

Number: WG-13555



Llywodraeth Cymru  
Welsh Government

[www.cymru.gov.uk](http://www.cymru.gov.uk)

Welsh Government

## Consultation Document

# Consultation on the Draft Code of Practice to Parts 2 and 3 of the Mental Health (Wales) Measure 2010

Date of issue: **18th October 2011**

Action required: Responses by **16th January 2012**

## Overview

This consultation is to seek views upon the Draft Code of Practice to parts 2 and 3 of the Mental Health (Wales) Measure 2010.

## How to respond

The closing date for replies is the 16th of January 2012. Please mark the subject of your email/letter 'Consultation on the Draft Code of Practice'. We would be grateful if your response could include information about you.

A sample questionnaire for completion is given at Annex 1, and replies should be returned either electronically or by post to:

Mental Health Legislation Team  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

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

## Further information and related documents

**Large print, Braille and alternate language versions of this document are available on request.**

There are two annexes to this consultation document:

Annex 1: Consultation response form  
Annex 2: Draft Code of Practice to parts 2 and 3 of the Mental Health (Wales) Measure 2010

## Contact Details

For further information:

Mental Health Legislation Team  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

Telephone: 029 2082 3676

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

## Data Protection: How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

## **Introduction**

1. The Mental Health (Wales) Measure (“the Measure”) was passed by the National Assembly for Wales in November 2010 and received Royal Approval in December 2010.
2. The Measure makes a number of important changes to the current legislative arrangements in respect of the assessment and treatment of people with mental health problems in Wales.
3. The Measure also allows for the preparation of Codes of Practice in relation to the Measure and requires that before preparing any code Welsh Ministers must consult any person they consider appropriate.

## **Overview of the Code of Practice**

4. This draft Code of Practice has been prepared as guidance for Local Health Boards, local authorities, care coordinators and any other person with functions in relation to Parts 2 and 3 of the Measure.
5. Chapter 1 of the Draft Code sets out guiding principles in the light of which all other chapters should be read.
6. Part 2 of the Measure is concerned with care and treatment planning for people receiving secondary mental health services and the appointment of care co-ordinators as part of the process of planning and coordination of care.
7. Chapters 2 to 6 provide guidance on assessment as part of the process for developing outcomes for care and treatment plans, the appointment and functions of care coordinators, care and treatment planning, the coordination of services and the monitoring of care and treatment plans through reviews.
8. Chapter 7 provides guidance for fulfilling statutory duties to provide information to people who no longer require secondary mental health services.
9. Part 3 of the Measure is concerned with former users of secondary mental health services and providing a right for them to refer themselves back to secondary services for assessment directly.
10. Chapter 8 of the draft Code provides guidance about undertaking such assessments and what happens following assessment.
11. The draft Code of Practice is attached to this consultation document at Annex 2.

## **Status of the Code of Practice**

12. The Code of practice is intended to provide Guidance for those people and organisations who have duties and functions under the Measure. It is also intended that the Code will be of use to those people who receive secondary mental health services or are entitled to request assessment as a former user of secondary mental health services.
13. Local authorities, Local Health Boards and care coordinators are required to have regard to the Code in carrying out their relevant functions under the Measure. Departures from the Code could give rise to legal challenge and a court, in reviewing any departure from the Code, will scrutinise the reasons for the departure to ensure there is sufficiently convincing justification in the circumstances. It is good practice to ensure any such reasons are appropriately evidenced.

## **Equality Impact Assessment**

14. The Welsh Government is committed to making sure that as policies, strategies, action plans and legislation are developed, every effort is made to actively contribute to an environment that is free from discrimination.
15. Part of this is about assessing the impact that policies and actions may have on the people of Wales, to make sure that the Welsh Government does not discriminate but takes every opportunity to promote equality and good relations.
16. Further information on 'Inclusive Policy Making', the Welsh Government's version of Equality Impact Assessment, can be accessed at:

<http://wales.gov.uk/topics/equality/publications/ipmguide2/?lang=en>

Comments and views on the impact that the Code of Practice may have are invited as a specific consultation question below.

## **Consultation questions**

17. In relation to the draft Code of Practice, the Welsh Government would welcome your views on the following questions:

### **Question 1**

Do you agree with the structure, style and tone of the draft Code?

### **Question 2**

Are the guiding principles in Chapter 1 suitable for the Code? If not, how could they be improved?

### **Question 3**

Are issues relating to the Welsh language adequately covered? If not, what could be added or improved?

**Question 4**

Does the draft Code provide sufficient guidance in relation to planning outcomes for the care and treatment plan? If not, in what way could it be improved?

**Question 5**

Do you think that the guidance regarding the carrying out of reviews is adequate? If not, what could be added or improved?

**Question 6**

Does the Code provide sufficient guidance on the Role and Functions of Care Co-ordinators? If not, what should be added or improved?

**Question 7**

Is the guidance in relation to “frivolous or vexatious requests” in Chapter 8 clear? If not, what would improve the guidance?

**Question 8**

Are there any issues that the draft Code ought to cover, but doesn't?

**Question 9**

Is there material in the draft Code that could be cut down, left out or could more appropriately and usefully be covered in other guidance?

**Question 10**

We would welcome your views on the potential impact of the draft Code of Practice on:

- a. Disability
- b. Race
- c. Gender and gender reassignment
- d. Age
- e. Religion and belief and non-belief
- f. Sexual orientation
- g. Human Rights

**Question 11**

If there are any other matters relating to this draft Code of Practice that you wish to raise, then please do so as part of your response.

18. A sample questionnaire for completion is given at Annex 1, together with the details for replying to this consultation.