

Written evidence submitted by the Royal College of Speech and Language Therapists (MHB0031)

1. Summary

- The Royal College of Speech and Language Therapists (RCSLT) welcome this opportunity to present evidence.
 - Understanding and being understood is central to all four of the key guiding principles of the mental health reforms. Choice can only be achieved if the person can make their needs known and understand the issues. A person-centred mental health service requires effective communication.
 - Communication needs are a barrier which prevent people from accessing mental health services. They disadvantage people and reduce their sense of control over their life.
 - Every part of the mental health pathway requires language and communication, from assessment, to treatment, to language-based psychological therapies, all of which require significant understanding and expressive language skills.
 - The Government confirms that the mental health workforce will need to be expanded. The expansion of the mental health workforce must include speech and language therapists.
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2. How far does the draft Bill deliver on the principles set out in the 2018 Independent Review? Does it reflect developments since?

- The Bill lacks ambition in how people could, and should, be better supported.
- The final report from the Independent Review was clear that changes are needed to improve support to people accessing mental health services and their families:
 - Many families said that staff made a “lack of effort to communicate”. They said that *“professionals do not always take the time to understand how best to communicate with a person with a learning disability, autism or both to try and understand what is causing their distress or have the necessary skills to do so”*.
 - It was also clear that action is needed to make sure that people are involved in decisions about their own care. Staff need *“support to find out a person’s level of decision-making ability (e.g. communication, education), and to shift their decision-making inability to decision-making ability”*. It also highlighted *“better strategies to ensure the effective communication of important information, greater involvement of patients in decision making, and increased attention to improving staff-patient relationships”*.
 - It also highlighted that reasonable adjustments should be based on the patient’s communication abilities and preferences *“Reasonable adjustments should be made to enable people to participate fully in their care, including in relation to communication abilities”*.
- Understanding and being understood is critical, and central, to all four of the key guiding principles. It is therefore a missed opportunity not to place supporting people’s understanding and communication at the heart of the new reforms. Without the means of a voice people are unable to express their views and wishes and are unable to make decisions during care planning. This results in ineffective

or inappropriate treatment options. In mental health services where communication is misunderstood, the use of restrictive practice increases.

