

SPEAKER: SOPHY MILES



Sophy Miles was part of a group that talked about tribunals. She has also trained people and written about the ideas from the group.

SLIDE: THE JOURNEY BEGINS



The Mental Health Bill is being updated to change old laws.



The goal is to reduce unfair treatment and improve mental health care.



In 2017, Theresa May said that mental health services were unfair and outdated.

unfair



best interest

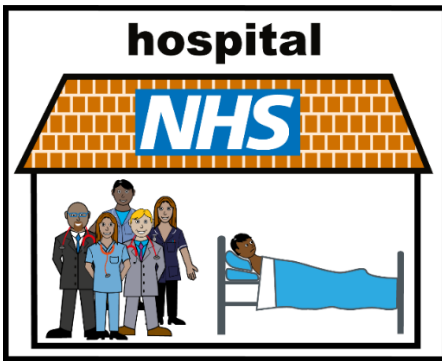
She promised to replace the Mental Health Act of 1983 with a better law.



respect

This new law will focus on:

- Respecting people's choices.
- Reducing unnecessary hospital stays.



SLIDE: MODERNISING THE MENTAL HEALTH ACT- INCREASING CHOICE, REDUCING COMPULSION



This slide includes thoughts from Sir Simon Wessely from December 2018



Simon checked if the Mental Health Act protects human rights.

He found it does not.



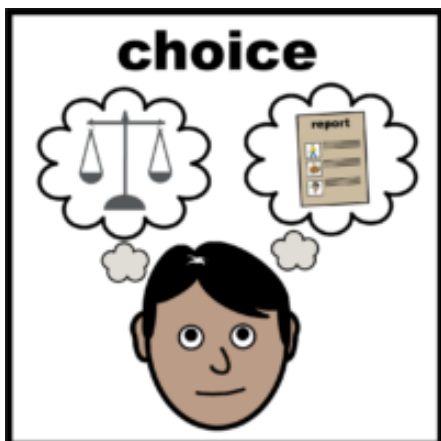
He believes people must sometimes take risks to make things better.



He said racism in society also affects mental health care.



Simon is confident the new recommendations will give people more respect;



and let them make more choices about their care.

SLIDE: EIGHT YEARS AND FIVE PRIME MINISTERS LATER.....

reading



The Mental Health Bill has had its second reading in the House of Lords (HL).

planning



It is now being discussed in Committee Stage on **22nd and 27th January 2025.**

next step



Next steps:



Report stage and final reading in the House of Lords.



Then it goes to the House of Commons (HC) for more discussion.



The Joint Committee on Human Rights wants feedback about the Bill.



Deadline: **24th January 2025.**



More Information

- Visit Alex Ruck Keene's website for useful resources:

[Mental Health Bill Resources](#)

- An easy-read version of the Bill is available here:

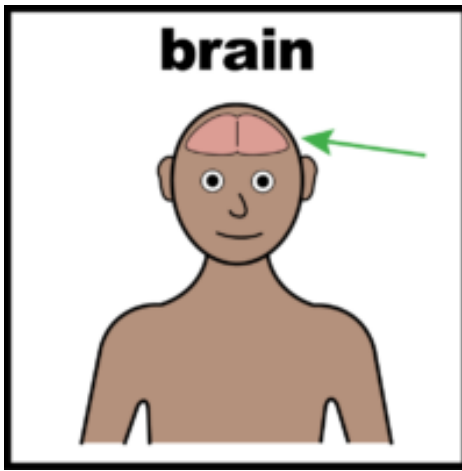
[Easy Read Mental Health Bill](#)

SLIDE:

DETENTION CRITERIA- DEFINITIONS-1

The Mental Health Bill explains what "**mental disorders**" mean:





Learning Disability:

- This means the brain has **not developed fully** or is **partly developed**.



- It includes troubles with **understanding** and **thinking**.



Autism is a lifelong condition that affects how people:



- See the world.



- Talk and communicate.



- Get along with others.



