



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Friday 9 March 2018

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

Amendments tabled since the last publication: 1 to 83 and NC1 to NC5

PUBLIC BILL COMMITTEE

MENTAL HEALTH UNITS (USE OF FORCE) BILL

NOTE

This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in the order in which they relate to the Bill.

Mr Steve Reed

That, if proceedings on the Mental Health Units (Use of Force) Bill are not completed at this day's sitting, the Committee shall meet on Wednesdays while the House is sitting at 9.30 am.

Mr Steve Reed

★ Clause 1, page 1, line 5, leave out subsection (3) and insert—

“(3) “Mental health unit” means—

- (a) a health service hospital, or part of a health service hospital, in England, the purpose of which is to provide treatment to in-patients for mental disorder, or

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- (b) an independent hospital, or part of an independent hospital, in England—
- (i) the purpose of which is to provide treatment to in-patients for mental disorder, and
 - (ii) where at least some of that treatment is provided, or is intended to be provided, for the purposes of the NHS.”

Member’s explanatory statement

This amendment replaces the definition of “mental health unit” with a new definition which clarifies that a unit may form part of a hospital. The amendment also removes care homes and registered establishments from the definition, and includes mental health units in an independent hospital within the definition only where the unit provides NHS treatment.

Mr Steve Reed

3

- ★ Clause 1, page 1, line 8, leave out subsection (4) and insert—

“() In subsection (3) the reference to treatment provided for the purposes of the NHS is to be read as a service provided for those purposes in accordance with the National Health Service Act 2006.”

Member’s explanatory statement

This amendment ensures that “treatment for the purposes of the NHS” is read in accordance with the National Health Service Act 2006. It also makes a change which is consequential on the removal of care homes from the definition of “mental health unit” (see Amendment 2).

Mr Steve Reed

4

- ★ Clause 1, page 1, line 12, leave out subsection (5) and insert—

“() “Patient” means a person who is in a mental health unit for the purpose of treatment for mental disorder or assessment.”

Member’s explanatory statement

This amendment provides a new definition of “patient”. This definition makes clear that a patient includes a person who is in a mental health unit in order to be treated for mental disorder or to be assessed in the unit.

Mr Steve Reed

5

- ★ Clause 1, page 1, line 15, leave out subsection (6)

Member’s explanatory statement

This amendment is consequential on Amendment 7.

Mr Steve Reed

6

- ★ Clause 1, page 2, line 1, leave out subsections (7) and (8) and insert—

“(7) References to “use of force” are to—

- (a) the use of physical, mechanical or chemical restraint on a patient, or
- (b) the isolation of a patient.

(7A) In subsection (7)—

“physical restraint” means the use of physical contact which is intended to prevent, restrict or subdue movement of any part of the patient’s body;

“mechanical restraint” means the use of a device which—

- (a) is intended to prevent, restrict or subdue movement of any part of the patient’s body, and
- (b) is for the primary purpose of behavioural control;

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“chemical restraint” means the use of medication which is intended to prevent, restrict or subdue movement of any part of the patient’s body;

“isolation” means any seclusion or segregation that is imposed on a patient.”

Member’s explanatory statement

This amendment provides a revised definition of “use of force” which uses simpler language. It also removes threats from the definition and includes the isolation of a patient in the definition.

Mr Steve Reed

7

★ Clause 2, page 2, line 26, leave out subsections (1) to (3) and insert—

“() A relevant health organisation that operates a mental health unit must appoint a responsible person for that unit for the purposes of this Act.

() The responsible person must be—

(a) employed by the relevant health organisation, and

(b) of an appropriate level of seniority.

() Where a relevant health organisation operates more than one mental health unit that organisation must appoint a single responsible person in relation to all of the mental health units operated by that organisation.”

Member’s explanatory statement

This amendment replaces the requirement for mental health units to have a “registered manager” with a requirement to appoint a “responsible person”. That person must be employed by a relevant health organisation and be of an appropriate level of seniority. If an organisation operates multiple units, only one responsible person needs to be appointed in relation to those units.

Mr Steve Reed

8

★ Clause 3, page 2, line 36, leave out subsection (1) and insert—

“(1) The responsible person for each mental health unit must publish a policy regarding the use of force by staff who work in that unit.”

Member’s explanatory statement

This amendment replaces Clause 3(1) and provides a clearer duty for the responsible person to publish a policy regarding the use of force in mental health units.

