



Mind Submission for the Universal Periodic Review

41st Session of the UPR Working
Group, March 2022



Introduction

Mind is the leading mental health charity in England and Wales. We provide advice and support to empower anyone experiencing a mental health problem. We campaign to improve services, raise awareness and promote understanding.

This submission was prepared for the UK's Universal Periodic Review taking place in May 2022. In it, we assess the situation of human rights in the UK, especially related to mental health and disability, and make recommendations to the UK authorities in order to strengthen human rights protection.

We focus on three main human rights violation concerns:

- Discrimination towards black people under the Mental Health Act
- Discrimination for people with mental health problems with accessing services
- Discrimination for disabled people, including people with mental health problems using the social security system

Racial discrimination within the Mental Health Act

The UK Government is failing to fulfil its obligations to enable the enjoyment of General Comment 14: The Right to the Highest Attainable Standard of Health¹. It is also failing to abide by the principles for the protection of persons with mental illness.² Discrimination is prevalent within the Mental Health Act 1983 (as amended in 2007). There are clear and persistent ethnic inequalities in compulsory admission to psychiatric wards which particularly affect Black people, but also evidence of harsher treatment for Black people in inpatient wards.

¹ Office of the High Commissioner for Human Rights (2006), *CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art 12)*, paragraph 1: <https://www.refworld.org/pdfid/4538838d0.pdf>

² Office of the High Commissioner for Human Rights (1991), *General Assembly resolution 46/119: Principles for the protection of persons with mental illness and the improvement of mental health care*: <https://www.ohchr.org/en/instruments-mechanisms/instruments/principles-protection-persons-mental-illness-and-improvement>



There are immense pressures on the health and social care systems, as indicated by the current waiting lists. But the discrimination some people experience often leads people to be detained when it wouldn't have been necessary if they had received timely, culturally appropriate support.

Black people are 40% more likely to access treatment through a police or criminal justice route. They are also less likely to receive psychological therapies, more likely to be compulsorily admitted for treatment, more likely to be on a medium or high secure ward and be more likely to be subject to restrictive intervention (95 per 100,000 population for Black Caribbean as against 20.7 per 100,000 population for White)³. It is undeniable that Black people get the sharper end of treatment in the more uncomfortable ways when it comes to mental health care, treatment and support.

We are particularly concerned around the use of Community Treatment Orders (CTO). They are coercive and intrusive, and do not achieve their aim of reducing admission.⁴ Instead, the racial disparity in their use indicates the persisting structural racism in the use of the Mental Health Act - Black people are four times more likely to be detained and ten times more likely to be placed on CTOs.⁵ People from racialised communities have described CTOs as being a form of community surveillance. While this power remains available, it is likely to be used in a risk averse way, restricting people's lives when they would be better served by the provision of care that actively responds to their needs and wishes.

The lack of understanding of the Black experience also shows a clear need for a reform within the Mental Health Act. One that promotes race equity and improves the health outcomes and experiences of using services for people from minoritised communities, as this is a right afforded to them under General Comment 14. Efforts towards more diverse recruitment in healthcare yields a more culturally respectful and accepting healthcare system. A common theme among Black people with mental

³ NHS Digital (2021), *Mental Health Bulletin 2020/21 Annual Report*: <https://digital.nhs.uk/data-and-information/publications/statistical/mental-health-bulletin/2020-21-annual-report>

⁴ Tom Burns et al., *Community Treatment Orders for Patients with Psychosis (OCTET) (2013): A Randomised Controlled Trial*, *The Lancet* 381, no. 9878: 1627–33, [https://doi.org/10.1016/s0140-6736\(13\)60107-5](https://doi.org/10.1016/s0140-6736(13)60107-5).

