CONSIDERATION OF BILL (REPORT STAGE)

MENTAL HEALTH UNIT (USE OF FORCE) BILL, AS AMENDED

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This document includes all amendments tabled to date and includes any withdrawn amendments at the end.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

To move the following Clause—

“Independent investigation of deaths

(1) A registered manager must within seven days of becoming aware of a death to which this section applies notify the Secretary of State in writing of that death.

(2) This section applies to a death if—
   (a) the death occurred during, or as a result of, the use of force on the deceased patient, and
   (b) the use of force occurred at a mental health unit managed by the registered manager.

(3) On being notified of a death, the Secretary of State must appoint an independent person—
   (a) to investigate the circumstances of the death, and
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(b) to prepare a report regarding that death.

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

(5) A person appointed under this section must provide a report within three months of that appointment.

(6) The Secretary of State must within 14 days of receiving the report publish—
(a) the report, or
(b) a statement that a report under this section has been received.

(7) The Secretary of State may only publish a statement under subsection (6)(b) if satisfied that the publication of the report would be contrary to the public interest, which includes causing prejudice to—
(a) any potential or ongoing court proceedings,
(b) the conduct of a senior coroner’s investigation under Part 1 of the Coroners and Justice Act 2009.

(8) A statement published under subsection (6)(b) must include—
(a) the name and date of birth of the deceased,
(b) the date and place of the death,
(c) the place at which the use of force occurred, if different from the place of the death,
(d) the identity of the registered manager in relation to the mental health unit, and
(e) how the publication of the report would, in the opinion of the Secretary of State, be contrary to the public interest.

(9) The Secretary of State must publish the report as soon as practicable upon the conclusion of the proceedings or investigation.”

Mr Steve Reed

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 (independent investigations of deaths) 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.

(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
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(c) one has parental responsibility for the other.”

Sir Christopher Chope

★ Clause 1, page 1, line 13, leave out sub-paragraph (ii)

86

Sir Christopher Chope

★ Clause 1, page 1, line 15, leave out subsection (4)

87

Philip Davies

★ Clause 1, page 2, line 3, leave out “force” and insert “restraint”

44

Norman Lamb

★ Clause 1, page 2, line 4, after “use” insert “or threat ”

40

Sir Christopher Chope

★ Clause 1, page 2, line 4, leave out “mechanical or chemical” and insert “or mechanical”

88

Sir Christopher Chope

★ Clause 1, page 2, line 5, leave out paragraph (b)

89

Norman Lamb

★ Clause 1, page 2, line 5, after “isolation” insert “or threat of isolation”

41

Norman Lamb

★ Clause 1, page 2, line 5, at end insert “or (c) the coercion of a patient.”

42

Sir Christopher Chope

★ Clause 1, page 2, leave out lines 14 and 15

90

Sir Christopher Chope

★ Clause 1, page 2, leave out lines 16 and 17

91
Norman Lamb

- Clause 1, page 2, line 17, at end insert—
  “‘Coercion’ means the use or threat of force, with the intention of causing fear, alarm or distress to control a patient’s behaviour or elicit compliance with the application of a use of force.”

Sir Christopher Chope

- Clause 2, page 2, line 20, leave out “a relevant” and insert “any”

Sir Christopher Chope

- Clause 2, page 2, line 23, leave out “relevant”

Sir Christopher Chope

- Clause 2, page 2, line 25, leave out “relevant”

Philip Davies

- Clause 3, page 2, line 30, leave out “force” and insert “restraint”

Sir Christopher Chope

- Clause 3, page 2, line 32, leave out “relevant”

Norman Lamb

- Clause 3, page 3, line 2, at end insert—
  “(6A) A policy published under this section must set out that the use of force will only be used without the sole intention of inflicting pain, suffering or humiliation, or subjecting patients to tortuous, inhumane or degrading treatment, or without inflicting punishment or intimidation.”

Norman Lamb

- Clause 3, page 3, line 3, leave out from “out” to end of line 4 and insert—
  “(a) a description of each of the methods of restraint that may be used in the mental health unit;
  (b) what steps will be taken to reduce and minimise the use of force in the mental health unit by staff who work in the unit;
  (c) a description of the techniques to be used for avoiding or reducing the use of force in the mental health unit by staff who work in the unit; and
  (d) a commitment to reducing the overall use of force in the mental health unit.”
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Philip Davies
★ Clause 3, page 3, line 4, leave out “force” and insert “restraint”

Philip Davies
★ Clause 4, page 3, line 7, leave out “force” and insert “restraint”

Norman Lamb
★ Clause 4, page 3, line 8, at end insert—

“(1A) Information under subsection (1) must include a patient’s right to advocacy and how to access an advocate.”

Secretary Jeremy Hunt
Clause 4, page 3, line 16, at end insert—

“unless the patient (where paragraph (a) applies) or the other person (where paragraph (b) applies) refuses the information.”

Member’s explanatory statement
This allows for cases where a person refuses the information provided, and supersedes subsections (9)(a) and (10)(a).

