**National Assembly for Wales**
Health and Social Care Committee

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

January 2015

Cynulliad
Cenedlaethol
Cymru

National
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Wales

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Health and Social Care Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Tel: 0300 200 6565
Email: SeneddHealth@Assembly.Wales
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# Health and Social Care Committee

The Committee was established on 22 June 2011 with a remit to examine legislation and hold the Welsh Government to account by scrutinising expenditure, administration and policy matters encompassing: the physical, mental and public health of the people of Wales, including the social care system.

**Current Committee membership:**

**David Rees (Chair)**
Welsh Labour
Aberavon

**Alun Davies**
Welsh Labour
Blaenau Gwent

**Janet Finch-Saunders**
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**Lindsay Whittle**
Plaid Cymru
South Wales East

**Kirsty Williams**
Welsh Liberal Democrats
Brecon and Radnorshire

**The following Members were also members of the Committee during this inquiry:**

**Leighton Andrews**
Welsh Labour
Rhondda

**Rebecca Evans**
Welsh Labour
Mid and West Wales

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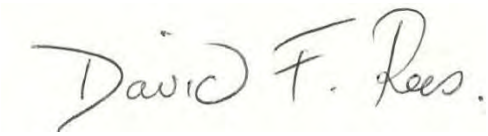
# Chair's foreword

The Mental Health (Wales) Measure 2010 came into force in 2012, and it is clear that mental health services in Wales have improved as a result. Access to primary mental health assessment is easier, more people in receipt of secondary mental health services have care and treatment plans, and more people are able to access independent mental health advocacy.

However, if the aims of the Measure are to be fully achieved, there is more work to do to ensure that there is sufficient capacity within mental health services. Demand for mental health services is high, and service users and service providers are confused about self-referral for reassessment under Part 3 and access to mental health advocacy under Part 4. As a Committee, we also have serious concerns about the impact of the Measure on mental health services for children and young people.

In many ways the Measure provides an example of good practice. Many people praised the consultative approach taken by the Welsh Government, and the duty to review included in the Measure provides a framework for the legislation to be evaluated. However, there are also questions to be considered about the impact of the significant amendments to the Measure during the scrutiny process, and the way in which the value for money of the legislation is to be assessed.

Our report makes 10 recommendations to help share best practice, address the key issues raised in our report, and maintain the progress made to date in improving mental health services in Wales.



**David Rees AM**
**Chair of the Health and Social Care Committee**
**January 2015**

## The Committee's recommendations

The Committee's recommendations to the Welsh Government are listed below, in the order that they appear in this report. Please refer to the relevant pages of the report to see the supporting evidence and conclusions.

The Committee recommends:

**Recommendation 1.** That the Minister for Health and Social Services ensures that the action plan for psychological therapies includes details about the timescales for the completion of each action and how each action will be resourced. The action plan should include details about how its effectiveness and value for money will be evaluated. (Page 21)

**Recommendation 2.** That the Minister for Health and Social Services ensures that following policy or legislative changes, clear guidance is provided to health boards and relevant partners about minimum requirements for data collection. Such requirements should:

- be proportionate;
- ensure timely data collection;
- enable evaluation of the quality of care and outcomes;
- enable benchmarking and comparison over time and across Wales;
- ensure that data may be broken down and categorised appropriately, for example by service users' ages. (Page 22)

**Recommendation 3.** That the Minister for Health and Social Services ensures that the task and finish group considering the form and content of care and treatment plans takes account of how to improve the quality of such plans. This should include identifying approaches which ensure that service users of all ages, and their carers where appropriate, feel involved and engaged in the identification and achievement of their desired outcomes. The group should also consider what staff training might be required and how best practice

will be shared across secondary mental health service providers in Wales, to ensure that every person receiving secondary mental health services in Wales has a high quality care and treatment plan. (Page 25)

**Recommendation 4.** That the Minister for Health and Social Services works with health boards and the third sector as a matter of priority to improve the information and the way that is provided to patients and primary mental health service providers about people's rights to self-refer for reassessment under Part 3 of the Measure. (Page 28)

**Recommendation 5.** That the Minister for Health and Social Services requires health boards to ensure that appropriate training and information is available to staff in relevant healthcare settings about who is eligible for independent mental health advocacy under Part 4 of the Measure, and how to support patients to access advocacy services. (Page 30)