Mr Steve Reed

9

★ Clause 3, page 2, line 37, at end insert—

“() Where a responsible person is appointed in relation to all of the mental health units operated by a relevant health organisation, the responsible person must publish a single policy under subsection (1) in relation to those units.”

Member’s explanatory statement

This amendment provides that if there is a single responsible person for all of the mental health units operated by a relevant health organisation, the person needs to provide a single policy for those units.

Mental Health Units (Use of Force) Bill, *continued*

Mr Steve Reed

10

- ★ Clause 3, page 2, line 37, at end insert—

“() Before publishing a policy under subsection (1), the responsible person must consult any persons that the responsible person considers appropriate.”

Member’s explanatory statement

This amendment requires the responsible person to consult before publishing the policy under Clause 3.

Mr Steve Reed

11

- ★ Clause 3, page 2, line 38, leave out “registered manager” and insert “responsible person”

Member’s explanatory statement

This amendment is consequential on Amendment 7.

Mr Steve Reed

12

- ★ Clause 3, page 2, line 38, leave out second “the” and insert “any”

Member’s explanatory statement

This amendment is consequential on Amendment 13.

Mr Steve Reed

13

- ★ Clause 3, page 2, line 40, leave out subsections (3) and (4) and insert—

“() The responsible person may from time to time revise any policy published under this section and, if this is done, must publish the policy as revised.

- () If the responsible person considers that any revisions would amount to a substantial change in the policy, the responsible person must consult any persons that the responsible person considers appropriate before publishing the revised policy.”

Member’s explanatory statement

This amendment requires a further consultation under Clause 3 if the responsible person intends to make substantial changes to the policy published under that clause. Amendment 12 is consequential on this amendment.

Mr Steve Reed

14

- ★ Clause 3, page 3, line 2, leave out “minimise and”

Member’s explanatory statement

This amendment removes the requirement that the policy under Clause 3 must minimise the use of force. Instead it will require the policy to reduce the use of force.

Mr Steve Reed

15

- ★ Clause 3, page 3, line 2, leave out “at the mental health unit” and insert “in the mental health unit by staff who work in that unit”.

Member’s explanatory statement

This amendment ensures consistency with Clause 3(1) as amended by Amendment 8.

Mental Health Units (Use of Force) Bill, *continued*

Mr Steve Reed

16

- ★ Clause 3, page 3, line 3, leave out subsection (6)

Member's explanatory statement

This amendment removes the requirement for the registered manager to take all reasonable steps to ensure compliance with the policy published under Clause 3.

Mr Steve Reed

17

- ★ Clause 3, page 3, line 6, leave out subsection (7)

Member's explanatory statement

This amendment removes a consultation requirement that is superseded by the changes made by Amendment 10.

 Mr Steve Reed

18

- ★ Clause 4, page 3, line 12, leave out subsections (1) to (3) and insert—

“(1) The responsible person for each mental health unit must publish information for patients about the rights of patients in relation to the use of force by staff who work in that unit.

(1A) Before publishing the information under subsection (1), the responsible person must consult any persons that the responsible person considers appropriate.

(1B) The responsible person must provide the information published under this section to each patient and the patient's nearest relative or carer (if known and in the unit).

(1C) The information must be provided—

(a) in the case of patients in the mental health unit at the time when this section comes into force, as soon as reasonably practicable after that time;

(b) in any other case, as soon as reasonably practicable after the patient is admitted to the mental health unit.”

Member's explanatory statement

This amendment replaces Clause 4(1) to (2) with a duty to publish information about the rights of patients in relation to the use of force in a mental health unit. Before publishing the information, a consultation must be carried out. The published information must be given to patients in the mental health unit and to new patients that are admitted to the unit. The information must also be given to the patient's nearest relative or carer if they are known and are at the unit.

Mr Steve Reed

19

- ★ Clause 4, page 3, line 24, leave out from “provided” to “in” in line 27

Member's explanatory statement

This amendment removes the requirement that the Secretary of State must prescribe the form that information under Clause 4 must be provided.

Mr Steve Reed

20

- ★ Clause 4, page 3, line 27, leave out “with regard to” and insert “having regard to”

Member's explanatory statement

This amendment is a drafting change to Clause 4(4)(b).