⁵ Gov.uk (2019), *Detentions under the Mental Health Act*: <https://www.ethnicity-facts-figures.service.gov.uk/health/mental-health/detentions-under-the-mental-health-act/latest>



health problems is the impact representation can have:

*"I found somebody, a Black lady...I had this beautiful Black nurse and she was absolutely amazing, she just brought it out of me. Because she could identify with me... I just cried, it all just came out."*⁶

*"I could not identify with a white, middle-class psychiatrist. I couldn't sit down friendly and talk about the issues that were affecting me, my rape, my beating up etc. that I'd gone through. I couldn't sit there and talk to this strange white, middle-class man. For a long time, I couldn't talk to any of them. Maybe one or two of the Black nurses...but they weren't the ones documenting and dealing with my case."*⁷

Recommendations:

- Abolish community treatment orders
- The guiding principles in the upcoming Mental Health Bill should be more explicit about the requirement for anti-discrimination and anti-racism in the use of the Mental Health Act

Discrimination within mental health services

As well as in the Mental Health Act, racial discrimination and therefore a failure to comply by General Comment 14 is also evident across the wider mental health treatment journey, including children and young people's services. The right to access healthcare requires it to be 'accessible to all'⁸ and free from any discrimination. This is not the case. Racial stereotyping, mistrust based on poor experiences and services not meeting people's needs, have prevented people from minoritised communities from accessing the help they actually need.

⁶ Mind (2018), *Mind's submission to the Mental Health Act Review*, p.17:
<https://www.mind.org.uk/media-a/5135/mind-mhar-submission-final.pdf>

⁷ Mind (2018), *Mind's submission to the Mental Health Act Review*, p.19:
<https://www.mind.org.uk/media-a/5135/mind-mhar-submission-final.pdf>

⁸ Office of the High Commissioner for Human Rights (2006), *CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art 12)*, paragraph 12:
<https://www.refworld.org/pdfid/4538838d0.pdf>



"...the psychiatrist who might be racially inclined to think, oh because they studied this in mental health and this is what black people are supposed to be like...and the next minute you're schizophrenic".⁹

This is not an adult only issue; children are also subject to a different experience due to their race. Ethnic minority children are more likely to be referred to Child and Adolescent Mental Health Services (CAMHS) via social services, education or criminal justice pathways. This was particularly stark for Black children who are 10 times more likely to be referred to CAMHS via social services (rather than through the GP) relative to White British children.¹⁰

The impact of this has resulted in a deep mistrust of mental health services across all ages. Young Black men are discouraged from seeking help by their knowledge of injustices in mental health services relating to Black Caribbean and Black African populations. This is because Black boys and young men have a general fear that going to mental health services for help would result in 'being permanently labelled, locked in, and medicated on strong drugs without hope of getting better or getting out'.¹¹ The fact that young Black men view the system in this way shows experiences of discrimination contribute to mistrust of mental health services from a young age. These experiences limit the accessibility of services, as many Black people are deterred from seeking help when they need it.

Recommendation:

- Invest in early support hubs in England, which are shown to be better at engaging young Black and minoritised ethnic young people. This is important when considering that these communities are proportionally more likely to be impacted by mental health problems, but less likely to engage with NHS mental health services
- Mandate the development of community mental health services that provide bespoke support to people at risk of repeat detentions, especially Black men with a history of multiple detentions

⁹ Mind (2018) *Mind's submission to the Mental Health Act Review*, p.12:

<https://www.mind.org.uk/media-a/5135/mind-mhar-submission-final.pdf>

¹⁰ NHS Race & Health Observatory (2022), *Ethnic Inequalities in Healthcare*:

https://www.nhs.uk/rho/wp-content/uploads/2022/02/RHO-Rapid-Review-Final-Report_v.7.pdf

¹¹ Lawrence V, McCombie C, Nikolakopoulos G, Morgan C. (2021) *Navigating the mental health system: Narratives of identity and recovery among people with psychosis across ethnic groups*. *Soc Sci Med*; 279, p.9. doi:10.1016/J.SOCSCIMED.2021.113981



Social security system and disabled People

The social security system has the power to transform lives and provide people with the security they need to live more independently. But people with mental health problems repeatedly tell us about facing homelessness, destitution and mental health crisis because of problems with their benefits.