**Recommendation 6.** That the Minister for Health and Social Services sets out the timescales within which the task and finish groups established to review Parts 1 to 4 of the Measure are expected to report. Once the groups have reported, the Committee expects that the Minister will write to the Committee to provide details of the recommendations made by the groups and how he intends to respond to them. (Page 35)

**Recommendation 7.** That the Welsh Ministers ensure that appropriate approaches to consultation are employed throughout the development, implementation and evaluation of the Welsh Government's legislation. This should include the use of both traditional and innovative consultation methods to facilitate wide engagement with all those who might wish to participate. (Page 39)

**Recommendation 8.** That the Minister for Health and Social Services requires health boards to ensure that sufficient information is available in appropriate formats for all mental health service users, including children and young people, and harder to reach groups. (Page 39)

**Recommendation 9.** That, once the plan for the improvement of Child and Adolescent Mental Health Services has been published in 2015, the Minister for Health and Social Services writes to the Committee to provide details of the actions set out in the plan, and how they will be delivered (Page 44)

**Recommendation 10.** That the Minister for Health and Social Services confirms that a robust cost benefit analysis of the Measure will be included in the final review report in 2016, and that he sets out:

- how this analysis will be undertaken; and
- the preparatory steps which are being taken to ensure that relevant data is being collected. (Page 48)

# 1. The Committee's inquiry

1. The Health and Social Care Committee ("the Committee") agreed in May 2014 to undertake post-legislative scrutiny on the Mental Health (Wales) Measure 2010 ("the Measure").[1]

2. Relatively little post-legislative scrutiny has been undertaken by the Assembly previously. In a 2006 report, the Law Commission proposed four key objectives for post-legislative scrutiny:

- to see whether legislation is working out in practice as intended;
- to contribute to better legislation;
- to improve the focus on implementation and delivery of policy aims; and
- to identify and disseminate good practice so that lessons may be drawn from the successes and failures revealed by the scrutiny work.[2]

3. The Committee agreed to adopt these objectives as guiding principles for its post-legislative work. In addition, the Committee introduced a fifth principle, which builds on its programme of financial scrutiny based on affordability, prioritisation and value for money:

- to assess whether the legislation has represented, and will continue to represent, value for money.

4. On the basis of these principles, the Committee decided to assess the implementation and operation of the Measure by:

- assessing the extent to which the stated objectives of the Measure are being achieved;
- identifying whether there are any lessons which can be learned or good practice shared from the making and implementation of the Measure and the associated subordinate legislation and guidance;
- assessing whether the Measure has represented, and will continue to represent, value for money.

5. To inform its work, the Committee issued a structured call for written evidence, targeted at: the Welsh Government; statutory mental

[1] An overview of the Measure is provided in chapter 2 of this report.
[2] Law Commission, *Post-Legislative Scrutiny, Law Com No. 302*, October 2006

health service providers (local authorities, local health boards); relevant professional bodies; relevant third sector organisations; regulatory/inspection bodies; and those who responded to the consultation issued by the Third Assembly's Legislation Committee No.3 when it scrutinised the proposed Measure in 2010.

6. The consultation ran from 26 June to 12 September 2014, and 22 written responses were received. A list of written responses can be found at Annex B. Following consideration of the key themes raised in the written evidence, the Committee held a scrutiny session with the Minister for Health and Social Services ("the Minister").

7. The Committee is grateful to all those who have contributed to its post-legislative scrutiny of the Measure.

# 2. The Mental Health (Wales) Measure 2010

## Legislative background

8. Following the making of the backbench Member-proposed National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010 in February 2010, the Welsh Government introduced the proposed Mental Health (Wales) Measure in March 2010. The proposed Measure was scrutinised, amended and passed by the Assembly, and the Mental Health (Wales) Measure 2010 received Royal Approval in December 2010.[3]

9. The Measure was implemented in stages in 2012 through the development and making of secondary legislation. Annex C sets out the dates on which each Part of the Measure was commenced, and Annex D lists the subordinate legislation made under the Measure.

## Stated aims of the Measure

10. The Measure aims to secure earlier and easier access to services for people with mental health problems to help prevent the development of more serious symptoms. It provides for better care planning and support for people using secondary mental health services, and improved service user involvement in care and treatment, including access to independent advocacy for a wider range of service users. Although originally intended to apply to adults only, the Measure was amended during its passage through the Assembly so that most of its provisions also apply to children and young people.

