Mental Health Act Review 2018

Steps to tackle the disproportionate number of people from ethnic minority communities detained under the act

The government noted with concern the disproportionate number of people from black and minority ethnicities detained under the Mental Health Act. Whilst experiences vary across different ethnic minority groups, we were particularly concerned by the excessively poorer experiences and outcomes of individuals from black African and Caribbean communities.

We spent a significant proportion of our time throughout the Review considering specific issues concerning different ethnic minority communities, focussing on people of black African and Caribbean heritage, and worked directly with service users, carers, communities and professionals from the outset to co-produce proposals to achieve sustained and meaningful improvements. Further details can be found in 'How the Review carried out its work' and 'A qualitative exploration of perspectives on the Mental Health Act and people of African and Caribbean descent: summary'

The development of the Patient and Carer Race Equality Framework (PCREF), an organisational competence framework (OCF), will improve mental health service access and outcomes in ethnic minority people. OCFs can be developed in all organisations, such as the police and local authorities, to improve outcomes in ethnic minority people with mental health problems.

In line with the OCF, our wider recommendations include:

• Ensuring the provision of culturally-appropriate advocacy services (including Independent Mental Health Advocates) for people of ethnic minority backgrounds, in doing so responding appropriately to the diverse needs of individuals from diverse communities.

• Raising the bar for individuals to be detained under the Mental Health Act, as well as any subsequent use of Community Treatment Orders.

• Providing the opportunity for people to have more of a say in the care they receive, ensuring that people from ethnic minority backgrounds are involved in the care and treatment plans developed for them and thus increasing the likelihood that they are more acceptable.

• Increasing the opportunities available to challenge decisions about the care offered and received in a more meaningful way.

• Addressing endemic structural factors through the piloting and evaluation of behavioural interventions to combat implicit bias in decision-making.

• Reducing the use of coercion and restrictive practices within inpatient settings, including in relation to religious or spiritual practices.

• Seeking greater representation of people from ethnic minority backgrounds, especially those of black African and Caribbean heritage in key health and care professions.

• Endorsing ongoing work to explore how the use of restraint by police is reduced, encouraging police services to support people experiencing mental distress or ill health as a core part of day-to-day business.

• Extending the powers of the Mental Health Units (Use of Force) Act, 'Seni's Law', to seclusion.

• Improving the quality and consistency of data and research on ethnicity and use of the Mental Health Act across public services, including criminal justice system organisations and Mental Health Tribunals.

• Giving individuals the ability to choose which individuals from their community are involved with, and receive information about, their care.

Many will be asking how these, and indeed many ot

her recommendations from previous reports, Codes of Practice, Quality Improvement programmes and much else, will be put into practice and become the norm, not the exception. The key to our proposals to reduce disparities and discrimination is via the PCREF across health and care services. The input of regulatory organisations such as the Care Quality Commission and the Equality and Human Rights Commission is key to supporting improvement in equality of access and outcomes across public bodies, ensuring consistent due regard to existing statutory duties such as those under the Equality Act.

We would like to thank the significant input of individuals and communities throughout the duration of the Review in developing these recommendations to address disparities across ethnic minority groups.

THE EXPERIENCES OF PEOPLE FROM ETHNIC MINORITY COMMUNITIES

Profound inequalities exist for people from ethnic minority communities in accessing mental health treatment, their experience of care and their mental health outcomes164. We know that people of black African and Caribbean heritage are more likely than white British people to come into contact with mental health services through the criminal justice system, rather than via their GP or referral to talking therapies165. Adults of black African and Caribbean heritage are more likely than any other ethnic group to be detained under the Mental Health Act.

We know that racism experienced in everyday life compounds already poor experiences of, and outcomes from, health services.167 Research has clearly linked health inequalities to racism as well as socioeconomic factors (such as inequalities in housing, local neighbourhoods, education and employment), but previous attempts to address these issues have only been partially successful at best. We agree with the goals and aspirations of the Delivering Race Equality (DRE) programme, for example, but there was a disconnect between the resources needed and timescales available which meant that changes were unsustainable.

