



## National Assembly for Wales

### Health and Social Care Committee

### Post-legislative scrutiny of the Mental Health (Wales) Measure 2010

#### Evidence from Welsh NHS Confederation – MHM 20

<b>Briefing for:</b>	National Assembly for Wales Health and Social Care Committee.
<b>Purpose:</b>	The Welsh NHS Confederation response to the post-legislative scrutiny on the implementation and operation of the Mental Health (Wales) Measure 2010.
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#### Introduction

1. The Welsh NHS Confederation, on behalf of its members, welcomes the opportunity to contribute to the Health and Social Care Committee inquiry into the post-legislative scrutiny on the implementation and operation of the Mental Health (Wales) Measure 2010.
2. By representing the seven Health Boards and three NHS Trusts in Wales, the Welsh NHS Confederation brings together the full range of organisations that make up the modern NHS in Wales. Our aim is to reflect the different perspectives as well as the common views of the organisations we represent.
3. The Welsh NHS Confederation supports our members to improve health and well-being by working with them to deliver high standards of care for patients and best value for taxpayers' money. We act as a driving force for positive change through strong representation and our policy, influencing and engagement work. Members' involvement underpins all our various activities and we are pleased to have all Local Health Boards and NHS Trusts in Wales as our members.
4. The Welsh NHS Confederation and its members are committed to working with the Welsh Government and its partners to ensure there is a strong NHS which delivers high quality services to the people of Wales.

## Summary

5. In our response to the inquiry we have provided some general comments to the specific questions posed by the Committee and have highlighted how supporting people with mental health is a key priority for the NHS in Wales.

## Mental Health

6. Mental health is a key priority for the NHS in Wales. As part of our recently published discussion paper 'From Rhetoric to Reality – NHS Wales in 10 years' time',<sup>i</sup> mental health was highlighted as one of the key challenges that faces the NHS. Mental health problems are amongst the most common health conditions, directly affecting about a quarter of the population in any one year.<sup>ii</sup> In 2012-13, there were 10,523 admissions to mental health facilities in Wales, with 98 per cent of the admissions to NHS facilities in Wales.<sup>iii</sup> Research published in 2010 by the Mental Health Foundation and King's College estimated that the economic and social costs of mental health in Wales is over £7.2 billion a year, with the prevalence of mental health disorders 25% higher in Wales than in England or Scotland.<sup>iv</sup> The economic downturn can also increase instances of mental health problems.
7. In our briefing, 'The health impacts of welfare reform',<sup>v</sup> the Welsh NHS Confederation highlighted the likely impact that welfare reform will have on people's health and wellbeing in Wales and how this cannot be underestimated. The briefing highlights that the economic downturn can increase mental health problems, including depression and lower levels of wellbeing. This has also been evidenced by the Citizens Advice Cymru report 'One day at a time'.<sup>vi</sup> The report found that two out of five participants who participated in the report said they believed their physical health had suffered as a result of the welfare reform changes, which was linked to the increased level of stress they were experiencing. In addition, nearly all of those questioned felt their mental health had been negatively affected by the recent changes, saying they had suffered from increased stress, anxiety and depression. One participant in the research stated:

*"My mental health was severely affected by what was going on with my finances. I was struggling to cope with the new diagnosis but not being able to feed my family just made everything seem beyond bleak."*

The need to look at how all public bodies, including health, deal with and support people with mental health problems has never been so important.

## The NHS and other public sector services

8. While mental health is a key priority for the NHS, it is estimated that only about a quarter of people in Britain with a mental health condition receive ongoing treatment, either because they have not gone to the doctor at all, have been misdiagnosed, or have refused treatment.<sup>vii</sup> The question we must consider is would we accept such a low treatment rate for physical health conditions with such potentially serious consequences, and is the medical model of addressing this challenge the most appropriate?
9. Evidence from health professionals and service users suggests that a medical model of addressing this challenge may not be the most appropriate and that other public bodies must

work together in an integrated way. As Rhetoric to Reality<sup>viii</sup> highlights, *“as the evidence base moves away from the medical model, there will perhaps be less of an onus on the NHS to provide some services in this area. The NHS, though, must be a key cog in the system, providing the care at the correct stage of a patient’s mental illness, while working as part of a wider public service provision to reduce many of the socioeconomic problems that have led to increasing instances of mental illness.”*