Mental Health Units (Use of Force) Bill, *continued*

- Mr Steve Reed 21
- ★ Clause 4, page 3, leave out line 28
Member's explanatory statement
This amendment removes a paragraph that deals with providing information under Clause 4 that has regard to the patient's communication needs because that paragraph is unnecessary.
- Mr Steve Reed 22
- ★ Clause 4, page 3, line 29, leave out "capacity" and insert "ability"
Member's explanatory statement
This amendment is a drafting change to avoid confusion with the terminology of the Mental Capacity Act 2005.
- Mr Steve Reed 23
- ★ Clause 4, page 3, line 30, leave out subsection (5)
Member's explanatory statement
This amendment is a drafting change linked to Amendment 22.
- Mr Steve Reed 24
- ★ Clause 4, page 3, line 31, at end insert—
 “() The responsible person must keep under review any information published under this section.
 () The responsible person may from time to time revise any information published under this section and, if this is done, must publish the information as revised.
 () If the responsible person considers that any revisions would amount to a substantial change in the information, the responsible person must consult any persons that the responsible person considers appropriate before publishing the revised information.”
Member's explanatory statement
This amendment requires the responsible person to keep information published under Clause 4 under review. If the responsible person intends to make substantial changes to the information published under that clause, then a consultation must be conducted.
- Mr Steve Reed 25
- ★ Clause 4, page 3, line 31, at the end insert—
 “() The duty to provide information to a patient under this section does not apply if—
 (a) the patient refuses to accept the information, or
 (b) the responsible person considers that the provision of the information to the patient would cause the patient distress.
 () The duty to provide information to a patient's nearest relative or carer under this section does not apply if—
 (a) the patient requests that the information is not provided to the nearest relative or carer, or
 (b) the responsible person considers that the provision of the information to the patient's nearest relative or carer would cause the patient distress.”
Member's explanatory statement
This amendment provides exceptions to the duties to provide information under Clause 4. It provides that a patient can refuse to accept the information or the information does not need to be

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provided if it would cause distress to the patient. Also, the patient can request that information does not need to be given to a patient's nearest relative or carer.

Mr Steve Reed

26

- ★ Clause 5, page 3, line 33, leave out subsection (1) and insert—
- “(1) The responsible person for each mental health unit must provide training for staff that relates to the use of force by staff who work in that unit.
- (1A) The training arranged under subsection (1) must include training on the following topics—
- (a) how to involve patients in the planning, development and delivery of care and treatment in the mental health unit,
 - (b) showing respect for patients' past and present wishes and feelings,
 - (c) showing respect for diversity generally,
 - (d) avoiding unlawful discrimination, harassment and victimisation,
 - (e) the use of techniques for avoiding or reducing the use of force,
 - (f) the risks associated with the use of force,
 - (g) the impact of trauma (whether historic or otherwise) on a patient's mental and physical health,
 - (h) the impact of any use of force on a patient's mental and physical health,
 - (i) the impact of any use of force on a patient's development,
 - (j) how to ensure the safety of patients and the public, and
 - (k) the principal legal or ethical issues associated with the use of force.”

Member's explanatory statement

This amendment replaces Clause 5(1) with a revised duty on the responsible person to ensure that training is provided for staff that covers a wide range of topics relating to the use of force in mental health units.

Mr Steve Reed

27

- ★ Clause 5, page 3, line 39, leave out subsection (2) and insert—
- “(2) Subject to subsection (2A), training must be provided—
- (a) in the case of a person who is a member of staff when this section comes into force, as soon as reasonably practicable after this section comes into force, or
 - (b) in the case of a person who becomes a member of staff after this section comes into force, as soon as reasonably practicable after they start working.
- (2A) Subsection (2) does not apply if the responsible person considers that any training provided to the staff member before this section came into force or before becoming a staff member—
- (a) was given sufficiently recently, and
 - (b) meets the standards of the training provided under this section.
- (2B) Refresher training must be provided at regular intervals whilst a person is a member of staff.

Mental Health Units (Use of Force) Bill, continued

(2C) In subsection (2B) “refresher training” means training that updates or supplements the training provided under subsection (1).”

Member’s explanatory statement

This amendment sets out when training under Clause 5 should be given to staff. A definition of “staff” is given in NC5.

Mr Steve Reed

28

- ★ Clause 6, page 4, line 2, leave out “Care Quality Commission” and insert “Secretary of State”

Member’s explanatory statement

This amendment places the duty to publish guidance under Clause 6 on the Secretary of State rather than the Care Quality Commission.

Mr Steve Reed

29

- ★ Clause 6, page 4, line 3, leave out “registered managers” and insert “responsible persons and relevant health organisations”

Member’s explanatory statement

This amendment is consequential on Amendment 7 as well as including relevant health organisations as subjects of the guidance published under Clause 6.

