PARLIAMENTARY DEBATES

HOUSE OF COMMONS
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GENERAL COMMITTEES

Public Bill Committee

MENTAL HEALTH UNITS (USE OF FORCE) BILL

First Sitting

Wednesday 28 March 2018

CONTENTS

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Sunday 1 April 2018

The Committee consisted of the following Members:

Chair: Ms Karen Buck

† Argar, Edward *(Charnwood)* (Con)
† Berger, Luciana *(Liverpool, Wavertree)* (Lab/Co-op)
† Doyle-Price, Jackie *(Parliamentary Under-Secretary of State for Health)*
† Foster, Kevin *(Torbay)* (Con)
† Hayes, Helen *(Dulwich and West Norwood)* (Lab)
† Lucas, Caroline *(Brighton, Pavilion)* (Green)
Mahmood, Shabana *(Birmingham, Ladywood)* (Lab)
† Pursglove, Tom *(Corby)* (Con)
† Quince, Will *(Colchester)* (Con)
† Reed, Mr Steve *(Croydon North)* (Lab/Co-op)
† Sherriff, Paula *(Dewsbury)* (Lab)
† Snell, Gareth *(Stoke-on-Trent Central)* (Lab/Co-op)
† Throup, Maggie *(Erewash)* (Con)
† Trevelyan, Mrs Anne-Marie *(Berwick-upon-Tweed)* (Con)
† Wood, Mike *(Dudley South)* (Con)
† Wragg, Mr William *(Hazel Grove)* (Con)
† Zeichner, Daniel *(Cambridge)* (Lab)

Farrah Bhatti, *Committee Clerk*

† attended the Committee

Public Bill Committee

Wednesday 28 March 2018

[Ms Karen Buck *in the Chair*]

Mental Health Units (Use of Force) Bill

9.25 am

The Chair: Good morning. Welcome to the Public Bill Committee on the Mental Health Units (Use of Force) Bill. I remind everyone to turn off their electronic devices. Tragically, tea and coffee are not permitted.

Ordered,

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 Reed.)*

The Chair: On the basis of the motion just agreed, and given that the required notice period in Public Bill Committees is three working days, amendments should be tabled by 3 pm on Fridays for consideration on Wednesdays. I encourage Members to submit amendments earlier, if they can. I advise Members that, as a general rule, I do not intend to call starred amendments, which have not been tabled with adequate notice.

Mr Steve Reed (Croydon North) (Lab/Co-op): I beg to move,

That the Bill be considered in the following order, namely, Clauses 1 to 6, Clauses 9 to 11, Clauses 7 and 8, Clauses 12 to 20, new Clauses, new Schedules, remaining proceedings on the Bill.

It is a pleasure to serve under your chairmanship, Ms Buck. We have finally got the Bill to Committee, and I am delighted that we are all here. The Committee has been delayed for four weeks in a row, because of the Government's failure to lay a money resolution, which would allow us to consider the Bill in its entirety and all the amendments. Even this morning we will not be able to consider several amendments because a money resolution has still not been laid, despite the fact that the Bill enjoys the support of the Government and received the unanimous support of the House on Second Reading. When I asked the Government why the money resolution had not been laid, they said it was not possible because of the heavy schedule of business going through the Chamber, but both yesterday and last Tuesday the Adjournment was early because of insufficient business going through the House.

I want to register my disappointment that the money resolution has not been laid at this stage, and I urge Government and other Members to use their influence with the Whips to encourage the Government to do so as soon as possible. The Bill contains an important reform that will dramatically improve safety for many highly vulnerable people using mental health services, and I see no reason for it to continue to be delayed in such a fashion.

The Parliamentary Under-Secretary of State for Health (Jackie Doyle-Price): It is a pleasure to serve under your chairmanship this morning, Ms Buck. I thank the hon. Gentleman for the points he has made. He is absolutely right to say that the Government support the measure. We support it very much because of the co-operative discussions that we have had, to get it to a place where everyone can agree. I fully endorse his point that the Bill is an important social reform; it is an important ingredient in our broader agenda to improve the treatment of people with mental health problems and illness.

The hon. Gentleman made his point about the need for a money resolution robustly. I will relay his representations to the House business managers, so that we can proceed without delay, as we all want such an important reforming measure to be on the statute book as soon as possible.

Question put and agreed to.

Clause 1

Key definitions

Mr Reed: I beg to move amendment 2, in 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

(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.'

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.

The Chair: With this it will be convenient to discuss the following:

Amendment 3, in 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.'

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).

Amendment 4, in 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.'

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.

Amendment 6, in 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;

"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.'

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.

New clause 7—*Interpretation*—

'In this Act—

"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;

"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.'

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

Mr Reed: I thank the Minister for her earlier comments. It has been a great pleasure to work with her and her team in such a constructive manner. I said in the Chamber that we would pursue the Bill in a constructive, co-operative and cross-party manner, and that is what all Members have tried to do so far. I suspect that we will not detain the Committee for too long this morning, such is the level of consensus on the amendments, so perhaps I should get on with it without any further ado.

Clause 1 sets out some of the important terms used throughout the Bill. The amendments are minor and aim to ensure that those terms are clearly defined. Amendment 2 strengthens the definition of "mental health unit" to make clear that any such unit may form part of a hospital. Amendment 3 ensures that "treatment provided" is read in accordance with the National Health Service Act 2006. Amendment 4 defines what the Bill means by "patient", which is someone in a mental health unit who is there to be treated or assessed for mental ill health. Amendment 6 clarifies the definition of "use of force", using more straightforward language, and it includes "isolation" as part of that definition. New clause 7 compiles and explains various other definitions used throughout the Bill.

Jackie Doyle-Price: I confirm that the Government entirely support these amendments, which make the language in the Bill consistent with the 2015 code of practice under the Mental Health Act 1983, and with broader guidance. That makes for a much tidier way of achieving the objectives of the Bill.

Amendment 2 agreed to.

Amendments made: 3, in 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.'

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).

Amendment 4, in 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.'—*(Mr Reed.)*

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 Reed: I beg to move amendment 5, in clause 1, page 1, line 15, leave out subsection (6)

This amendment is consequential on Amendment 7.

The Chair: With this it will be convenient to discuss the following:

Amendment 7, in 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.'

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.

Amendment 11, in clause 3, page 2, line 38, leave out "registered manager" and insert "responsible person"

This amendment is consequential on Amendment 7.

Amendment 60, in clause 7, page 4, line 38, leave out "registered manager" and insert "responsible person"

This amendment is consequential on Amendment 7.

Mr Reed: The clause establishes a named accountable individual in a mental health unit who will be responsible for a reduction in the use of force. It seeks to create established, clearer lines of accountability for the existence of appropriate policy, and for when things go wrong, so that it will be possible to find somebody who can explain exactly what circumstances might have led to any problems or failings with the use of force.

[Mr Reed]

Amendment 7 replaces the phrase "registered manager" with "responsible person". The change in language avoids confusion with existing Care Quality Commission regulations that use the phrase "registered manager", but the intention remains the same. By introducing the legal concept of a responsible person for mental health units, the Bill increases accountability and leadership. Ultimately, the responsible person will be accountable for the requirement that the Bill places on mental health units, so it is important properly to define them as a senior officer in the organisation. They will set the organisation-wide direction for a reduction in the use of force. The responsible person will be at board level, with more detail about who is appropriate set out in guidance by the Secretary of State under clause 6. Amendments 5, 11 and 60 are consequential on changes of the phrase "registered manager" to "responsible person".

Jackie Doyle-Price: The Government support the amendments. Perhaps one of the most important aspects of the Bill is that it enshrines accountability for ensuring that any institution fulfils its responsibilities. The buck needs to stop somewhere, and it is important that happens with someone at board level. The amendments are important for improving leadership, governance and accountability for the use of force. The amendments were drafted in line with the existing positive and proactive care guidance. It is also worth emphasising that this will not incur any additional burden on healthcare organisations; it will simply strengthen and enshrine accountability. On that basis, the Government are happy to approve the amendments.

Amendment 5 agreed to.

Amendment made: 6, in 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;

"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.'—*(Mr Reed.)*

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.

Clause 1, as amended, ordered to stand part of the Bill.

Clause 2

MENTAL HEALTH UNITS TO HAVE A REGISTERED MANAGER

Amendment made: 7, in 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.".—*(Mr Reed.)*

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.

Clause 2, as amended, ordered to stand part of the Bill.

Clause 3

POLICY ON USE OF FORCE

Mr Reed: I beg to move amendment 8, in 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.'.

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.

The Chair: With this it will be convenient to discuss the following:

Amendment 9, in 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.'.

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.

Amendment 10, in 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.'.

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

Amendment 12, in clause 3, page 2, line 38, leave out second "the" and insert "any".

This amendment is consequential on Amendment 13.

Amendment 13, in 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.'.

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.

Amendment 14, in clause 3, page 3, line 2, leave out "minimise and".

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.

Amendment 15, in 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'.

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

Amendment 16, in clause 3, page 3, line 3, leave out subsection (6).

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

Amendment 17, in clause 3, page 3, line 6, leave out subsection (7).

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

Mr Reed: This is a very important clause, because it establishes the requirement for mental health units to have in place a policy regarding the use of force in that unit. That requirement does not currently exist, so there is wide divergence and variation between procedures, practice and means for controlling and managing the use of force in different health units, which can be detrimental to the safety of patients.

A written policy will effectively govern the use of force within the units, and there is a real opportunity for NHS trusts to work with service users and their families to formalise and replicate the best of what many are already doing to reduce the use of force. The use of force varies enormously across NHS trusts. Some already have robust policies in place to minimise the use of force but others do not. The amendment will put an end to the regional disparity between trusts. Based on currently available figures, the variation can be as wide as between 5% and 50% of patients being subject to the use of force while attending mental health units for treatment.

Luciana Berger (Liverpool, Wavertree) (Lab/Co-op): I congratulate my hon. Friend on bringing forward the Bill, which is a fantastic achievement. The fact that he has used his private Member's Bill slot for this Bill is to be highly commended. My local mental health trust, Mersey Care, adopts the "no force first" approach, which is very important. I just wanted to shine a spotlight on the fact that some trusts adopt that approach. I welcome the fact that the Bill seeks to eradicate the differences in approach across the country.

Mr Reed: I thank my hon. Friend for her intervention. Mersey Care is well known to me and to many others in the room as a fine example of the best practice that we wish to replicate everywhere across the country, so that patients, wherever they are, can enjoy the very best levels of service, to which they ought to be entitled.

