



**Royal College of Nursing Wales Response to the
National Assembly for Wales
Proposed Provision of Mental Health Services
Legislative Competence Order Committee**

**The National Assembly for Wales (Legislative
Competence) (No 6) Order 2008
(Relating to Provision of Mental Health Services)**

25th April 2008

ABOUT THE ROYAL COLLEGE OF NURSING (RCN)

The RCN is the world's largest professional union of nurses, representing over 390,000 nurses, midwives, specialist community public health nurses, health care support workers and nursing students, including over 23,000 members in Wales. The majority of RCN members work in the NHS with around a quarter working in the independent sector. The RCN works locally, nationally and internationally to promote standards of care and the interests of patients and nurses, and of nursing as a profession. The RCN is a UK-wide organisation, with its own National Boards for Wales, Scotland and Northern Ireland. The RCN is a major contributor to nursing practice, standards of care, and public policy as it affects health and nursing.

The RCN represents nurses and nursing, promotes excellence in practice and shapes health policies.

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?

Yes. However the Royal College of Nursing Wales believes the implications for service delivery and workforce planning are extensive. Assessment, in particular is a highly skilled process and there are also implications for the delivery of services to those identified and in need. This requires the commissioning of appropriate numbers of nurse training places, the appointment of an appropriate number of posts within the NHS and investment in the continued professional development required to enhance and maintain skills.

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?

The scope is appropriate if account is taken of our comments below.

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?

Extended the duties to cover other bodies should certainly be considered due to the large range of services often being provided (or required) by someone mentally unwell or believed to be so. Examples would include the prison service, the probation system and those who provide services to the homeless or rough sleepers.

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?

Cross-border issues are likely to arise from any legislation, guidance or policy affecting the health service in Wales. Provision to consider specific guidance or the conferring of specific responsibilities in this area should be made.

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?

There must be recognition that individuals do have the right to refuse an assessment and advocacy service. Choice and refusal may be exercised by an individual who, despite offers of assistance, remains at liberty to refuse. Clearly if this refusal has potentially negative consequences for that individual and others then the applicability of other more appropriate mental health legislation may be considered.

Moreover, if following assessment the individual is found to be not suffering from a mental disorder they may still require services to meet the needs identified. It would be unreasonable and distressing for these needs not to be addressed having been assessed.

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

We believe this is appropriate, at this point in time.

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

The definition proposed would be better if modified to “meaning persons who have any disorder or disability of brain or mind” This would acknowledge that the mind does not exist in isolation from the functions of the brain and also that brain disorders may indeed have psychological consequences that merit assessment and treatment.

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

The term requires further definition to acknowledge that treatment offered may be wider than simply a medical/bio chemical intervention. Interventions may be psycho-social or indeed psychological and may be offered as an active treatment intervention or in a process that is recovery focussed and delivered in a mainly social environment.

‘Treatment’ is also offered by those from professional groups other than doctors.