

# Legislation Committee 3

LC3(3)-08-10 - Paper 2 Annex 1

## Proposed Mental Health (Wales) Measure

### Written Evidence Submitted on behalf of South Wales Mental Health Advocacy (SWMHA)

SWMHA is currently the largest provider of statutory mental health advocacy in Wales, responsible for the service within seven local authority areas across South-East Wales.

In addition to the IMHA service we also provide non-statutory mental health advocacy in ten local authority areas

Our response to the call for evidence is focussed largely on the proposals relating to advocacy - however we have some brief observations on the provisions relating to assessment and statutory requirements around care and treatment. These are as follows;

#### 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';

As advocates we welcome the proposal to provide local primary mental health services at an earlier stage. In practice there will be a lot of provision which needs to be costed in as there is little provision in terms of counselling, CBT therapy etc currently available. NICE guidelines in regard to the treatment of depression and anxiety could be a starting point to inform which services could be useful. Some of these services are currently being delivered by the voluntary sector - what are the implications for them if this is a statutory service? The voluntary sector should be considered for funding to facilitate some of the services instead of just delivering through the LHB and Social Services.

The immense value of including community advocacy within the proposals for primary care should also be considered - I shall return to this issue later.

b) ensure that all individuals accepted in to secondary mental health services in Wales have a dedicated care co-ordinator and receive a care and treatment plan

This proposal is welcomed by advocates. In practice the current CPA system is not working well. Advocates see many patients who either do not have a CPA, who do not seem to have a care co-ordinator, or do have a CPA which is years out of date. Enforcing this in legislation would be beneficial to service users.

c) 'Extending mental health advocacy beyond current arrangements'.

From an advocacy point of view the proposal to extend the current arrangements to informal patients is once again welcome. Experience shows that informal patients require the same support as those detained and in reality most informal patients are subject to the same restrictions as those who are detained. Some LHB's already provide the extended service covered in the proposed Measure, but there are areas where this is not the case, so the measure will ensure an equitable service. The embedding of such services within an amended legal framework will ensure advocacy coverage which is both comprehensive and equitable and an enhanced status for advocacy which only a statutory framework can provide.

#### 2) How will the proposed Measure change existing arrangements, and what impact will such changes have?

The extension proposed within the Measure will in many areas of Wales substitute new - and more substantial - statutory funding for existing non-statutory provision. This is certainly the case in all ten of the Local Authority areas in which SWMHA currently operates

There will however be implications for a number of these service providers if current IMHA service providers take over some of their functions. However it will not fundamentally affect the existing 'nine-to-five Monday to Friday' provision upon which the majority of advocacy services are currently based.

The proposal to make provision for mental health advocacy for all patients subject to the formal powers of the Act will have a more fundamental impact upon existing arrangements. Currently IMHA services are required to see clients 'within a reasonable time' - this is considered by our commissioners to be within 5 working days.

The new provisions will require a far shorter response time (although not an instant one) for clients held on Emergency sections of the Mental Health Act. This will as currently proposed require the implementation of 7 day 10 or 12 hour response service in order to receive and assess referrals and achieve a same day (or next day) response. Such an 'on call' system of working will impact on all current providers but in particular in areas such as South Powys and Ynys Mon which the service provider organisation is a small one.

In the case of both proposals to extend advocacy the need to increase capacity by some 250% over a period of 2 years will again place a strain upon current providers particularly the smaller services, especially given the need to maintain current services.

In this respect the proposal to phase the implementation of the Measure proposals over a period of 2 years is to be welcomed allowing a longer timetable for recruitment, training and deployment of staff.

### **3) Are the sections of the proposed Measure appropriate in terms of achieving the stated aims?**

We feel that the sections of the Measure do achieve many of the stated aims and will close a number of equality gaps- however at this point I would wish to return to the issue of community advocacy.

We feel that the Measure is missing an opportunity in not including community advocacy within its remit. We see both an opportunity and a need for advocacy within both of the following proposals;

a) 'The provision of local primary care mental health services throughout Wales;'

and;

c) 'An entitlement to assessment by the providers of secondary mental health services for previous service users in particular circumstances'.