I will go through the amendments in the grouping. Collectively, they are intended to add greater clarity and consistency to the policies. Amendment 9 provides that, for relevant organisations that operate a number of health units, the responsible person needs to publish only one policy to cover all staff in all those units. Amendments 10 and 13 ensure that the policy is consulted on when it is first published and when changes are made. It is important that the responsible person considers and consults the views of current and previous service users to ensure that their experiences form part of improving policy and guidance into the future.

Amendment 14 requires the policy to include reducing the use of force, which is a key purpose of the Bill, and a key commitment that the use of force should only ever be used as a genuine last resort, as indeed it is in Mersey Care and other mental health trusts. We should be clear that this is only a start—we would like the use of force to be minimised and not just reduced—but this puts into legislation the Government's intention to reduce the use of force, and we will be holding them to that.

Amendment 16 places into statutory guidance a requirement on the responsible person to take all reasonable steps to ensure compliance with the policy, and makes a failure to have regard for the guidance a breach of the statutory duty.

Jackie Doyle-Price: The Government entirely support the need for every institution to which the Act will apply to make a policy on the use of force. Central to that is the concept of accountability; having a named person, as we have already discussed, plus a policy for an organisation to be held to account to, is clearly important to achieve that. The Government support these amendments and see them as important ingredients in reducing the use of force overall in mental health units. We will ensure that any guidance produced under this clause gives further detail about what policies should include. We expect that to look like what is already set out in positive and proactive care guidance. We expect it to say that responsible persons will have a duty to have regard to this guidance in the development of their organisation's policy, which will help ensure that each policy meets the same basic criteria as well as allowing for local flexibility.

I associate myself with the comments of the hon. Members for Liverpool, Wavertree and for Croydon North on Mersey Care, which offers a good example. The culture of transparency in itself generates sensible use of force, and only when appropriate. It is a truism for everybody in this room that we want to see minimal use of force. There are occasions when, for the safety of both patient and staff, it sometimes needs to be used, but the way to be sure that it is only used appropriately is to have that culture of accountability. Many organisations could learn from Mersey Care in that regard. We support these amendments.

Amendment 8 agreed to.

Amendments made: 9, in 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.'.

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.

Amendment 10, in 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.'

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

[Jackie Doyle-Price]

Amendment 11, in clause 3, page 2, line 38, leave out "registered manager" and insert "responsible person".

This amendment is consequential on Amendment 7.

Amendment 12, in clause 3, page 2, line 38, leave out second "the" and insert "any".

This amendment is consequential on Amendment 13.

Amendment 13, in 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.'

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.

Amendment 14, in clause 3, page 3, line 2, leave out "minimise and".

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.

Amendment 15, in 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".

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

Amendment 16, in clause 3, page 3, line 3, leave out subsection (6).

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

Amendment 17, in clause 3, page 3, line 6, leave out subsection (7).—*(Mr Reed.)*

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

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4

Information about use of force

Mr Reed: I beg to move amendment 84, in 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 any information published under this section—

(a) to each patient, and

(b) to any other person who is in the unit and to whom the responsible person considers it appropriate to provide the information in connection with the patient.

(1C) The information must be provided to the patient—

(a) if the patient is 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.'

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 admitted to the unit, and to any other person considered appropriate if in the unit.

The Chair: With this it will be convenient to discuss the following:

Amendment 19, in clause 4, page 3, line 24, leave out from "provided" to "in" in line 27.

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

Amendment 20, in clause 4, page 3, line 27, leave out "with regard to" and insert "having regard to".

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

Amendment 21, in clause 4, page 3, leave out line 28.

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.

Amendment 22, in clause 4, page 3, line 29, leave out "capacity" and insert "ability".

This amendment is a drafting change to avoid confusion with the terminology of the Mental Capacity Act 2005.

Amendment 23, in clause 4, page 3, line 30, leave out subsection (5).

This amendment is a drafting change linked to Amendment 22.

Amendment 24, in 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.'

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.

Amendment 85, in clause 4, page 3, line 31, at end insert—

'( ) The duty to provide information to a patient under subsection (1B) 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 another person under subsection (1B) does not apply if—

(a) the patient requests that the information is not provided to the person, or

(b) the responsible person considers that the provision of the information to the person would cause the patient distress.'

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 request that it is not provided to another person, and the information does not need to be provided if it would cause distress to the patient.

Mr Reed: The amendment deals with the requirement to provide patients with information about their rights. Many patients entering a mental health unit will be in a state of considerable distress. Many of them will be unaware of their rights regarding the use of force. Currently it is not universal practice that those patients are informed about what those rights are so that they can ensure that those rights are not infringed.

It is important that any patient entering a mental health unit is aware of what may or may not be done to them regarding the use of force, so that if people in the unit seek to do things to them that go beyond their rights, they are able to call it out and stop it. This applies not just to the individual concerned, but to their carers, family members or close relatives who might be there with them, who are often unfamiliar with mental health units and have equally high levels of concern. It is important that they, too, are aware of what their loved one's rights are.

9.45 am

As the amendments make clear, we are not being prescriptive in the Bill, but the intention is that the information will include detail about the unit's policy on the use of force, plus the complaints procedure. We would also like the patient to be provided with details of organisations from which they can get free and independent advice. Many of the advocacy organisations have pushed very hard to have these amendments and this clause in the Bill, and I am sure that they will be reassured to see them included.

The clause also requires the information to be given to someone with the patient if they are known to the responsible person and are at the unit. It is only right that families and carers are aware of what might happen to their loved ones while they are in the unit, and what rights they have so that they can ensure that those rights are properly exercised.

Amendment 84 sets out a duty to publish information for patients about their rights in relation to the use of force in a mental health unit. Before publishing the information, the responsible person must consult whoever they consider appropriate, including those connected with the patient. I expect that to include service users and their families, but there are situations in which it is possible that family members will not be in the unit.

Amendment 19 removes the requirement that the Secretary of State must prescribe the form of that information, as that will be set out in the guidance under clause 6. However, the information must be in an accessible format, having regard to the patient's ability to understand the information. Amendment 22 changes the terminology from "capacity" to "ability" so as to avoid confusion with the terminology in the Mental Capacity Act 2005. Amendment 21 removes the reference to the patient's communication needs, because this is already included in the need to have regard to the patient's ability to understand the information.

Finally, amendment 85 provides exceptions to the duties to provide information. It clarifies that the duty does not apply where a patient refuses to accept the information or requests that information not be provided to the nearest relative or carer. The duty will also not apply in cases where providing the information could cause distress to the patient. The amendment has raised some concerns about whether this would create a loophole in which patients are not told about their rights. I hope the Minister will reassure the Committee that this will not be the case, as it is certainly not the intention.

Jackie Doyle-Price: I said at the beginning of today's proceedings that I view the measures enshrined in the Bill as an important social reform. These amendments and this clause go to the heart of that, in the sense that it is all about empowering patients and enshrining their rights. That is very much the spirit in which we are embarking on the review of the Mental Health Act, so we completely support the clause and the amendments.

The amendments ensure that other appropriate people, such as patients' carers and relatives, will normally receive information about use of force, which is key for patients who do not always understand the information that is given to them, as the hon. Gentleman suggested. It is also important to understand that sometimes too much information can cause patients further distress at a difficult time. In those circumstances, a good relationship with relatives and carers is extremely important. That can be as much about empowering the patients as furnishing the individual with such information.

On the specific concern that amendment 85 might cause a loophole, I must emphasise that the exception is not about letting any unit off, but about recognising when it might be appropriate so that information will not cause further unintended distress and ensuring that patients' interests are protected. Different patients will require different approaches, and a one-size-fits-all approach does not count.

When the measure is set alongside the other provisions in the Bill, we are satisfied that we have the right balance between protecting the rights of patients and empowering them—and empowering their carers and relatives to look after them—while having appropriate safeguards to prevent further distress. I support the amendments.

Amendment 84 agreed to.

Amendments made: 19, in clause 4, page 3, line 24, leave out from "provided" to "in" in line 27.

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

Amendment 20, in clause 4, page 3, line 27, leave out "with regard to" and insert "having regard to".

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

Amendment 21, in clause 4, page 3, leave out line 28.

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.

Amendment 22, in clause 4, page 3, line 29, leave out "capacity" and insert "ability".

This amendment is a drafting change to avoid confusion with the terminology of the Mental Capacity Act 2005.

Amendment 23, in clause 4, page 3, line 30, leave out subsection (5).

This amendment is a drafting change linked to Amendment 22.

Amendment 24, in 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.

[Jackie Doyle-Price]

( ) 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.".

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.

Amendment 85, in clause 4, page 3, line 31, at end insert—

'( ) The duty to provide information to a patient under subsection (1B) 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 another person under subsection (1B) does not apply if—

(a) the patient requests that the information is not provided to the person, or

(b) the responsible person considers that the provision of the information to the person would cause the patient distress.'—*(Mr Reed.)*

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 request that it is not provided to another person, and the information does not need to be provided if it would cause distress to the patient.

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5

Training in appropriate use of force

Mr Reed: I beg to move amendment 86, in 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 provided 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.'.

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.

The Chair: With this it will be convenient to discuss amendment 87, in 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 become a member of staff.

(2A) Subsection (2) does not apply if the responsible person considers that any training provided to the person before this section came into force or before the person became a member of staff—

(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.

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

The amendment sets out when training under Clause 5 should be given to staff. A definition of "staff" is given in NC7.

Mr Reed: These amendments are to the clause relating to improving training for staff working in mental health units before they are able to use force of any description against patients. It is clearly better for patient safety that any staff administering force should be properly trained, but it is worth noting that it is also important for staff safety that they are properly trained before they engage in administering force to patients.

Helen Hayes (Dulwich and West Norwood) (Lab): I commend my hon. Friend for introducing the Bill. On the need for training, I want to flag my experience of young patients with autism being held in secure psychiatric units. In my experience, there is a lack of expertise and training across the board for staff treating young people with autism, so they fail to understand that much challenging behaviour arises from the intense levels of anxiety experienced by young people with autism. In such circumstances, the use of force further compounds that anxiety, and indeed traumatises those young people. I ask the Minister whether, when laying down guidance to accompany the Bill, specific regard will be given to the lack of training and understanding of autism within our mental health services?

Mr Reed: I am grateful to my hon. Friend for making that important point and I look forward to hearing the Minister's comment. That point has been made to me by many service users and advocacy groups, including Rethink Mental Illness, YoungMinds and others.