Secretary Jeremy Hunt
Clause 4, page 3, line 22, leave out subsection (5) and insert—

“(5) The responsible person must take whatever steps are reasonably practicable to ensure that the patient is aware of the information and understands it.”

Member’s explanatory statement
This expands the duty to provide information accessibly so that it requires the responsible person to take whatever steps are reasonably practicable to ensure the patient understands.

Secretary Jeremy Hunt
Clause 4, page 3, line 33, leave out subsections (9) and (10)

Member’s explanatory statement
Subsections (9)(a) and (10)(a) are superseded by Amendment 1. Subsections (9)(b) and (10)(b) are unnecessary as the information will not be of a nature that would cause distress.

Sir Christopher Chope
★ Clause 4, page 3, line 36, leave out “the responsible person considers that”

Sir Christopher Chope
★ Clause 4, page 3, line 42, leave out “the responsible person considers that”
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Philip Davies

- * Clause 5, page 4, line 3, leave out “force” and insert “restraint”  

Norman Lamb

- * Clause 5, page 4, line 3, at end insert—  
  (1A) The Secretary of State must publish quality standards for training provided under subsection (1).  
  (1B) The Secretary of State may delegate the publication of quality standards for training under subsection (2).”

Sir Christopher Chope

- * Clause 5, page 4, line 6, after “patients” insert “and their families”

Philip Davies

- ◆ Clause 5, page 4, line 9, leave out paragraph (c)

Philip Davies

- * Clause 5, page 4, line 11, leave out “force” and insert “restraint”

Philip Davies

- * Clause 5, page 4, line 12, leave out “force” and insert “restraint”

Norman Lamb

- * Clause 5, page 4, line 13, at beginning insert “trauma-informed care, including”

Norman Lamb

- * Clause 5, page 4, line 14, at end insert “and the impact of the use of force on a patient who may have experienced violence and abuse.”

Philip Davies

- * Clause 5, page 4, line 15, leave out “force” and insert “restraint”

Philip Davies

- * Clause 5, page 4, line 16, leave out “force” and insert “restraint”

Sir Christopher Chope

- * Clause 5, page 4, line 18, leave out “the principal”

Philip Davies

- ◆ Clause 5, page 4, line 18, leave out “or ethical”
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Philip Davies

★ Clause 5, page 4, line 18, leave out “force” and insert “restraint” 53

Philip Davies

★ Clause 5, page 4, line 18, at end insert—
“(l) the roles, responsibilities and procedure in the event of police involvement,” 11

Philip Davies

★ Clause 5, page 4, line 18, at end insert—
“(m) awareness of acute behavioural disturbance.” 12

Secretary Jeremy Hunt

Clause 5, page 4, line 30, leave out “meets the standards of” and insert “is of an equivalent standard to” 4

Member’s explanatory statement
This is a small drafting change that clarifies that training does not need to be provided under Clause 5 if training that was recently provided was of an equivalent standard to the training provided under that Clause.

Philip Davies

★ Clause 5, page 4, line 31, leave out subsections (5) and (6) 13

Sir Christopher Chope

★ Clause 6, page 5, line 8, at end insert—
“(7) Guidance under this Act shall be published no later than six months after this Act is passed.” 100

Secretary Jeremy Hunt

That Clause 6 be transferred to the end of line 34 on page 7.

Sir Christopher Chope

★ Clause 7, page 5, line 11, after “any” insert “significant” 101

Philip Davies

★ Clause 7, page 5, line 12, leave out “force” and insert “restraint” 54
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Norman Lamb
★ Clause 7, page 5, line 13, leave out subsections (2) and (3)

Sir Christopher Chope
★ Clause 7, page 5, line 13, leave out subsection (2)

Philip Davies
★ Clause 7, page 5, line 13, leave out “force” and insert “restraint”

Philip Davies
☆ Clause 7, page 5, line 13, at end insert “or does not involve physical contact”

Philip Davies
★ Clause 7, page 5, line 14, leave out “force” and insert “restraint”

Philip Davies
★ Clause 7, page 5, line 14, leave out subsection (3)

Sir Christopher Chope
★ Clause 7, page 5, line 14, leave out “force” and insert “restraint”

Philip Davies
★ Clause 7, page 5, line 17, leave out subsection (4)

Philip Davies
★ Clause 7, page 5, line 20, leave out “force” and insert “restraint”

Philip Davies
★ Clause 7, page 5, line 21, leave out “force” and insert “restraint”

Philip Davies
★ Clause 7, page 5, line 22, leave out “force” and insert “restraint”

Philip Davies
★ Clause 7, page 5, line 23, leave out “force” and insert “restraint”

Philip Davies
★ Clause 7, page 5, line 25, leave out “force” and insert “restraint”

Philip Davies
★ Clause 7, page 5, line 26, leave out “force” and insert “restraint”
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Philip Davies

★ Clause 7, page 5, line 28, leave out “force” and insert “restraint”

Philip Davies

★ Clause 7, page 5, line 31, leave out “force” and insert “restraint”

Philip Davies

★ Clause 7, page 5, line 33, leave out paragraph (k)

Philip Davies

★ Clause 7, page 5, line 36, leave out “force” and insert “restraint”

Philip Davies

★ Clause 7, page 5, line 38, leave out “force” and insert “restraint”

Philip Davies

★ Clause 7, page 5, line 39, leave out “force” and insert “restraint”

Philip Davies

★ Clause 7, page 5, line 40, leave out “force” and insert “restraint”

Philip Davies

☆ Clause 7, page 5, line 41, at end insert—

“(q) the relevant characteristics of the staff involved (if known)”

Philip Davies

☆ Clause 7, page 5, line 43, at end insert—

“(6A) Records must also be kept in the patient’s medical notes.”