Mr Steve Reed

30

- ★ Clause 6, page 4, line 3, at end insert—

“() In exercising functions under this Act, responsible persons and relevant health organisations must have regard to guidance published under this section.”

Member’s explanatory statement

This amendment places a duty on responsible persons and relevant health organisations to have regard to the guidance published under Clause 6.

Mr Steve Reed

31

- ★ Clause 6, page 4, line 3, at end insert—

“() The Secretary of State must keep under review any guidance published under this section.”

Member’s explanatory statement

This amendment places a duty on the Secretary of State to review any guidance published under Clause 6.

Mr Steve Reed

32

- ★ Clause 6, page 4, line 3, at end insert—

“() Before publishing guidance under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.”

Member’s explanatory statement

This amendment imposes a duty onto the Secretary of State to consult before publishing guidance under Clause 6.

Mental Health Units (Use of Force) Bill, continued

Mr Steve Reed

33

- ★ Clause 6, page 4, line 4, leave out subsection (2)

Member's explanatory statement

This amendment removes Clause 6(2) which is legally unnecessary.

Mr Steve Reed

34

- ★ Clause 6, page 4, line 10, leave out subsection (3) and insert—

“() The Secretary of State may from time to time revise the guidance published under this section and, if this is done, must publish the guidance as revised.

- () If the Secretary of State considers that any revisions would amount to a substantial change in the guidance, the Secretary of State must consult such persons as the Secretary of State considers appropriate before publishing any revised guidance.”

Member's explanatory statement

This amendment places a duty onto the Secretary of State to consult before publishing revised guidance under Clause 6 where the revisions to the guidance are substantial.

 Mr Steve Reed

35

- ★ Clause 7, page 4, line 15, leave out subsection (1) and insert—

“(1) The responsible person for each mental health unit must keep a record of any use of force by staff who work in that unit.”

Member's explanatory statement

This amendment replaces Clause 7(1) and inserts a revised duty on responsible persons to record the use of force in mental health units.

Mr Steve Reed

36

- ★ Clause 7, page 4, line 15, at end insert—

“(1A) Subsection (1) does not apply in cases where the use of force is negligible.

- (1B) Whether the use of force is “negligible” for the purposes of subsection (1A) is to be determined in accordance with guidance published by the Secretary of State.”

Member's explanatory statement

This amendment would mean that the duty to record information regarding the use of force would not apply in cases where the use of force is negligible.

Mr Steve Reed

37

- ★ Clause 7, page 4, line 16, leave out subsection (2)

Member's explanatory statement

This amendment removes the requirement for the Secretary of State to prescribe in regulations the information that must be recorded under Clause 7.

Mental Health Units (Use of Force) Bill, *continued*

Mr Steve Reed

38

- ★ Clause 7, page 4, line 18, leave out lines 18 and 19 and insert “The record must include the following information—”

Member’s explanatory statement

This amendment is consequential on Amendment 37.

Mr Steve Reed

39

- ★ Clause 7, page 4, line 19, at the end insert—

“() the reason for the use of force;”

Member’s explanatory statement

This amendment would require the responsible person to record the reason for a use of force.

Mr Steve Reed

40

- ★ Clause 7, page 4, line 20, leave out “time” and insert “date”

Member’s explanatory statement

This amendment replaces the requirement to record the time of a use of force with a requirement to record the date of a use of force.

Mr Steve Reed

41

- ★ Clause 7, page 4, line 21, leave out paragraph (b) and insert—

“(b) the type or types of force used on the patient;”

Member’s explanatory statement

This amendment clarifies that the responsible person should record the types of force used in cases where more than one type of force is used.

Mr Steve Reed

42

- ★ Clause 7, page 4, line 21, at end insert—

“() whether the type or types of force used on a patient form part of the patient’s behaviour support plan or care plan;”

Member’s explanatory statement

This amendment inserts a requirement for responsible persons to record whether the force used on a patient formed part of the patient’s behaviour support plan or care plan.

Mr Steve Reed

43

- ★ Clause 7, page 4, line 22, leave out “identity of the patient” and insert “name of the patient on whom force was used”

Member’s explanatory statement

This amendment makes a drafting change to refer to “name” rather than “identity” in Clause 7(3)(c).