*"I stopped spending money on food and heating to save for an uncertain future and relapsed terribly with anorexia. I had to give up my voluntary work and go into hospital as I was physically and mentally very unwell. The admission lasted a year - costing hundreds of thousands of pounds which I feel terribly guilty about. But if I had felt more supported to take recovery at my own pace, and not feared financial repercussions and sanctioning, then I do not think (nor do my medical team) that I would have relapsed at that point."*¹²

The UK's social security system has failed to implement its duties outlined in the last UPR, which were to continue 'to increase benefits to meet additional disability needs'. This is evident from the decades of cuts to benefits including the 4-year benefits freeze, failing to extend the £20 Universal Credit uplift to legacy benefits and the planned 3.1% increase to benefits in April which is a real-terms cut to benefits. The above has resulted in continuing a system that disadvantages disabled people, including people with mental health problems.

There are also further longstanding issues with the social security system which detrimentally affect people with mental health problems and deny them vital payments. The current method of assessments are in many cases unfair and inaccurate, leading to wrong outcomes and plunging people with mental health problems into poverty. The issues with the assessments are evident in the fact that 7 out of 10 people on disability benefits who appeal their decision, see it overturned.¹³

"I had a face to face assessment and, having read through the notes made at the assessment, I can honestly say that most of them were completely

¹² Mind (2020), *People Not Tick Boxes Report*, p.4: <https://www.mind.org.uk/media/6483/people-not-tick-boxes-october2020.pdf>

¹³ BBC (2021), *Seven out of 10 win benefits challenges at tribunals*: <https://www.bbc.com/lnp/sdu/sdu-coverage/benefits-tribunal/>



inaccurate. The assessor claimed I had made statements that I definitely did not make, that I did several things during the day that I never do. They said that I leave my house every single day when it's actually fortnightly at most. They had invented an entire daily routine for me that I didn't have! It was all completely false, and I don't know where this information came from, because it wasn't from me."¹⁴

The most pressing concern though, is the failure to comply to General Comment 3. This outlines that a state is obligated to take steps with 'a view to achieving progressively the full realization of the rights recognised'.¹⁵ The Universal Credit cut in October 2021 is evidence of this failure and can be classed as a retrogressive measure. In less than 6 months, there has been yet another real terms cut as benefits have failed to rise in line with inflation. As a result of this, combined with UK Government benefits policies, namely on sanctions and deductions, many vulnerable people receive far less than what are already sub-optimal payments. This cut is 'in violation of its international human rights obligations, in particular the binding International Covenant on Economic, Social and Cultural Rights, which sets out the rights to an adequate standard of living and to social security'.¹⁶

Recommendation:

To respect the right to an adequate standard of living by:

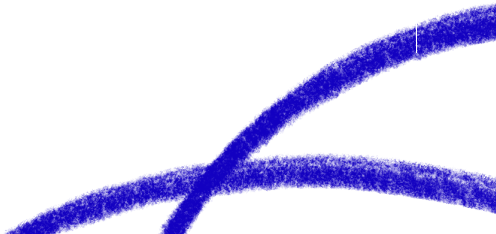
- Increasing benefits rates to meet the living costs of people with mental health problems and to protect them from poverty, at very least, in line with inflation
- Address the longstanding issues with the social security system, such as benefits assessments which continue to deny vital support to people with mental health problems and cause lengthy and stressful fights when they are inaccurate

¹⁴ Mind (2020), *People Not Tick Boxes Report*, p.8: <https://www.mind.org.uk/media/6483/people-not-tick-boxes-october2020.pdf>

¹⁵ Office of the High Commissioner for Human Rights (1991), *CESCR General Comment No. 3: The Nature of States Parties' Obligations*, Art.2 Para 1: <https://www.refworld.org/pdfid/4538838e10.pdf>

¹⁶ Human Rights Watch (2021), Letter to UK Parliamentarians regarding impending cut to social security support: <https://www.hrw.org/news/2021/09/03/human-rights-watch-letter-uk-parliamentarians-regarding-impending-cut-social>

mind





Mind

2 Redman Place
Stratford
E20 1JQ

020 8519 2122

contact@mind.org.uk

mind.org.uk

Twitter @mindcharity

Facebook.com/mindforbettermentalhealth

Mind Infoline: 0300 123 3393

Mind's registered charity number: 219830

Registered company number: 424348 in England
and Wales