



RE: Memorandwm Cydsyniad Deddfwriaethol: Y Bil Iechyd Meddwl / Legislative Consent Memorandum: Mental Health Bill

The PLU received a request from Welsh Government, the Chair of the Health and Social Care Committee, inviting comments on the Legislative Consent Memorandum on the Mental Health Bill.

Please see below an all-Wales response to the police associated questions:

1: Your overall views on the policy objectives of the Bill.

In principle the objectives are sensible and necessary based on the two objectives listed. The objectives have been based in part on the original recommendations from the 2018 Independent Review of the Mental Health Act, and subsequent consultations including the 2022 draft Mental Health Bill and its pre-legislative scrutiny. The voice of policing, including a Welsh police perspective was fed into those consultation processes through the NPCC Mental Health portfolio regional forums. The new objectives take account of some of the additional issues identified through pre-legislative scrutiny.

2: What barriers do you think currently exist in accessing mental health services in Wales, and does the Bill address these adequately?

We still see inconsistencies between services compared between England and Wales, due to different funding streams and the devolved NHS. Whereas guidance for policing in England and Wales is delivered by the College of Policing and NPCC the development of guidance does not on occasion account for the differences in the devolved nature of mental health service delivery in Wales. A clear example of this is Wales services operating on a Local Health Board basis whereas we see integration of services in England coming together in ICB (Integrated Care Board) areas. The funding of Mental Health Services in England also greatly differs to Wales with allocated funding for specific initiatives, such as the £150 million announcement for commissioning Mental Health Ambulances. This can lead to a lack of accountability for what each LHB spends on primary and secondary mental health service provision and creates disjointed services.

As an example rates of police conveyance compared to English forces are significantly higher (around 90%) with WAST having no allocated funding to resolve the issue of mental health transport. The bill does not address this adequately, as we are devolved on this matter and NHS Wales has different governance arrangements creating a risk that Welsh communities

run a 'postcode' lottery and will receive poorer access to services and health-based advice services than in England.

There needs to be a drive for national consistency particularly where policing and health intersect, the National Partnership Agreement (NPA, July 2023) being a key illustration of the difference between an agreed response in England opposed to that experienced by Policing in Wales with identified deliverables in the NPA to improve responses for communities.

3: Do you support the principle of Westminster legislating in areas that are devolved to the Welsh Government?

Yes, as the MHA should be consistent across all of the United Kingdom and any differences between the England/Wales borders would further instil the disparities between the nations. If we were devolved as outlined above, then there is a risk that Welsh communities run a 'postcode' lottery and would receive poorer access to services. There needs to be national consistency which aligns to national guidance for Policing across England and Wales from the NPCC and College of Policing.

5: Are there specific Welsh priorities or policies that should be better reflected in the Bill? & 6: How will the Bill address the movement of patients across the Wales-England border, ensuring smooth collaboration between services?

5: The new Mental Health Bill should align with Welsh priorities by taking account of the objectives of the new Mental Health Strategy which was developed across services. The Bill should emphasise the need for bilingual and culturally sensitivity in Wales. A key priority is addressing rural accessibility and deprivation challenges, which although not unique to Wales should focus on community-based, preventative, and equitable mental health services, while recognising the distinct legal and policy frameworks under devolved governance.

6: The Bill should be scrutinised to establishing whether it accounts for cross-border funding agreements between England and Wales. Whether it allows or creates barriers for coordination between health boards and ICSs, and whether it provides consistent, high-quality mental health care with no barriers to accessing service and financial recovery where cross boarder care occurs being resolved following care provision and not preventing it. These issues directly impact on Policing as often the police involvement is extended whilst navigating these barriers between services, with cross-boarder issues exacerbating the problems.

Conveyance is a much bigger issue in Wales and needs to be a key priority, also the lack of specialist services (eating disorders, complex/co-occurring L&D/Neurodivergence and children) often places are sought over the border in England. Therefore, the bill needs to have greater emphasis upon consistency with services in England and proper processes for collaboration and joint funding.

8: Your views on proposals to introduce a new requirement for hospital clinicians to collaborate with a second professional from a community service when making decisions regarding the use and operation of community treatment orders ("CTO").

This is an important and key change, we have seen several CTO's inappropriately given to patients, when their risks are not appropriate to be managed in the community due to lack of awareness of the remit of community-based services. There have also been patients who

could be safely managed via a CTO who are not. Again, this is due to clinicians not understanding services that are community based and what they offer. So, a second opinion would be useful when applying the principles when considering use CTO's and better training around the use of and limitations to CTO's needs to be embedded. There also needs to be a QA process invoked to review ones that have been issued to monitor appropriateness and effectiveness.

15: Your views on proposals to remove police stations and prisons as a place of safety for adults experiencing a mental health crisis.

This change is fundamental to progression for police to have less or more limited involvement and least restrictive practices used with persons in crisis. It would fall in line with the principles of Right Care Right Person, and place ownership at the earliest opportunity with the correct services. Police custody has not, nor has ever been the most appropriate place to take those under Section 136 (MHA) detention. The difficulty will come when (rural forces) have no place of safety appropriate for high risk of serious harm or violent patients in these circumstances.

It also has potential to reduce risks of death in custody where people have been taken to stations due to having no other option and this not being the correct location. That said, the move to remove this MUST be balanced by feasible and 'ready' solution, as at custody there are medical professionals and there is potential for constant observation and trained first aiders. Should this provision be removed without a properly accessible infrastructure this could bring additional risks and issues. Joint policies on rapid sedation or seclusion at appropriately designed and staffed places of safety need to be agreed prior to the removal of police cells with cross agency training agreed to avoid risk of harm to patients and staff involved in those cases.

The removal of the police station as a formally recognised place of safety also drives the need for a re-write of the Mental Health Act Codes of Practice (England & Wales) to be commissioned alongside the Mental Health Bill, and for there to be consistency across the two sets of Code of Practice.