Many of the approaches outlined in the Bill ought to be applied more widely for people who experience mental ill health in many other circumstances. I hope that the Government's ongoing review into mental health will do that. I hope that some of the principles in the Bill will take us forward and allow that review, when it reports back, to make a bigger impact than it perhaps might have made otherwise.

Moving back to the principles of training in general, the Bill includes provisions on training to recognise the Equality Act 2010 and de-escalation techniques that reduce the need for force to be used in any circumstances. The amendment will also strengthen the requirement

for trauma-informed care. It is important to include in the Bill that staff are trained in the impact of further traumatising patients, whose mental ill health may have already been exacerbated by forms of trauma.

I am informed by Agenda that more than 50% of female patients in mental health units have experienced physical or sexual abuse by men, which in most cases contributes significantly to their mental ill health. After those experiences, being forcibly restrained—generally by groups of men—can further traumatise those women and make their mental health conditions even worse, so it is very important that staff are fully aware and trained in the risks of re-traumatising patients who have already been traumatised.

It is also important that training takes full account of the risks of unlawful discrimination regarding race. Dame Elish Angiolini's report last year into deaths and serious incidents in police custody found that:

"The stereotyping of young Black men as 'dangerous, violent and volatile' is a longstanding trope that is ingrained in the minds of many in our society."

We only have to look at pictures of the faces of people who have died in state custody, including in mental health custody, to see how severe the risk of unconscious bias in the system is. A much higher proportion of those faces will be of young black men than the proportion present in the population as a whole. In order to ensure that staff will not be acting out of prejudice against people who enter a publicly funded health service for treatment on equal terms with everyone else, it is important that staff are trained to be fully aware of the risks of unconscious bias and racism in that service.

Putting anti-discrimination training into legislation is a move towards ending such unlawful discrimination, as is the overall aim of the Bill, and towards exposing the use of force to much closer scrutiny by standardising data recording across the whole country, so that it is possible to compare performance in mental health units on the same basis in different parts of the country. That is not currently possible, and it is a loophole that was pointed to by Dame Elish Angiolini in her report. I am pleased that the Bill will close the loophole.

Crucially, staff must also be trained in the use of techniques to avoid or reduce the use of force—essentially de-escalation. That makes the situation safer for everyone involved. It is critical that anything that might trigger behaviours in a patient that could lead to their being restrained should be avoided, if at all possible, so that the use of force can be minimised.

Amendment 86 sets out a revised duty on the responsible person to ensure that training is provided for staff in mental health units. Amendment 87 sets out when training should be provided to staff. It should be provided as soon as the provision comes into force, and there should be refresher training at regular intervals. That will build the institutional knowledge needed to ensure that force will only ever be used as a genuine last resort.

Luciana Berger: My hon. Friend, and many other Members, will probably have seen the "Dispatches" programme last month, in which a temporary member of staff went to work in a privately owned but NHS-funded mental health unit. That undercover report revealed scenes that were difficult to watch. Part of the challenge was that the individual was not given any appropriate training when she was asked to care for some very unwell people in secure parts of the accommodation. I want to reinforce what my hon. Friend has been saying: the issue is critical for existing and new staff, and often there are too many temporary staff working in such units.

Mr Reed: My hon. Friend makes an important point, clearly and eloquently. There are no circumstances in which an untrained member of staff, whether full-time or not, should be able to use force—effectively violence—on a patient. If they have not been properly trained, that should be an absolute no.

Jackie Doyle-Price: The clause relates to ensuring that all members of staff are appropriately trained on when it is appropriate to use force. It is worth emphasising that it will make any institution or organisation safer for patients, but also for staff. It is important to prioritise and enhance training in de-escalation techniques. That will make for a safer environment for everyone, with less harm to patients, and will probably help to some extent with their continuing care and recovery. I totally endorse the clause, and the amendments, which will make it more effective. Clearly these measures are important for a Government whose approach to leadership in health involves prioritising patient safety.

We see the provisions as an opportunity to build on the positive and proactive care guidance. The amended clause will now go much further to address the points made by the hon. Members for Croydon North and for Liverpool, Wavertree. Only people working in a professional capacity would be able to use force on patients; any volunteers would not be able to do so. In that sense, it is a much stronger measure, because we are giving a clear view that the use of force is not something that volunteers should be involved in.

10 am

I recognise the points that were made earlier about the role of temporary staff; we should perhaps reflect on what happens in some organisations that rely heavily on temporary staff, and perhaps build that into the guidance on this clause. I am glad to see that the broader definition of staff includes senior staff as well as those on the frontline. It is important that, in building that culture of accountability for the use of force, we ensure that the senior leadership of organisations recognise that they are responsible for that. The Government are content to support these amendments.

The hon. Member for Dulwich and West Norwood raised an important point about young people with autism and appropriate care in a given context. Clearly, people with autism will react differently from people with other behavioural issues, and that would have to be taken on board in training. The same goes for women. The reality is that in any confrontational situation there is always the opportunity for discrimination where people have a weakness or are less empowered to look out for their own interests. We need to ensure that any guidance and training deals with that.

The issue of people with autism is close to my heart and something that I will reflect on. With regard to women, I can advise the hon. Member for Croydon North that I am working closely with Agenda, and through the women's mental health taskforce, to address exactly the points he makes about trauma-informed care.

Amendment 86 agreed to.

Amendment made: 87, in 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 become a member of staff.

(2A) Subsection (2) does not apply if the responsible person considers that any training provided to the person before this section came into force or before the person became a member of staff—

(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.

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

—(Mr Reed.)

The amendment sets out when training under Clause 5 should be given to staff. A definition of "staff" is given in NC7.

Clause 5, as amended, ordered to stand part of the Bill.

Clause 6

GUIDANCE ABOUT FUNCTIONS UNDER THIS ACT

Mr Reed: I beg to move amendment 28, in clause 6, page 4, line 2, leave out "Care Quality Commission" and insert "Secretary of State".

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

The Chair: With this it will be convenient to discuss the following:

Amendment 29, in clause 6, page 4, line 3, leave out "registered managers" and insert

"responsible persons and relevant health organisations".

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

Amendment 30, in clause 6, page 4, line 3, at end insert—

'(1A) In exercising functions under this Act, responsible persons and relevant health organisations must have regard to guidance published under this section.'

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

Amendment 31, in clause 6, page 4, line 3, at end insert—

'(1B) The Secretary of State must keep under review any guidance published under this section.'

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

Amendment 32, in clause 6, page 4, line 3, at end insert—

'(1C) Before publishing guidance under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.'

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

Amendment 33, in clause 6, page 4, line 4, leave out subsection (2).

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

Amendment 34, in clause 6, page 4, line 10, leave out subsection (3) and insert—

'(3A) 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.

(3B) 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.'

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.

New clause 3—*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.'

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.

Mr Reed: Rather than including too much prescriptive guidance in the Bill, we have decided that it is best dealt with through statutory guidance, so that it can always be kept up to date with the latest best practice or other information and can be changed more quickly than legislation. Clause 6 sets out the requirements for guidance to be issued to set out compliance with the various requirements of the Bill. Amendment 28 places a duty on the Secretary of State to produce that guidance. That is a more appropriate level at which to produce the guidance than the CQC, although the CQC will have an important role to play in monitoring and regulating compliance with the Bill. The guidance will be statutory, so a failure to have regard to it will be a breach of a statutory duty. The amendments provide me with the assurance that operators of mental health units will be fully aware of their duties and the requirements under the Act.

New clause 3 gives the responsible person the power to delegate their functions under the Bill to another employee of appropriate seniority, but it does not mean that the responsible person will no longer be accountable for that function. It is important that in every unit there is always a named individual who is responsible for compliance with the provisions of the Bill and accountable, should there be any failure to comply with the provisions.

Jackie Doyle-Price: I agree that it is more appropriate for the Secretary of State to produce the guidance under the clause. The guidance will provide mental health units and the healthcare organisations that operate them with a detailed explanation of the requirements of

the Bill. That will help to ensure that they understand the obligations they are under and, in turn, help them reduce the use of force so that it is only ever used as a last resort and carried out appropriately.

I want to clarify something I said earlier, in case I gave a slightly wrong impression when I referred to volunteers. We do not expect volunteers to use force and, accordingly, we do not expect them to be given training. There will not be an outright ban, but clearly the emphasis in the Bill means that only appropriately trained professional staff will be involved.

The duty to consult will ensure that there is input from a wide range of partners and stakeholders, so that the guidance is well received within the health service. On that basis, the Government are content to support the amendments. We are also content to support the new clause, which will allow a responsible person to delegate some of their functions to the right person within the organisation, but still retain overall accountability for compliance with the requirements of the Bill.

Amendment 28 agreed to.

Amendments made: 29, in clause 6, page 4, line 3, leave out "registered managers" and insert

"responsible persons and relevant health organisations"

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

Amendment 30, in clause 6, page 4, line 3, at end insert—

'(1A) In exercising functions under this Act, responsible persons and relevant health organisations must have regard to guidance published under this section.'

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

Amendment 31, in clause 6, page 4, line 3, at end insert—

'(1B) The Secretary of State must keep under review any guidance published under this section.'

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

Amendment 32, in clause 6, page 4, line 3, at end insert—

'(1C) Before publishing guidance under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.'

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

Amendment 33, in clause 6, page 4, line 4, leave out subsection (2)

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

Amendment 34, in clause 6, page 4, line 10, leave out subsection (3) and insert—

'(3A) 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.

(3B) 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.'

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 Reed.)

Clause 6, as amended, ordered to stand part of the Bill.

Clause 9

ANNUAL REPORT BY THE SECRETARY OF STATE

Mr Reed: I beg to move amendment 70, in 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

(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.'

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.

This clause is very important. When there has been a fatality in a mental health unit, a coroner investigates the circumstances and the causes of that death and produces a report. I sat in for part of the coroner's hearing following the death of Olaseni Lewis in Croydon. The coroner's findings in that case were very damning of failures that had occurred leading up to that young man's death, which were certainly avoidable, had lessons from previous coroners' inquiries been properly learned and applied.

The purpose of the amendment and the clause is to ensure that all findings from coroners' reports over a year are collated by the Secretary of State and published in an annual report, with the Secretary of State's conclusions on how the state is learning from any incidents that occurred during that year.

That is an important step towards transparency and a culture in which lessons are learned quickly and effectively. A striking element of the findings in coroners' reports over the years is how frequently the same recommendations are made again and again. If there was learning in the system and those lessons were being applied, that repetition would be far less likely to occur.