- The Mental Health Act and how these core principles apply must take account of speech, language and communication and eating, drinking and swallowing needs.
 - A high proportion of people presented to mental health services may have speech, language, communication and swallowing difficulties:
 - 80% of adults with mental health disorders have impairment in language (Walsh et al, 2007).
 - 81% of children with emotional and behavioural disorders have significant unidentified language deficits (Hollo et al, 2014).
 - Over 30% of adults with mental health disorders have an impairment in swallowing (Walsh et al, 2007).
 - However, the links between mental health and communication and swallowing are frequently unrecognised and communication needs remain undiagnosed and hidden.
 - Even if someone has no existing speech, language and communication difficulties, a chronic or acute mental health episode can impair someone's communication.
 - One in four people will experience a mental health problem of some kind each year in England (McManus et al, 2009: Adult psychiatric morbidity in England). Specific mental health problems have communication and eating, drinking and swallowing difficulties commonly associated with them, for example, schizophrenia, psychosis, dementia and depression (Bryan, 2021: Adults in the Prison Population).
 - When communication difficulties are not identified, it can have many negative outcomes:
 - It can lead to an incorrect diagnosis
 - Many referrals and assessments, including risk assessments for capacity and consent, will return inaccurate results
 - Interventions that are verbally delivered are inaccessible.
 - If people do not have a voice and are excluded from decision making there is a risk of deepening health inequalities.
 - Since the publication of the report from the Independent Review, the DHSC have recognised the role of speech and language therapists in mental health. In its submission to the Migration Advisory Committee's Full Review of the Shortage Occupation List, the Department of Health and Social Care argued that the speech and language therapy profession is facing a range of pressures including increasing demand in mental health. We would like to see this better recognised in the draft Bill going forward.
 - Is the Government right not to include the principles in the draft Bill?
 - In the 2021 consultation, the RCSLT recommended that the principles should be included in the Act, the Code of Practice and in the person specification for all roles in mental health services. These principles are absent from the face of the draft Bill. We hope that the Government will commit to add these to the Regulations and the Code of Practice.
 - The RCSLT would like further information on how these principles will guide a better mental health system, including workforce recruitment and training, and student recruitment.
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- 3. How far will the draft Bill allow patients to have a greater say in their care, with access to appropriate support and avenues for appeal?
 - The Bill is inadequate in its plans to support people to understand and be understood:
 - There is no mention of speech, language or communication needs
 - There are no mechanisms for supporting communication or patient voice
 - There is no mention of speech and language therapy for people with complex or challenging communication
 - There is no mention of reasonable adjustments
 - The draft Bill is a missed opportunity to put communication at the heart of the reforms and improve quality of care and patient experience. For the reformed Bill to be successful, there needs to be far better recognition of speech, language and communication needs. Without these changes people will continue to face barriers in accessing care and poorer outcomes of care.
 - People must be able to express their views and wishes if they want to have a say over their care and treatment. Establishing people's communication preferences and making reasonable adjustments is critical in ensuring that people are equal partners in decisions about their own care and support.
 - To involve people in key decisions about their care, people need to be able to process large amounts of complex information and to be able to communicate effectively around complex topics. People need to be able to tell their story and take part in individual and group interventions. If a person has no voice, then they have no control and cannot express their wishes and preferences.
 - Without communication support every other service, intervention and support becomes inaccessible. Without communication support a person cannot access psychiatry, will struggle to understand how to take their medications, will be unable to access talking based therapies and are more vulnerable to restrictive practices and seclusion.
 - The draft mental health Bill says to "*consider the patient's past and present wishes, feelings, beliefs and values so far as it is reasonable to regard them as relevant and so far as they are reasonably ascertainable*". The RCSLT is very concerned that this will disproportionately affect people with communication needs, who may be deemed, by others, too difficult to engage with. The Bill offers no safeguards to protect people with communication needs.
 - Where a person has communication needs, steps must be taken to ensure that are truly part of decision making. Access to speech and language therapy would support fair and equitable participation
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- 4. To what extent is the Government right in the way it has approached people taking advance decisions about their care?

Advance Choice document

- The RCSLT was pleased that in the Government's response to the White Paper they specified that all people would have an "*Advance Choice document*". It said that this would have a standard format and approach and contain information including

“Communication Preferences” and “Other health needs and/or reasonable adjustments that might be required for individuals with a disability or learning disability and for autistic people.”

- The RCSLT is therefore very disappointed that this has been omitted from the draft Bill. This is confusing for children, adults and their families affected. Without legislative footing, patient’s wishes could be too easily overruled. At particular risk are people with communication needs who may be judged difficult to engage with as their communication needs are not supported.
- The RCSLT welcome further detail on how responsible clinicians will take every effort to listen to, and follow, the person’s wishes.

Statutory Care and Treatment Plan

- The White Paper currently specified that people would have greater choice and autonomy in their care and treatment.
- The draft Bill mentions taking *“reasonably practicable” steps to “assist” or “encourage”* participation in the decision-making process. These provisions do not go far enough and are open to unnecessary interpretation. There is no mention of supporting the person’s understanding and communication during these meetings. The RCSLT recommend that this provision is strengthened to add weight to the persons wishes.
- The draft Bill also very worryingly says not to consult if *“would involve unreasonable delay”*. This would disproportionately affect people with communication needs who may be deemed too difficult to engage with. With appropriate communication support a person is able to participate in decisions about their care and exercise choice. The RCSLT recommend that this is removed or reworded in the spirit of giving the person a voice, choice and more control over their care and treatment.

