHA. When a person with learning disabilities or autism is detained, the hospital now has the responsibility to provide an advocate, and the onus is not on the person to request one. This extends to voluntary admissions as well.

If a person is deemed to have capacity to make choices about their care and treatment, they can choose a "nominated person" to support them. This replaces the "nearest relative" approach which therefore gives the person greater control over who is supporting them.

disorder to receive treatment in the community rather than being detained in a psychiatric unit.

Integrated Care Boards (ICB's) are also now required to establish and maintain a register of people with a learning disability and/or autism who have a risk of being detained under the MHA. They are terming this the "dynamic support register". This is to ensure that care providers, healthcare providers and multidisciplinary teams have oversight of these risks and can commission their care and support appropriately.

Why are the changes to MHA relevant to people with learning disabilities

[Statistics](#) have shown that there are significantly higher rates of mental health problems in those with learning disabilities compared to the general population. 40–54% of adults with a learning disability also have a mental health diagnosis, compared with the general population where 25% of people have a mental health issue. This could be due to multiple reasons such as biological vulnerabilities, receiving negative stigma from others, social isolation or disadvantages and environmental stressors. The changes to the MHA have the potential to lower these statistics as better care and support with the more holistic care plans and involvement of their support network can prevent people from developing a mental health disorder.

[The NHS Long-term Plan](#), published in January 2019, has a focus on the provision of mental health care in the community, including for those with learning disabilities and autism. The changes focus on trying to avoid hospital admission for psychiatric reasons and a more joined up approach between providers and healthcare to ensure more continuity and more positive outcomes. This includes ensuring that the workforce has the correct training in safe and therapeutic care as well as being trauma informed. This is the approach to an individual's care that considers any trauma they may have experienced in their lives and the understanding of the impact it may have on them and their health.

If care staff have a better understanding of trauma informed care and support, it has the potential to decrease the need for detention under the MHA. Also, a person will be understood at a deeper level, and it will involve their support network in the way that the MHA reforms stipulate. [The Office](#)

Care and treatment planning

Greater control and rights have now been given to patients about their care and treatment, both immediate and future. There is now statutory care and treatment plans, so everyone who has a mental health diagnosis and is detained under the MHA, including those with learning disabilities and autism, will have a robust care plan. This gives people with a learning disability or autism more control and say over what their care looks like and what they would like to achieve. It also involves their families and carers in a more multidisciplinary approach, which aims to ensure a more meaningful and appropriate care plan for that person.

Advance Choice Documents (ADCs) are also to be used, which allows a person, including those with learning disabilities and autism, to put in writing what they would like to happen with their care in the future. It means if they then lose capacity, either for short or long term, their wishes are documented for a healthcare provider to follow.



For any further information

Please contact the Training Department
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Policies and Procedures relevant to this
Newsletter

Policy & Procedure	Trust Care Ltd	FCSL	FHC
Complaints, Suggestions and Compliments	QQ03	QQ03	QQ03
Record Keeping Policy	AB10	AB10	AB10
MCA 2005	CR88	CR88	
MHA (reg 2008)	CR12	CR12	

[for Health Improvement and Disparities](#) states that:

“Trauma-informed practice is an approach to health and care interventions which is grounded in the understanding that trauma exposure can impact and individual’s neurological, biological, psychological and social development.”

However, there are still issues with accessing the support and the long waiting lists.

There are also some issues in the understanding and training of the workforce on the best ways to adapt mental health treatments to those with learning disabilities. They may have issues with communication and processing times and therefore need a different approach. For example, using communication aids, allowing for longer appointments, being trained in de-escalation techniques, different types of therapy such as play art or music. With care staff having a deeper understanding of the mental health challenges and how they can present in those with learning disabilities and autism, it can prevent issues from escalating and the need for detention under the MHA.

[The Learning from Lives and Deaths Report — People with a Learning Disability and Autistic People \(LeDeR\)](#) from 2023 but published in 2025, shows a concerning statistic that people with learning disabilities on average die 20 years earlier than the general population. Concerningly, it shows that 39% of these deaths were considered avoidable, which is almost double the percentage of the general population. With better advocacy and support through the changes in the MHA, there is better opportunity to prevent these deaths. Also, if the care and support is more consistent between healthcare and providers due to the mandatory care and treatment plans, there will be a better understanding of the person in a holistic way and therefore preventing avoidable deaths.

Potential issues surrounding this include diagnostic overshadowing, which means that their symptoms are put down to their disability rather than proper investigation. Communication barriers can also play a part as someone who has learning disabilities may struggle to communicate their symptoms effectively to a healthcare professional and therefore lead to a failure to make a correct diagnosis. With the introduction of care and treatment plans for mental health needs, it can help to avoid misdiagnosis and diagnostic

Accident and Incident reporting Policy	HS01	HS01	HS01
Person Centered Care Planning Policy	CP11	CP11	9.0.1
DOLs	CRN10	CR83	9.0.3 9.0.6 7.0.2 6.0.3
Advocacy policy	CR02	CR02	2.0.3

overshadowing as it allows for a deeper understanding of the individual and their needs.

Key takeaways

People with a learning disability can face many challenges and barriers in their lives and can face inequalities with local authorities and government regulations. However, despite the challenges, with the correct support from care providers, they can lead a fulfilled life. Further training and guidance is necessary on people with learning disabilities and/or autism and aging, as although the age of mortality is lower, people are still living longer now than ever before.