

BRIEFING FOR MENTAL HEALTH ACT ADMINISTRATORS

Understanding the Mental Health Act 2025: Key Changes and Administrative Implications

1. Introduction

The Mental Health Act 2025 introduces the most extensive reform to the Mental Health Act 1983 in decades. It amends the existing statutory framework rather than replacing it. Some provisions commenced on 18 February 2026, with full implementation anticipated over an 8–10-year period.

2. The New Statutory Principles

The Act introduces four statutory principles that must guide all decisions under the amended legislation:

- **Choice and Autonomy**
- **Least Restriction**
- **Therapeutic Benefit**
- **Person as an Individual**

These principles must be reflected in record-keeping, decision-making, admission documentation, care planning, consultation processes and discharge procedures.

3. Provisions Already in Force (From 18 February 2026)

3.1 Conditional Discharge – Power to Impose Deprivation of Liberty (DoL) Conditions

A key early reform allows the Tribunal or Secretary of State to impose conditions amounting to a deprivation of liberty as part of a conditional discharge for restricted patients. This applies where the conditions are necessary for public

protection and where conditional discharge offers greater therapeutic benefit than continued detention.

3.2 Amendments to ss. 42, 48, 71, 73 and 75

Specific amendments affecting restricted patients have also commenced. These include adjustments to review processes, renewal considerations and mechanisms relating to conditional discharge.

4. Major Provisions Coming into Force (Dates TBC)

4.1 Higher Threshold for Detention – The Serious Harm Test

A new detention threshold will require clinicians to demonstrate a risk of “serious harm” to the patient or others before detention can occur. This assessment must consider the nature, degree and likelihood of harm.

4.2 Nominated Person Replacing the Nearest Relative

The statutory “nearest relative” role will be replaced by a “nominated person” whom the patient may choose. The nominated person will have enhanced consultation and objection rights.

4.3 Limits on Section 3 Detention for Autism and Learning Disability

Section 3 detention will no longer be lawful solely because a person has autism or a learning disability. A co-occurring mental disorder must be present to justify detention.

4.4 Strengthened Treatment Safeguards

The Act strengthens protections for patients with capacity who refuse treatment. Overriding a capacitous refusal requires compelling clinical justification. Certain treatments, including electroconvulsive therapy, require Second Opinion Appointed Doctor (SOAD) review, and advance decisions refusing ECT must be respected.

4.5 Increased Tribunal Access and Shortened Section Periods

The Act will introduce earlier and more frequent Tribunal access and shorten the initial period of section 3 detention to three months.

4.6 Statutory Care and Treatment Plans

All detained patients must have a statutory care and treatment plan. The plan must demonstrate therapeutic benefit, involvement of the patient and nominated person, and consideration of alternatives to detention.

5. Criminal Justice and Places of Safety

The Act removes police stations and prisons as lawful “places of safety,” requiring updated emergency pathways and inter-agency procedures.

6. Implementation Timeline (Summary)

Reform	Status	Date
DoL-type conditional discharge conditions	In force	18 Feb 2026
Amendments to ss.42, 48, 71, 73, 75	In force	18 Feb 2026
Serious harm test	Not commenced	TBC
Nominated Person	Not commenced	TBC
Autism/LD restrictions	Not commenced	TBC
Tribunal access changes	Not commenced	TBC
Statutory care & treatment plans	Not commenced	TBC
Full implementation	Phased	2026–2036

7. Key Actions for MHA Administrators

- Update statutory forms and templates to reflect amended legislative wording
- Prepare systems to record, appoint and consult Nominated Persons
- Revise Tribunal workflows to accommodate more frequent and earlier hearings

- Ensure clinicians and teams understand evidential requirements for the serious-harm test
- Prepare monitoring systems for DoL-type conditional discharge conditions
- Update consent and treatment documentation to reflect strengthened safeguards

8. Training Available from Our Firm

Your Trust's internal legal department will continue to provide policy drafting, compliance guidance and case-specific legal advice. Our firm offers specialist paid training.

Our training can cover:

- Overview of Mental Health Act 2025 reforms
- Applying the serious harm test
- Managing the Nominated Person process
- Treatment safeguards and SOAD requirements
- Changes to conditional discharge
- Revised Tribunal processes
- Administrative compliance with statutory care and treatment plan requirements

Training can be tailored to Mental Health Act Administrators, ward staff, community teams and senior management.