Other **Mental Health Conditions:**

- Any mental health issue that is not a learning disability or autism.



Serious **Behaviour Problems:**

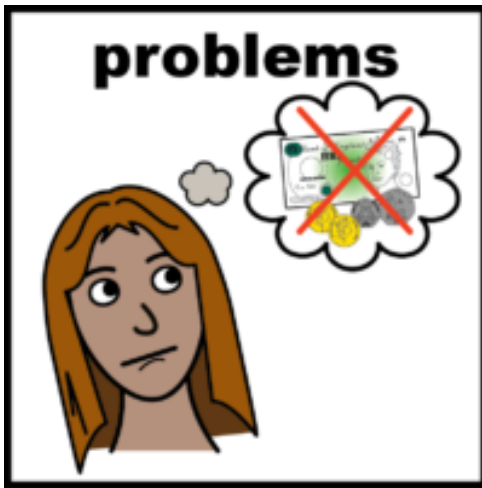
- This means actions that are very aggressive or very irresponsible because of a learning disability.

SLIDE: **DETENTION CRITERIA –** **DEFINITIONS -2**



What is Appropriate Medical Treatment?
Treatment that:

- **Matches** the person's mental health problem.



- Considers **how serious** the **problem** is and the person's situation.



- Can **help improve** the condition or stop it **from getting worse**.



What is Medical Treatment?

Treatment for mental health problems that:



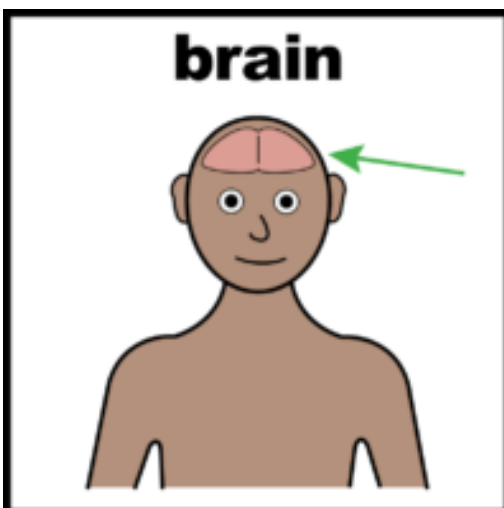
- Helps make the problem better.
- Stops the problem from getting worse.

SLIDE: DETENTION CRITERIA -CIVIL



When Can Someone Be Detained?

- A person can be detained (kept in hospital) if they have a mental disorder.



- This includes people with learning disabilities or autism.



Why Would Someone Be Detained?

If not detained, the person might:

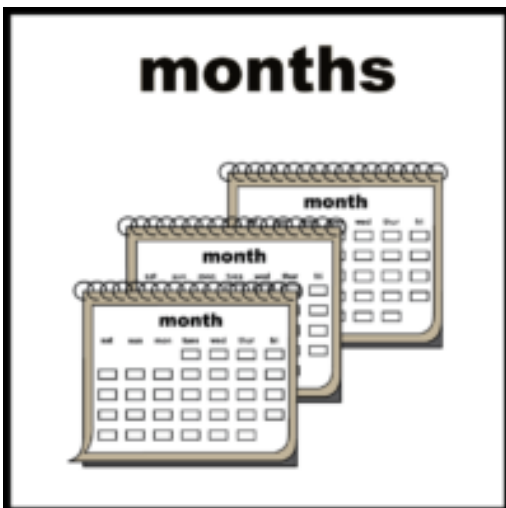
- Seriously harm themselves.

- Seriously harm someone else.



Doctors also look at:

- How serious the harm could be.
- How likely it is to happen.
- How soon the harm might occur.



How Long Can Someone Be Detained?

- A person can be detained for 3 months, 6 months, or 1 year.

doctors



When Can This Happen?

Doctors must check these conditions:

mental health



- The person has a mental health problem.

hurt



- Without treatment, the person might seriously harm themselves or someone else.



Medical treatment is needed because:

- The harm is serious.

