Consultation response

Mental Health Act reform

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Mental Health and Wellbeing services

Since the mid-1990s METRO has been providing mental health support services to LGBTQ+ communities in south-east London via individual counselling and a weekly Drop-In support group. These services are now supporting people pan-London.

During the COVID-19 pandemic we were awarded specific funding to support Bengali-speaking service users of our LGBTQ+ Mental Health Drop-In from the London Community Response Fund.

We also provide a parenting support service to families and young people to meet their mental health and wellbeing needs within our Young Greenwich programme in collaboration with our partners in the Royal Borough of Greenwich: https://www.young-greenwich.org.uk/news/free-parenting-support-programme-for-parent-of-teenagers-in-greenwich

Most recently we have been awarded a grant by Hounslow Borough Council to provide a mental health and wellbeing service for LGBTQ+ and BAME communities in partnership with Naz: https://metrocharity.org.uk/mental-health/cherish-hounslow

Our Mental Health and Wellbeing Domain delivered over 4000 occasions of services in 2020–2021.

Mental Health Act reform response

Our response to the Mental Health Act reform is based on our particular service expertise in community-based support for people with protected characteristics and intersectional needs in terms of those identities.

Questions and responses

We want to change the detention criteria so that detention must provide a therapeutic benefit to the individual. Do you agree or disagree with this proposal?

We 'strongly agreed' with this proposal:

In circumstances where there is no other option but detention for the safety of the individual, or others, we agree that this must always present opportunities for therapeutic support for the person.

METRO advises for the support of more therapeutic spaces within communities rather than in clinical settings that reduce the likelihood of detention in the first place. For example, models such as the service our charity has provided via an LGBTQ+ Mental Health Drop-In weekly service since the mid-1990s (running virtually during COVID). This peer support group and social space has enabled our LGBTQ+ service users to reduce their risk of experiencing a mental health crisis. The Drop-In groupwork is complimented by one-to-one support for individuals in need of mental

health advocacy and additional emotional support via phone or video call during the week between sessions.

However, we recognise that additional 'pre-crisis' services are needed to meet the demand in local areas, particularly for out-of-hours support such as that provided by Mind's Bexley Crisis Café.

We also want to change the detention criteria so that an individual is only detained if there is a substantial likelihood of significant harm to the health, safety or welfare of the person, or the safety of any other person. Do you agree or disagree with this change?

We strongly agree with this proposal.

We think that a care and treatment plan should include the following information:

- the full range of treatment and support available to the patient (which may be provided by a range of health and care organisations)
- for patients who have the relevant capacity and are able to consent, any care which could be delivered without compulsory treatment
- why the compulsory elements of treatment are needed
- what is the least restrictive way in which the care could be delivered
- any areas of unmet need (medical and social) for example where the patient's preferred treatment is unavailable at the hospital
- planning for discharge and estimated discharge dates (with a link to s117 aftercare)
- how advance choice documents and the current and past wishes of the patient (and family and/or carers, where appropriate) have informed the plan, including any reasons why these should not be followed
- for people with a learning disability, or autistic people, how Care (Education) and Treatment Reviews, where available, have informed the plan, including any reasons why these should not be followed
- an acknowledgement of any protected characteristics, for example any known cultural needs, and how the plan will take account of these
- a plan for readmittance after discharge for example informal admission, use of civil sections, or recall by the Justice Secretary

Do you have any other suggestions for what should be included in a person's care and treatment plan?

From METRO's field of expertise in working with many service users with protected characteristics and their intersections, critically, we advocate that care and treatment plans should consider all aspects of a person's identity as equally significant and connected in terms of their needs. For example, as service providers to Black women living with HIV, we are

conscious of the intersecting issues of individuals' needs and also their potential to experience discrimination on the grounds of gender, race, and disability, for at least three areas of identity which could potentially intersect with additional protected characteristics such as sexuality.

Suggestions for intersectional issues to be integrated into care and treatment plans which we advocate should be co-produced in terms of realising the principles of 'choice and autonomy' and 'the person as an individual':

- Consideration for people expressing and being open about their sexual orientation and emotional needs in relation to this aspect of their identity and their relationships as part of their holistic care plan
- Consideration for people expressing and being open about their gender identity and emotional needs in relation to this aspect of their identity as part of their holistic care plan, such as stating their pronouns that people involved with their care should use
- Disabled people's needs in terms of personal assistants who support their independent living arrangements should be articulated and understood in terms of the social model of disability
- Taking note of the Women's Mental Health Taskforce Report (2018), women's needs and identity as carers and parents should be fully considered in their care plans. The same identity issue should be considered and applied for all people who are carers and parents who may face discrimination.

The new nominated person will have the same rights and powers to act in the best interests of the patient as nearest relatives have now. These include rights to:

- object to the patient being made subject to the act
- apply for the patient's discharge
- appeal to the tribunal if this application for discharge is denied
- apply for the patient to be detained under the act
- receive information from the hospital about the patient's care, detention or community treatment order (CTO), unless the patient objects to this

In addition to the powers currently held by the nearest relative, we propose that the nominated person should also:

- have the right to be consulted on statutory care and treatment plans, to ensure they can provide information on the patient's wishes and preferences
- be consulted, rather than just notified, as is the case now, when it comes to transfers between hospitals, and renewals and extensions to the patient's detention or CTO
- be able to appeal clinical treatment decisions at the tribunal, if the patient lacks the relevant capacity to do so themselves and the appeal criteria are met
- have the power to object to the use of a CTO if it is in the best interests of the patient

- To support nominated persons to access and exercise these enhanced powers we will provide clear, detailed guidance on the powers of the nominated person role.

Do you agree or disagree with the proposed additional powers of the nominated person?

We strongly agree with the additional powers of the nominated person in the context that the chosen person is someone who more fully advocates for the whole person in terms of their identity needs and catering for the consideration of the intersections of the patients' characteristics, including race, age, gender, sexuality, gender identity, and their socio-economic status.

Do you agree or disagree that someone under the age of 16 should be able to choose a nominated person (including someone who does not have parental responsibility for them), where they have the ability to understand the decision (known as 'Gillick competence')?

As a charity that provides specialist LGBTQ+ counselling to young people experiencing issues relating their sexuality and/or gender identity, we strongly agree that this option reduces the risk of young people experiencing discrimination from parents who may express homophobia, biphobia, or transphobia.

We also acknowledge that young people may also be at risk of grooming and safeguards must be in place to mitigate this risk for those who wish to choose a nominated person without parental responsibility.

Do you agree or disagree with the proposed reforms to the way the Mental Health Act applies to people with a learning disability and autistic people?

METRO strongly agrees.

Do you agree or disagree that the proposed reforms provide adequate safeguards for people with a learning disability and autistic people when they do not have a co-occurring mental health condition?

METRO strongly agrees.

We propose to create a new duty on local commissioners (NHS and local government) to ensure adequacy of supply of community services for people with a learning disability and autistic people. Do you agree or disagree with this?

METRO strongly agrees.