"Seems [professionals] have to make a special effort to treat us like human beings" – Service user of black African and Caribbean heritage169

Our recommendations represent a shift in tackling racial inequalities by accepting that the structure of existing systems needs to change gradually to improve overall quality of services. The input of service users, carers and communities is crucial in achieving this change. Our recommendations apply primarily to health and care organisations, including services commissioned and provided by the NHS and local authorities, but they should be considered equally applicable to wider public bodies including police services and the criminal justice system. High quality services can only be delivered if there is equality of access and outcomes for all. We also heard that many organisations may not be meeting their Public Sector Equality Duty under the Equality Act 2010 and should be supported to do so, in line with the recommendations of the *Is Britain Fairer?* Report by the Equality and Human Rights Commission (EHRC).

As well as the ethical reasons for promoting equality of access and outcomes, we believe that there is the potential for significant savings associated with reducing the disproportionate rate of detention of people from black African and Caribbean communities.

A new community-driven Organisational Competence Framework

Our primary recommendation is for an Organisational Competence Framework (OCF) and Patient and Carer Experience Tool to be developed and implemented first by the NHS, but ultimately for roll out to wider public services. This follows the recommendation of the Crisp Commission to identify a clear and measurable set of Race Equality Standards for acute mental health services, which they suggested should be developed to test whether the Workforce Race Equality Standard (WRES) is improving services.

The OCF will support organisations to fulfil their existing obligations under the Equality Act 2010, in accordance with the Public Sector Equality Duty. It can be used by organisations to demonstrate to the CQC that they are effective, responsive, caring and well-led. The OCF should be a practical tool which enables organisations to understand what steps it needs to take to achieve practical improvements for individuals of diverse ethnic back grounds. This process requires the involvement of communities from the outset and throughout the development of services. Crucially, the OCF will encourage structural and cultural change to be embedded into healthcare delivery over time, responding to the particular needs of local populations.

We endorse ongoing work by NHS England to develop an OCF for mental health – the Patient and Carer Race Equality Framework (PCREF). We believe that goals should focus on several core areas of competence: awareness, staff capability, behavioural change, data and monitoring, and service development. The OCF will help providers to design services which are more attractive to people at an earlier stage of the mental health system, which will help to tackle the low levels of engagement. The OCF will also direct staff towards having regard to a person's past and present wishes and preferences and promote respect and dignity. The OCF will help to combat structural factors which lead to disparate outcomes for certain groups.

At all levels, the framework offers an important accountability tool: ensuring Trust boards set a strategic vision to respond to the needs of their patients; allowing regional commissioners to ensure alignment of service provision with wider population need; and, importantly, offering an important benchmarking tool at national level, bolstering wider work such as the Race Disparity Audit.

The framework should be underpinned by a system of incentives, levers and drivers, to be tested and evaluated through a number of pilot sites in diverse geographical areas. It is expected that there will be a role for regulatory bodies to monitor compliance and attainment at a national level, with patient and carer representatives having an active role in the assessment. Ultimately, we want this to be a simple, workable approach that can be readily adopted and welcomed by organisations, as opposed to overburdening them with what could be viewed as a bureaucratic process.

Building on the PCREF, and in line with our ambitions surrounding the increased appropriateness of mental health and care services, local authorities should also be held to account for the use of the OCF – for example, in relation to the commissioning of culturally-appropriate advocacy services.

The OCF would enable any organisation, from any field, to use the voices of users to help them improve access and outcomes for those from ethnic minority backgrounds. Educational institutions, police services, the criminal justice system and other public-sector organisations could all benefit from adapting the methodology of the PCREF and adjusting it to their needs. Together, cohesive action across all interrelated areas of domestic policy has the potential to dramatically improve outcomes for those who use or who are impacted by their services. A similar approach to the OCF could also be used to improve access and outcomes for those with other protected characteristics. The OCF is more likely to be implemented if supported by the by the CQC and the EHRC.

What does the PCREF mean in practice?

We accept that some will be unclear what difference the OCF will bring about on the ground, and how it will respond to different models of service provision. Building on our terms of reference to address the overrepresentation of ethnic minority individuals in detention, the PCREF we envisage for formal mental health services should offer a practical method of improving the mental health care and services delivered to people of black African and Caribbean heritage and help an organisation, such as a CCG, Trust or local authority to:

1. Identify areas for improvement in relation to matters around ethnicity, especially for those people of black African and Caribbean heritage – this might be on inpatient wards, the rates of CTOs, numbers accessing psychological treatments or getting family therapy;

2. Put in place strategies, interventions and actions to improve overall competence; and

3. Provide a recurring feedback loop to the Board, Trustees, stakeholders and the public to keep them informed of progress.

Critically, user input is central to the design and delivery of the framework – and this sets it apart from other previous programmes.