The proposal is to ensure that when those findings are made, they do not vanish into the ether; they must to properly understood and incorporated into the future development of best practice, to keep mental health

[Mr Reed]

patients safe. Amendment 70 would make the necessary provisions for the Secretary of State to carry out the publication of the reports.

Jackie Doyle-Price: Transparency is such an important ingredient in ensuring that we strengthen the rights of patients in mental health settings, and ensuring the accountability of organisations that are discharging their responsibilities at the behest of the state. That is why transparency is at the heart of the measures in the Bill.

Having read more than my fair share of coroners' reports since taking this job, I fully endorse the provisions in the clause and the amendment. It is important that the broader system learns lessons when things go wrong. If we learn lessons when things go wrong, the chances that they will not happen again are much stronger. It is very important that the healthcare system is able to learn lessons from any death of a patient in a mental health unit that results from the use of force.

Drawing together the lessons learnt from a variety of sources into one report will allow greater transparency and shine a light on the issues that need to be tackled by organisations, and it will ensure that the learning from these tragic events is not lost. For that reason, the Government support the amendment.

Amendment 70 agreed to.

Clause 9, as amended, ordered to stand part of the Bill.

Clause 10

Requiring information regarding the use of force

Question proposed, That the clause stand part of the Bill.

Mr Reed: This will be brief. I am asking the Committee to vote against clause 10, because the provisions that were originally included in it have now been placed in clause 7, where they have also been strengthened, so the clause is no longer required.

Question put and negatived.

Clause 10 accordingly disagreed to.

Clause 11

Duty to notify Secretary of State of deaths

Question proposed, That the clause stand part of the Bill.

Mr Reed: Similarly, I am asking the Committee to vote against clause 11, because it duplicates existing duties in regulations 16 and 17 of the Care Quality Commission (Registration) Regulations 2009, so it is no longer required.

Question put and negatived.

Clause 11 accordingly disagreed to.

The Chair: We have made very good progress this morning, but we can go no further with the line-by-line consideration until the House has passed a money resolution for the Bill. I invite Steve Reed to move the Adjournment motion.

Ordered, That further consideration be now adjourned. *—(Mr Reed.)*

10.12 am

Adjourned till Wednesday 18 April at half-past Nine o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

MENTAL HEALTH UNITS (USE OF FORCE) BILL

Second Sitting

Wednesday 18 April 2018

CONTENTS

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Sunday 22 April 2018

The Committee consisted of the following Members:

Chair: Ms Karen Buck

† Argar, Edward *(Charnwood)* (Con)
Berger, Luciana *(Liverpool, Wavertree)* (Lab/Co-op)
† Doyle-Price, Jackie *(Parliamentary Under-Secretary of State for Health)*
† Foster, Kevin *(Torbay)* (Con)
† Hayes, Helen *(Dulwich and West Norwood)* (Lab)
Lucas, Caroline *(Brighton, Pavilion)* (Green)
Mahmood, Shabana *(Birmingham, Ladywood)* (Lab)
† Pursglove, Tom *(Corby)* (Con)
† Quince, Will *(Colchester)* (Con)
† Reed, Mr Steve *(Croydon North)* (Lab/Co-op)
† Sherriff, Paula *(Dewsbury)* (Lab)
† Snell, Gareth *(Stoke-on-Trent Central)* (Lab/Co-op)
† Throup, Maggie *(Erewash)* (Con)
† Trevelyan, Mrs Anne-Marie *(Berwick-upon-Tweed)* (Con)
† Wood, Mike *(Dudley South)* (Con)
Wragg, Mr William *(Hazel Grove)* (Con)
Zeichner, Daniel *(Cambridge)* (Lab)

Colin Lee, *Committee Clerk*

† attended the Committee

Public Bill Committee

Wednesday 18 April 2018

[Ms Karen Buck *in the Chair*]

Mental Health Units (Use of Force) Bill

9.30 am

The Chair: Before we begin, can everybody have their electronic devices switched to silent, please?

As the Committee cannot consider the remaining clauses of the Bill until the House has agreed to a money resolution, I call Steve Reed, as the Member in charge of the Bill, to move that further consideration of the Bill be adjourned.

Mr Steve Reed (Croydon North) (Lab/Co-op): It is a pleasure to serve under your chairmanship this morning, Ms Buck, however briefly. I thank Members for coming—I wish we were going to spend more time together, but it seems we are not.

I will just make a few points before I formally move the Adjournment. This is the fifth successive week the Committee has been unable to complete its work, and that is excluding the two weeks of recess. The reason is that the Government have not yet laid a money resolution, so we are not allowed to consider the remaining clauses. I have raised this directly with the Opposition Whips, who have raised it with the Government Whips. I have raised it in a direct question to the Leader of the House in business questions, and I pursued it in a letter to the Leader of the House, from whom I had a very charming reply that does not shed any further light on why the delays may be happening.

After five weeks, I am starting to feel that this is a little disrespectful to members of the Committee and to the Bill's many supporters outside this House. I do not doubt for a moment the support of the Minister, or indeed the Government, who have consistently reiterated their support for the reform we are trying to get through, but it would be nice if the Government were able to let the Bill Committee get on with its work. With great respect, I would ask the Minister whether she has had any conversations with the Government Whips or Government business managers, what they may have said and when we might expect to have the money resolution.

The Parliamentary Under-Secretary of State for Health (Jackie Doyle-Price): I share the hon. Gentleman's impatience with the current state of affairs, not least because I really do believe that this is a very important reform, and the sooner we get it on the statute book, the better. However, as he alluded to, such matters are for the Government business managers. I am pleased that he has kept the pressure up at his end and raised this with the Leader of the House, and I know that those discussions are continuing.

I would remind the Committee that we have just had two weeks of recess and a very intense few days in terms of other business, which has perhaps dominated the business managers' thinking this week. However, I hear the hon. Gentleman's message completely, and I completely understand where he is coming from. Following this meeting, I will resume my conversations with the Government business managers so that we can make very fast progress.

Ordered, That further consideration be now adjourned.—*(Mr Reed.)*

9.33 am

Adjourned till Wednesday 25 April at half-past Nine o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

MENTAL HEALTH UNITS (USE OF FORCE) BILL

Third Sitting

Wednesday 25 April 2018

CONTENTS

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not later than

Sunday 29 April 2018

The Committee consisted of the following Members:

Chairs: Ms Karen Buck, †James Gray

Argar, Edward *(Charnwood)* (Con)
† Berger, Luciana *(Liverpool, Wavertree)* (Lab/Co-op)
† Doyle-Price, Jackie *(Parliamentary Under-Secretary of State for Health)*
† Foster, Kevin *(Torbay)* (Con)
† Hayes, Helen *(Dulwich and West Norwood)* (Lab)
Lucas, Caroline *(Brighton, Pavilion)* (Green)
Mahmood, Shabana *(Birmingham, Ladywood)* (Lab)
† Pursglove, Tom *(Corby)* (Con)
† Quince, Will *(Colchester)* (Con)
† Reed, Mr Steve *(Croydon North)* (Lab/Co-op)
† Sherriff, Paula *(Dewsbury)* (Lab)
Snell, Gareth *(Stoke-on-Trent Central)* (Lab/Co-op)
† Throup, Maggie *(Erewash)* (Con)
† Trevelyan, Mrs Anne-Marie *(Berwick-upon-Tweed)* (Con)
† Wood, Mike *(Dudley South)* (Con)
† Wragg, Mr William *(Hazel Grove)* (Con)
† Zeichner, Daniel *(Cambridge)* (Lab)

Colin Lee, *Committee Clerk*

† attended the Committee

Public Bill Committee

Wednesday 25 April 2018

[James Gray *in the Chair*]

Mental Health Units (Use of Force) Bill

9.30 am

The Chair: I welcome the Committee back to consideration of the Bill, and bring apologies from Ms Buck, who is unable to be here today. You will have to make do with the second division—namely, me. Last night, the House agreed a money resolution on the Bill, which is very good news. That enables us to resume the line-by-line consideration that was curtailed.

Clause 7

Recording of use of force

Mr Steve Reed (Croydon North) (Lab/Co-op): I beg to move amendment 94, in 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 in accordance with this section."

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

The Chair: With this it will be convenient to discuss the following:

Amendment 88, in 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.

(1C) Section 6(1B) to (3B) apply to guidance published under this section as they apply to guidance published under section 6."

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.

Amendment 37, in clause 7, page 4, line 16, leave out subsection (2).

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

Amendment 38, in clause 7, page 4, line 18, leave out lines 18 and 19 and insert

"The record must include the following information—".

This amendment is consequential on Amendment 37.

Amendment 39, in clause 7, page 4, line 19, at the end insert—

"( ) the reason for the use of force;".

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

Amendment 40, in clause 7, page 4, line 20, leave out "time" and insert "date".

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.

Amendment 41, in clause 7, page 4, line 21, leave out paragraph (b) and insert—

"(b) the type or types of force used on the patient;".

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.

Amendment 89, in clause 7, page 4, line 21, at end insert—

"() whether the type or types of force used on the patient form part of the patient's care plan;".

The amendment inserts a requirement for responsible persons to record whether the force used on a patient formed part of the patient's care plan.

Amendment 43, in clause 7, page 4, line 22, leave out "identity of the patient" and insert

"name of the patient on whom force was used".

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

Amendment 44, in clause 7, page 4, line 22, at end insert—

"( ) a description of how force was used;".

This amendment inserts a requirement for responsible persons to record how force was used. For example, if physical restraint was used, the responsible person would need to record what particular technique was used on the patient.

Amendment 45, in clause 7, page 4, line 22, at end insert—

"(ca) the patient's consistent identifier;".

This amendment inserts a requirement for responsible persons to record the patient's consistent identifier, which the patient's "NHS number".

Amendment 46, in clause 7, page 4, line 23, leave out "identity" and insert "name".

This amendment makes a drafting change to refer to "name" rather than "identity" in Clause 7(3)(d).

Amendment 90, in clause 7, page 4, line 23, leave out "those who restrained" and insert

"any member of staff who used force on".

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

Amendment 48, in 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".

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 force.

Amendment 49, in clause 7, page 4, line 26, leave out

"disorders or main mental disorder"

and insert "disorder (if known)".

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.

Amendment 50, in clause 7, page 4, line 27, after "patient" insert "(if known)".

This amendment clarifies that the responsible person only needs to record a patient's relevant characteristic if they are known.

Amendment 51, in clause 7, page 4, line 28, leave out "had" and insert "has".

This amendment is a drafting change so that Clause 7(3)(h) uses the present tense.