10. The Mental Health (Wales) Measure, and its implementation, has largely been restricted to the NHS and what health can do to prevent mental ill health and support someone with mental health. However this must now change and the health service can, and should, work with Local Authorities and colleagues in social care, housing and education to address many of the challenges experienced by people with mental health. Local Authorities have a key role to play in ensuring that people with a mental health condition receive the necessary support.
11. Engagement with all our public service colleagues is necessary to take us all from an ill health service that puts unnecessary pressure on hospital services, to one that promotes healthy lives. In serving the public the NHS must consider our own success with regard not only to treating healthcare needs, but more importantly, in relation to the ability of other sectors to impact on the quality of life for individuals. As our ‘Rhetoric to Reality’ discussion paper highlights: *“Health and healthcare must be premised on how we best support people to maintain their health, with the aim of eliminating or reducing their potential to require NHS services, and we must work in an integrated way with all sectors across Wales”*. Engagement is necessary with all our public service colleagues, from social care to housing, education and transport. All public bodies in Wales must build on how we might improve our ability to work together and support our partners and colleagues in other sectors.

### **Terms of Reference**

#### **Theme 1 (achievement of stated objectives):**

**a) *Do primary mental health services now provide better and earlier access to assessment and treatment for people of all ages? Are there any barriers to achieving this?***

12. Part 1 of the Measure has led to the establishment of Primary Mental Health Support Services. In many parts of Wales these have been established in excess to the minimum requirements set within the Measure and have increased capacity in primary care. The interim report<sup>ix</sup> from Welsh Government suggests that a significant number of assessments have been undertaken and, to a large extent, within the initial time scale required. The report also indicates that this is leading to more treatment interventions within primary care.

13. There are barriers to improving speed of assessment and treatment in primary care. The volume of assessments to the Primary Mental Health Support Services has been high and the availability of treatment options within primary care can be limited. This was evidenced in the Welsh Government commissioned review of psychological therapies.<sup>x</sup>

**b) *What has been the impact of the Measure on outcomes for people using primary mental health services?***

14. Across Wales patient feedback about primary mental health services has overall been very positive.

**c) *What has been the impact of the Measure on care planning and support for people in secondary mental health services?***

**15.** Part 2 of the Measure has placed statutory duties on Health Boards and Local Authorities to produce Care and Treatment Plans. Data routinely returned to Welsh Government on the development of Care and Treatment Plans indicates that rates of compliance across Wales in meeting this duty are high. It is not possible to deduce from this the quality of such plans however. This would require standardised and detailed audit of Care and Treatment Plans which does not currently take place.

**d) *Has there been a change to the way in which service users in secondary mental health services are involved in their care and treatment?***

**16.** The requirements of the Measure and Code of Practice stipulate that this should happen where practicable. Again in order to establish whether this is happening in practice would require detailed audit of Care and Treatment Plans or qualitative analysis of patient experience.

**e) *What impact has the Measure had on service users' ability to re-access secondary services? Are there any barriers to achieving this?***

**17.** Part 3 of the Measure places duties on Health Boards and Local Authorities to ensure that eligible patients can be reassessed without requiring referral from their GP. The Welsh Government data evidences that these assessments are being undertaken. The potential barrier to accessing assessment is the requirement for the patient to know that they are an eligible patient. The potential for this to happen should diminish with time and people's eligibility is recorded formally in discharge plans.

**f) *To what extent has the Measure improved outcomes for people using secondary mental health services?***

**18.** Overall the Measure has provided regulations and guidance within Code of Practice to consider outcomes in a range of life areas.

**g) *To what extent has access to independent mental health advocacy been extended by the Measure, and what impact has this had on outcomes for service users? Are there any barriers to extending access to independent mental health advocacy?***

**19.** The Measure has expanded requirements of Independent Mental Health Advocacy to all mental health inpatients and to patients in general hospital settings where they have mental health advocacy needs.

