

Mental Health Act White Paper

The Government launched a White Paper on reforming the Mental Health Act on 13th January 2021. It sets out the key proposals and considerations for the government in reforming the Act, addressing the growing use of detention and persistent racial inequalities, as well as taking account of developments in policy and practice on a wider range of issues such as the intersection of learning disability and mental health. The White Paper follows the Review of the Mental Health Act led by Sir Simon Wessely, which the Foundation was a part of.

This paper summarises the specific proposals relating to race equality, followed by an analysis of how this compares to the recommendations the Foundation made in its Mental Health and Racial Disparities report from 2019, and then highlighting areas which the White Paper currently does not address.

We would urge people and organisations to respond to the White Paper and provide feedback on the proposals being made, as well as others that need to be included.

What is in there specifically on race equality

The White Paper aims to reduce disproportionality in detentions and outcomes through “enhanced patient voice, supported by advocacy, coupled with a greater reliance on evidence, increased scrutiny of decisions and improved patient's right to challenge.”

The paper acknowledges issues of poor access and the need for a “multi-pronged approach”, looking not just at care and treatment under the Mental Health Act (MHA), but also access to services, and the disparity in outcomes from earlier interactions with the mental health system. However, this is not really picked up later in the paper.

There is a specific section on race equality in the White Paper addressing:

The (Patient and Carer Race Equality Framework (PCREF) and culturally appropriate advocacy are both key parts of the White Paper, but the long-term funding of the latter is unclear. At present, pilots are being commissioned.

Community Treatment Order (CTO) reform is a key part of the White Paper, with more automatic reviews, opportunities to challenge and the expectation that they would last 24 months maximum. There is a specific mention of ensuring CTOs are only issued where they will have a “genuine benefit”.

Use of police vehicles to transport people in crisis. This is highlighted as an issue that specifically affects Black, Asian and minority ethnic (BAME) people, and references the 2013 report from the Independent Commission on Mental Health and Policing. There is a commitment to improve ambulance services, which are already part of the Long Term Plan.

The detention criteria will be reformed and increase emphasis on “therapeutic benefit”, and to make clearer what the risk posed by an individual is to justify detention. This will be coupled with greater scrutiny of decisions around a patient's continued detention.

Research and data are mentioned in the context of the National Institute for Health Research (NIHR) announcement at the end of 2019 that it would tackle the research gaps identified by the MHA Review. Up to £4m in total is available with projects expected to have started by February 2021, and a specific focus on black African and Caribbean descent, and tailored early interventions for black African and Caribbean children and young people - particularly those at risk of exclusion from school.

There is a lot on workforce and making it more representative, clinical psychology and occupational therapy are highlighted in general, and under-representation of African and Caribbean people at a senior level across mental health. There is nothing really new added to the existing actions through *Preparation for work*, NHS Leadership Academy, The NHS People Plan, and the Advancing Mental Health Equalities Taskforce working with Health Education England's (HEE) Equalities subgroup on the Long Term Plan.

There are also shorter and more passing reference in other parts of the White Paper:

It notes the higher instance of use of restrictive practices and that the current work to reduce this generally is progressing.

HEE is also investing in a mentoring for leadership scheme for BAME psychological professionals to support progression to leadership and management.

It notes that due to covid-19, there was a specialist app for BAME colleagues, Liberate, to help manage anxiety and stress levels, and provide online resources, guidance and webinars

It notes that the Care Quality Commission (CQC) through their new equality objective, 'Equal access to care and equity of outcomes in local areas', aim to focus on lack of access to preventative and appropriate mental health services for some BAME people.

The Home Office and police will look at whether the PCREF is a useful model to replicate.

What else is in there that addresses specific issues raised in our mental health disparities report

In addition to actions that specifically come from an intention to address racial inequalities, there are a significant number of broader actions that will have a positive impact on the experience and outcomes of black and minority ethnic people. We have listed our recommendations from our mental health disparities report from 2019 and matched those against the relevant parts of the White Paper.