Amendment 52, in clause 7, page 4, line 28, leave out "autism" and insert "autistic spectrum disorders".

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

Amendment 53, in clause 7, page 4, line 29, leave out paragraph (i).

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.

Amendment 54, in clause 7, page 4, line 30, at end insert—

"( ) a description of the outcome of the use of force;".

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

Amendment 91, in clause 7, page 4, line 31, leave out paragraph (j) and insert—

"(j) whether the patient died or suffered any serious injury as a result of the use of force;".

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

Amendment 56, in clause 7, page 4, line 35, leave out "all" and insert "any".

This amendment makes a drafting change.

Amendment 57, in clause 7, page 4, line 35, leave out "restrain" and insert "use force on".

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

Amendment 92, in clause 7, page 4, line 35, at end insert—

"() whether a notification regarding the use of force was sent to the person or persons (if any) to be notified under the patient's care plan;".

This amendment requires a responsible person to record whether a notification regarding a use of force on the patient was sent in accordance with the patient's care plan.

Amendment 59, in clause 7, page 4, line 36, leave out paragraph (l).

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.

Amendment 61, in clause 7, page 4, line 38, leave out "an entry in".

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

Amendment 62, in clause 7, page 4, line 38, leave out "at least 10" and insert "3".

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

Amendment 64, in clause 7, page 4, line 39, leave out from "made" to end of line 42.

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

Amendment 65, in 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."

This amendment is linked to Amendment 45 and defines "patient's consistent identifier".

Amendment 95, in clause 7, page 4, line 42, at end insert—

"( ) This section does not permit the responsible person to do anything which, but for this section, would be inconsistent with—

(a) any provision made by or under the Data Protection Act 1998, or

(b) a common law duty of care or confidence."

This amendment clarifies that the responsible person's duty to keep a record of any use of force on a patient and to retain that information is subject to the Data Protection Act 1998 and the common law duties of care and confidence.

Amendment 66, in clause 7, page 5, line 3, leave out paragraph (c).

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

Amendment 67, in clause 7, page 5, line 6, leave out from "pregnant" to the end of line 7.

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

Amendment 68, in 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."

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.

Clause stand part.

Mr Reed: It is a pleasure to serve under your chairmanship, Mr Gray. I hope a few more of my colleagues will turn up before we get too far through this morning's business. It is a pleasure to see everybody here, and I hope that we will make a little more progress this morning than we did last week. I am sure we will, thanks to the money resolution that was laid yesterday evening—I thank the Minister for ensuring that that could go ahead.

Clause 7 creates a new duty to keep a record of any use of force on a patient in a mental health unit. Currently, it is not possible to find out how or when force is used, or to compare one hospital with another regarding the way, and extent to which, they use force. Requiring mental health units to collect and record data in the same way will ensure transparency in our mental health services, meaning that if force is used disproportionately against particular groups, such as black, Asian and minority ethnic patients or women, we will have a mechanism to expose it and, if necessary, to prevent it, and to ensure that the services operate equally for everybody.

Most of the amendments are minor changes to ensure that we are recording information consistently. They are based on information collected in a local incident report, and are in keeping with the data protection principles. They also ensure that the relevant characteristics of the patient, such as age, gender and ethnicity, are recorded in line with the Equality Act 2010, ensuring consistency across the Government system. Further detail about information to be recorded will be set out in guidance under clause 6.

Amendment 88, which the Government were keen to include and I was happy to table, means that the duty to record information will not apply in cases where the use of force is negligible. Statutory guidance will set out the meaning of "negligible", so it is important that that definition, provided by the Secretary of State, is right and defines the term very tightly. In some cases, the minor use of force, such as guiding a patient by the elbow, should clearly not need to be recorded, as that would create an unnecessary burden on professionals working in mental health units. However, I know that the Minister is aware of the need to avoid that becoming a loophole.

The guidance will be subject to consultation, and I know that advocacy groups, which have been providing so much support to us all as the Bill has progressed,

[Mr Reed]

have concerns that they want to raise. The consultation will allow them to do so formally, and I welcome that, because the Bill has so far proceeded on the basis of consensus. Indeed, that is the only way that it will succeed.

The Parliamentary Under-Secretary of State for Health (Jackie Doyle-Price): It is a pleasure to serve under your chairmanship this morning, Mr Gray. As the hon. Gentleman explained, the clause and amendments will impose a duty on a responsible person to keep a record of any use of force by staff who work in the unit. The aim behind all the measures is to bring greater transparency to the use of force. Through transparency, we can ensure accountability. What is not to like about that?

I am grateful to the hon. Gentleman and to the interest groups to which he referred for the dialogue we have had to get this right. The list of information required, as amended by this group of amendments, is welcomed by the Government. It provides clarity and consistency, with positive and proactive care guidance. We know that there are currently limitations, and we believe that this proposal will make a material improvement for all concerned—patients and institutions alike.

The hon. Gentleman referred to guidance. I am aware of some of the concerns that have been raised by some lobbyists. I would reiterate what he said: we have embarked on taking this Bill forward with him in the spirit of constructive dialogue, and we hope to bring everyone with us. When the Bill becomes an Act—touch wood—and it is then implemented through guidance, it is very much our intention to take the development of that guidance through in the same spirit. We will involve all interested parties in drafting that guidance.

Amendment 94 agreed to.

Amendments made: 88, in 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.

(1C) Section 6(1B) to (3B) apply to guidance published under this section as they apply to guidance published under section 6.".

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"(b) the type or types of force used on the patient;".

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"any member of staff who used force on".

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"anyone not employed by the registered manager"

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"( ) a description of the outcome of the use of force;".

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

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"(j) whether the patient died or suffered any serious injury as a result of the use of force;".

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This amendment makes a drafting change.

Amendment 57, in clause 7, page 4, line 35, leave out "restrain" and insert "use force on".

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This amendment is consequential on Amendment 7.

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

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

Amendment 65, in 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.".

This amendment is linked to Amendment 45 and defines "patient's consistent identifier".

Amendment 95, in clause 7, page 4, line 42, at end insert—

"( ) This section does not permit the responsible person to do anything which, but for this section, would be inconsistent with—

(a) any provision made by or under the Data Protection Act 1998, or

(b) a common law duty of care or confidence.".

This amendment clarifies that the responsible person's duty to keep a record of any use of force on a patient and to retain that information is subject to the Data Protection Act 1998 and the common law duties of care and confidence.

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

Amendment 67, in clause 7, page 5, line 6, leave out from "pregnant" to the end of line 7.

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

Amendment 68, in 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.".—*(Mr Reed.)*

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.

Clause 7, as amended, ordered to stand part of the Bill.

Clause 8

STATISTICS PREPARED BY MENTAL HEALTH UNITS

Mr Reed: I beg to move amendment 69, in 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).".

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.

The Chair: With this it will be convenient to discuss the following:

Amendment (a), at end insert—

"(1C) The Secretary of State must make an annual statement to Parliament, as soon as practicable following the publication of the statistics under subsection (1)."

Clause stand part.

Mr Reed: Clause 8 places a duty on the Secretary of State to ensure that statistics on the use of force against mental health patients are published annually. That will allow us to identify trends in the way, and against whom, force is being used, and whether its use is reducing as intended, or whether some groups, such as BAME patients or women patients, are experiencing disproportionate use of force, as appears to be the evidence from the existing inadequate statistics.

[Mr Reed]

The Secretary of State will be ultimately responsible for ensuring that NHS Digital publishes the statistics. Amendment 69 revises the list of information covered by the statistics to ensure that it covers the place, date and duration of the use of force; the types of force used on the patient; the relevant characteristics of the patient, such as age, ethnicity, gender or other demographic or similar characteristics; whether the patient has a learning disability or autistic spectrum disorder; and whether the patient died or suffered a serious injury as a result of the use of force.

My hon. Friend the Member for Liverpool, Wavertree—I am pleased to see that she has joined us—has tabled an amendment in this group, and I would be happy to give way to her so she can explain the reasons for that.

The Chair: Order. It is not a question of giving way. The hon. Member for Liverpool, Wavertree will be called afterwards.

Mr Reed: In which case, I will comment briefly. My hon. Friend raises a point that we discussed at an earlier stage. The Minister took the view that there was a better way to achieve these objectives, but I look forward to hearing my hon. Friend's comments before we take a decision.

Luciana Berger (Liverpool, Wavertree) (Lab/Co-op): I thank my hon. Friend for his representations. I apologise for being a few minutes late—I was at another event.

Amendment (a) is about accountability: it would ensure we have annual updates on progress. Ultimately, that is the motivation behind the amendment. Having annual statistics on the use of force under clause 8 would ultimately lead to a minimisation of, and reduction in, the use of force. That is why we are all here today, so that update is absolutely critical.

In the Committee's first sitting, clause 9 was amended to require the Secretary of State to publish a report relating to any reviews, and other reports about individual cases, particularly relating to deaths and serious injuries, but there is no requirement for the Secretary of State to publish a report relating to the annual stats on the use of force. Therefore, there is no opportunity for Parliament to scrutinise the progress towards the goal of reducing the use of force, which is the purpose of the Bill. That is the motivation behind the amendment.

Jackie Doyle-Price: This clause, which relates to the requirement for the Secretary of State to report on the use of force, goes to the heart of what we are trying to achieve with this Bill in terms of improving transparency. The amendments are the result of our discussions with the hon. Member for Croydon North and other interested parties, so they were reached in the spirit of consensus.

I am confident that the publication of statistics about the use of force in mental health units, building on the improved local data recording powers under clause 7, will significantly improve our national understanding of how force is used. The Government fully support the hon. Gentleman in his wish to see improved recording and reporting on the use of force. I am pleased that we agree that NHS Digital is the right organisation to collect and publish those important statistics.

I completely agree with the sentiments behind the amendment in the name of the hon. Member for Liverpool, Wavertree. It will often be appropriate for the Secretary of State to lay before Parliament a financial statement, an important report or a draft piece of guidance to facilitate parliamentary scrutiny. For example, the Mental Health Act 1983 requires the Secretary of State to lay a copy of any changes to permanent practice before Parliament. As the hon. Lady said earlier, in our discussions in a previous sitting we said we very much anticipate that the Secretary of State will lay an annual report on the use of force before Parliament. To make the report specifically about the statistics collected would introduce an aberration into how we treat NHS Digital statistics. We produce a wide range of health statistics each year, and to single out that subset would not be welcome. However, I expect that, in the course of making the annual report on the use of force, the publication of the statistics will provide a basis on which the Secretary of State will report.

