

BRIEFING FOR FORENSIC SOCIAL WORKERS

Mental Health Act 2025: Key Changes and Implications for Forensic Services

1. Introduction

The Mental Health Act 2025 introduces the most extensive reforms to the Mental Health Act 1983 in decades, with key provisions commencing gradually and some already in force from 18 February 2026.

Forensic social workers working with restricted patients, high secure or medium secure services, and complex criminal justice pathways will encounter major impacts on detention criteria, risk assessment, discharge planning, and Tribunal processes.

2. Statutory Principles

The four statutory principles

These principles must guide all decision-making, care planning, and documentation:

- Choice and autonomy
- Least restriction
- Therapeutic benefit
- Person as an individual

These principles form the basis of all reforms and must be visible in forensic reports, Tribunal evidence and MoJ correspondence.

3. Key Reforms Affecting Forensic Practice

3.1 New "Serious Harm" Threshold

A higher threshold now applies for detention under sections 2 and 3, requiring clinicians to evidence that the patient poses a risk of serious harm to themselves or others.

Implications for forensic social workers:

- Risk assessments must clearly set out the nature, degree and likelihood of serious harm.
- Renewal reports for restricted patients must justify detention under this higher standard.
- Tribunals will be scrutinising risk formulations more closely.

3.2 Autism and Learning Disability – Section 3 Restrictions

Autistic people and individuals with learning disabilities can no longer be detained under section 3 unless there is a co-occurring, treatable psychiatric disorder meeting the detention criteria.

Sector experts have raised concerns that excluding autism/LD from section 3 may result in individuals inadvertently shifting into criminal justice pathways if community provision is inadequate.

For forensic teams:

- Community alternatives must be explored and documented.
- Care planning should anticipate challenges where LPS or specialist placements are unavailable.

3.3 Nominated Person (NP) replaces Nearest Relative

Patients may now choose a Nominated Person, who has enhanced rights to participate in decisions about care, treatment, transfers, CTOs, and discharge planning.

For forensic social workers:

- You must ensure patients are supported to nominate someone.
- NP consultation must be documented in Tribunal reports, CPA minutes, and risk plans.

3.4 Shortened Section 3 Time Periods and More Frequent Tribunal Access

Section 3 now has a reduced initial period of three months, with shorter renewal periods and more frequent automatic Tribunal referrals.

Implications:

- Forensic SCRs and RC reports will need to be produced more frequently.
- Teams should expect increased Tribunal workloads.
- Earlier reviews strengthen scrutiny of progression and discharge barriers.

3.5 Conditional Discharge – New DoL Conditions

(Already in force from **18 February 2026**)

The Tribunal or Secretary of State may now impose conditions amounting to a deprivation of liberty as part of a conditional discharge. These conditions are justified where they better support therapeutic progress and public protection.

For forensic social workers:

- Discharge planning may involve highly restrictive supervised accommodation and 1:1 or 2:1 support arrangements.
- Reports must show why less restrictive options are not viable.
- Close coordination with local authorities, MAPPA, and accommodation providers is essential.

3.6 Statutory Care and Treatment Plans (CTPs)

All detained patients must now have a statutory CTP covering therapeutic benefit, patient/NP involvement, alternatives to detention, and detailed risk management.

For forensic settings:

- CTPs must incorporate MAPPA considerations, MoJ conditions, leave plans (s17), discharge planning, and community supervision structures.
- CTPs should be updated ahead of Tribunal hearings.

3.7 Places of Safety – Police Stations and Prisons Removed

Police cells and prisons are no longer permitted as places of safety under the amended legislation.

Implications:

- New urgent-care pathways must be followed in crisis situations.
- Forensic teams may need to support rapid transfers from police to healthcare settings.

4. Emerging Issues and National Commentary

4.1 Risks for Autistic/LD Forensic Patients

There is concern that individuals excluded from section 3 may fall through gaps in health and social care provision, being routed into criminal justice systems instead of receiving appropriate treatment.

4.2 Potential Expansion of Crisis Detention Powers

Debate continues over whether social workers, paramedics and other healthcare staff should gain powers to detain individuals in crisis situations, raising questions about increased responsibility on frontline forensic staff.

4.3 Advance Choice Documents (ACDs)

The reforms place greater emphasis on ACDs, which may affect long-term forensic inpatients who decline treatment or medication.

5. Practical Actions for Forensic Social Workers

5.1 Immediate Casework Priorities

- Review patient records for compliance with the serious harm threshold.
- Audit all Section 3 patients with ASD/LD for legal justification under new criteria.
- Update CTPs to reflect statutory requirements.

5.2 Tribunal Preparation

- Prepare for more frequent hearings; adapt SCR templates accordingly.
- Ensure NP involvement is fully documented.
- Include clear reasoning for proposed discharge conditions, including DoL-level restrictions.

5.3 Inter-Agency Collaboration

- Work with commissioners to secure appropriate community placements.
- Strengthen communication with MAPPA, Moj caseworkers, and accommodation providers.

Appendix: Commencement Table

Reform / Feature	Status	Commencement Date
Royal Assent	Enacted	18 Dec 2025
Conditional discharge with DoL conditions (s.35)	In force	18 Feb 2026
Amendments to ss. 42, 48, 71, 73, 75	In force	18 Feb 2026
Higher detention threshold ("serious harm")	Not yet commenced	Date TBC
Autism/LD restriction on s.3 detention	Not yet commenced; dependent on community provision	Date TBC
Nominated Person	Not yet commenced	Date TBC
Statutory care & treatment plans	Not yet commenced	Date TBC
Shortened s.3 detention periods	Not yet commenced	Date TBC
Increased tribunal access	Not yet commenced	Date TBC
Removal of police stations/prisons as "places of safety"	Not yet commenced	Date TBC
Full implementation of wider reforms	Phased over 8–10 years	2026–2036