Mr Steve Reed

44

- ★ Clause 7, page 4, line 22, at end insert—

“() a description of how force was used;”

Member’s explanatory statement

This amendment inserts a requirement for responsible persons to record how force was used. For

Mental Health Units (Use of Force) Bill, continued

example, if physical restraint was used, the responsible person would need to record what particular technique was used on the patient.

- Mr Steve Reed 45
- ★ Clause 7, page 4, line 22, at end insert—
“(ca) the patient’s consistent identifier;”
Member’s explanatory statement
This amendment inserts a requirement for responsible persons to record the patient’s consistent identifier, which the patient’s “NHS number”.
- Mr Steve Reed 46
- ★ Clause 7, page 4, line 23, leave out “identity” and insert “name”
Member’s explanatory statement
This amendment makes a drafting change to refer to “name” rather than “identity” in Clause 7(3)(d).
- Mr Steve Reed 47
- ★ Clause 7, page 4, line 23, leave out “those who restrained” and insert “any staff member who used force on”
Member’s explanatory statement
This amendment ensures consistency of language with the rest of Clause 7.
- Mr Steve Reed 48
- ★ Clause 7, page 4, line 24, leave out “anyone not employed by the registered manager” and insert “any person who was not a member of staff in the mental health unit”
Member’s explanatory statement
This amendment makes a drafting change to clarify that the responsible person needs to record whether a person who was not a member of staff at the mental health unit was involved in a use of force.
- Mr Steve Reed 49
- ★ Clause 7, page 4, line 26, leave out “disorders or main mental disorder” and insert “disorder (if known)”
Member’s explanatory statement
This amendment clarifies that the responsible person only needs to record a patient’s mental disorder if it is known. It also makes the language consistent with the Mental Health Act 1983.
- Mr Steve Reed 50
- ★ Clause 7, page 4, line 27, after “patient” insert “(if known)”
Member’s explanatory statement
This amendment clarifies that the responsible person only needs to record a patient’s relevant characteristic if they are known.
- Mr Steve Reed 51
- ★ Clause 7, page 4, line 28, leave out “had” and insert “has”
Member’s explanatory statement
This amendment is a drafting change so that Clause 7(3)(h) uses the present tense.

Mental Health Units (Use of Force) Bill, *continued*

Mr Steve Reed

52

- ★ Clause 7, page 4, line 28, leave out “autism” and insert “autistic spectrum disorders”

Member’s explanatory statement

This amendment ensures consistency with the Autism Act 2009 and the Code of Practice published under the Mental Health Act 1983.

Mr Steve Reed

53

- ★ Clause 7, page 4, line 29, leave out paragraph (i)

Member’s explanatory statement

This amendment leaves out the requirement to record whether any medication was administered during the use of force. This information should be recorded by virtue of Amendment 44.

Mr Steve Reed

54

- ★ Clause 7, page 4, line 30, at end insert—

“() a description of the outcome of the use of force;”

Member’s explanatory statement

This amendment requires a responsible person to record a description of the outcome of a use of force.

Mr Steve Reed

55

- ★ Clause 7, page 4, line 31, leave out paragraph (j) and insert—

“(j) whether the patient died or sustained any serious injury as a result of the use of force;”

Member’s explanatory statement

This amendment requires a responsible person to record whether a use of force resulted in a death or serious injury.

Mr Steve Reed

56

- ★ Clause 7, page 4, line 35, leave out “all” and insert “any”

Member’s explanatory statement

This amendment makes a drafting change.

Mr Steve Reed

57

- ★ Clause 7, page 4, line 35, leave out “restrain” and insert “use force on”

Member’s explanatory statement

This amendment ensures consistency of language with the rest of Clause 7.

Mr Steve Reed

58

- ★ Clause 7, page 4, line 35, at end insert—

“() whether a notification was sent to the patient’s nearest relative or carer regarding the use of force;”

Member’s explanatory statement

This amendment requires a responsible person to record whether a notification was sent to a patient’s nearest relative or carer regarding a use of force on the patient.

Mental Health Units (Use of Force) Bill, *continued*

Mr Steve Reed

59

- ★ Clause 7, page 4, line 36, leave out paragraph (l)

Member's explanatory statement

This amendment removes the requirement for a responsible person to record whether consent was given by the patient before force was used on the patient.

Mr Steve Reed

60

- ★ Clause 7, page 4, line 38, leave out “registered manager” and insert “responsible person”

Member's explanatory statement

This amendment is consequential on Amendment 7.

Mr Steve Reed

61

- ★ Clause 7, page 4, line 38, leave out “an entry in”

Member's explanatory statement

This amendment ensures consistency of language with Clause 7(1).