5. What are your views on the changes to how the Act applies to autistic people and those with learning disabilities?

- The RCSLT is concerned that the reforms might not go far enough to offer protection to autistic people and people with learning disability.
- The RCSLT is pleased to see people with a learning disability or autistic people will be excluded from the criteria for detention. We do, however, have concerns that people with complex and challenging communication or people with *“serious behaviour consequences”* may be misunderstood, and not appropriately supported, and inappropriately admitted.
- There do not appear to be any protections for autistic people and people with learning disability who are presenting with *“behavioural consequences”* or are experiencing placement breakdown as a result of poor support in the community
- There are increasing numbers of people with either suspected or diagnosed autism and learning disability on mental health wards. Traditionally staffed mental health wards do not have the skill or confidence to manage the extremes of behaviour and challenging communication of these individuals. This is causing significant pressure on inpatient mental health units, on staff and on the person.
- Services fail to treat people with compassion and dignity. Close to 150 people, predominantly autistic people, live in long term segregation across England. Such extreme restricted situations cause significant harm to the person.

- The evidence is clear, mental health staff do not have the skills to respond and manage this population. Current staffing models are not working. This needs a suggests a change in staffing model and better training, especially around communication.

Communication

- Understanding communication must be at the heart of mental health wards working with people with learning disability or autistic people. This would promote a more therapeutic environment where people are listened to, and their needs are met.
- In the Government response to the white paper "*specific communication issues were raised*" and it was highlighted that "*people felt excluded*". The Bill, however, has a lack of information about how specific communication issues will be considered and supported and how reasonable adjustments will be embedded.
- Good communication underpins high quality and well-coordinated care, assessment, and treatment. Understanding how someone communicates, identifying how they express themselves, and how they can be helped, is the critical role of speech and language therapists.

Community

- The RCSLT agree that all autistic people should be able to access care and treatment in the community to minimise hospital admission. At present learning disability community teams are under significant strain and there is a lack of services to autistic adults.
- Community and hospital resources need to be matched to ensure equity of support and equity of access. There needs to be a greater emphasis on how to prevent admissions through community investment.
- The RCSLT welcome the duty on local commissioners. At present services are facing increasing level of demand. Sustained investment in high quality services is needed to meet rising levels of demand and complexity of need. We would like to see investment in the full multidisciplinary team and a duty to report on this.
- The RCSLT recommend that it would be useful to have a clearer distinction between assessment and treatment criteria for both autistic people and people with a learning disability.

6. What do you think the impact of the proposals will be on the workforce within community mental health services and multidisciplinary working practices both in inpatient and community services?

Workforce

- Speech and language therapists report that following the pandemic, people of all ages are presenting with more complex needs and in far greater numbers with co-occurring mental health difficulties.
- Many mental health services are experiencing an increase in the complexity of people they work with. Mental health teams are frequently supporting individuals with suspected or diagnosed learning disability and / or autism, and with complex long-term physical health needs. Traditional staffed mental health teams do not have these skills and knowledge and are feeling the impact of this. The proposals suggest a change is needed in staffing model.

- Speech and language therapists have broad training and are uniquely placed to bring an extensive set of skills and knowledge to the role. They frequently have a background in learning disabilities, autism, or challenging behaviour as well as mental health knowledge. This makes them well placed to meet the needs of what is increasingly becoming a very complex set of patients.
- Quality of care in mental health services is variable. More focus needs to be given to a therapeutic approach. Embedding speech and language therapists can enable patients and their teams to make significant decisions about care and treatment and improve the therapeutic environment.
- There are currently significant gaps for people on discharge. A lack of community support often results in placement breakdown and people being readmitted to mental health wards. Increased capacity is needed to improve community mental health services. Supporting people's communication and helping them to understand must be a critical part of mental health services to prevent placement breakdown and people being readmitted.
- Speech and language therapy provision is variable. It is not routinely commissioned to autistic people in the community or into community mental health teams. Without action, the current inequalities in access to speech and language therapy will prevail.
- Providing speech and language therapy will help meet people's communication needs, support understanding, and ultimately recovery. Investment is needed to increase speech and language therapy into community mental health services, for adults and children, so people receive high quality care and support before they reach a crisis, and detention is only needed as a last resort.

