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Welsh Assembly Government

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Consultation Document

The Mental Health (Assessment of Former Users of Secondary Mental Health Services) (Wales) Regulations 2011

Consultation on the draft Regulations
and the draft Explanatory Memorandum
and Regulatory Impact Assessment

Date of issue: **21 February 2011**

Action required: Responses by **16 May 2011**

Overview

This consultation is about draft regulations relating to mental health assessments for former users of secondary mental health services.

How to respond

The closing date for replies is 16 May 2011.

Please mark the subject of your email/letter 'Consultation on Part 3 Regulations'. 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 Assembly Government
Cathays Park
Cardiff
CF10 3NQ

Email: mentalhealthandvulnerablegroups@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 three Annexes to this consultation document:

Annex 1: Consultation response form

Annex 2: Draft Mental Health (Assessment of Former Users of Secondary Mental Health Services) (Wales) Regulations 2011

Annex 3: Draft Explanatory Memorandum and Regulatory Impact Assessment

Contact Details

For further information:

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

Telephone: 029 2082 6988

Email: mentalhealthandvulnerablegroups@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 Assembly Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Assembly Government staff to help them plan future consultations.

The Welsh Assembly 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 Assembly 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. These draft Regulations are to be made by the Welsh Ministers in exercise of powers under the Measure, and relate to Part 3 of the Measure.

Legislative background to the Regulations

4. Part 3 of the Mental Health (Wales) Measure 2010 is concerned with assessments of former users of secondary mental health services.
5. The Measure places duties on Local Health Boards (LHBs) and local authorities to make arrangements which 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 specialist intervention again, to refer themselves back to those services directly, without necessarily needing to first go to their general practitioner or elsewhere for a referral.
6. Eligible persons will be those aged 18 and over who have previously received treatment within secondary services for a mental disorder and who have since been discharged from those services. The entitlement to seek an assessment will not be indefinite, but rather governed by a ‘relevant discharge period’ within which such a request must be made. The duration of this period is one of the matters covered by these draft Regulations.
7. Individuals who have received and been discharged from secondary mental health services whilst below the age of 18, are also eligible for reassessment if they reach the age of 18 during the relevant discharge period (provided that they meet all the other eligibility criteria).
8. The Measure also makes provision for undertaking those assessments, and any next steps following assessment.

Overview of the Regulations

9. These Regulations contain provisions about mental health assessments for former users of secondary mental health services. They contain provision about eligibility for such an assessment.
10. The Welsh Ministers may make Regulations which establish –

- a) the term of the relevant discharge period (the period during which a person is eligible for a mental health assessment following their discharge from secondary mental health services);
- b) any events which would end the relevant discharge period before its usual term;
- c) the period of time in which a copy of a report following assessment must be provided to the assessed individual;
- d) the method of determining the usual residence of the individual requesting assessment (where this is disputed).

11. The draft Regulations propose making the following provisions:

- a) The term of the relevant discharge period will be three years, except where an adult was discharged from services prior to the coming into force of the Regulations (provisions for such persons are dealt with separately in Regulation 6).
- b) A copy of the assessment report must be provided to the assessed individual within 10 working days after the completion of the assessment. This is set out in Regulation 4.
- c) Determination of a person's usual residence (where this is disputed), which is set out in Regulation 5.

12. A copy of the draft Regulations are included in Annex 2. Your views on these draft Regulations are welcome as part of this consultation.

Overview of the Explanatory Memorandum and Regulatory Impact Assessment

13. The Standing Orders of the National Assembly for Wales require that an Explanatory Memorandum be laid before the Assembly to accompany Regulations, such as the Regulations being consulted upon here.

14. In some cases the Explanatory Memorandum must include a regulatory impact assessment (RIA). Amongst other matters an RIA will include an option appraisal, setting out the costs, benefits and risks of making the proposed legislation.

15. A draft Explanatory Memorandum (including an RIA) has been prepared for these Regulations, and is included at Annex 3. Your views on this draft document are welcome as part of this consultation.

Equality Impact Assessment

16. The Welsh Assembly 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. 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 Assembly Government does not discriminate but takes every opportunity to promote equality and good relations.
17. As part of the consultation on these Regulations we would welcome your views on the potential impact of the proposed legislation 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
18. Further information on 'Inclusive Policy Making', the Welsh Assembly Government's version of Equality Impact Assessment, can be accessed at: <http://wales.gov.uk/topics/equality/publications/ipmguide2/?lang=en>

Consultation questions

19. In relation to the draft Regulations, the Welsh Assembly Government would welcome your views on the following questions:
- a) Do you agree that the relevant discharge period should be set at three years, from the date the individual is discharged from secondary mental health services (Regulation 3(1))?
 - b) Are there any events or circumstances which should end the relevant discharge period, other than the expiry of the three year period?
 - c) Regulation 4 provides that a copy of an assessment report must be provided to the assessed person within 10 working days of completion of the assessment – is this an appropriate maximum period?
 - d) Is the method of establishing usual residence in cases of dispute set out in Regulation 5 appropriate?
 - e) Have all the relevant matters been identified within the transitional provisions set out in Regulation 6?
20. In relation to the draft Explanatory Memorandum, the Welsh Assembly Government would welcome your views on:

- a) Is there sufficient information in the Explanatory Memorandum to understand the purpose and effect of these Regulations?
- b) Do you agree with the preferred option in the Regulatory Impact Assessment (option 2 – make regulations)? If not, please provide further details.
- c) Are you content with the estimated costs/benefits regarding the implementation of these Regulations? If not, please supply evidence to support your views.

21. We would welcome your views on the potential impact of the proposed legislation 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

22. If there are any other matters relating to these Regulations or Explanatory Memorandum that you wish to raise, please do so as part of your response.

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