- The harm is likely to happen soon.



- Treatment cannot be provided unless the person is kept in hospital.



- The hospital can give the right treatment to help the person.

SLIDE: DETENTION CRITERIA- GUARDIANSHIP

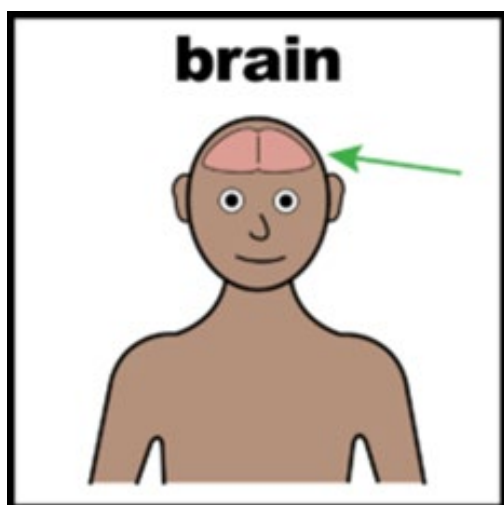
Who Can Be Included?



- People with a **psychiatric disorder**.



- People with **autism**.



- People with a **learning disability** that causes serious behaviour problems.



What Has Changed?

- At tribunals, the patient does not need to prove their case anymore.

SLIDE: ADMISSIONS VIA CJS



What does **part 3** cover?

- Sending someone to hospital instead of prison.
- Hospital orders (staying in hospital for treatment).
- Moving people from prison to hospital.



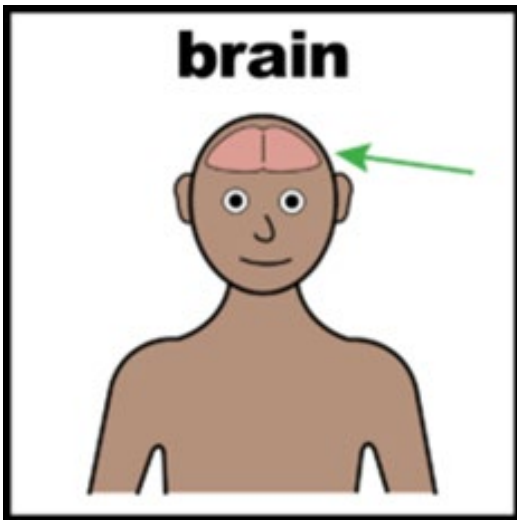
What Is a **Relevant Mental Disorder**?

A person has a relevant mental disorder if they have:

- A psychiatric disorder.



- Autism.



- A learning disability with serious behaviour problems.

SLIDE: CTOS (COMMUNITY TREATMENT ORDERS)



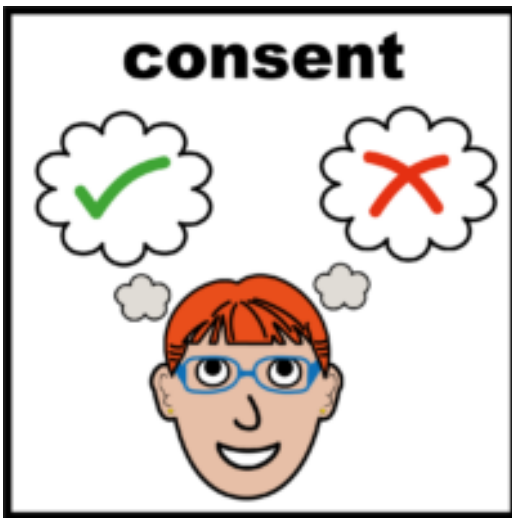
Conditions for Treatment:

- **Serious Harm Test:**
Treatment is needed to prevent serious harm to the person or others.
- **Medical Treatment:**
The person needs medical care for their mental health.





- **Appropriate Treatment:** The care must match their needs and help improve their condition.



- **Consent Needed:** A doctor in the community must agree to the treatment.



How Long Does It Last?

- Treatment can **last 6 months** and can be renewed.



