



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

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# The Mental Health (Wales) Measure

## Introduction

The Mental Health (Wales) Measure has been laid before the National Assembly for Wales, and if enacted will make a number of important changes to the current legislative arrangements in respect of the assessment and treatment of people with mental health problems.

The purpose of this briefing sheet is to provide general information about those changes, explain how you can become involved in shaping the legislation, and how the Welsh Assembly Government intends that the legislation will be implemented.

A Measure (such as the proposed Mental Health (Wales) Measure) is a piece of law made by the Assembly. It has similar effect to an Act of Parliament. While a Measure is in progress through the Assembly, it is known as a proposed Measure.



## What is mental health law for?

Current mental health law is set out in the Mental Health Act 1983 which provides a framework for the compulsory hospitalisation and treatment of certain people with a mental disorder. Only a very small minority of people with mental health problems need to be treated compulsorily. The great majority of people with mental health problems never need to be treated compulsorily and voluntarily seek treatment.

This Measure is different to current mental health law, as it does not provide for the compulsory admission and treatment of people. The Measure deals with accessing and receiving care and treatment within primary and secondary mental health services. It will apply to everyone receiving care and treatment within these services in Wales. The Measure will also make provision for people receiving care and treatment in hospital, so that they can access independent and specialist advocacy, if they wish to.

The Measure does not deal with compulsory admission and treatment, and cannot be used to require a person to receive assessment, treatment or advocacy who does not wish to do so - these remain matters for the Mental Health Act 1983.

## What does the Mental Health (Wales) Measure aim to achieve?

The Measure has five broad policy intentions:

- to provide assessment of a person's mental health and, where appropriate, provide treatment for their mental ill-health within primary care, by placing a statutory duty for Health Boards and Local Authorities to deliver local primary mental health support services across Wales
- to create statutory requirements around care and treatment planning and care coordination for all persons receiving care and treatment with secondary mental health services
- to require secondary mental health services to have in place arrangements to ensure the provision of timely access to assessment for previous service users
- 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 they request it
- to enable all patients receiving care and treatment for mental health problems in hospital to have access to independent and specialist mental health advocacy.

Further information on each of these policy intentions is given below.

## Local primary mental health support services

The Welsh Assembly Government recognises the crucial role that primary care plays in delivering effective mental health care and treatment. The aim of the Measure is to strengthen that role so that throughout Wales there will be local primary mental health support services. These will be delivered by Health Boards and Local Authorities in partnership, and it is expected that these services will operate within or alongside existing GP practices.



The services that will be delivered are:

- in-depth, focussed mental health assessments for individuals who have first been seen by their GP, but for whom the GP considers a more in-depth assessment is required
- short-term interventions, either individually or through group work, if this has been identified as appropriate following assessment. Such treatment may include counselling, a range of psychological interventions including cognitive behavioural therapy, solution-focussed therapy, stress management, anger management and education
- provision of information and advice to individuals and their carers about treatment and care, including the options available to them, as well as 'signposting' them to other sources of support (such as support provided by voluntary organisations)
- provision of support and advice to GPs and other primary care workers (such as practice nurses) to enable them to safely manage and care for people with mental health problems
- supporting the onward referral and co-ordination of next steps with secondary mental health services, where this is felt to be appropriate for an individual.

These services are aimed at individuals aged 18 or over who are experiencing mild to moderate and stable severe and enduring mental health problems.

## Care and treatment planning

The Measure places duties on service providers (Health Boards and Local Authorities) to act in a coordinated manner to improve the effectiveness of the mental health services they provide to an individual. The Measure will require there to be a care and treatment plan for all service users aged 18 and over who have been assessed as requiring care and treatment within secondary mental health services. Each care and treatment plan will:

- be developed by a care coordinator in consultation with the service user, and the delivery of the care and treatment identified in the plan will be overseen by the care coordinator
- outline the expected outcomes of services, and the how those outcomes are to be achieved
- be in writing
- be kept under review and may be updated to reflect any changes in the type of care and treatment which may be required by the service user over time.

## Assessments of former users of secondary mental health services

The aim of this policy is to enable individuals who have been discharged from secondary mental health services, but who subsequently believe that their mental health is deteriorating to such a point as to require such care and treatment again, to refer themselves back to secondary services directly, without necessarily needing to first go to their general practitioner or elsewhere for a referral.

