

MHB001 - Individual

Senedd Cymru | Welsh Parliament

Bil arfaethedig – Datblygu'r Bil Safonau Gofal Iechyd Meddwl (Cymru) |
Proposed Development of the Mental Health Standards of Care (Wales) Bill

Ymateb gan: Unigolyn | Evidence from: Individual

Enshrining overarching principles in legislation

**Question 1: Do you think there is a need for this legislation?
Can you provide reasons for your answer.**

I agree wholeheartedly with the need for this legislation. There was a large degree of disappointment when there was no mention of the Bill in the King's speech even though the draft Bill had been presented to Parliament almost two years ago. The Mental Health Act is now over forty years old and long overdue a need for reform.

Question 2: Do you agree or disagree with the overarching principles that the Bill seeks to enshrine?

The principles are in place to ensure the patient is given the best care possible to meet their specific needs while making them a part of the whole process by ensuring their choice is respected throughout. I believe any Bill that seeks to enshrine our overarching principles can only be a positive thing.

Specific changes to existing legislation

A. Nearest Relative and Nominated Person

Question 3: Do you agree or disagree with the proposal to replace the Nearest Relative (NR) provisions in the Mental Health Act 1983 with a new role of Nominated Person?

Can you provide reasons for your answer.

I am in daily contact with AMPHs responsible for identifying a patient's NR. The current process is bound to an archaic piece of legislation that use the hierarchical scheme for identifying the NR. This often seems to cause headaches for them, especially when assessing a patient for section 3 and the section 2 is

due to expire within a matter of hours. Changing the NR provisions to a Nominated Person will no doubt come with its own unforeseen problems i.e. appropriateness of the Nominated Person, but I would say it's definitely preferred to the current system and will both speed up the process of detention for a vulnerable person in need of inpatient care/treatment, better for the patient and also easier for the AMHP.

B. Changing the criteria for detention, ensuring the prospect for therapeutic benefit

Question 4: Do you agree or disagree with the proposal to change in the criteria for detention to ensure that people can only be detained if they pose a risk of serious harm either to themselves or to others?

Can you provide reasons for your answer.

This could cut down on the use of compulsory detention and the assessing team would need to consider the new criteria before applying a section. Only time will tell whether this will result in a significant reduction of detentions though.

Question 5: Do you agree or disagree with the proposal to change in the criteria that there must be reasonable prospect of therapeutic benefit to the patient?

Can you provide reasons for your answer.

Again, I would agree with this in principle. Anything that would avoid the necessity of having to detain someone against their will would be welcome. Whether this would reduce the pressure on beds remains to be seen.

C. Remote (Virtual) assessment

Question 6: Do you agree or disagree with the proposal to introduce remote (virtual) assessment under 'specific provisions' relating to Second Opinion Appointed Doctors (SOADs), and Independent Mental Health Advocates (IMHA)?

Can you provide reasons for your answer.

I would agree that this would certainly speed up the process of gaining a second opinion for a patient, especially for patients on a CTO or those in need of ECT treatment. As long as the wishes of the patient (providing they have the capacity) are taken into account and that the choice of virtual or face to face assessment is given to them.

D. Amendments to the Mental Health (Wales) Measure 2010

Question 7: Do you agree or disagree with the proposal to amend the Measure to ensure that there is no age limit upon those who can request a re-assessment of their mental health?

Can you provide reasons for your answer.

I can't see a downside to this proposal and don't see why only 'adults' should be given the option to request re-assessment, especially given the longer life expectancy there is now everyone should be given the same right.

Question 8: Do you agree or disagree with the proposal to amend the Measure to extend the ability to request a re-assessment to people specified by the patient?

Can you provide reasons for your answer.

Yes, I absolutely agree. Extending the request to people named by the patient seems to make sense. The patient may not be in a state of mind to self-refer so this would allow the named person to do it on their behalf.

General Views

Question 9: Do you have any views about how the impact the proposals would have across different population groups?

Unable to comment on this until it's in use. However, you could see there being an impact on the older population with the proposal of extending the re-assessment request to all ages.

Question 10: Do you have any views about the impact the proposals would have on children's rights?

Too early to tell. Having a Nominated Person could be beneficial for the young person.

Question 11: Do you have any general views on the proposal, not covered by any of the previous questions contained in the consultation?

Yes. I emailed WG several months ago requesting that an update to the 'Mental Health (Hospital, Guardianship, Community Treatment and Consent to Treatment) (Wales) (Amendment) Regulations 2012' be considered. The regulations in England were updated in 2020 to include the use of electronic

communication as a permitted method of service. The purpose of this amendment is to drastically cut down on the time and distance it takes for the MHA assessing team to complete and submit detention papers. Another benefit would be the reduction in use of physical files and the space needed for those files. Archiving facilities are struggling for room at the moment so this would greatly help ease that. Unfortunately, Wales has not followed suit with this amendment as of yet, and so we are still having to rely on paper documents throughout Wales. The problems with this, other than those already mentioned, is that paper documents are prone to getting delayed or lost altogether during transit between wards, the admitting hospital and our office for transfers. This has happened to us on several occasions only recently, both for transferring in and out of the Health Board.

Both sets of regulations relate to the same piece of legislation i.e. the MHA 1983. Health Inspectorate Wales have already stopped using paper forms for their SOAD certificates, this was done back during the COVID pandemic, and we now receive electronic versions only. As these are statutory documents just like detention documents, I can't see the reason for the continued disparity here.

I received a response from the Government Business Team stating "we agree that it would be advantageous to amend the relevant regulations in Wales in a similar way to the changes in England. We will be including our commitment to supporting changes to enable digitisation of the administration of mental health services in the draft Mental Health Strategy for Wales that we will shortly be consulting on, and it is our intention to address this as soon as resources allow".

I would just like to highlight again, by way of this response document, the need for digitisation of statutory documents. I'm sure I could think of many more benefits of introducing this, but its inclusion to the regulations would make a huge difference to all involved in the detention process, and the patient's journey throughout NHS Wales.
