



Pwyllgor Deddfwriaeth Rhif.3  
Legislation Committee No.3

Date: 29 March 2010

Dear Sir / Madam

### **Consultation on *proposed Mental Health (Wales) Measure***

As part of its Stage 1 consideration, the National Assembly for Wales' Legislation Committee No. 3 is calling for evidence on the general principles of the [\*proposed Mental Health \(Wales\) Measure\*](#).

#### **What is a Measure?**

A Measure is a piece of law made by the Assembly, which has a similar effect to an Act of Parliament. The Assembly is able to pass Measures on any 'matter' listed in [Schedule 5](#) to the Government of Wales Act 2006. The proposed Mental Health (Wales) Measure uses matters relating to the fields of Health and Health Services, and Social Welfare.

While a Measure is in progress through the Assembly, it is known as a 'proposed Measure'.

There is a four stage process for the consideration of a proposed Measure. Stage 1 involves consideration of the general principles of the proposed Measure by a committee (which includes the taking of written and oral evidence), and the agreement of those general principles by the Assembly.

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## **What does this proposed Measure seek to achieve?**

The Explanatory Memorandum that accompanies the proposed Measure states:

“The Proposed Measure places duties on Local Health Boards and local authorities in Wales in relation to the assessment of mental health and treatment of mental disorder. It also makes provision in relation to independent mental health advocacy for qualifying patients – those are persons subject to the compulsory powers of the Mental Health Act 1983 and persons receiving treatment in hospital (suffering with a mental disorder).

The intended effect will be achieved through the proposed Measure’s five policy objectives:

- to provide assessment of an individual’s mental health and, where appropriate, provide treatment of an individual’s mental disorder within primary care, by establishing a duty for Local Health Boards (LHBs) and local authorities to deliver primary mental health support service across Wales;
- to institute statutory requirements around care and treatment planning and care coordination within secondary mental health services;
- to require that secondary mental health services have in place arrangements to ensure the provision of timely access to assessment for previous service users;

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- to extend the group of ‘qualifying patients’ under the Mental Health Act 1983 entitled to receive support from an Independent Mental Health Advocate (IMHA), so that all patients subject to the formal powers of that Act are able to receive IMHA support if required;
- to enable all patients receiving care and treatment for mental disorder in hospital to have access to independent and professional specialist mental health advocacy.”

### **What is the committee’s role?**

The role of Legislation Committee No. 3 is to consider and report on the general principles of the proposed Measure. In doing so, the Committee has agreed to work within the following framework:

To consider:

- i) the need for a proposed Measure to deliver the aims of:
  - providing local primary mental health services at an earlier stage for individuals who are experiencing mental health problems to reduce the risk of further declines in mental health, and in some cases, reduce the need for inpatient treatment and compulsory detention;

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- ensuring that all individuals accepted into secondary mental health services in Wales have a dedicated care coordinator and receive a care and treatment plan, and that service users previously discharged from secondary mental health services have access to those services when they believe their mental health may be deteriorating;
  - extending mental health advocacy provision beyond that which is currently required;
- ii) whether the proposed Measure achieves its stated aims;
- iii) the key provisions set out in the proposed Measure and whether they are appropriate to deliver its objectives;
- iv) potential barriers to the implementation of the key provisions and whether the proposed Measure takes account of them;
- v) the views of stakeholders who will have to work within the new arrangements.

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## How you can help – the consultation questions

Further details of the proposed Measure and the accompanying Explanatory Memorandum can be found on the National Assembly's website at:

<http://www.assemblywales.org/bus-home/bus-legislation/bus-leg-measures/business-legislation-measures-mhs-2.htm>

The Committee would like to invite you to submit written evidence to assist in its scrutiny of the proposed Measure. In particular, we would welcome your views on the questions listed in **Annex 1**.

If you wish to submit evidence, please send an electronic copy of your submission to [legislationoffice@wales.gsi.gov.uk](mailto:legislationoffice@wales.gsi.gov.uk) and entitle the e-mail *Consultation – Proposed Mental Health (Wales) Measure*.

Alternatively, you can write to:

Ruth Hatton, Deputy Committee Clerk, Legislation Office, National Assembly for Wales, Cardiff Bay, CF99 1NA.

**Submissions should arrive by 14 May 2010.** It may not be possible to take into account responses received after this date.

Further information on the **legislative process** can be found at:

<http://www.assemblywales.org/bus-home/bus-legislation/bus-legislation-guidance/bus-legislation-guidance-measures.htm>

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When preparing your submission, please keep the following in mind:

- your response should address the issues before the Committee. Please reference your response using the title applied above;
- the National Assembly normally makes responses to public consultation available for public scrutiny and they may also be seen and discussed by Assembly Members at Committee meetings. If you do not want your response or name published, it is important that you clearly specify this in your submission; and
- please indicate whether you are responding on behalf of an organisation, or as an individual. **If you are responding on behalf of an organisation, please provide a brief description of the role of your organisation.**

The Committee welcomes contributions in English and Welsh and will consider responses to the written consultation during the summer term.

If you have any queries, please contact Carys Jones, Clerk, on 029 2089 8598 or Ruth Hatton, Deputy Clerk, on 029 2089 8019.

Yours faithfully

**Dai Lloyd AM**  
**Committee Chair**

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## Annex 1

### Proposed Mental Health (Wales) Measure

#### Consultation Questions

1. Is there a need for a proposed Measure to deliver the following aims:
  - a) providing local primary mental health services at an earlier stage for individuals who are experiencing mental health problems to reduce the risk of further decline in mental health, and in some cases, reduce the need for inpatient treatment and compulsory detention;
  - b) ensure that all individuals accepted into secondary mental health services in Wales have a dedicated care coordinator and receive a care and treatment plan, and that service users previously discharged from secondary mental health services have access to those services when they believe their mental health may be deteriorating;
  - c) extending mental health advocacy provision beyond current arrangements?
2. How will the proposed Measure change existing arrangements, and what impact will such changes have?
3. Are the sections of the proposed Measure appropriate in terms of achieving the stated aims?

In considering this question, respondents may wish to consider the nature of the provisions in the proposed Measure that:

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- a) Provide that there will be local primary care mental health services throughout Wales delivered by local health boards and local authorities working in partnership (part 1, sections 1-10)
  - b) Provide for care and treatment plan for individuals receiving secondary mental health care (part 2, sections 11-17 )
  - c) Provide an entitlement to assessment by the providers of secondary mental health services for previous service users in particular circumstances (part 3, sections 18-28)
  - d) Make provision in relation to Independent Mental Health Advocacy schemes in respect of patients subject to the compulsory powers of the Mental Health Act 1983, and ‘informal patients’ (part 4, sections 29-37).
4. What are the potential barriers to implementing the provisions of the proposed Measure (if any) and does the proposed Measure take account of them?
5. What are the financial implications of the proposed Measure for organisations, if any? In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the proposed Measure.
6. Are there any other comments you wish to make about specific sections of the proposed Measure?

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