**20.** The Welsh Government interim report identifies that there has been an expansion of Independent Mental Health Advocacy services with additional provision in psychiatric hospital and in general hospital settings. The barriers to expanded advocacy services include awareness among patients and staff of the provision of Independent Mental Health Advocacy services, especially by those who lack mental capacity to understand the duty and to request an assessment. The level of service capacity within the Independent Mental Health Advocacy services is also a barrier to the expansion of these services.

**h) *What impact has the Measure had on access to mental health services for particular groups, for example, children and young people, older people, 'hard to reach' groups?***

- 21.** Care and Treatment Plans, if and when used well, can facilitate an improved patient experience through transition to accessing mental health services. The Measure has improved access to Psychological Therapies for older people, for prison mental health needs assessment group and Part 3 of the Measure has led to improved access to services for people with a personality disorder.
- i) *To what extent has the Measure helped to raise the profile of mental health issues within health services and the development of services that are more sensitive to the needs of people with mental health problems?***
- 22.** The Measure has added statutory duties to Health Boards and Local Authorities. These duties and the Measure’s intentions are unique to Wales, adding a different form of statutory requirements focused upon providing enhancements to services in primary and secondary care across the age spectrum. This has required agencies and professionals to make fundamental adjustments to the way in which services are planned, commissioned and delivered. This has increased the profile of mental health services in statutory and third sector organisations and is of policy interest to other UK administrations and in Countries beyond the UK.
- 23.** Aspects of the Measure embed co-production approaches in terms of service user involvement and using a strengths based approach in the Care and Treatment Plans process. The Measure Code of Practice, and the curriculum developed to support the establishment of Local Mental Health Primary Support Services, have embedded these processes within them. Health Boards and Local Authorities have used mental health services as an example of how these processes can deliver the sea change required in the delivery of services.
- 24.** The expansion of Care and Treatment Plans covers children and young people, older adults and some people with a co-morbid mental health problem and a learning disability. This has raised awareness of the needs of these groups.
- j) *To what extent has the implementation of the Measure been consistent across Local Health Board areas?***
- 25.** The interim Measure report has indicated that the core elements of the Measure have been consistently applied. The Statutory requirements to establish primary care schemes to appoint care co-ordinators to expand the commissioning of Independent Mental Health Advocacy to cover general hospitals and all patients in psychiatric hospital settings has been applied in line with the requirements of the Measure. The Care and Treatment Plans is required to be completed on a statutory form and reported to Welsh Government using a standardised format. The training for assessment and Care Planning was rolled out nationally.
- 26.** The Primary Mental Health Support Service curriculum was also developed nationally and made available to Health Boards and Local Authorities across Wales. However, inevitably the manner of the application of the Measure has varied. Part 1 gave discretion for Health Boards to develop their schemes as the Health Board and its Local Authority partners saw fit within the parameters of their statutory duties but design being dependent upon the configuration of existing services and local population need. While consistency in delivering the Measure is desirable, a one size fits all model is not necessarily appropriate. Audit and qualitative analysis should inform the effective delivery of the Measure across Wales

**k) Overall, has the Measure led to any changes in the quality and delivery of services, and if so, how?**

- 27.** From the evidence available the quality of services would appear to have improved. Care and Treatment Plans are routinely being provided. Primary care services have been expanded, as have Independent Mental Health Advocacy services. Policy has promoted these developments, now statute has accelerated their delivery. However, whilst these inputs are evident, testing the enhancement of outcomes will be necessary to judge the improvement that has been made to the quality of services.
- 28.** Work on the development of an outcome focused data set is being led by the 1000 Lives Improvement Service in Public Health Wales NHS Trust. The 1000 Lives Improvement Service has been chairing the Measure Implementation Group facilitating implementation of the Measure. The evidence received through these mechanisms suggests improvement and the need for continued improvement in the measurement of outcome improvements.
- 29.** Psychological therapies have been somewhat underdeveloped in Wales. This has been evidenced in Wales Audit Office reports<sup>xi</sup> and in the national review of psychological therapies commissioned by the Welsh Government. The Measure has undoubtedly led to an increased focus on delivery of psychological therapies with a National Psychological Therapies Committee having been established to oversee and report improvements delivered through the Health Board Local Psychological Therapies committees. It is vital that clinical investment in psychological therapies continues because the Measure has increased demand and identified increasing need.