1) Policy makers and commissioners should;

- *take action on better collation of the data on different black and minority ethnic groups' usage of mental health services to enable specific research to address barriers to accessing services*

There is a general acknowledgement of the need to address the evidence and data gaps raised in the Mental Health Act Review, and of the need to address barriers to accessing services.

“Monitoring data on equality at board level is crucial to facilitate appropriate action. The PCREF will be a practical tool which ensures services fulfil their existing

obligations under the Equality Act 2010, in accordance with the Public Sector Equality Duty.”

- *develop a clearer picture of the mental health needs of the different Eastern European ethnic groups and diasporas*

This is not addressed in the White Paper.

- *provide better access to talking therapies according to local need, and engagement with black and minority ethnic communities to ensure the therapies are culturally appropriate and geographically accessible*

Mentioned with reference to the PCREF.

“The PCREF will support organisations to identify areas for improvement in the experience of patients from ethnic minority backgrounds, especially for people of black African and Caribbean descent. The areas for improvement ('competencies') will apply across all mental health services, including inpatient wards, community mental health services, and IAPT talking therapies”

- *provide better access to healing systems and therapies including yoga, meditation and complementary therapies*

Not mentioned

- *consider the role of providing services in multiple languages to meet need*

Not mentioned

- *Take action to ensure people with different addresses can have access to services, particularly Traveller communities*

Not mentioned

- *take action to improve the experience of black and minority ethnic people in prison and improve timely access to mental health services. This includes taking action to support the families of people in prison, who will have their own mental health needs.*

Influence the implementation of the Long Term Plan.

There is a specific section on criminal justice, including bringing access and rights to mental health services to a more equal level, including a 28 day waiting time for transfers. There is a new role proposed to ensure transfers happen. There is not, however, reference to family support.

“We will ensure that where people in prison require treatment in a mental health hospital, they are transferred within an appropriate timeframe to support necessary care and recovery.”

- *involve more black and minority ethnic people in patient, public involvement in NHS England and Public Health England*

Mentioned in a very general way in relation to service users. For example:

“We will give everyone a voice and the power to express their views about the care and treatment they want to have.”

“We will introduce statutory advance choice documents to enable people to express their view on the care and treatment that works best for them as inpatients, before the need arises for them to go into hospital.”

- *implement the UN recommendations via Committee on the Elimination of Racial Discrimination (CERD) and follow up of PSED (Public Sector Equality Duty) in line with CERD.*

No reference to CERD. There is reference to PSED with regards to the PCREF, IMHA provision, HMCTS and the EHRC using their powers.

2) Mental health services should;

- *be more constructive working with the voluntary sector, community sector and faith groups*

Reference to investment in VCSE services such as crisis cafes, but no reference to faith groups.

“The Long Term Plan also makes provision to increase complementary and alternative services to traditional NHS crisis care models, with a particular focus on investment in local voluntary, community and social enterprise (VCSE) services such as crisis cafes and crisis houses.”

- *further examination of the different pathways to care and thresholds for admission, access to home treatments and inpatient provision to determine any ethnic or racial bias and action to address this*

There are references to this throughout, including thresholds for re-examining CTOs, detentions, and with regards the PCREF.

“We agree with the review that CTOs can last far too long, therefore we want to introduce the expectation that CTOs should usually end after a period of 24 months, and at that point the patient should be discharged unless they have relapsed or deteriorated during that time. We will initially set this out in the Code of Practice and if we continue to see that people are subject to CTOs for extensive periods, we will consider reflecting this in legislation.”

- *be aware and recognise the impact of racism and discrimination on accessing mental health care and in perpetuating ethnic inequalities*

This should be addressed in the PCREF process.

- *ensure there is accountability especially where the patient is placed out of area*

There is specific reference to reducing out of area placements.

“The NHS Mental Health Implementation Plan 2019/20 to 2023/24 states that all local areas have a work plan and trajectories in place to reduce Out of Area Placements, which will deliver improvements to local systems/bed capacity

management. To support sustainable local capacity management beyond 2020/21 and ensure that acute mental health care remains therapeutic and purposeful from the outset, new funding has been secured to increase the level and mix of staff on acute inpatient wards.”

