

COVID-19 – Mental Health Position Statement



Civil liberties – detention under mental health legislation

Changes were made to mental health legislation in the UK, early in the presentation of the Covid19 epidemic, this was in part because of a recognition that nurses and psychiatrists particularly would be removed from mental health services to meet demand elsewhere. The RCN wishes to highlight the fact that in a significant number of areas across the UK there have been substantial human resources removed from mental health services, and that in these circumstances this will lead to significant disruption of care.

In order to give health and care workers the flexibility needed to continue treating patients,

In England and Wales; the [Coronavirus Act 2020](#)

- Requires fewer health care professionals to undertake certain functions and extends or removes time limits relating to the detention and transfer of patients. Including:
- Period for which a patient can be detained following report by a medical practitioner increased from 72 to 120 hours
- Period for which a patient can be detained pending report by a registered clinician or practitioner increased from 6 to 12 hours
- Removal of 12-week maximum period of remand to hospital for report on mental condition.
- Period for which a patient can be detained in a place of safety increased from 24 hours to 36 hours.
- Modification in time limits and reduction in number of doctor's opinions relating to the movements of defendants and prisoners between court, prison and hospitals (from 2 to 1)

In Scotland [the Coronavirus Act \(Scotland\)](#) ;

- The maximum period of an emergency detention order has been increased from 72 to 120 hours.
- A second 28 day short term detention certificate can be granted on expiry of the first.
- The nurses' power of detention has been increased from 3 hours to 6 hours.
- Emergency legislation passed by the Scottish Parliament also removes the requirement of local authorities to take into account the views of adults with incapacity and their guardians when placing them in a care service.

In Northern Ireland; [The Health Protection \(Coronavirus, Restrictions\) \(Northern Ireland\) Regulations 2020](#)

Some timeframes for completion of certain powers have been extended and specific roles adjusted, including:

- The doctor's holding power is extended from 48 to 120 hours.
- The nurse's holding power is extended from 6 to 12 hours.
- An application for assessment can be made by a relevant social worker if an approved social worker is not available and the application cannot wait

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These measures may reduce the pressure on existing workforce, whilst still ensuring that patients are moved to a health-based place of safety as swiftly and smoothly as possible. However, given the human rights implications of increased powers to detain individuals and deprivation of liberty, we recommend the Government in consultation with the Chair and members of the [Independent Review of MHA](#) review this legislation three months after being brought into force.

Increased periods of detention will undoubtedly have an impact on approved mental health staffing capacity; this workforce is already considerably overstretched and will no doubt see a decrease in staff numbers as sickness increases. They are an essential part of the process of ensuring that patients get the care they need swiftly. We recommend measures should be put in place to support mental health staff to meet this increased demand.

We recommend that a range of professionals should undertake the role of approved mental health professional^[1], with increased opportunities for registered mental health nurses. The additional training and professional responsibilities should be recognised and rewarded in nurses' pay and banding.

A reduction in professional support will increase the burden on informal carers who are a critical component of the care system. We recommend that Trust's assess whether there are alternative provisions of support for carers and informal carers before redeploying staff to focus on other aspects of health care

^[1] RCN (2018) Response to the Independent Review of the Mental Health Act
<https://www.rcn.org.uk/news-and-events/press-releases/independent-review-of-the-mental-health-act>