11. The Measure has five broad policy intentions:

*Part 1: local primary mental health support services*

- to strengthen primary healthcare services for people with mental health problems by establishing a duty for health boards and local authorities to deliver primary mental health services;

*Part 2: coordination of and care planning for secondary mental health service users*

- to create statutory requirements for care and treatment planning and care coordination within secondary mental health services;

[3] More information about the making of the Legislative Competence Order and the Measure is available on the Assembly's website.

*Part 3: assessments of former users of secondary mental health services*

- to require that secondary mental health services have arrangements in place to ensure the provision of timely access to assessment for previous service users (applies to adults only);

*Part 4: mental health advocacy*

- to extend the range of patients subject to the formal powers of the Mental Health Act 1983 who are entitled to receive support from an Independent Mental Health Advocate ("IMHA"); and
- to enable informal patients (of all ages) receiving assessment or treatment for mental disorder in hospital to have access to independent mental health advocacy.

**Duty to review**

12. Section 48(1) of the Measure provides that "the Welsh Ministers must review the operation of this Measure for the purposes of publishing a report or reports", and details the requirements with which Welsh Ministers must comply when reviewing the Measure.[4]

13. The Welsh Government published an inception report in 2013 which set out its proposed approach to this duty. The inception report indicated that an interim report would be published by 31 March 2014, and a final report by January 2016.[5]

14. The interim report was published on 10 April 2014. It concluded that while there was widespread support for the Measure:

> "the pace of change required has presented services in some areas with challenges. Whilst the same legislation and guidance applies across Wales, local need and the previous configuration of services have influenced the implementation of the Measure."[6]

[4] *Mental Health (Wales) Measure 2010*
[5] Welsh Government, *The Duty to Review Inception Report: Post-legislative Assessment of the Mental Health (Wales) Measure 2010*, 2013
[6] Welsh Government, *The Duty to Review Interim Report: Post-legislative Assessment of the Mental Health (Wales) Measure 2010*, April 2014

# 3. Achievement of the Measure's objectives

### Part 1: local primary mental health support services

15. Part 1 of the Measure provides for the establishment of local primary mental health support services, with the aim of improving access to mental health support and treatment and securing earlier intervention to help prevent the escalation of symptoms. The Welsh Government's interim report highlights compliance by all health boards with the requirements in Part 1 in relation to local primary mental health support services. However the report said that the configuration of these services varies across Wales, as does the knowledge and understanding of GPs and practice staff about mental health. The report also said that there has been a significant growth in the development of self-referral services which promote emotional well-being and address common conditions such as anxiety and stress.[7]

#### *Access to primary care services*

16. There was consensus in the written evidence that the implementation of Part 1 had realised a significant, previously unmet, demand for primary mental health services.[8] The Committee heard that this high demand for services could represent a barrier to early access to primary mental health services.[9] Cwm Taf Health Board stated that the position was improving, but acknowledged that the:

> "sheer number of referrals with limited resource [was] making it hard to maintain compliance with MHM [Mental Health (Wales) Measure 2010] performance targets and maintain good quality care and treatment."[10]

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[7] Welsh Government, *The Duty to Review Interim Report: Post-legislative Assessment of the Mental Health (Wales) Measure 2010*, April 2014
[8] National Assembly for Wales, Health and Social Care Committee, Consultation responses *MHM04 College of Occupational Therapists*, *MHM08 Cwm Taf University Health Board*, *MHM12 Abertawe Bro Morgannwg University Health Board*, *MHM17 Gofal*
[9] Ibid, *MHM08 Cwm Taf University Health Board*, *MHM12 Abertawe Bro Morgannwg University Health Board*
[10] Ibid, *MHM08 Cwm Taf University Health Board*

17. Gofal agreed, saying that the high demand for primary mental health services meant "that some people are still facing lengthy waiting times for support services such as talking therapies".[11]

18. The Committee heard that there were no data available to enable direct comparison of services and patient outcomes before and after the introduction of the Measure.[12] The evidence suggested waiting lists varied, but that in general accessibility for service users to primary care assessments and treatment had improved, particularly for people with less complex needs.[13]