7. What changes and additional support do you think will be needed to help professionals implement the proposals effectively? Will additional staffing and resources be required?

- Plans to expand the mental health workforce are behind target. Vacancy rates run high in mental health trusts which impact on access to and quality of care. Urgent action is needed to address these shortages. Better workforce planning is needed looking at new multi-disciplinary staffing models which include speech and language therapists.
 - Some of the changes such as addressing the availability of approved clinician (AC)/responsible clinician (RC) have clear staffing implications. Action is needed to address these shortages and attract and recruit more professionals to the role of AC/RC. At present SLTs cannot train as an approved/responsible clinician despite wanting to. We are denied this opportunity despite having the skills, knowledge and experience to support patients. The RCSLT recommend adding SLTs to the list of eligible professionals to help achieve the ambition of increasing workforce numbers.
 - The changes also have training requirements. Better training is required especially around supporting and enabling communication. Training in communication should be provided to all mental health services.
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- 8. What are your views on the proposed changes in the draft Bill concerning those who encounter the Mental Health Act through the criminal justice system? Will they see a change in the number of people being treated in those settings?
 - An automatic admission under the Act will no longer be an option for autistic people. We are concerned that this may have a knock-on impact on the criminal justice system. Without alternative placements, increasing numbers of people be left in unsafe situations may come into contact with the criminal justice system. This may be a deliberate act or through exploitation by others.
 - The reforms are likely to lead to inequities in access to mental health services from the criminal justice system compared to the civil pathway. There is a risk that prison may be used as a way of receiving mental health care and treatment.
 - The reforms will increase people's length of detention, if someone is transferred and admitted under the Mental Health Act rather than under the criminal justice legislation.
 - The RCSLT urgently recommend the Government carry out an assessment of the impact on the criminal justice system.
 - Prison is an unsuitable environment for many, where people's needs are too frequently unrecognised and/or unsupported. Action is needed in custody suites, in liaison and diversion services and in court rooms, to increase identification of need and to encourage appropriate diversion and support. This requires a cross-Government approach to improve support to vulnerable people.
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- 9. Does the draft Bill strike the right balance between increasing patient autonomy and ensuring the safety of patients and others? How is that balance likely to be applied in practice?
 - The RCSLT is concerned that the focus on risk of harm to self, or others, may be used as a justification for longer detentions than necessary. Where people are misunderstood, they may be judged a higher risk than they actually are.
 - The RCSLT recommends adding a reference to using speech and language therapy to support communication with people with complex communication to better understand the person and the risks they may present.
 - Additionally, advocates may not have the skills to empower people to express themselves and be understood. The RCSLT recommend that all mental health advocates are trained to understand communication issues and have the skills to work with individuals who have such difficulties. Close working with speech and language therapy would be beneficial.
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10. What impact will the draft Bill have on children, young people and their families? Does it take sufficient account of the existing legal framework covering children and young people?

- The draft Bill should result in some improvements in the care for children, young people and their families. However, the RCSLT share the concerns of the Children and Young People's Mental Health Coalition that the reforms do not give sufficient consideration

to children and young people, and the Bill currently represents a missed opportunity to make a real positive change for children and young people.