I ask the hon. Lady not to press her amendment, on the basis that it is too prescriptive about the use of statistics. I hope she recognises that that is in no way an attempt to undermine transparency, which she and I want the Bill to secure. Once these figures are out in the public domain, there will be any number of ways in which all hon. Members can hold the Secretary of State to account, and experience tells me that the hon. Lady will always use them to hold us to account in relation to the use of these powers.

I hope that reassures the hon. Lady. For the reasons I set out, we are content to support the hon. Gentleman's amendment and the clause, but we oppose amendment (a).

The Chair: Does the hon. Lady wish to press the amendment?

Luciana Berger: On the basis of what the Minister has said, I am content not to press the amendment.

Amendment 69 agreed to.

Clause 8, as amended, ordered to stand part of the Bill.

9.45 am

Clause 12

INDEPENDENT INVESTIGATION OF DEATHS

Mr Reed: I beg to move amendment 1, in 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."

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

The Chair: With this it will be convenient to discuss the following:

Clause stand part.

New clause 1—*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.

(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.'"

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.

New clause 6—*Investigation of deaths or serious injuries.*—

"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 any guidance relating to the investigation of deaths or serious injuries that is 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."

This new clause imposes a duty for responsible persons to have regard to guidance that relates to the investigation of deaths or serious injuries when those occur in a mental health unit.

Mr Reed: Mr Gray, perhaps with your indulgence, this is an appropriate moment to acknowledge the presence of Seni Lewis's parents, Aji and Conrad Lewis, who are extremely welcome here this morning.

The principles in the clause are fundamental to the Bill and to correcting injustices that have affected not just the Lewis family but far too many other families. After Seni Lewis's death in such tragic and avoidable circumstances in 2010, his parents faced a seven-year battle to get an inquest opened, simply so that they could find out what had really happened to their child. The mental health services would also have had the opportunity to learn from those mistakes, to ensure that they were not repeated.

No grieving parent—indeed, no one—should ever have to face the ordeal of fighting for justice for so many years after the loss of a deeply loved relative. There is currently a glaring disparity between the way that deaths are investigated in mental health settings and in other forms of state detention. If a person dies in police custody, there is an automatic external investigation by an independent national body. If a person dies in a mental health setting, the trust or private provider investigates itself or appoints another trust or individual to do so. That means that reports end up being delayed or kept secret, or are not sufficiently robust. That is a denial of justice and a failure to learn the appropriate lessons as swiftly as necessary.

The system does not learn from mistakes, and it has lost public confidence, particularly among the BAME community. That means we end up with a series of isolated tragic incidents that keep happening time and again. We need a truly independent investigation system for non-natural deaths in mental health settings, just as we have in other forms of state custody.

I pay tribute at this point to the extraordinary work carried out by the campaigning charity INQUEST, which has exposed many failings, such as that that affected the Lewis family, shone a light on them and helped bring us to the position we are in today, making these recommendations in the Bill.

Amendment 1 would require that any person appointed to investigate deaths is completely independent of the NHS or of any private mental health service provider. It is an opportunity to ensure that there is fully independent scrutiny before any inquest begins. Crucially, that means that no family will have to fight for years for justice, in the way that the Lewis family had to.

I now turn to the serious incident framework, which is now in place but was not at the time of Seni's death. I agree that it is an improvement, but I still have concerns about certain aspects of the guidance and the investigations themselves. We have already discussed the need for the full independence of investigations, but we must also consider the independence of those who commission a level 3 investigation under the new framework.

My concern is that under the framework as it is drawn up, it is still possible for the NHS to avoid such an investigation because it regards it, perhaps wrongly, as an unnecessary burden. As a result, lessons will not be learned, the system will not be held to account and more patients will suffer injury or even death.

I respectfully invite the Minister, therefore, to comment on who takes the decision to commission a level 3 investigation under the new framework and whether it is possible for the NHS to avoid commissioning the right level of investigation so that the appropriate lessons are not learned and the system not held to account. Moreover, does the framework guarantee that a level 3 investigation will take place following the death of a patient from the use of force?

That is key, because it is the loophole through which the Lewis family fell following the death of their son. That failing led to them being denied justice and to the trauma of not only losing their child in such horrific circumstances but having to fight the state for seven years just to secure justice and to find out what had gone wrong to leave an otherwise healthy 23-year-old losing his life.

I hope that the Minister will be able to give a full assurance that families will not have to experience the same long delays under the new framework. For example, how soon following a death should it start, and how long should it take to be completed?

Finally, I am concerned about the quality of the investigations under the framework. The charity INQUEST and others have been absolutely clear for many years that too many investigations are inadequate because they are not fully independent of the organisation that is being investigated. We simply cannot allow that to continue. If the Minister will not support my amendments, I would very much appreciate hearing from her how she intends to address those very important concerns, which I know from conversations and previous debates she shares with me.

I now move on to new clause 1. Another barrier to justice for families is the lack of funding for legal advice and representation. Dame Elish Angiolini's report concluded last year that

[Mr Reed]

"families face an intrusive and complex and mechanism for securing funding",

because there

"is no legal aid for inquests other than in exceptional circumstances".

The Angiolini report recommended that legal aid should be awarded to families in the case of deaths in police custody. The Government have accepted that there is a need to look at that in the Lord Chancellor's ongoing review of the provision of legal aid. To me and many others, it makes little sense not to extend that to situations in a mental health unit. Restraint in police custody is not different from restraint in a mental health unit, which is the whole point of the Bill.

We need—and I believe that this is also the Government's intention—consistency in the way in which people with mental ill health are treated across the whole system. We cannot have differences between one form of state custody and another. We have already seen that lead to too many deaths, disproportionately of young black men. Here is an opportunity to correct that unfairness, to make the system more equal for everyone, regardless of their background.

New clause 1 will ensure that legal aid is available to family members in relation to an investigation of an unnatural death in a mental health unit, as described in clause 11. It is very important that we level the playing field. There is a serious imbalance when the state has access to high-quality legal advice but a family in highly traumatised circumstances does not. That is an injustice which my proposal will correct, although I look forward to hearing from the Minister whether there is an alternative means of achieving the same objectives, which I believe that she shares.

Luciana Berger: I rise briefly to support my hon. Friend's amendments, which are critical because, outside this place, organisations and families affected by the loss of a loved one in a mental health setting are looking to us to address this injustice. He said that there is an automatic independent investigation in some settings. If someone loses their life in prison, for example, the prisons and probation ombudsman carries out an independent investigation. It is absolutely critical that that happens if people are taking their lives or losing their lives in prison.

People in a mental health setting are at their most vulnerable, and I believe that one person taking their life is one person too many. Unfortunately, too many people in mental health settings in our country take their lives. We have a responsibility to them, their loved ones and their families to ensure that proper investigations take place so that real learning can occur. There are too many examples. We have heard about the suffering of the Lewis family—we are here today because of what they went through—who had to wait a long time to get justice and an understanding of what happened to their son.

There is also the experience of the family of Connor Sparrowhawk. Sara Ryan has been an incredible campaigner since her son's death in 2013. Despite her indomitable campaigning, strength and courage, it took five years for that family to get justice and to understand what happened to their son, who died in a bath in a mental health setting. Those are just two families; there are many others who do not have that strength. I totally understand why they might not: in the wake of the loss of a loved one, they might not have the wherewithal to pursue the relevant organisations, particularly if the family cannot match the legal and financial might at the organisations' disposal. We see time and time again that they can prolong proceedings, send lengthy letters and keep batting things away.

I anticipate that colleagues on both sides of the Committee will reflect on their experiences from their constituencies. Our constituents come to us because they face that wall and are unable to challenge the system. We have a responsibility if we are serious about adequately contending with this issue. I welcome the Government's support in helping us to get to where we have got so far. I see this measure as part of a bigger picture. Without it, we will be failing people. We must be serious about equality of mental health and parity of esteem in this country. In my view, this is a social justice issue: disproportionately, it is black men in mental health settings who are affected in this way.

People should automatically get an independent investigation. They should not have to fight for one or go through an incredibly drawn-out legal process. Some people manage to get investigations at the moment, but it should be automatic. That is why my hon. Friend's amendments are critical. Many organisations are concerned about this issue, including INQUEST, a charity that fights on behalf of many people in our country to ensure they get access to justice and an understanding of what happened. Often, it is about the unknown. People were not there at the time, and they really want to understand how their loved one came to take their life.

Without real movement on this issue, we will be doing an injustice to people up and down the country. I support my hon. Friend's amendments, and I hope the Government give them due consideration to ensure we adequately deliver for people in our country.

Jackie Doyle-Price: This clause and group of amendments go to the heart of the approach taken by the hon. Member for Croydon North to this Bill. Justice delayed is justice denied, and the incredible length of time that some investigations have taken is totally unacceptable. I welcome the fact that this Bill will build on measures the Government have already taken to address those unacceptable delays. We should challenge head-on the fact that that makes the whole system discriminatory.

The hon. Member for Liverpool, Wavertree alluded to black men, and the Prime Minister is particularly concerned about that. The hon. Lady also mentioned Connor Sparrowhawk. I think people with learning disabilities are massively discriminated against in our system. By ensuring more transparency, we are trying to improve the rights of everyone in the system and strengthen social justice.

10 am

Let me reassure all hon. Members that the Government are acutely aware of the importance of the independence of investigations into serious incidents. We have strengthened the powers of the Care Quality Commission

and the NHS, precisely because of those concerns. That is why we propose in the Bill to place the NHS serious incident framework on a statutory footing through our new clause to replace clause 12. We need to give the CQC more teeth, and I can advise the Committee that the CQC is taking its responsibilities in this regard extremely seriously.

Currently under the serious incident framework, an independent investigation must be commissioned and conducted independently of the parts of the system that are under investigation, including any directly involved commissioners. Given the complex nature of these incidents, it is important that the team carrying out the investigation has the right skills and experience. It is probable that those skills and experience will be held by people who have worked, or are still working, in the NHS. So, to tackle the point about the independence of the NHS, these people will have the expertise; the key point is that the governance ensures that they are entirely independent.

Mr Reed: If the investigations are being carried out by people in another part of the NHS who have sufficient understanding of the service they are investigating, is there not a risk, given the relatively small number of professionals working in the sector, that the investigation could be compromised by pre-existing relationships between the people being investigated and those charged with carrying out the investigation? Would that risk rendering the findings insufficiently robust?

