

70 years of the NHS: the future of mental health services

Published 12 June 2018

Throughout the 70-year lifespan of the NHS, mental health services have evolved in line with the changing health and social care system, coming a long way from the institutionalisation that was predominant in 1948, driven largely by changes in social attitudes. These changes have been part of a positive and pioneering journey, led by the NHS, and one which DAC Beachcroft Partner and mental health expert, Gill Weatherill, examines here.

Since 1948 the NHS' mental health offering has seen immense transformative change; in everything from medication and psychological intervention, to the use of restrictive practices, which has resulted in a very different NHS in terms of clinical pathways. This is combined with much greater integration of health and social care provision, with a multiplicity of providers from different sectors working together to manage an increasingly complex patient mix.

Leading the way for change

With the NHS leading the deinstitutionalisation of mental health and the treatment of mental illness, this area of care has arguably seen the most radical transformation of all care services. Milestones such as the Mental Health Acts of 1959 and 1983 created a complex and comprehensive statutory framework for the treatment of mental disorder, including checks against arbitrary detention and the development of clear legal rights of challenge to patients and their relatives. Subsequent legal watersheds such as the Human Rights Act 1998, the Mental Capacity Act 2005 and the subsequent Deprivation of Liberty safeguards further entrenched recognition and protection of individual autonomy and dignity in a mental health context.

Mental health providers have therefore delivered services in an increasingly regulated environment, with strict legal parameters around treatments that can be provided without the patient's consent, and the circumstances in which patients can be detained or deprived of their liberty to protect them, or sometimes others.

In 2018, we are witnessing an explosion in need for mental health services, partly due to an aging population; together with a steadily increasing acuity of patients, increasing the pressure on staff and resources. The NHS has responded over time with an operational overhaul of services, and new integrated care pathways, but the challenges are huge. Shortages of qualified mental health clinicians do not help providers deliver the high quality, safe, evidence-based, least restrictive care plans that patients, their families, the public and the regulators rightly demand.

Areas of flux

One of the areas of biggest flux over generations has been the balance between inpatient hospital beds and community care provision. Whereas historically, community care would have been family provided it is now an established first choice specialist pathway that recognises the need to allow patients to live as a normal a life as possible. NHS England is leading the Transforming Care programme (established in 2015), ensuring community-based care for patients suffering with a learning disability and/or autism. A development in the wake of Winterbourne View, this reflected public outcry at the ongoing exploitation and abuse of vulnerable patients.

Again, however, there are challenges and complexities in a changing legal landscape and no easy answers. Any deprivation of liberty in the community, which will be essential on safety grounds for some patients, must be authorised to be lawful. In the event that such placements break down, there is also a risk that significant reductions in the number of inpatient beds will lead to difficulties in arranging emergency admissions.

We have advised commissioners and providers of mental health care across the decades in implementing these changes, both in terms of high profile cases dealing with specific patients, and the implementation of policy and practice change in a way which will ensure patient safety and withstand external public, press and regulatory scrutiny.

Mental health patients have been the focus of sensitive, controversial challenges over the years which provoke ethical and moral questions in addition to legal problems. We have helped resolve issues ranging from the use of physical restraint in the management of pregnant mental health patients, to the withdrawal of life sustaining feeding from an eating disorder patient in circumstances where the treatment was no longer considered appropriate, notwithstanding the likely death of the patient as a result.

It's clear that there have been many challenges over the past 70 years with the array of changes in NHS mental health

provision. However, as a pioneer in good, safe care the NHS has so far been the benchmark for all mental health provision, an accolade they should, rightly, be proud of.

A new way of thinking

While the role of the NHS in leading mental health provision is unlikely to change, they now work in conjunction with independent and third sector providers in new and increasingly integrated health and social care models. While that brings huge benefits, and is essential in providing co-ordinated mental and physical health care, it also brings challenges in terms of joint working and safe governance. It seems likely that the focus on community provision will continue, the acuity of patients in hospital will increase, and a changing, ageing population will present significant challenges in economic, social and legal terms.

While legislative change may be some way off, new Liberty Protection Safeguards and changes to the Mental Health Act are coming, posing new legal and regulatory challenges for providers. The current legislation is widely seen as being unfit for purpose, with the recent independent review commissioned by the government concluding that broad change is needed to address issues such as the level of detention, racial disparities in detention levels, the funding of care for patients leaving hospital and the use of Community Treatment Orders. The report acknowledges, however, that the problems cannot be addressed by legislation alone and cultural change is necessary.

Many involved in the provision of mental health services may respond by suggesting that additional resource will also be needed if the next 70 years are to see the same level of progress.

For more information, or discuss the issues covered in this article, please contact [Gill Weatherill](mailto:gweatherill@dacbeachcroft.com), partner, on +(0)191 404 4045 or email gweatherill@dacbeachcroft.com.

Authors



Gill Weatherill

Newcastle

+44 (0)191 404 4045

gweatherill@dacbeachcroft.com