Secretary Jeremy Hunt

Clause 7, page 6, line 5, leave out “made by or under the Data Protection Act 1998” and insert “of the data protection legislation”

Member’s explanatory statement

Amendments 5 and 6 are consequential on the Data Protection Act 2018.

Secretary Jeremy Hunt

Clause 7, page 6, line 6, at end insert—

“( ) In subsection (8) “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).”

Member’s explanatory statement

Amendments 5 and 6 are consequential on the Data Protection Act 2018.
Consideration of Bill (Report Stage): 12 June 2018

Mental Health Unit (Use of Force) Bill, continued

Philip Davies

- Clause 7, page 6, line 7, leave out subsections (9) and (10)
- Clause 7, page 6, line 7, leave out from “(5)(k)” to “mean” and insert “(5)(k) and (q) the “relevant characteristics” in relation to a patient and member of staff”
- Clause 7, page 6, line 8, leave out “the patient’s” and insert “their”
- Clause 7, page 6, line 9, leave out “the patient has” and insert “they have”
- Clause 7, page 6, line 11, leave out paragraph (c)
- Clause 7, page 6, line 11, leave out “the patient’s” and insert “their”
- Clause 7, page 6, line 12, leave out “the patient is” and insert “they are”
- Clause 7, page 6, line 13, leave out paragraph (e)
- Clause 7, page 6, line 13, leave out “the patient’s” and insert “their”
- Clause 7, page 6, line 14, leave out paragraph (f)
- Clause 7, page 6, line 14, leave out “the patient’s” and insert “their”
- Clause 7, page 6, line 15, leave out “the patient’s” and insert “their”
- Clause 7, page 6, line 16, leave out paragraph (h)
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Philip Davies

☆ Clause 7, page 6, line 16, leave out “the patient’s” and insert “their” 30

Philip Davies

★ Clause 8, page 6, line 21, leave out “force” and insert “restraint” 69

Philip Davies

★ Clause 8, page 6, line 22, leave out “force” and insert “restraint” 70

Philip Davies

☆ Clause 8, page 6, line 26, leave out “and (n)” and insert “(n) and (q)” 31

Philip Davies

★ Clause 9, page 6, line 33, leave out “force” and insert “restraint” 71

Philip Davies

★ Clause 9, page 6, line 35, leave out “force” and insert “restraint” 72

Norman Lamb

★ Clause 9, page 6, line 39, at end insert— 82
  “(2A) The report published under subsection (2) must make reference to the annual statistics published under section 8.”

Norman Lamb

★ Clause 9, page 6, line 39, at end insert— 83
  “(2B) The Secretary of State must make a statement to Parliament, as soon as practicable following the publication of report under subsection (2).”

Norman Lamb

★ Clause 9, page 6, line 41, leave out “and” 84

Norman Lamb

★ Clause 9, page 6, line 41, at end insert “and the statement under subsection (2B).” 85
Philip Davies

- Clause 9, page 7, line 2, leave out “force” and insert “restraint”

Philip Davies

- Clause 12, page 7, line 38, leave out “must take” and insert “should consider taking”

Philip Davies

- Clause 12, page 8, line 2, leave out “must wear it and” and insert “should wear it and try to”

Philip Davies

- Clause 12, page 8, line 6, leave out subsections (4) and (5)

Secretary Jeremy Hunt

- Clause 13, page 8, line 32, leave out “has the meaning given by section 2” and insert “means a person appointed under section 2(1)”

  Member’s explanatory statement

   This improves the drafting of the definition of “responsible person”.

Philip Davies

- Clause 13, page 8, line 42, leave out “force” and insert “restraint”

Philip Davies

- Clause 13, page 8, line 43, leave out “force” and insert “restraint”

Philip Davies

- Clause 13, page 8, line 46, leave out “force” and insert “restraint”

Secretary Jeremy Hunt

That Clause 15 be transferred to the end of line 15 on page 9.
Consideration of Bill (Report Stage): 12 June 2018

Mental Health Unit (Use of Force) Bill, continued

Philip Davies

★ Clause 17, page 9, line 24, leave out “Force” and insert “Restraint” 77

Philip Davies

★ Title, line 2, leave out “force” and insert “restraint” 78

Secretary Jeremy Hunt

Title, line 2, leave out “and similar institutions” 8

Member’s explanatory statement

This removes from the long title a reference to “similar institutions” as these are not covered by the Bill.