- Our experience tells us that the health and social care system defaults to a focus on adults, and as a result services for children and young people are often neglected or deprioritised. It's essential then that any duties on health and social care partners are explicit about their application to children, young people and families. For example, the Bill introduces a duty for Integrated Care Boards (ICBs) and local authorities to "*ensure that the needs of people with autism or a learning disability can be met without detaining them*". This should be amended to include a specific requirement on local authorities and ICBs to work together to develop and deliver services to support children and families.
 - Fundamentally, the success or otherwise of the changes set out in the draft Bill will depend upon the strength of the wider system. Successful implementation will require sufficient resourcing, both in terms of workforce and funding. We have seen this only too clearly with the SEND reforms which were brought in as part of the Children and Families Act (2014). This year the Government recognised that good practice in implementation of the reforms was not the norm, and "*too often the experiences and outcomes of children and young people are poor*" and as a result is setting out a series of new proposals to change the SEND system. Nobody would want to see the reforms in the draft Mental Health Bill follow the same trajectory.
 - If we are to prevent children and young people from being detained under the Mental Health Act, or if they are admitted then ensure that they can be safely discharged, then we must provide them with timely and effective support in both inpatient settings and in the community. This must include multi-agency and multi-disciplinary support to enable a holistic approach to meeting the child or young person's needs. For many of these children and young people, this will include support for their speech, language and communication needs:
 - 81% of children with formally identified emotional and behavioural disorders have significantly below average language abilities. (Hollo et al, 2014).
 - 45% of young people referred to mental health services had a higher order language impairment (difficulties with understanding inference and abstract language) compared to 15% of young people in a comparison group. (Cohen et al, 2013).
 - Many children and young people who are at increased risk of developing mental health problems are also likely to have communication needs, including autistic young people and those with learning disabilities and attention deficit hyperactivity disorder, children in care and young people involved in the justice system.
 - Therefore, it is vital that speech and language therapists are recognised as a core part of the mental health workforce, and should be embedded in all relevant child and adolescent mental health services. This will require not only funding but also workforce planning to ensure sufficient numbers of speech and language therapists are available to provide the needed support.
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11. What do you think of the proposed replacement of “nearest relative” with “nominated persons”? Do the proposals provide appropriate support for patients, families and nominated people?

- Whilst the RCSLT agree that young people should have a choice of nominated person, we have serious reservations about the application of “Gillick competence”. We are concerned that maturity is often a flawed indicator, as the depth of understanding can be variable and the impact on decision-making is inconsistent. Consideration of emotional and developmental age is of at least equal importance to chronological age.
 - Further consideration of capacity and competence is needed. This is especially important for people with communication needs who may be more vulnerable to assumptions of capacity. Staff around the person need to be trained to understand decision-making capacity and have an insight into speech, language and communication needs.
 - In cases where a young or vulnerable person chooses a nominated person who is not a family member, there must be a process to make sure relevant parties are kept involved. Whilst protecting an individual’s wishes is important, there is a balance to be made with safeguarding the individual against exploitation, coercion or self-harm.
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12. Are there any additions you would like to see to the draft Bill?

- To help meet the four guiding principles of the draft Bill the RCSLT recommend the following additions to the Bill. These will place people at the heart of decisions about their own care and give them greater choice and control over their care and treatment.
- The RCSLT would like to see the following improvements to the Bill:
 1. **Place understanding and being understood at the heart of the reforms. People’s speech, language and communication needs must be recognised and supported.** To enable children and adults with mental ill health to have a voice in key decisions about their care, they must be able to process large amounts of information and be able to communicate effectively around complex topics. This requires better support of speech, language and communication needs.
 2. **Adding SLTs to the list of eligible professionals able to train as an approved/responsible clinician.** At present SLTs are denied this opportunity to progress in our careers despite having the skills, knowledge and experience to support patients. The RCSLT encourage better support to people who present with complex physical and mental health needs.
 3. **Updated staffing models focusing on speech and language therapists as part of the multi-disciplinary team.**
 4. **Commitment to accessible information.** A commitment to providing accessible, patient-centred mental health services through accessible information at every stage.

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- 13. About the RCSLT
 - The Royal College of Speech and Language Therapists (RCSLT) is the professional body for speech and language therapists across the United Kingdom. The RCSLT

currently has around 19,000 members. We promote excellence in practice and influence health, education, employment, social care and justice policies.

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