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23rd April 2008

Olga Lewis
Deputy Committee Clerk, Proposed Mental Health LCO Committee
National Assembly for Wales, Cardiff Bay
CF99 1NA

Re: Consultation on proposed *Provision of Mental Health Services LCO*

Dear Olga,

Gofal Cymru is a leading mental health charity that has been working for over 17 years in Wales to provide support and assistance for people experiencing mental ill health, to enable them to manage their mental health, overcome stigma and live independent and fulfilling lives. We offer a wide range of services, delivered and developed in partnership with local authorities, local health boards and statutory bodies, including: support to people in their own homes in order maintain independence and quality of life; supported housing and rehab services; employment support and work preparation; out of hours and crisis service; carers services; and unique specialist mental health link services, bridging the gap between hospitals and homelessness departments, thus reducing the risk of homelessness amongst mental health service users.

We welcome the opportunity to respond to this consultation. We are delighted that one of the first LCO's is on mental health services and commend Jonathan Morgan for his commitment to this issue.

1. Would the terms of the proposed Order confer the appropriate powers on the National Assembly for Wales to allow for the implementation of the policy proposals outlined in the Explanatory Memorandum?

We are not legal experts, and do not feel able to comment on exactly how the wording of the proposed Order could be interpreted.

However, we do very much support the policy proposals that have been outlined. We believe the focus on early intervention, treatment and advocacy would be a good balance to the Mental Health Act and agree with the argument put forward in the Explanatory Memorandum that this might stop as many people reaching the stage where they do have to be subject to compulsion. A minority of the one in four people who experience mental ill-health fall under the Act, and we hope that the Measures that result from this LCO will help redress the balance of resources to aid the many, rather than the few. We hope that a statutory right to treatment will lead to more and different services being available in Wales - more 'crisis houses' to provide an alternative to hospital admission, specialist eating disorder services, greater provision of 'talking therapies' etc.

2. Is the scope of the proposed Order appropriate, too narrow or too broad to allow the Assembly to bring forward the Measures to address issues you believe should be addressed via legislation in the field of Mental Health in Wales? If necessary, how should the proposed Order be re-drafted and why?

We recognise that this proposed Order is relatively broad, and this is to be welcomed – we believe the National Assembly for Wales should seek to draw down as much power as possible in order to enable them to potentially legislate on as wide a range of issues as possible. We believe that, given that it is already the Welsh Assembly Government's responsibility to fund and provide mental health services and develop mental health policy, it is a particularly key area in which to obtain legislative competence. Services for those experiencing mental ill-health in Wales are not what they should be, with far too many people unable to obtain timely access to the services they need, and we would like to see this LCO as the start of Wales developing truly inspirational mental health services. Two examples of legislation that we would like to see brought forward, but which we are not sure if this proposed Order would cover, are a Measure to give advanced directives more weight in law and a Measure to establish a Mental Welfare Commission (as they have in Scotland).

However, we are realistic and recognise the delicate balance that exists between Wales and Westminster at present. We would urge close communication between civil servants and Members in both places, therefore, to ensure that this proposed Order is stretched as far as possible without it being pushed so far that it is rejected, and all powers are lost.

In terms of re-drafting the proposed Order, we would suggest that a right to "services" or to "care and support" might be more appropriate than a right to "treatment", which is a rather medical term. For many people, access to support workers, to supported housing and to employment and/ or training opportunities are key to their recovery and potential future Measures would, we hope, be as interested in these as in access to medical interventions.

3. The proposal is to impose duties on the Health Service to provide assessment of and treatment for mentally disordered persons. Should it cover duties on other bodies?

As mentioned in our response to question 2, those experiencing mental ill-health may require a range of services, and 'treatment' should be considered in a holistic, rather than a wholly medical, way. It would seem sensible, therefore, to include social care/ local government services as well as health services, although again with the caveat mentioned above that the proposed Order should only be extended if there is confidence it will not put the whole LCO in jeopardy.

4. The parts of the proposed Matter which relate to assessment and treatment (paragraphs (a) and (b)) are limited to "the health service in Wales". Would this deal appropriately with any cross-border issues?

We recognise that cross-border issues can be complex and is something that will have to be dealt with as Measures are developed. We would argue strongly, however, that this shouldn't become an excuse to prevent important improvements being made and we would suspect that it would only be an issue in a minority of cases. The Welsh Assembly Government would need to make sure if people need to receive treatment that was not available in Wales then they could continue to do so in England, but if this issue ended up resulting in more services having to be provided in Wales then that could be an added benefit.

5. In relation to assessment of persons and advocacy services, the matter applies to persons “who are or may be mentally disordered”. What are your views on this?

We recognise that definitions are extremely difficult. We are pleased that the phrase “may be” has been included as we would argue that any right should extend to all those in mental distress, regardless of diagnosis. We would suggest that “persons in mental distress” may be a better phrase, given the negative connotations and implications of medical diagnosis that “mentally disordered” could have.

6. Is it appropriate to limit legislative competence to exclude persons detained under the Mental Health Act 1983?

We understand why this exclusion has been proposed. Whilst we would dearly welcome the opportunity to re-write the Mental Health Act, we recognise that the criminal justice focus of the Act makes it unlikely that Westminster would concede to any suggestion in this proposed Order that powers were being sought to alter it.

7. Is the definition of “mentally disordered persons” in the proposed Order appropriate? If not, how should the definition be re-drafted and why?

As mentioned in our response to question 5, we are concerned that the proposed Order should cover all those in mental distress regardless of diagnosis. We recognise the importance of assessment, but would stress that this assessment must be a holistic one, considering social as well as medical need, and enabling access to interventions before a person becomes so ill that they receive a diagnosis of mental illness. We are pleased, however, that the proposed Order does not focus solely on those experiencing severe mental illness – given the desired outcome of enabling access to early intervention and treatment the need to have as broad a definition as possible will be vital.

8. Should the term “treatment” also be defined within the matter?

Whilst we don't necessarily feel there is a need to define what “treatment” would include, there does probably need to be a recognition that it can encompass more than just medical treatment. As mentioned in our response to question 2, it may be that “treatment” is not the best word to use. We would also argue that it is a right to appropriate and timely treatment that is key to a person's recovery.

Thank you once again for the opportunity to respond to this consultation. We look forward to giving evidence to the committee in person on May 13th, but if you require any further information in the mean time please do not hesitate to get in touch with our Public Affairs Manager, Alexandra McMillan, using the contact details below.

Yours sincerely

Ewan Hilton
Executive Director

For further information, please contact: Alexandra McMillan, Public Affairs Manager, Gofal Cymru,
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