



Department  
of Health &  
Social Care

*From Baroness Merron  
Parliamentary Under-Secretary of State for  
Patient Safety, Women's Health and Mental Health*

*39 Victoria Street  
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By email

28 April 2025

My Lords,

I thank you for the constructive discussions at Report for the Mental Health Bill, on 31<sup>st</sup> March and 2<sup>nd</sup> April 2025.

I am pleased to follow up on the point I said I would address following the debate, and also to provide clarification on a couple of areas.

**I agreed to follow up on Baroness Butler-Sloss' question about who has to deal with the cases that go to the County Court [in relation to termination of the appointment of a nominated person].** I can confirm that it is a judicial decision as to who leads in the county court. Listing, that is the assignment of cases to particular courts and the listing of those cases before particular judges, is a matter for the independent judiciary (so it is not constitutionally appropriate for the Government to seek to influence listing decisions). Listing decisions will take account of judges' availability, experience, and relevant authorisations.

**I also committed to write to Lord Scriven, who asked whether CQC's newly appointed chief inspector will have a statutory right to call for papers and witnesses from other departments to deal with mental health issues, as a commissioner would?**

While the new Chief Inspector of Mental Health will not have the statutory rights identified, he will have oversight of CQC's role in respect to their regulatory powers under the Health and Social Care Act 2008 and the powers granted to CQC under section 120 of the Mental Health Act. These are critical to ensuring that CQC can investigate issues and hold providers to account.

By way of background, under section 120 of the Act, the CQC is under a duty to keep under review and, where appropriate, investigate the exercise of the powers and discharge of the duties conferred by the Act in relation to patients who are liable to be detained in hospital or are subject to community treatment orders or guardianship under the Act.

For the purposes of delivering this duty, any person authorised by CQC has the right of access to patients in hospitals or other establishments at any reasonable time. They may visit, interview, and (if they are doctors or approved clinicians) examine, the patient in private. They may also require the production of and inspect any records relating to the detention or treatment of a person who is, or has been, detained under the Act or is or has been a community patient or a patient subject to guardianship. That might include admission documents, medical notes, records of seclusion, community treatment orders (CTO) and such like. Hospital managers and local authorities must provide CQC with information (including documents and records) that it reasonably requests for or in connection with a review or investigation under the Act. It is an offence under section 129 without reasonable cause to refuse authorised people access to a patient, records or premises, or in any way obstruct them in carrying out their functions. CQC may publish a report of a review or

investigation it has carried out. It may direct a hospital manager or local authority to publish an action statement as to the action that is proposed to be taken as a result of a review or investigation.

The new Chief Inspector, Dr Arun Chopra, will lead CQC's role both in inspecting mental health services, and in monitoring the Mental Health Act to help shape regulation of the mental health sector and support the delivery of better care - as CQC continue their journey to becoming the strong effective regulator people need and deserve. Under Dr Chopra, CQC will strengthen how service user feedback is collected and used in both inspection and monitoring activity to further amplify and respond to the experiences of people and their care and treatment outcomes.

Dr Chopra will facilitate closer working between inspection teams and Mental Health Act monitoring teams, with the aim of supporting mental health services to provide good, safe, person-centred care that helps people to recover. He will have a vital role in exploring how to strengthen the focus on Mental Health Act compliance in regulatory assessment of providers and how to ensure CQC have the capabilities and systems to ensure effective monitoring of providers' compliance with all aspects of the Mental Health Act, including the reforms when they are enacted.

Dr Chopra will take up the Chief Inspector role in May 2025.

I would also like to provide a point of clarification with regards to my statement in response to Lord Scriven's amendment on community treatment orders "that the Bill requires just the second-opinion appointed doctor (SOAD) to be consulted, whereas the amendment requires the extension to be agreed with them". The Bill requires involvement of the community clinician (which is the approved clinician overseeing the patient's care as a community patient). The community clinician provides a second professional opinion, where the responsible clinician is not the community clinician, and must provide a statement that it appears to them that the community treatment order criteria continue to be satisfied. This is different from a second opinion doctor who is appointed by the regulator (CQC in England, Health Care Inspectorate Wales, in Wales) to provide an a second opinion on the appropriateness of compulsory medical treatment received by individuals detained under the Mental Health Act, which is independent of the patient's treating clinician. SOADs do not have a role in deciding whether someone's detention, including their community treatment order, should be extended.

I hope this letter has provided further clarification on the points raised. I am copying this letter to all the Peers who spoke during the debate and will place a copy in the library of the House.

All good wishes,

A handwritten signature in dark ink, appearing to read 'Gillian', with a stylized flourish underneath.

**BARONESS MERRON**