New Rule:



- The nominated person must now **be consulted** about the treatment.

SLIDE: DOES THIS SHIFT THE DIAL?



Recommendation: **Fewer People Should Be Detained**

- Mental health services should focus on

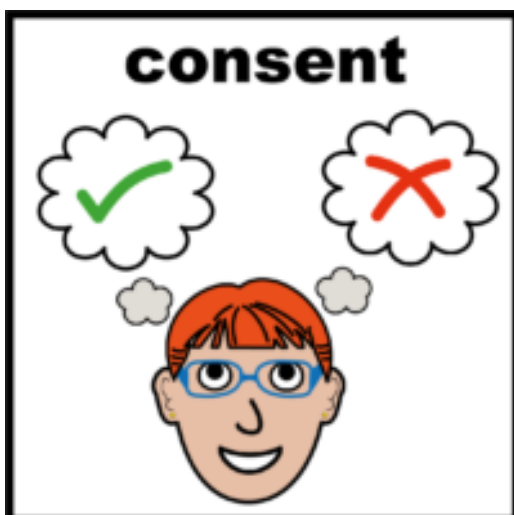
helping people **before** a **crisis** happens.



- There should **be more community-based services** that support people and keep them well.



Treatment Rules:



- Inpatients should be treated with their **consent when possible**.



- Patients must **clearly object** to their treatment for special rules to apply.



Treatment must:

- Be available.
- Help the patient **improve their mental health.**



- Detention should only happen if there is a high risk of serious harm to the patient or others.



About CTOs (Community Treatment Orders):

- **CTOs should only be used as a last resort.**

SLIDE: THE SERIOUS HARM TEST



- Current test is necessary in the interest of the patient's and/or others' health and safety



- **Section 41:** Restriction Order
- This applies when detention is needed to protect the public from serious harm.



What Does **Serious Harm** Mean? It can include:

- Physical or mental injuries that could cause death or serious injury.

Indirect harm can include:



- Downloading harmful material.



- Importing dangerous drugs.

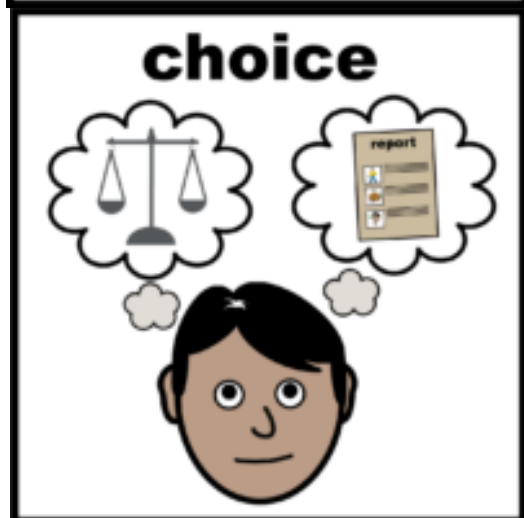


- Patient failing to take treatment.

SLIDE: THE NOMINATED PERSON –WHO?



- The old rule about the "**nearest relative**" deciding for a patient will be removed.



- Patients can now **choose someone** to support them.
- This person is called a **Nominated Person (NP)**.



- The patient must choose their NP in **writing**.



A health or care professional (like an IMHA) must **witness** this and confirm:



- The patient **understands** what they are doing.



- The patient is **not being forced**.



- An AMHP (Approved Mental Health Professional) can appoint an NP, but they don't have to.



This can happen if:

- The patient is detained in hospital or under guardianship.
- The process of detention or guardianship is being considered.
- If someone else (like a deputy or donee) has legal authority to act, they must be appointed as the NP.





- A **Code of Practice** will provide clear rules for NPs to follow.

SLIDE: NEW POWERS



- The NP must be asked for their opinion unless it would cause an unreasonable delay.

This includes decisions about:



- Community Treatment Orders (CTOs), even for patients under Section 37.

- Part 3 transfers or renewals (if the patient isn't restricted).