Many service users will need support to access services and also support to ensure that any identified needs are actually actioned by services. As there is no actual duty in the Measure to provide any identified needs many service users may be assessed but still face barriers to accessing services. Independent advocacy could be an important mechanism in helping service users at this stage.

### **4) What are the potential barriers to implementing the provisions of the proposed Measure and does the proposed Measure take account of them?**

The potential barriers (to the proposed advocacy provisions) include the following;

1. Inadequate and/or inequitable funding of the provision.
2. Capacity issues for existing providers, particularly smaller ones.
3. Timetabling issues for the implementation of the proposed Measure.
4. Huge training implications for both mental health advocates and perhaps more significantly and substantially for providers of statutory mental health services across Wales.
5. The risk that statutory staff will not grasp the legal requirements flowing from the new Measure. Current Trust staff already struggle with the concept of what the IMHA role is. As the role is extended into general hospitals this will become much more difficult. There will need to be mechanism in place to identify which clients in private or medical wards are eligible for IMHA, so that the IMHA service themselves can introduce their role to the service user. Staff referral rates for the current IMHA service are very low. There is a danger that referrals from general wards will be almost non - existent.

The Measure addresses the above barriers as follows;

6. The funding proposal for implementation of the advocacy proposals within the Measure is in our view adequate, if not generous, in terms of the new services and client groups subject to the Measure. However care must be taken in mapping the new need in a way which reflects accurately service requirements across the Principality. There is a view across current IMHA services that the mapping exercise which preceded the original IMHA commissioning was flawed- it is important that this is not repeated.

The cost of training advocates, and the set up costs in terms of new or expanded premises and infrastructure are also substantial - it is therefore vital that adequate funding from the pre-implementation budget is ring-fenced for this purpose.

7. In discussing capacity issues it is important to be clear about the very limited provision under which current IMHA services are being delivered. Fewer than 20 full time equivalent staff currently deliver the IMHA service across Wales - the largest provider has 6.6 full time equivalent staff, the smallest less than one full time equivalent. The need to increase capacity rapidly whilst maintaining current services will place immense pressure upon current providers.

8. As has already been noted the proposed phased implementation of the advocacy proposals over a 2 year period will help to ease timetabling issues. However in contrast with the extremely short timetable for implementation available for the roll out of the original IMHA service there will need to be adequate time available (and firm commitments in place ) to allow a process of recruitment, training and deployment of staff. It is rarely possible to recruit a trained advocate- no such pool of staff exist - and comprehensive training for advocates can take a year.

9. Training of statutory staff in the legal implications of the advocacy proposals in the new Measure will be a huge issue. Since clients on surgical wards who have (or develop) co-occurring mental health problems will under the terms of the Measure be entitled to the services of an advocate all health staff and not just those involved in mental health will require a basic knowledge of the legislation .

As noted above the Measure proposals have made available a pre-implementation budget ( £250k per year over the next 2 years) in order to ensure a smooth run in to the development of new services. Much of this will no doubt be earmarked for training of statutory staff. It is our view that the best organisations to train services on advocacy issues are advocacy services themselves and that elements of this budget should again be ring-fenced for this purpose.

### **5) What are the financial implications of the proposed Measure for organisations, if any?**

A number of the financial implications of the Measure have we feel been covered elsewhere in this response. However one issue of note is the fact that the proposals within the Measure will have the effect of substituting new statutory funding for existing non-statutory provision in many areas of Wales- to give an indication this figure will amount to some £230,000 in the 8 local authority areas in which SWMHA operates. It would be a major backward step if this funding was to be moved out of the advocacy sector. We see this rather as an opportunity to move funding in to the area of community advocacy where it can be used to improve current services or to develop them within those Local Authority areas in which a service does not currently exist. In filling this gap in provision a major contribution would be made to ensuring the success of the Measure outcomes.

**6) Are there any other comments you wish to make about specific sections of the proposed Measure?**

We believe that in seeking to close gaps in provision the proposals outlined in the Measure represent a further step in the empowerment of mental health service users and an advance in the status of advocacy in Wales- as such they are to be commended .