Mr Steve Reed

62

- ★ Clause 7, page 4, line 38, leave out “at least 10” and insert “3”

Member's explanatory statement

This amendment reduces the number of years that records must be kept under Clause 7 from 10 years to 3 years.

Mr Steve Reed

63

- ★ Clause 7, page 4, line 39, after “made” insert “, unless the patient to whom the record relates requests that the record is not kept”

Member's explanatory statement

This amendment would allow a patient to request that a record made under Clause 7 is not kept for 3 years.

Mr Steve Reed

64

- ★ Clause 7, page 4, line 39, leave out from “made” to end of line 42

Member's explanatory statement

This amendment removes the requirement for records to be kept at a mental health unit.

Mr Steve Reed

65

- ★ Clause 7, page 4, line 42, at end insert—

“() In subsection (3)(ca) the “patient’s consistent identifier” means the consistent identifier specified under section 251A of the Health and Social Care Act 2012.”

Member's explanatory statement

This amendment is linked to Amendment 45 and defines “patient’s consistent identifier”.

Mental Health Units (Use of Force) Bill, *continued*

Mr Steve Reed

66

- ★ Clause 7, page 5, line 3, leave out paragraph (c)

Member's explanatory statement

This amendment removes a paragraph from the definition of "relevant characteristics" that deals with gender reassignment.

Mr Steve Reed

67

- ★ Clause 7, page 5, line 6, leave out from "pregnant" to the end of line 7

Member's explanatory statement

This amendment removes from the definition of "relevant characteristics" whether a patient has maternal responsibility for the care of a child.

Mr Steve Reed

68

- ★ Clause 7, page 5, line 12, leave out subsection (6) and insert—

"() Expressions used in subsection (5) and Chapter 2 of Part 1 of the Equality Act 2010 have the same meaning in that subsection as in that Chapter."

Member's explanatory statement

This amendment make a drafting change to ensure that the relevant characteristics in Clause 7 are interpreted by reference to the meaning of the protected characteristics in the Equality Act 2010.

 Mr Steve Reed

69

- ★ Clause 8, page 5, line 16, leave out subsections (1) to (5) and insert—

"(1) The Secretary of State must ensure that at the end of each year statistics are published regarding the use of force by staff who work in mental health units.

(1A) The statistics must provide an analysis of the use of force in mental health units by reference to the relevant information recorded by responsible persons under section 7.

(1B) In subsection (1A) "relevant information" means the information falling within section 7(3)(a), (b), (g), (h) and (j)."

Member's explanatory statement

This amendment replaces the provisions of Clause 8 with a duty imposed on the Secretary of State to ensure that statistics are produced regarding the use of force in mental health units.

 Mr Steve Reed

70

- ★ Clause 9, page 5, line 39, leave out subsections (1) to (4) and insert—

"(1) As soon as reasonably practicable after the end of each calendar year, the Secretary of State—

- (a) must conduct a review of any reports made under paragraph 7 of Schedule 5 to the Coroners and Justice Act 2009 that were published during that year relating to the death of a patient as a result of the use of force in a mental health unit by staff who work in that unit, and

Mental Health Units (Use of Force) Bill, continued

- (b) may conduct a review of any other findings made during that year relating to the death of a patient as a result of the use of force in a mental health unit by staff who work in that unit.
- (1A) Having conducted a review under subsection (1), the Secretary of State must publish a report that includes the Secretary of State's conclusions arising from that review.
- (1B) The Secretary of State may delegate the conduct of a review under subsection (1) and the publication of a report under subsection (1A).
- (1C) For the purposes of subsection (1)(b) "other findings" include, in relation to the death of a patient as a result of the use of force in a mental health unit, any finding or determination that is made—
- (a) by the Care Quality Commission as the result of any review or investigation conducted by the Commission, or
 - (b) by a relevant health organisation as the result of any investigation into a serious incident."

Member's explanatory statement

This amendment replaces the provisions of Clause 9 with a duty imposed on the Secretary of State to review reports each year made by coroners under the Coroners and Justice Act 2008 (often referred to as "regulation 28 reports"). The Secretary of State can also review other findings. After the review, a report must be published that includes the Secretary of State's conclusions arising from the review.

Mr Steve Reed

71

- ★ Page 6, line 11, leave out Clause 10

Member's explanatory statement

This amendment would leave out Clause 10 (requiring information from the Secretary of State).