The NP has the right to:

- Be involved in decisions about the patient's care and treatment.



- Ask for a review of the patient's care plan, if it's reasonable.



If the NP objects to detention, a CTO, or a transfer, their objection can be ignored if:

- A certificate says the patient might be dangerous to themselves or others.



- Question: Is this rule different from the serious harm test?

SLIDE: DISQUALIFICATION



An application can be made to the County Court by:

- The patient.





- An Approved Mental Health Professional (AMHP).
- Someone caring for the patient or interested in their welfare.



The court can:

- End the NP's appointment.
- Stop the NP from being appointed again for a certain period.

Reasons to Remove an NP:

- The NP has done something that goes against their role.



(For example, breaking the new rules in the Code of Practice.)



- The NP does not have the ability to do the job.
- The NP is not suitable for the role.
- The patient can end the NP's appointment, but they cannot stop them from being appointed again.

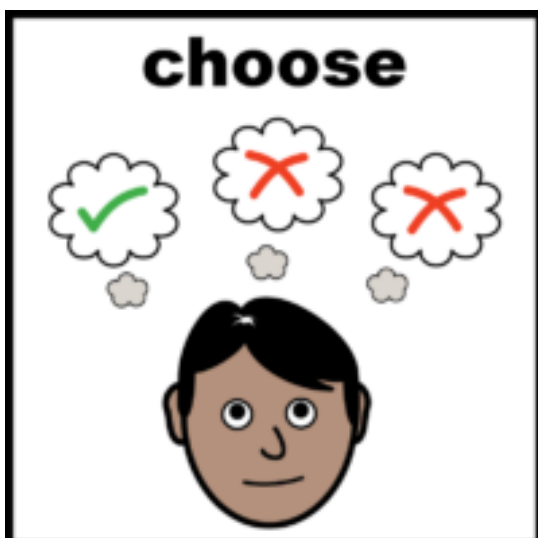


SLIDE: NOMINATED PERSON-QUESTIONS

Key Questions:



- How many people will meet the requirements to become an NP?
- Is the NP role becoming more like a professional job?
- It was suggested that an Approved Mental Health Professional (AMHP) should appoint a temporary NP if:



- The patient cannot choose one.



- The patient might be vulnerable without an NP.



This idea was not included in the new rules.

SPEAKER: ELIZABETH CLEAVER



Elizabeth Cleaver has many years of experience helping mental health patients and their families.

SLIDE: ACCESS TO THE MENTAL HEALTH TRIBUNAL UNDER THE BILL (PART V)



- Patients detained under **Section 2** can apply within **21 days** (previously 14 days).
- Patients detained under **Section 3** can apply within the **first 3 months** of detention.



A **Nominated Person (NP)** can apply to the tribunal if:

- Admission, CTO (Community Treatment Order), or guardianship happened despite their objections.

SLIDE: REFERENCES TO MENTAL HEALTH TRIBUNAL



Hospital Managers: Must refer the patient to the tribunal after **3 months** (previously 6 months) and then every **12 months** (previously 3 years).



Restricted Patients: The Secretary of State must refer these patients every

12 months (down from 3 years).

SLIDE: CHANGES TO TRIBUNAL POWERS



The tribunal will now **check admission criteria:**

- If the patient **does not meet the criteria**, the tribunal must discharge them.



Criteria include:

- The patient has a mental disorder requiring detention for treatment.



- Without detention, there is a risk of serious harm to the patient or others.



- Detention is necessary because of the nature and likelihood of harm.

SLIDE: CHANGES TO TRIBUNAL POWERS



The tribunal must discharge a patient if the **Section 20(4)** criteria are not met:



- The patient has a psychiatric disorder needing hospital treatment.



- Without treatment, serious harm could occur.



- Detention is necessary due to the risk and severity of harm.



- The necessary treatment cannot happen without detention.



- The right medical treatment is available for the patient.

