directors of adass
adult social services

**Baroness Buscombe**

**Chair, Joint Committee on the Draft Mental Health Bill**

**By email:** jcmentalhealth@parliament.uk

12 December 2022

Dear Baroness Buscombe

Thank you for inviting me to give oral evidence to the Joint Committee on the Draft Mental Health Bill on 22 November 2022. I thought it important to follow-up on this incredibly useful session with a number of supplementary comments.

First, we welcome the timely focus by the Government and this committee on revising the legislation and guidance so that they align and support our shared aspirations to reduce the use of detention where possible, and address concerns about racial disparities in the use of the Mental Health Act.

The following comments are intended to supplement and elaborate on a number of the points, I made on behalf of ADASS during the session. These focus on three key themes:

1. Pushing the Bill to go further on Human Rights,
2. Issues arising from the Impact Assessment
3. Partnerships and Statutory Duties

## 1. Pushing the Bill to go further on Human Rights

We specifically recommend:

- Mandating requirements for Mental Health Act activity to be captured and published annually by Integrated Care Boards (ICBs) and Health and Wellbeing Boards (HWB). This should include reporting on protected characteristics, including ethnicity, as well as the numbers of referrals into the local systems, requests for mental health act assessments, outcomes and issues of concern (for example, the non-availability of resources to meet needs).

- Inclusion of Advanced Choice Documents (ACD) with the person (either with capacity or supported to make such a decision and being free from coercion) deciding for themselves

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who supports them to complete the relevant documents, so that services respond in a rights-based and relational way.

- The increased use of Guardianship as both a protective and less restrictive framework for supporting people where welfare is a central concern, and to consider renaming and enhancing support given to local systems to understand and use these powers.

- Including an Approved Mental Health Professional (AMHPs) as a responsible decision-maker, in addition to a responsible clinician when considering renewal of treatment orders (Section 3) as a way of strengthening a social and rights-based focus. We know from an ADASS survey, that 10% of Community Treatment Orders (CTO) extensions, and 25% of CTO revocation requests are refused by AMHPs. Applying this same logic to Section 3 could have a significant impact over time.

**2) Issues arising from the Impact Assessment,**

As part of the Impact Assessment process, the following areas need further focus:

- The current assessment provides limited detail on community provision – sufficiency, range of models, and funding requirements.

- More recognition is needed of the role of local authorities in the development of the community model. This should build on existing public duties that local authorities have towards their citizens and, more specifically, the existing relationships and partnership arrangements adult and children's social care services have with the VCSE sector and local care markets. This links strongly with issues relating to collaboration, funding flows into local systems and transparency in decision-making.

- Implementation of the reforms – In respect of the Independent Mental Health Advocate (IMHA) and Nominated Person changes the timelines and complexities in both workforce development and the practical application of the proposed changes are likely to be more challenging in reality, and the timelines may not be realistic.

- The limitations in the modelling assumptions on the increased use of Guardianship on workforce requirements, and cost associated with community provision of housing and other support need to be further explored, and in greater detail.

**3) Statutory authorities and duties**

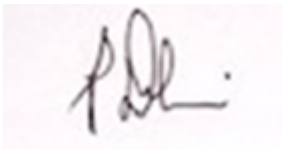
The following issues relate to potential changes to the Bill:

1. That a mirror duty, similar to those placed on Local Authorities, should be placed on statutory partners (with duties under the Mental Health Act) to both co-operate and provide professionals and services to carry out and execute decisions made during Mental Health Act assessments. This would include placing duties on ICBs to ensure a sufficient supply of Section 12 doctors and beds.

2. To set minimum standards, through primary or secondary legislation, on the number of Approved Mental Health Professionals required by 100,000 population and type of location by deprivation.

3. To mandate the collection of a minimum dataset for Mental Health Act activity (as set out in the human rights points above) which includes population level demographics and require Integrated Care Boards and Health and Wellbeing Boards to publish annual reports and plans.

Yours sincerely



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On behalf of ADASS Policy Leads