

DRAFT Acquired Brain Injury Bill

[AS INTRODUCED]

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[AS INTRODUCED]

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Make provision about meeting the needs of adults and children with an acquired brain injury; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Acquired brain injury strategy

- (1) The Secretary of State must prepare and publish a document (“the acquired brain injury strategy”) setting out a strategy for meeting the needs of persons with acquired brain injury by improving the provision of relevant services to such persons by the public bodies listed in subsection (2). 5
- (2) Those public bodies are—
 - (a) local authorities,
 - (b) NHS bodies,
 - (c) NHS foundation trusts,
 - (d) the Ministry of Defence, 10
 - (e) HM Prison Service,
 - (f) the Department for Work and Pensions, and
 - (g) the Department for Digital, Culture, Media and Sport.
- (3) The acquired brain injury strategy must be published no later than 1 April 2023. 15
- (4) The Secretary of State—
 - (a) must keep the acquired brain injury strategy under review, and
 - (b) may revise it.
- (5) If the Secretary of State revises the acquired brain injury strategy the Secretary of State must publish it as revised. 20
- (6) In preparing the acquired brain injury strategy, or in revising it in a way which would, in the opinion of the Secretary of State, result in a substantial change to the strategy, the Secretary of State must—
 - (a) consult the Welsh Ministers on relevant services within the legislative competence of Senedd Cymru, and 25

- (b) consult and seek the participation of such persons as the Secretary of State considers appropriate.
- (7) A document prepared and published by the Secretary of State before this section comes into force is as effective for the purposes of this section as a document prepared and published after that time. 5
- (8) Consultation and steps to seek participation undertaken by the Secretary of State before this section comes into force are as effective for the purposes of this section as consultation and steps to seek participation undertaken after that time.
- (9) In this Act, “relevant services” means services which— 10
- (a) may benefit persons with acquired brain injury whether or not they are provided specifically for such persons;
- (b) are not within the legislative competence of the Scottish Parliament or the Northern Ireland Assembly.
- 2 Guidance by the relevant national authority** 15
- (1) For the purpose of securing the implementation of the acquired brain injury strategy, the relevant national authority must issue guidance to the public bodies listed in section 1(2) about the exercise of their functions concerned with the provision of relevant services.
- (2) In this section, the “relevant national authority” means— 20
- (a) in relation to the exercise of functions within the legislative competence of Senedd Cymru, the Welsh Ministers, and
- (b) in relation to the exercise of other functions, the Secretary of State.
- (3) Guidance must be issued under this section by each relevant national authority no later than 31 December 2022. 25
- (4) The relevant national authority—
- (a) must keep the guidance under review, and
- (b) may revise it.
- (5) In keeping the guidance under review the relevant national authority must in particular consider the extent to which the guidance has been effective in securing the implementation of the acquired brain injury strategy. 30
- (6) Guidance issued under this section must in particular include guidance about—
- (a) action to prevent acquired brain injury, including through shared protocols on concussion in professional and amateur sport and health and safety provisions at work; 35
- (b) research into the societal, congenital, medical and environmental causes of acquired brain injury;
- (c) the provision of relevant services for the purpose of diagnosing acquired brain injury, including in prisons, schools and the armed forces; 40

- (d) the identification of adults and children with an acquired brain injury, including in schools, youth services, prisons and the armed forces;the
 - (e) assessment of the needs of adults and children with an acquired brain injury for relevant services, including neuro-rehabilitation, physiotherapy and welfare payments; 5
 - (f) other planning in relation to the provision of relevant services to adults and children with an acquired brain injury;
 - (g) the training of staff who provide relevant services to adults and children with an acquired brain injury, including teachers, educational psychologists and those who assess welfare payments; and 10
 - (h) local arrangements for leadership in relation to the provision of relevant services to adults and children with an acquired brain injury.
- (7) The relevant national authority must consult and seek the participation of the public bodies to which the guidance applies before—
- (a) issuing guidance under this section, or 15
 - (b) revising it in a way which would, in the opinion of the Secretary of State, result in a substantial change to the guidance.
- (8) Consultation and steps to seek participation undertaken by the Secretary of State before this section comes into force are as effective for the purposes of this section as consultation and steps to seek participation undertaken after that time. 20

3 Duty to act under guidance

A public body subject to guidance or revised guidance under section 2 must act under that guidance or revised guidance in the exercise of its functions in England and Wales, including the exercise of any discretion conferred by any relevant enactment. 25

4 Interpretation

- (1) In this Act—
- “acquired brain injury” means any injury to the brain, whether through trauma or any other event, which produces neuro-cognitive impairment; 30
 - “local authority” means, in relation to England, the council of a county, a metropolitan district, a London Borough, the Common Council of the City of London or the Council of the Isles of Scilly and, in relation to Wales, the council of a county or a county borough; 35
 - “NHS body” means—
 - (a) a National Health Service trust;
 - (b) the National Health Service Commissioning Board;
 - (c) a clinical commissioning group;
 - (d) a Special Health Authority under section 28 of the National Health Service Act 2006 or section 22 of the National Health Service (Wales) Act 2006; 40
 - (e) a Local Health Board.

- (2) In this Act references to the provision of services include references to arranging for the provision of services (and references to services provided are to be construed accordingly).

5 Financial provision

There shall be paid out of money provided by Parliament—

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- (a) *any expenditure incurred under or by virtue of this Act by the Secretary of State, and*
- (b) *any increase attributable to this Act in the sums payable under any other Act out of money so provided.*

6 Extent, commencement and short title

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- (1) This Act extends to England and Wales, Scotland and Northern Ireland.
- (2) This Act comes into force at the end of the period of 2 months beginning with the day on which it is passed.
- (3) This Act may be cited as the Acquired Brain Injury Act 2021.

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Presented by Chris Bryant

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