Jackie Doyle-Price: Clearly, that is the risk that the hon. Gentleman is determined to settle here. We do take it very seriously, but I am satisfied that, through governance and external scrutiny by the CQC, we can ensure that that is not the case. It is important to have investigators who have that specialist knowledge to be able to undertake a full investigation.

I am confident that the governance of the serious incident framework will provide the right guidance to ensure that all individuals carrying out the investigations are suitably qualified and sufficiently independent. I hope that assures the hon. Gentleman. We will continue to address the matter with full external scrutiny so that we can genuinely ensure their independence.

Let me be completely clear: this is not just a process—not just a rubber-stamping exercise. We need proper independent investigation to ensure that there is accountability in the system and that, in future, families such as that of Seni Lewis, do not feel frustrated and lost and that the system is not responding to them—that is absolutely not the case. We must use this opportunity to ensure that that independent investigation is thorough and rigorous.

I turn now to the amendment on legal aid for investigations. Clearly, any family in this situation does need some independent support and advocacy. It is very difficult when there is no one person to whom a family can turn to get independent support at such a time. The Bill is not the place to resolve any issues around legal aid, but let me assure the hon. Gentleman about wider discussions that are taking place within Government.

The hon. Gentleman will be aware that the Ministry of Justice is committed to the ministerial board on deaths in custody, and I am one of the rotating co-chairs of that board. We are looking at an urgent review of the provision of legal aid for inquests, and the position is due to be published later this year as part of the Government's response to Dame Elish Angiolini's review of deaths and serious incidents in police custody. We will take up this matter as part of that. As the hon. Gentleman says, it is important that we consider deaths in mental health detention on the same basis as those in other methods of detention, such as prisons. That review will ensure consistency of support for families.

Mr Reed: Is the Minister saying that the Lord Chancellor's review will be expanded to encompass deaths in mental health custody in the same way that it is covering deaths in other forms of state custody?

Jackie Doyle-Price: Yes. It is very much being taken forward by that ministerial board, of which I am co-chair alongside Ministers from the Home Office and the Ministry of Justice, to achieve exactly that consistency. I hope that reassures the hon. Gentleman on that point. I will also be happy to support him if he wishes to make representations to the Ministry of Justice, which owns that work, although I am very much part of it.

Luciana Berger: Forgive me if I missed it, but would the Minister share the timelines with us? When do we anticipate that process from the Ministry of Justice concluding?

Jackie Doyle-Price: I will write to hon. Members about that to set it out clearly. I could give a flippant answer, but it might not be accurate, and I do not wish to mislead the Committee. I would say that the ministerial board is actively meeting and consulting with external stakeholders at this very moment. It is not going to be a long-grass project, but we will give hon. Members more clarity in due course.

On that basis, I ask the hon. Gentleman to withdraw the amendment. The Government propose that clause 12 be replaced by new clause 6, which sets out the method of investigating cause of death. New clause 6 requires that, when a patient dies or suffers a serious injury in a mental health unit, the responsible person would have regard to certain guidance that relates to the investigation of deaths or serious injuries, including the NHS serious incident framework and any relevant guidance from the CQC, NHS Improvement and NHS England. The new clause moves the process more consistently into the body of the health service and the framework for investigation.

I know the hon. Gentleman's objective is to prevent a recurrence of the experiences of the Lewis family, whose investigation got stuck for many years. We have drawn up the new clause on that basis. We want to avoid any confusion that introducing a completely new system might lead to. We want to avoid duplication, but establish independence, which we have already started to move forward on with the Healthcare Safety Investigation Branch.

The coroner already has a responsibility to investigate deaths of those detained under the Mental Health Act 1983 and any death that is unexpected or unnatural, which would include deaths that occurred during, or as a result of, the use of force. The NHS serious investigation framework sets out robust procedures for investigating and learning from an unexpected patient death, including an independent investigation when criteria are met.

[Jackie Doyle-Price]

To reassure the hon. Gentleman on timing, which I know is a big issue here, we would expect any investigation into a serious incident to be concluded within a year and certainly to commence within three to six months. There might sometimes be issues that elongate that investigation, but we will avoid any case just being stuck and left. Investigations will always be undertaken as soon as practicable.

I ask the hon. Gentleman to withdraw the amendment and not to press new clause 1. I ask the Committee to disagree to clause 12.

Mr Reed: I am grateful to the Minister for her comments and in particular for the new information and assurances that she has given. I am sure that will be widely welcomed. It is clear that we have the same objectives, but there are perhaps some small remaining disagreements over the best way to achieve those objectives.

I hope that the bottom line for both of us is that investigations of deaths need to be triggered automatically, they need to be fully independent, and families of the deceased need access to legal aid so that they are operating on a level playing field with the people who are being investigated for having caused the death. I understand that the Minister seeks to achieve that by a different route; it is important to give her the space she will need to be able to demonstrate to not just me but the many stakeholders and families outside this place that she has robust means of doing that.

While reserving the right to reintroduce amendments into the Bill at a later stage if necessary, at this stage, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: The question is that clause 12 stand part of the Bill.

Hon. Members: Aye.

The Chair: That is not quite correct. Perhaps I can clarify. The situation is that the Government have proposed new clause 6, which will be voted on later, to replace clause 12. I think I am right in saying that the Member promoting the Bill agrees with that. Therefore, if we wish clause 12 to be removed from the Bill, and replaced by new clause 6 eventually, the correct answer will be no, rather than aye.

Clause 12 disagreed to.

Clause 13

Police body cameras

Mr Reed: I beg to move amendment 93, in 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 who work in that unit, the officer must take a body camera if reasonably practicable.

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

(1B) Subsection (1A) does not apply if there are special circumstances at the time that justify not wearing the camera or keeping it operating.

(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."

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 particular circumstances justify not wearing or using a camera.

The Chair: With this it will be convenient to discuss the following:

Amendment 75, in clause 13, page 7, line 26, leave out subsection (3).

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

Amendment 96, in 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) a member of a police force maintained under section 2 of the Police Act 1996,

(b) a member of the metropolitan police force,

(c) a member of the City of London police force,

(d) a special constable appointed under section 27 of the Police Act 1996, or

(e) a member or special constable of the British Transport Police Force."

This amendment reproduces definitions from Clause 17, except for minor amendments to the definition of "body camera", and omitting community support officers and adding special constables in the definition of "police officer".

Clause stand part.

Mr Reed: I have only been here for five and a half years, Mr Gray, and I am afraid it takes an awful lot longer than that to get to understand the strange machinations of the House of Commons.

Clause 13 introduces a requirement for police officers who attend a mental health unit to wear an operational body camera. The roll-out of body cameras across the police, which I understand will be extended to all forces by autumn 2019, although the Minister will correct me if I am wrong, introduces an independent witness to police actions. Research I have seen shows that the use of cameras in these circumstances makes it up to 50% less likely that the police will use force at all. The number of complaints filed against police officers also reduces dramatically. We see from those statistics that transparency is good for patients, the public and the police. Practitioners also advise me that the presence of body-worn cameras on police officers can help to de-escalate a situation, by reassuring the patient that there will be a record of what is going on. The patient should, therefore, feel a greater level of security and protection than would otherwise be the case. We welcome that.

There was agreement on Second Reading about the need to get the provision right; we want maximum transparency without inadvertently preventing officers from attending an emergency if they are not equipped with a working body camera. Therefore, this clause, as

amended, would ensure that officers are not in breach of the law if they are unable to access a working camera in an emergency. That means that police officers will use body-worn video cameras in a mental health unit unless there is a strong operational reason not to do so.

Amendment 93 brings the effect of failing to wear or use a body camera into line with the contraventions in the police and criminal evidence codes. Amendments 75 and 96 set out definitions and guidance to be used in the clause. Police community support officers are not within the definition because they are not trained in the use of force and so would not be called to assist in the management of a patient. However, as special constables have all the powers of a constable, they are included within the definition.

10.15 am

Jackie Doyle-Price: I very much welcome the provisions in clause 13, as amended. When first mooted, the use of body-worn video by police officers met some resistance, but I have spoken to those who now use it, and they absolutely welcome it. The provision brings further transparency, which is in the interests of police officers and anyone they come into contact with, and I am convinced that it is a welcome part of the Bill.

Body-worn video has been shown to reduce the use of force, which lies at the heart of the Bill, and it is vital to take the opportunity to require police officers to use it, unless, as the hon. Gentleman said, there are good reasons not to. We would not want to interfere with the operational effectiveness of the police by insisting on cameras, but body-worn video would be good practice and should be encouraged as much as possible.

The amendment will ensure that recording is specific to the incident, and that the use of body-worn video is not disproportionate, so that the rights and interests of those at the unit—patients, staff and visitors—are protected. Recording will take place only when the officer is assisting staff in the care of a patient with mental health issues. I am pleased that some forces already have local agreements in place—again, it is in everybody's interest that this happens—and we anticipate that all forces across England and Wales will continue in that direction.

We will seek to implement this measure with guidance that sets out principles with examples of special circumstances, and it is right to ensure that professional bodies are involved in this work. Although the list may not be as exhaustive as some would like—it is impossible to set out every instance—every attempt will be made to ensure that it is as comprehensive and thorough as possible.

Luciana Berger: I am listening closely to the Minister, who is making important points about how this measure will work in practice, which I welcome. Does she think, as I do, that this provision will also work as a counter to what we increasingly see on undercover programmes, which is what happens when cameras are not there? Sometimes footage is taken by people who bravely go undercover. I am thinking, most recently, of the "Dispatches" reporter who went undercover in the Priory. In some settings, we saw the use of force on a patient, and how traumatic that was for the patient and for inexperienced staff. We are discussing the police and ensuring that they have cameras when they go into such settings, but does the Minister think that, in time, we should discuss the use of cameras in all mental health settings to protect patients?

Jackie Doyle-Price: The hon. Lady makes some excellent points, and in the run-up to the Bill, we discussed some of those wider issues. It is incredibly sad that undercover reporting has, on occasion, shown such bad abuse. The fact that there is a camera will affect people's behaviour in a positive way, although perhaps it is sad that we need to rely on that. We must, however, balance that with the need for privacy, and we can have further discussion on that. However, I see no reason why we would not have cameras in communal areas, for example. We will discuss the provisions in the Bill with organisations such as the College of Policing, and that will enable a discussion to take place with providers about where it is appropriate to have cameras. I am sure we will return to that issue.