**Theme 2(lessons from the making and implementation of the legislation):**

**a) During scrutiny the scope of the Measure was widened from adult services to include services for children and young people. What, if any, implications has this had for the implementation of the policy intentions set out in the Measure as it was proposed, and as it was passed by the Assembly?**

- 30.** Extension of the Measure has served to ensure that Child and Adolescent Mental Health Services (CAMHS) were not left out. The inclusion of CAMHS has increased the scale of the task in implementing the Measure and the breadth of the workforce issues to be addressed.
- 31.** During its implementation issues have been raised by CAMHS about the direct applicability of the Measure in CAMHS, for example the suitability of the statutory Care and Treatment Plans pro forma and the models introduced in Part 1 services. To a lesser extent some of these issues have also been raised in relation to older people. These matters are being addressed by services and Government within the process of the Duty to Review the implementation of the Measure.

**b) How effective were the consultation arrangements with stakeholders and service users during the development, scrutiny and implementation of the Measure?**

- 32.** The consultation arrangements were effective. They were comprehensive spanning the age spectrum and the needs of specialist interest groups. The consultation was not simply a paper exercise but consisted of facilitated events across Wales including the opportunity to contribute through the medium of Welsh. Evidence was taken at these events and incorporated within the written responses to the consultation.

- 33.** The evidence gathered through these processes has led directly to the formulation of the questions used in the 4 task and finish groups which have, through further national consultation, formulated evidence to be submitted to the Minister as part of the review process. The 1000 Lives Improvement Service has provided joint chairing of all 4 of the Task and Finish Groups and has thus been in a position to provide an external and independent view of the execution of some of these processes.
- c) *How effective were the consultation arrangements with stakeholders and service users during the development, making and implementation of the associated subordinate legislation and guidance?***
- 34.** As b above.
- d) *Has sufficient, accessible information been made available to service users and providers about the Measure and its implementation?***
- 35.** Extensive steps were taken to ensure that service users, carers and providers had comprehensive and accessible information on the making of the Measure. Credit should also be given to Third sector organisations in Wales for the steps that they undertook in partnership with Welsh Government, and independent of Government, to ensure that the user and carer voice was heard and the participation in the consultation process was enabled.
- e) *How effective was the support and guidance given to service providers in relation to the implementation of the Measure, for example in relation to transition timescales, targets, staff programmes etc?***
- 36.** Overall, the support and guidance was sufficient but the timing for introducing the care and treatment planning elements before the Part I service was unhelpful. It would have been better if the Care and Treatment Plans for secondary care patients could have followed the introduction of the primary care team.
- f) *Did any unforeseen issues arise during the implementation of the Measure? If so, were they responded to effectively?***
- 37.** One issue that has emerged during the implementation of the Measure is the matter of its application in relation to people with a learning disability. The matter has been addressed throughout the implementation of the Measure to ensure that it has not adversely affected people with a learning disability or their families, whilst seeking to ensure that those who fall within the scope of the Measure have their needs adequately addressed.
- g) *Are there any lessons which could be learned, or good practice which should be shared, for the development and implementation on of other legislation?***
- 38.** The manner of pre implementation consultation, and the establishment of an implementation group, have assisted in the implementation process and the manner in which the Measure has been reviewed. These approaches could be explored for their suitability in the making and implementation of other Welsh legislation.

**Theme 3 (value for money):**

**a) Were assumptions made in the Regulatory Impact Assessment about the demand for services accurate? Were there any unforeseen costs, or savings?**

**39.** The assessment of demand for the primary care Part 1 Service underestimated the level of unmet need within the community. Initially there was also a sense amongst clinicians that the impact on secondary care services had been overestimated.