Mr Steve Reed

72

- ★ Page 6, line 22, leave out Clause 11

Member's explanatory statement

This amendment would leave out Clause 11 (duty to notify Secretary of State of deaths in mental health units).

Mr Steve Reed

1

- ★ Clause 12, page 6, line 34, end insert—

“(1A) A person appointed under this section must be independent of the NHS and of private providers of mental health services.”

Member's explanatory statement

This amendment would ensure that the person appointed to investigate deaths is independent of the NHS and of private providers of mental health services.

Mental Health Units (Use of Force) Bill, *continued*

Jackie Doyle-Price

73

- ★ Page 6, line 30, leave out Clause 12

Member's explanatory statement

This amendment would leave out Clause 12 (independent investigations of deaths). NC2 is intended to replace Clause 12.

Mr Steve Reed

74

- ★ Clause 13, page 7, line 20, leave out subsections (1) and (2) and insert—

“(1) If a police officer is going to a mental health unit on duty that involves assisting staff or carrying out an investigation, the officer must take a body camera if reasonably practicable.

(1A) While in a mental health unit on duty that involves assisting staff or carrying out an investigation, a police officer who has a body camera there must wear it and keep it operating at all times when reasonably practicable.

(1B) This section does not require an officer to wear a body camera or keep it operating when it would cause disproportionate interference with another person's rights or interests.

(1C) A failure by a police officer to comply with the requirements of subsection (1) or (1A) does not of itself make the officer liable to criminal or civil proceedings.

(1D) But if those requirements appear to the court or tribunal to be relevant to any question arising in criminal or civil proceedings, they must be taken into account in determining that question.”

Member's explanatory statement

This amendment brings the effect of failing to wear or use a body camera into line with contraventions of the PACE codes, and takes into account whether it is reasonably practicable and whether it would cause disproportionate interference with others' rights or interests.

Mr Steve Reed

75

- ★ Clause 13, page 7, line 26, leave out subsection (3)

Member's explanatory statement

Clause 13(3) is omitted because the protection provided by the Data Protection Act 1998 and guidance on use of body cameras is sufficient.

Mr Steve Reed

76

- ★ Clause 13, page 7, line 31, at end insert—

“() In this section—

“body camera” means a device that operates so as to make a continuous audio and video recording while being worn;

“police officer” means a member of—

- (a) a police force maintained under section 2 of the Police Act 1996,
- (b) the metropolitan police force, or
- (c) the City of London police force.”

Member's explanatory statement

This amendment reproduces definitions from Clause 17, with minor amendments to the definition

Mental Health Units (Use of Force) Bill, continued

of “body camera”, and omitting community support officers and members of the British Transport Police from the definition of “police officer”.

Mr Steve Reed

77

- ★ Page 7, line 32, leave out Clause 14

Member’s explanatory statement

The subject-matter of this clause is covered by existing provision, in particular the Data Protection Act 1998, and additional guidance can be given as required about the use of body cameras in mental health units.

Mr Steve Reed

78

- ★ Page 8, line 7, leave out Clause 15

Member’s explanatory statement

The subject-matter of this clause is covered by existing provision, in particular the Data Protection Act 1998 and guidance issued by the Information Commissioner’s Office. The Clause is not consistent with that provision, and would create extra burdens for the police.

Mr Steve Reed

79

- ★ Page 8, line 41, leave out Clause 16

Member’s explanatory statement

The Clause is unnecessary because of the changes proposed to Clause 12 and the omission of Clause 15.

Mr Steve Reed

80

- ★ Page 9, line 6, leave out Clause 17

Member’s explanatory statement

Amendment 76 supersedes this Clause.

Mental Health Units (Use of Force) Bill, *continued*

Mr Steve Reed

81

- ★ Clause 18, page 9, line 25, at end insert “(other than regulations made under section 20(3))”

Member’s explanatory statement

This amendment provides that commencement regulations under Clause 20 are not subject to any parliamentary procedure.

Mr Steve Reed

82

- ★ Page 9, line 26, leave out Clause 19

Member’s explanatory statement

This amendment would leave out Clause 19 (financial provisions) which is technically unnecessary.

Mr Steve Reed

83

- ★ Clause 20, page 9, line 35, leave out subsections (3) and (4) and insert—

“(3) The other provisions of this Act come into force on such day as the Secretary of State may appoint by regulations.

(4) Regulations under this section may appoint different days for different purposes or areas.”

Member’s explanatory statement

This amendment gives the Secretary of State the power to commence the Bill by regulations.