- *ensure the patient participation in meetings about their care*

There are a number of references and changes to improve patient rights in determining their care, including appealing treatment decisions.

“We will introduce statutory advance choice documents to enable people to express their view on the care and treatment that works best for them as inpatients, before the need arises for them to go into hospital.”

- *consider the impact of being sectioned on the individual and then being taken back to where the trauma happened*

There is mention of the impact of previous interactions with mental health services, but not specifically addressing this point.

- *provide financial help to families to visit the patient if they are placed out of area.*

There is a commitment to this where the patient is a young person.

“We agree parents and families should be supported to maintain contact, and the Code of Practice sets out that families should let commissioners know if they are struggling to do so. When next revising the Code of Practice, we will seek to improve guidance in regard to supporting families to maintain contact.”

3) Practitioners should;

- *have a better understanding of cultural and faith beliefs of black and minority ethnic communities and how this impacts on beliefs and behaviours around mental health*
- *improve their recognition of symptoms and how these are expressed in different ethnic groups (for example depression in members of the Caribbean community)*

There are a lot of references to training, but it is likely this would be taken forward through the PCREF.

- *increase their understanding of how loss (particularly for refugee/migrant children) and trauma are contributing factors of mental illness*

There is no specific mention of this.

- *develop and change approaches towards a more holistic approach that integrates, mental health, physical health, culture and belief*

There is no specific mention of this.

- *work to ensure services are accessible and non-stigmatising. For example, black and minority ethnic users of services felt the use of term 'wellbeing' was better and has less connotations than 'mental health'*

The government says in the White Paper that “Wellbeing” will be the central organising concept for services. Stigma is also mentioned with reference to the work being done by the Advancing Mental Health Equalities Strategy.

- *have a clear sense of the term 'self-care'. People felt it was useful but there is a different meaning of this between the statutory sector and user support groups.*

There is no specific reference to this.

4) Researchers should;

- *acknowledge that black and minority ethnic communities are over researched and under resourced, and actively seek to address that imbalance. This will ensure wider data and research sets on different groups, along with recognition of the societal factors that have led some ethnic and racial groups to be more studied and researched than others*

Research and data are mentioned in the context of the NIHR announcement at the end of 2019 that it would tackle the research gaps identified by the MHA Review. Up

to £4m in total is available with projects expected to have started by February 2021, and a specific focus on black African and Caribbean descent, and tailored early interventions for black African and Caribbean children and young people - particularly those at risk of exclusion from school.

- *acknowledge the broad intersectionality and lived experience of black and minority ethnic people around mental health.*

There is no specific mention of intersectionality.

What is not in there

The White Paper is still based on an individualised approach to mental health and is still largely clinical and medicalised. There is no specific mention of the issues in perinatal mental health, and scarce mention of the specific needs of LGBT people, asylum-seekers, and men, nor an explicit reference to intersectionality beyond an appreciation that learning disability can intersect with a mental health need. The role of faith organisations in promoting good mental health is not mentioned either, although faith is mentioned with respect to the PCREF and a way to improve services.

Understandably, there is a specific focus on the experience, outcomes and representation of African Caribbean people, but all other ethnic groups are amalgamated into the category of BAME despite the evidence of specific mental health needs and of overrepresentation of some groups in the Mental Health Act.

There is no specific mention of Gypsy and Traveller mental health, even in the section on suicide, despite evidence of higher rates of suicide in that community. Nor is there recognition of the needs of Eastern European communities, who also have poor mental health access and outcomes. While there is a significant focus on criminal justice, there is no explicit mention of support for the families of people in prison.

While there is passing reference to the role of the voluntary sector with reference to investment through the Long Term Plan, there is no exploration of a greater role for the VCSE, or recognition that the sector is already severely under-resourced.

Conclusion

The White Paper represents a significant step forwards in addressing inequalities under the Mental Health Act and we welcome it. While we believe the proposals can be improved and strengthened, the overall direction of travel is positive and will potentially have a significant impact on the mental health system. We do believe, however, that the root causes of many of these inequalities are outside of the mental health system and require action on the wider determinants of health in order to further reduce those disparities.