Health Boards and Local Authorities will be required to have arrangements in place to receive self-referrals of this kind, and to undertake timely assessments.



## Mental health advocacy

Evidence suggests that advocacy can lead to an improved experience of mental health services for individuals, including the potential for advocacy to create choice, improve involvement in decision making, and promote access to a range of different services.

The Measure provides for an expanded statutory scheme of independent mental health advocacy, both for patients subject to compulsion under the Mental Health Act 1983, and for those in hospital informally (in other words, not subject to the 1983 Act).

The Mental Health Act 1983 currently enables patients subject to the longer-term sections to receive help and support from an Independent Mental Health Advocate (or IMHA). IMHAs are not available to those patients on the shorter-term, emergency sections of the Act. This Measure will provide that these patients can receive IMHA support if they wish. The expansion of the IMHA scheme in this way will ensure that all individuals subject to the 1983 Act are able to receive independent help and support from an advocate if they wish to.

Many patients receiving care and treatment in hospital for their mental health problems are not detained under the Mental Health Act 1983, but are voluntary (or informal) patients. These patients sometimes require help from an advocate during their stay in hospital, but such services may not always be available. This Measure will create statutory duties to ensure such help and support is available for all inpatients. Such advocacy will assist inpatients in making informed decisions about their care and treatment, and support them in getting their voices heard.

## What happens next?

The Mental Health (Wales) Measure was introduced into the National Assembly for Wales on 22 March 2010. The Measure will now be considered by Assembly Members (AMs), and if agreed will be passed by the Assembly and become law. There is a four stage process for the consideration of a Measure by AMs, involving:

- Stage 1 - consideration of the general principles of the proposed Measure by a legislation committee, and the agreement of those general principles by the Assembly.
- Stage 2 - detailed consideration, by a legislation committee, of the proposed Measure and any amendments tabled - this involves line-by-line examination of the text of the proposed Measure by the committee.
- Stage 3 - detailed consideration, by the Assembly, of the proposed Measure and any selected amendments - this involves line-by-line examination of the text of the proposed Measure by the Assembly.
- Stage 4 - a vote by the Assembly to pass the final text of the proposed Measure.

You can follow each of these stages by visiting the National Assembly for Wales website ([www.assemblywales.org](http://www.assemblywales.org)), and clicking on the links to 'Legislation'.

During Stage 1 the legislation committee will issue a call for evidence: this is your opportunity to comment on the legislation.



## When will the legislation come into effect?

If the Measure is passed the Welsh Assembly Government intend to phase in commencement of the provisions. This recognises that some Health Boards and Local Authorities will need to enhance existing services, or perhaps develop new services, to meet their obligations under the Measure.

The overall expected timescale is three years from the Measure being passed by the Assembly, to achieve full implementation. Assuming that the Measure is passed in the financial year 2010/11, it is expected that:

- Local primary mental health support services will come into full effect in 2012/13. Development work will take place in ahead of commencement.
- Care planning for secondary mental health services will come into full effect in 2011.
- Secondary mental health assessments will also come into full effect in 2011.
- Mental health advocacy for compulsory patients (ie for those sections of the 1983 Act not currently supported by an IMHA) will come into full effect in 2011.
- Mental health advocacy for informal inpatients (ie for those not subject to compulsion under the 1983 Act) will come into full effect in 2011/12.

Implementation of all aspects of the Measure will be supported by the Welsh Assembly Government, and further information on all of the matters covered in this briefing can be found in the Explanatory Memorandum which was laid before the Assembly with the Measure. Go to [www.assemblywales.org](http://www.assemblywales.org) and follow the links to 'Legislation'.

## Further information

For further information on the Mental Health (Wales) Measure, including the plans for its implementation, you can contact the Mental Health Legislation Team in the Welsh Assembly Government.

Email: [mentalhealthpolicymailbox@wales.gsi.gov.uk](mailto:mentalhealthpolicymailbox@wales.gsi.gov.uk)

Write to: Mental Health Legislation Team  
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If you wish to receive email alerts at key stages in the legislative process for this Measure, please contact the email address above.