

## Mental Health Act Review: Issues for consideration

Making Every Adult Matter (MEAM) is a coalition of Clinks, Homeless Link and Mind formed to improve policy and services for people facing multiple needs. Collective Voice is an associate member. Together the charities represent over 1,300 frontline organisations that have an interest in the criminal justice, substance misuse, homelessness and mental health sectors.

MEAM supports 35 partnerships across the country that are developing effective, coordinated approaches to multiple needs that can increase wellbeing, reduce costs to public services and improve people's lives. Twenty-three of these areas are using the MEAM Approach – a non-prescriptive framework to help local areas design and deliver better coordinated services – while twelve are part of the Big Lottery Fund's Fulfilling Lives programme, which we are pleased to support.

The MEAM coalition partners welcome the Independent Review of the Mental Health Act. As outlined in our letter to Sir Simon Wessely (26 January 2018), we believe the Review should give special consideration to how the powers in the Act are used with regard to people experiencing multiple needs, a majority of whom experience mental ill health. Studies suggest that 70% of people in contact with drug services and 86% of people in contact with alcohol services experienced mental health problems (Public Health England, 2017), while 70% of people in prison in England have at least two diagnoses including substance misuse, mental health, learning disability and personality disorder (Singleton et al, 1998).

There are three areas of particular concern for people with multiple needs, which are set out in turn below. They relate not just to legislation but also to the way in which it is interpreted and applied by services.

**We note that issues around substance misuse (dual diagnosis/coexisting conditions) were not covered in the Review's interim report. We therefore ask the Review team to consider closely the issues raised in points (1) and (2) below as the Review's work continues.**

### 1. Repeated use of Section 136 for people under the influence of alcohol or drugs

There is evidence that the power to detain people with mental health problems is used frequently to detain and assess people who are under the influence of alcohol or drugs. Many of these individuals are later discharged with no treatment, and one study from South West London and St George's Mental Health NHS Trust found this group were disproportionately likely to be held under Section 136 again within twelve months (Burgess et al, 2017).

In some cases this may be due to the individual not being diagnosed with a mental health problem as defined under the Act (which excludes drug and alcohol disorders). However, the repeated presentation of the same individuals suggests that mental health problems are not being correctly diagnosed at assessment, and/or that section 136 powers are being used in the place of (or in the absence of) other more appropriate interventions for people who are using drugs and alcohol.

#### *Expertise and capacity to diagnose correctly*

Mental health practitioners have told us that it can be very difficult to assess the extent to which someone with a drink or drug problem is experiencing a mental health problem that is distinct from

their substance use. This is due both to the challenge of people being intoxicated at the point of detention, and the fact that use of alcohol and drugs can be both a cause and a consequence of mental ill health.

Pressures on mental health caseloads mean that services may default to excluding anyone with a substance misuse problem, regardless of whether they are also experiencing a mental health problem as defined under the Act. The reduction in the number of trained addiction psychiatrists in recent years has also had an impact on the ability of NHS services to make an informed assessment (Drummond, 2017).

**Recommendation: The review should ensure that there is the expertise and capacity available in mental health teams to ensure suitable and effective mental health assessments for people facing multiple needs when they are detained under the Act.**

### *Cooperation and information sharing*

Co-operation and information sharing between services are also crucial to the effective operation of section 136 (and s. 135) of the Act. This is especially important when responding to people with multiple needs, where police, health and other services will often be responding to the same individuals. Liaison and diversion services can play an important role in co-ordinating referrals to, and responses by, local services. By 2016, over 9,000 people had been referred for mental health treatment since the start of liaison and diversion services in England, 13% of whom were detained under the Mental Health Act (Prison Reform Trust, 2017, p. 44).

**Recommendation: The review should ensure that legislation requires cooperation and information sharing between agencies so that individuals can access suitable service pathways regardless of whether a mental health problem is diagnosed, and wherever possible on a voluntary basis. This should help reduce repeated use of s136.**

## 2. Availability of and referral to appropriate treatment

There is clear evidence – highlighted in recent guidance from Public Health England – that “people with co-occurring conditions are often unable to access the care they need” and that “it is not uncommon for mental health services to exclude people because of co-occurring alcohol/drug use” (Public Health England, 2017). This guidance and NICE guideline NG51 make clear that coordinated provision is required and that mental health services should take the lead role in providing this. Our experience in local areas suggests that this is often not the case.

**Recommendation: The review should ensure that mental health providers take the lead in providing support for people with co-existing conditions, as outlined in current guidance, and ensure appropriate treatment is available to people who need it whether or not they are formally admitted. Consideration should be given to incorporating rights of access to services in legislation.**

## 3. Appropriate settings

The settings in which both assessment, and detention, under the Mental Health Act take place have a significant bearing on outcomes for people experiencing multiple needs. As the submission to this review by the Centre for Mental Health, Prison Reform Trust and Together for Mental Wellbeing made clear, prison should not be viewed as a place of safety in the context of the Act, and this should be explicitly stated in legislation. The prison environment carries inherent risks to the mental health and wellbeing of vulnerable people. Prison should not be used as a temporary place of safety while a hospital bed is found, nor as a place of remand while awaiting assessment. Instead, access to places of assessment away from police custody, such as the ‘Psychiatric Decision Unit’ in

Birmingham, should be created to help to ensure appropriate and timely assessment, referrals and support.

**Recommendation: The review should ensure sufficient provision of appropriate settings for assessment under the Act, and of hospital beds for those detained, to avoid the use of prison, police custody or police vehicles. The legislation should clearly state that prison is not an appropriate place of safety.**

## Conclusion

Over the coming months, we would be glad to support the review team by compiling evidence on these issues from our local partners across England, including frontline practitioners and people with lived experience of substance misuse, criminal justice, homelessness and mental ill health.

## References

Burgess et al (2017), [\*Retrospective cohort follow-up study of individuals detained under Section 136\*](#), BJPsych Open. 2017 Nov; 3(6): 281–284.

Drummond (2017), [\*Cuts to addiction services in England are a false economy\*](#), BMJ Opinion

Prison Reform Trust (2017), [\*Bromley Briefings Prison Factfile Autumn 2017\*](#)

Public Health England (2017), [\*Better care for people with co-occurring mental health, and alcohol and drug use conditions\*](#)

Singleton, N., Meltzer, H. and Gatward, R. (1998), [\*Psychiatric Morbidity among Prisoners in England and Wales\*](#), Office for National Statistics, London