Helen Hayes (Dulwich and West Norwood) (Lab): I rise briefly to support my hon. Friend the Member for Liverpool, Wavertree and the potential exploration of the use of cameras in secure mental health settings. I have worked on behalf of a constituent with autism who was detained at St Andrew's, which is a private mental health facility in Northampton, and I have got to know other families who had children in that facility who did not have an extensive capacity to communicate for themselves. Those families had grave concerns about the use of force and their children's treatment more widely, which manifested itself in aspects of their behaviour—they became withdrawn and fearful, and there were some physical signs as well. The families were unable to say, however, that detention had taken place, and there is a case to be made for the kind of transparency that the use of cameras would bring, perhaps in rooms where detention and the use of force are more likely to take place—

The Chair: Order. Interventions really should be brief.

Jackie Doyle-Price: The hon. Member for Dulwich and West Norwood makes excellent points for us to consider further. The Bill, which is specifically about detention and use of force in detention, is perhaps not quite the right space for that, but her points are well made. I am particularly concerned about people with learning disabilities, who are often treated as the Cinderella in the system. It is incumbent on all of us to ensure that we do our best to protect their rights, as well as those of other groups. On that basis, the Government are content to support the amendments tabled by the hon. Member for Croydon North.

Amendment 93 agreed to.

Amendments made: 75, in clause 13, page 7, line 26, leave out subsection (3).

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

Amendment 96, in 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;

[Jackie Doyle-Price]

'police officer' means—

(a) a member of a police force maintained under section 2 of the Police Act 1996,

(b) a member of the metropolitan police force,

(c) a member of the City of London police force,

(d) a special constable appointed under section 27 of the Police Act 1996, or

(e) a member or special constable of the British Transport Police Force."—*(Mr Reed.)*

This amendment reproduces definitions from Clause 17, except for minor amendments to the definition of "body camera", and omitting community support officers and adding special constables in the definition of "police officer".

Clause 13, as amended, ordered to stand part of the Bill.

Clause 14

RETENTION AND DESTRUCTION OF VIDEO RECORDINGS

Question proposed, That the clause stand part of the Bill.

Mr Reed: May I take clauses 14 to 17 together, Mr Gray?

The Chair: Yes, you may take them together but we will decide on them separately.

Mr Reed: Thank you for your clarification, Mr Gray. Amendment 17 to clause 14—

The Chair: Order. That amendment has not been selected. The position is that no amendments have been selected for clauses 14 to 17, so the only debates possible are whether those clauses stand part of the Bill. If either side wishes a clause not to stand part, we can debate it and divide on it, but the view may be taken that we have debated the issues sufficiently elsewhere, so we can move on to clause 18, amendments to which have been selected. However, the Government or the Member in charge of the Bill are perfectly entitled, if they wish, to have a debate on clauses 14 to 17, but that will be on whether they stand part of the Bill.

Mr Reed: I am grateful for your further clarification, Mr Gray. I believe that the understanding was that those clauses should not stand part of the Bill, as the provisions in them have already been addressed elsewhere in the Bill or have become unnecessary because of provisions in other legislation. For those reasons, I am proposing that the clause not stand part of the Bill.

Jackie Doyle-Price: As the hon. Gentleman has just outlined, many of the provisions in clauses 14 to 17 are covered by other legislation, such as the Data Protection Act, and oversight by the Information Commissioner's Office. There are obviously powers of enforcement accruing in that way. In the spirit of avoiding duplication, we are content that the clauses be removed from the Bill.

The Chair: For the sake of clarity, when I say that the question is that the clause should stand part of the Bill, the answer if you wish them to be removed from the Bill is no.

Question put and negatived.

Clause 14 accordingly disagreed to.

Clauses 15 to 17 disagreed to.

Clause 18

REGULATIONS

Mr Reed: I beg to move amendment 81, in clause 18, page 9, line 25, at end insert

"(other than regulations made under section 20(3))".

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

The Chair: With this it will be convenient to discuss clause stand part.

Mr Reed: I hope to sow a little less confusion in this particular clause.

The Chair: No confusion at all—very straightforward.

Mr Reed: You are very kind, Mr Gray. Clause 18 sets out how regulations under this Bill are to be made. Amendment 81 ensures that commencement regulations under clause 20 are not subject to any parliamentary procedure, which is the convention. Parliament will have approved the principle of the provisions of the Bill by enacting them. Any other regulations made under the Bill will be subject to the negative procedure. I hope that makes more sense to other hon. Members than it necessarily does to me, and that the Committee accepts the clause as amended.

Jackie Doyle-Price: This clause sets out that regulations under this Bill should be made by statutory instrument; the only amendment is to ensure that regulations under clause 20 are not subject to further parliamentary procedures. Those are to undertake the commencement and any transitional provisions required to implement the Bill.

Amendment 81 agreed to.

Clause 18, as amended, ordered to stand part of the Bill.

Clause 19 ordered to stand part of the Bill.

Clause 20

COMMENCEMENT, EXTENT AND SHORT TITLE

Mr Reed: I beg to move amendment 83, in 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."

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

The Chair: With this it will be convenient to discuss the following:

Clause stand part.

New clause 4—*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."

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

Mr Reed: Clause 20 sets out when the Bill's provisions are to be brought into force and amendment 83 allows the requirements of the Bill to be brought into force as and when it is feasible to do so and by regulations, rather than within six months as originally drafted.

New clause 4 gives the Secretary of State the power to make transitional provisions for the implementation of the Bill, which, where appropriate, will allow flexibility in its application as it comes into force. I know that the Minister is committed to the Bill; we have strengthened it by working consensually cross-party and with the many interested parties outside the House.

Jackie Doyle-Price: I reassure the Committee that I want to ensure that the requirements of the Bill are commenced as soon as they are ready. We are certainly not in the business of delay, but we recognise that some aspects of the Bill will be quicker to implement than others. We will be able to commence some things very quickly, but if we take clauses 7 and 8, for example, getting the right systems in place for local recording and publication of statistics may take a little longer than some other aspects of the Bill. Commencing by regulations allows the Government to bring the new requirements into force as and when that is feasible, having regard to those parts of the system that move at a different pace.

The transitional provision will allow the Secretary of State to make transitional provisions in connection with the coming-into-force provisions of the Bill. That is important particularly where the Bill's requirements represent a substantial change in practice. For example, if training under clause 5 is carried out before the responsible person is appointed, the transitional provision could state that the training is deemed to have been provided by the responsible person. That will also allow us to give the NHS and other providers some time to prepare for their duties under the Bill. The Government accept the amendment to clause 20 and the new transitional provision.

Amendment 83 agreed to.

Clause 20, as amended, ordered to stand part of the Bill.

10.30 am

New Clause 3

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."—*(Mr Reed.)*

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.

Brought up, and read the First and Second time, and added to the Bill.

New Clause 4

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."—*(Mr Reed.)*

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

Brought up, and read the First and Second time, and added to the Bill.

New Clause 7

INTERPRETATION

"In this Act—

'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;

'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."—*(Mr Reed.)*

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

Brought up, and read the First and Second time, and added to the Bill.

New Clause 6

INVESTIGATION OF DEATHS OR SERIOUS INJURIES

"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 any guidance relating to the investigation of deaths or serious injuries that is 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."—*(Jackie Doyle-Price.)*

This new clause imposes a duty for responsible persons to have regard to guidance that relates to the investigation of deaths or serious injuries when those occur in a mental health unit.

Brought up, and read the First and Second time, and added to the Bill.

Question proposed, That the Chair do report the Bill, as amended, to the House.

Mr Reed: On a point of order, Mr Gray. Thank you very much for guiding us through the sometimes confusing proceedings so skilfully this morning. I thank hon. Members for participating this morning and on the previous occasion on which we met. I thank hon. Members and the officials who have worked on the Bill for their hard work in getting us this far.

I thank Seni Lewis's parents, Aji and Conrad Lewis, for joining us this morning. When I have spoken to them about what happened to their son and the need for this Bill, they have reiterated to me their very deep desire for Seni's death not to have been in vain. I believe our work on this Bill creates a legacy for Seni Lewis, which is that no one else suffering or living with mental ill health need suffer in the way Seni Lewis did.

Jackie Doyle-Price: On a point of order, Mr Gray. I associate myself with the hon. Gentleman's remarks. I thank you and the Clerks for guiding us safely and promptly through the procedure. It has been a very good use of our time and resources. I also thank my officials, who have worked very quickly to pull this Bill together in a way that delivers the hon. Gentleman's objectives in a way that works. It can be challenging when these things come through in a private Member's Bill.

I pay tribute to the hon. Gentleman, who has brought forward a very important reform to how we treat people detained under the Mental Health Act. From my perspective as Minister, we have reached the position whereby, if we are going to achieve parity of esteem, there needs to be a complete reconfiguration of the law as it applies to mental health, to strengthen people's rights. This very important reform will achieve exactly that.

I also associate myself with the tribute the hon. Gentleman paid to Seni Lewis's parents. They have taken an incredible tragedy and channelled it into doing something positive. They will achieve a real legacy that strengthens the rights of people who find themselves detained. I pay full tribute to them for doing so.

My final thanks go to all hon. Members who have turned up—quite often to do nothing, because we did not have a money resolution to progress the Bill, but I am very grateful to them for doing so.

Luciana Berger: On a point of order, Mr Gray. I put on the record my thanks to my hon. Friend the Member for Croydon North for promoting this important Bill.

People outside this place may not know how the private Member's Bill process works. It starts with a ballot, in which Members put their names in a book. They might get drawn out of the hat and be at the top of the list—I have been taking part for the past eight years and my name certainly has not been pulled out of the hat—but they then have to make the difficult decision of what to use their private Member's Bill slot for. It is difficult: I have seen the swathes of emails that Members receive, not only from constituents but from countless campaigning organisations across the country that want Members to champion their proposed legislation or campaign.

Not only has my hon. Friend chosen a critical issue—I am so glad that he did so—but he has done so in a way that ensures that the Bill will progress and that, after its passage concludes, we will actually see some action. We cannot say that for every private Member's Bill. There are others for which we come together on a Friday and vote for or against it and they do not progress. My hon. Friend has chosen something that ensures that he will actually effect change in this country—the chances for which, particularly for Opposition MPs, are in short supply.

I put on the record my thanks to my hon. Friend for his courage and dedication and for the work he has done with countless organisations outside this place. He has introduced something so practical that has gained Government support, and collectively we have ensured that we can actually make a difference for what I believe will be thousands of people in our country.

The Chair: Those were all entirely bogus points of order, but they are none the less very welcome. They were entirely appropriate. I will pass colleagues' thanks to my co-Chair, Ms Buck.

Question put and agreed to.

Bill, as amended, accordingly to be reported.

10.36 am

Committee rose.