SLIDE: CHANGES TO TRIBUNAL POWERS



The tribunal can make **recommendations** to help plan for the patient's discharge:

- For leave, transfer, or aftercare arrangements.
- They can reconvene if the recommendations are not followed.

SLIDE: FORENSIC/RESTRICTED PATIENTS



Section 37 Patients:

- The tribunal will consider a “**relevant disorder**” (psychiatric

disorder, autism, or learning disability with serious behavior problems) instead of only psychiatric disorders.



Restricted Patients:

The tribunal will discharge the patient if:

- The Section 20(4) criteria are not met.
- It is not appropriate to recall the patient.

SLIDE: CONDITIONS AMOUNTING TO DOL



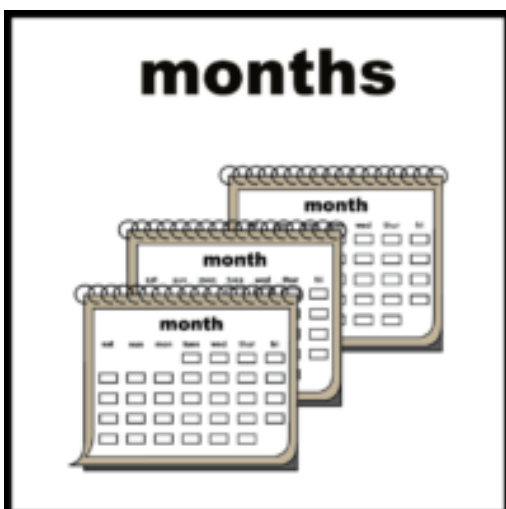
Restricted Patients can be discharged with conditions that:



- Protect others from **serious harm**.



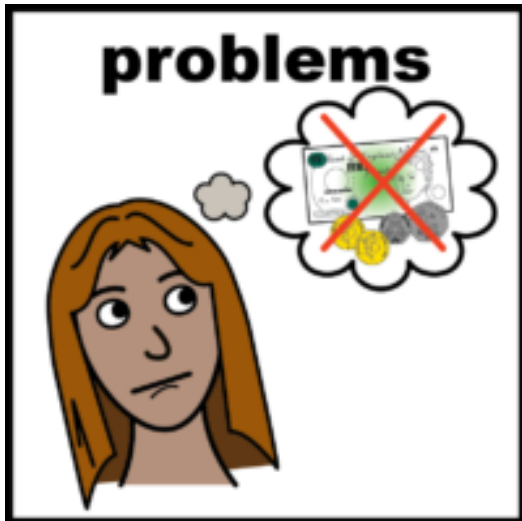
- Are as good for the patient's mental health as staying in the hospital.



Increased access to the tribunal for these patients:

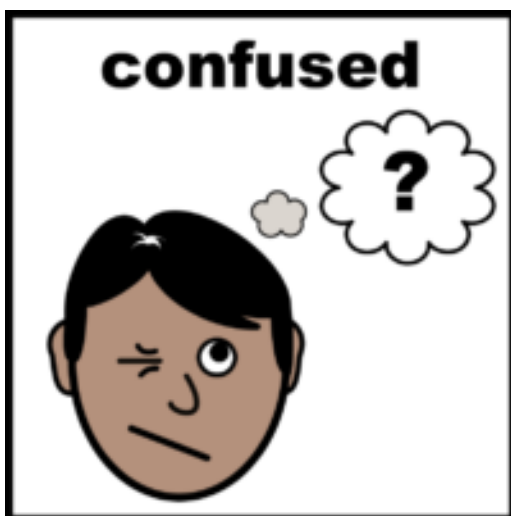
- After **6 months** and then every **12 months**.

SLIDE: DISCUSSION



Problems to Address:

- No clear rules for restricted patients about leave or transfer.
- No power to arrange aftercare (only a recommendation).
- No power to appeal treatment decisions.
- Confusion over criteria for “psychiatric disorder” vs. “relevant disorder.”





- Concerns about the impact on patients with learning disabilities or autism.



- Tribunal services need more resources for legal help and to meet timescales.