**b) Have sufficient resources been allocated to secure the effective implementation of the Measure?**

**40.** Extra resources were allocated to implement the Measure, however this has seen an increase in the number of referrals to local services and this may require further review. The emphasis on active clinical investment in psychological therapies must not be missed as the Measure has, quite rightly, increased demand and identified increasing need.

**c) What has been the impact of the Welsh Government's policy of ring-fencing the mental health budget on the development of services under the Measure?**

**41.** The ring-fencing of the mental health budget has incentivised clinicians and given services the flexibility to utilise resources effectively and sustainably. Where efficiencies and service changes and improvements have been identified any savings can be directed to support the development of new services or enhance existing ones. The ring fence has also protected the value of health led third sector contracts. A similar ring fencing arrangement for Local Authorities would be very beneficial for people with mental health needs.

**d) What work has been done to assess the costs of implementing the Measure, and to assess the benefits accruing from the Measure?**

**42.** Services are reviewed as an on-going basis.

**e) Does the Measure represent value for money, particularly in the broader economic context? What evidence do you have to support your view?**

**43.** The direct costs of creating and implementing the Measure would appear to represent value for money. The majority of dedicated funding was used to enhance primary care, and Independent Mental Health Advocacy services. Expansion of provision and service delivery tends to indicate value for money. The Measure has also led to significant training and workforce developments. This included the production of a dedicated Code of Practice and explanatory secondary legislation, the Part 1 National Framework and the local public health system workforce development curriculum. Specific training materials on assessment and Care and Treatment Plans were commissioned from an academic institution and rolled out across Wales.

**44.** Less clear is the value for money arising from the opportunity costs associated with the implementation of the Measure. It could be argued that the Measure has sought to implement established good practice. Therefore investment of time and money in services without additional legal duties would have represented better use of resource. However, progress on the assimilation of the Care Programme Approach into service provision and the pace of primary care developments in the past would suggest that the making of the Measure has been an appropriate use of resources. Without the Measure it is unlikely that an expansion of Independent Mental Health Advocacy services would have been achieved.



## **Conclusion**

**45.** Supporting people with mental health is, and will continue to be, a priority for the NHS. With demand continuing to rise, with an estimated two million more adults in the UK having mental health problems in 2030 than there are today, it is clear more can, and should, be done. However the NHS cannot do it alone. While mental health services must be equipped to respond to increasing demand and be able to tackle unmet need, all public bodies in Wales, especially Local Authorities, must work in an integrated way to ensure this need is met.

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<sup>i</sup>The Welsh NHS Confederation, January 2014. From Rhetoric to Reality – NHS Wales in 10 years’ time

<sup>ii</sup>Public Health Wales, Together for Mental Health: Public Health Wales NHS Trust Annual Report 2012-13  
Cardiff: Public Health Wales

<sup>iii</sup> Welsh Government, October 2013, Admission of patients to mental health facilities in Wales, 2012-13 (including patients detained under the Mental Health Act 1983) and patients subject to supervised community treatment

<sup>iv</sup>Cyhlarova, E. ,2010, Economic burden of mental health cannot be tackled without research investment.  
London: Mental Health Foundation

<sup>v</sup> The Welsh NHS Confederation, July 2014, ‘The health impacts of welfare reform’

<sup>vi</sup>Citizens Advice Cymru, July 2014, One day at a time: examining the cumulative impact of welfare reform on benefit claimants in Wales

<sup>vii</sup> Layard R, 2004, Mental Health: Britain’s Biggest Social Problem, London: Strategy Unit

<sup>ix</sup> Welsh Government, June 2014, The Duty to Review Interim Report Post-Legislative Assessment of the Mental Health (Wales) Measure 2010

<sup>x</sup> Welsh Government, November 2013, Review of access to, and implementation of, psychological therapy treatments in Wales

<sup>xi</sup> Wales Audit Office, July 2011, Adult Mental Health Services - Follow up Report