

Joint Statement:

Proposed Amendments on Sections 135 & 136 in the Mental Health Bill

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Joint Statement from:

Association of Ambulance Chief Executives

ADASS

AMHP Leads Network

BASW

British Medical Association

College of Paramedics

Royal College of Emergency Medicine

Royal College of Nursing

Royal College of Psychiatrists

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'Authorised Persons' Amendments to Mental Health Bill

During the Report Stage of the passage of the Mental Health Bill through the House of Lords, a series of amendments were passed that would introduce a new category of "authorised person" who can carry out detentions hitherto only performed by the police under s135 and s136. The intention of the amendments is to lessen the police's responsibility to attend mental health crises (both in people's residences and in public spaces).

However, extending police powers to a 'medical practitioner, approved mental health professional, mental health nurse or doctor, or a person of description specified in regulations made by the Secretary of State', is a radical proposal with a number of serious and potentially dangerous consequences and should not be pushed through without proper consideration of the potential consequences.

Responding for the government, Baroness Merron stated:

'Extending these legal powers currently held by the police to other professionals would represent a major shift in roles and responsibilities for health and care professionals. It would place significant additional pressures on the NHS and potentially lead to staff, patient and public safety issues which mental health and urgent and emergency care leads have already raised significant concerns about.'

This amendment has not been properly tested with the professionals named as potential authorised persons and has had minimal serious discussion in the eight years in which the Mental Health Act has been undergoing reform. Nor has this policy been tested with patients. Delegating police powers to professionals without consulting them, or patients would be a very damaging way to make policy.

The explanatory statement accompanying the relevant amendments states that 'the proposed amendments would remove the need for the presence of police at mental health incidents in the absence of any risk.' This is misleading as instances of detentions under the Mental Health Act where there is no risk are almost non-existent. It also negates the fact that the mere presence of uniformed officers can ensure that an otherwise risky situation remains contained and safe.

The 2018 Wessely Review made recommendations based on the following principles: choice and autonomy; least restriction; therapeutic benefit; the person as an individual. It is difficult to see how delegating police powers to health professionals would be within the spirit of the proposed reforms to the Mental Health Act and it is worrying to see them tagged on to the reforms at such a late stage. It also risks bringing many more people into

the remit of the Mental Health Act, as our fear is that it would be used defensively to evidence compliance rather than for the benefit of the individual.

Extending police powers to health professionals risks damaging therapeutic relationships clinicians have with patients. This would have the double-effect of lessening clinicians' ability to treat patients and additionally make it less likely for patients to attend where they think there is a chance they may be forcibly detained.

Regarding s135 detentions, removing police involvement entirely has hugely dangerous implications as entering someone's home without permission is fraught with huge risks and is only currently done with the assistance of police intelligence. Without this, professionals may be entering homes without police help and therefore lacking crucial intelligence that could ensure their safety.

While we recognise the immense pressures faced by Police services, we also acknowledge that mental health crises in the community are becoming increasingly acute and almost never occur without some level of risk. The expertise, skills and equipment of the police remain essential for safely reaching individuals in crisis – especially where they may be in immediate danger to themselves, pose a risk to others, or face a threat from others.

We are keen to work with Police and Government to find ways to improve responses to mental health crises to ensure the safety of all professionals involved, patients and the community. The amendments as written provide neither safety nor improved outcomes in our view, but we remain committed to working jointly to achieve both aims.