Mr Steve Reed

NC1

- ★ To move the following Clause—

“Independent investigation of deaths: legal aid

- (1) Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services) is amended as follows.
- (2) After paragraph 41 (inquests) insert—

“41A Investigation of deaths resulting from use of force in mental health units

- (1) Civil legal services provided to an individual in relation to an investigation under section 12 of the Mental Health Units (Use of Force) Act 2018 (independent investigation of deaths) into the death of a member of the individual’s family.

Mental Health Units (Use of Force) Bill, *continued*

- (2) For the purposes of this paragraph an individual is a member of another individual's family if—
- (a) they are relatives (whether of the full blood or half blood or by marriage or civil partnership),
 - (b) they are cohabitants (as defined in Part 4 of the Family Law Act 1996), or
 - (c) one has parental responsibility for the other.””

Member's explanatory statement

This new clause would ensure that legal aid was available to family members in relation to an investigation under Clause 12, which would be launched in the event of a death as described in Clause 11.

Mr Steve Reed

NC3

- ★ To move the following Clause—

“Delegation of responsible person's functions

- (1) The responsible person for each mental health unit may delegate any functions exercisable by the responsible person under this Act to a relevant person only in accordance with this section.
- (2) The responsible person may only delegate a function to a relevant person if the relevant person is of an appropriate level of seniority.
- (3) The delegation of a function does not affect the responsibility of the responsible person for the exercise of the responsible person's functions under this Act.
- (4) The delegation of a function does not prevent the responsible person from exercising the function.
- (5) In this section “relevant person” means a person employed by the relevant health organisation that operates the mental health unit.”

Member's explanatory statement

This new clause gives a power to the responsible person to delegate functions under the Bill subject to the limitation that the person to whom functions are delegated is of an appropriate level of seniority. The obligations associated with the functions remain with the responsible person despite any delegation.

Mental Health Units (Use of Force) Bill, *continued*

Mr Steve Reed

NC4

- ★ To move the following Clause—

“Transitional provision

The Secretary of State may by regulations make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act.”

Member’s explanatory statement

This new clause gives a power to the Secretary of State to make transitional provision in relation to the implementation of the Bill.

Mr Steve Reed

NC5

- ★ To move the following Clause—

“Interpretation

In this Act—

“carer” means a person who provides care for another person, but not if that care is provided under, or by virtue of, a contract or as voluntary work;

“health service hospital” has the same meaning as in section 275(1) of the National Health Service Act 2006;

“independent hospital” has the same meaning as in section 145(1) of the Mental Health Act 1983;

“nearest relative” has the same meaning as in Part 2 of the Mental Health Act 1983 (see section 26(3) of that Act);

“the NHS” has the same meaning as in section 64(4) of the Health and Social Care Act 2012;

“responsible person” has the meaning given by section 2(1);

“relevant health organisation” means—

- (a) an NHS trust;
- (b) an NHS foundation trust;
- (c) any person who provides health care services for the purposes of the NHS within the meaning of Part 3 of the Health and Social Care Act 2012;

“staff” means any person who works for a relevant health organisation that operates a mental health unit (whether as an employee or a contractor) who—

- (a) may be authorised to use force on a patient in the unit,
- (b) may authorise the use of force on a particular patient in the unit, or
- (c) has the function of providing general authority for the use of force in the unit.”

Member’s explanatory statement

This new clause compiles various definitions for terms that are used throughout the Bill.

Mental Health Units (Use of Force) Bill, *continued*

Jackie Doyle-Price

NC2

- ★ To move the following Clause—

“Investigation of deaths

- (1) When a patient dies or suffers a serious injury in a mental health unit, the responsible person for the mental health unit must have regard to the relevant guidance.
- (2) For the purposes of this section, “relevant guidance” means any guidance that relates to the investigation of deaths or serious injuries, and includes any such guidance published by—
 - (a) the Care Quality Commission (see Part 1 of the Health and Social Care Act 2008);
 - (b) Monitor (see section 61 of the Health and Social Care Act 2012);
 - (c) the National Health Service Commissioning Board (see section 1H of the National Health Service Act 2006);
 - (d) the National Health Service Trust Development Authority (which is a Special Health Authority established under section 28 of the National Health Service Act 2006);
 - (e) a person prescribed by regulations made by the Secretary of State.”

Member’s explanatory statement

This new clause imposes a duty for responsible persons to have regard to guidance that relates to the investigation of deaths when a death occurs in a mental health unit.