### *Access to psychological therapies*

19. Respondents to the Committee's consultation said that the Measure had resulted in increased numbers of primary mental health assessments, which was welcomed, but concern was expressed about the capacity of services such as psychological therapies to respond to the increased demand.[14] The Royal College of General Practitioners' Wales Mental Health in Primary Care ("WaMH in PC") network said that it had recently undertaken a survey which showed that approximately 85 per cent of respondents considered "lack of timely access to psychological therapies" to be the most significant barrier to access to treatment.[15]

20. The British Association for Counselling and Psychotherapy ("BACP") told the Committee that counsellors and psychotherapists were not eligible under the Measure to undertake primary mental health assessments, despite their role in undertaking these assessments prior to the Measure's introduction. It said that this was contributing to a decrease in the employability and numbers of counsellors, and thereby impacting on the capacity of psychotherapy services. It suggested that the Measure might be amended to require "appropriate provision of psychological therapies".[16]

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[11] National Assembly for Wales, Health and Social Care Committee, Consultation response *MHM17 Gofal*
[12] Ibid, *MHM12 Abertawe Bro Morgannwg University Health Board*
[13] Ibid, *MHM05 Merthyr Tydfil County Borough Council*, *MHM08 Cwm Taf University Health Board*, *MHM14 Flintshire County Council*
[14] Ibid, *MHM06 British Association for Counselling and Psychotherapy*, *MHM07 Royal College of General Practitioners' Wales Mental Health in Primary Care Network*, *MHM11 Mind Cymru*
[15] Ibid, *MHM07 Royal College of General Practitioners' Wales Mental Health in Primary Care Network*
[16] Ibid, *MHM06 British Association for Counselling and Psychotherapy*

21. Mind Cymru said that it was particularly concerned about the provision of talking therapies through the medium of Welsh, as a lack of availability of such services was resulting in "people waiting longer, travelling great distances or accessing a service in English to reduce delays".[17]

### *Consistency of service*

22. The written evidence suggested that there are concerns about the consistency with which Part 1 of the Measure is being implemented across Wales, depending on the services offered by particular primary mental health support services.[18]

23. The Committee heard that while Part 1 had improved services for adults, the impact on services for children and young people was less positive.[19] Merthyr Tydfil County Borough Council said that while there had been improvements in the way in which primary and secondary care mental health services worked together to meet adults' needs, referrals and joint working in relation to children's services were not working as well.[20] Similarly, Cwm Taf Health Board said the skillsets among its staff meant that a broader range of services could be provided to working age adults than to children or older people with cognitive impairments, despite the all-age nature of the service.[21]

24. The Royal College of Psychiatrists ("RCP") raised concerns that the Measure had created an unnecessary barrier between primary and secondary mental health care in prisons, where it believes that multi-disciplinary teams can be most effective.[22]

### *Training*

25. The Committee heard that early in the Measure's implementation there had been some resistance to the changes,[23] and that there were still concerns about the levels of awareness, knowledge and empathy

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[17] National Assembly for Wales, Health and Social Care Committee, Consultation response, *MHM11 Mind Cymru*
[18] Ibid, *MHM14 Flintshire County Council*
[19] Ibid, *MHM05 Merthyr Tydfil County Borough Council*, *MHM07 Royal College of General Practitioners' Wales Mental Health in Primary Care Network*, *MHM08 Cwm Taf University Health Board*
[20] Ibid, *MHM05 Merthyr Tydfil County Borough Council*
[21] Ibid, *MHM08 Cwm Taf University Health Board*
[22] Ibid, *MHM19 Royal College of Psychiatrists*
[23] Ibid, *MHM08 Cwm Taf University Health Board*

in relation to mental health among primary care services.[24] Flintshire County Council told the Committee that work undertaken on its behalf by Unllais showed that there was variation in the take up of training in relation to mental health. Where such training was taken up, access to primary mental health services was improving, but the majority of service users felt that GPs required more training in relation to "mental health areas such as information sharing, diagnosis and personal experiences".[25]

26. The WaMH in PC network said that it was concerned about the empathy and understanding of some healthcare professionals in relation to mental health. The network said that without improvements neither patients nor services would be able to get the best out of what it "considered a good piece of legislation".[26]

### *Evidence from the Minister*

*Access to primary care services*

27. The Minister told the Committee that he recognised that there was more work to be done to ensure that waiting times and the range of available local services were consistent across Wales. However, he said that "if you measure what has been achieved against the ambitions that the Assembly had for the Measure in [...] Part 1, it is a success story overall".[27] When asked about whether the Measure had improved access to primary care services, the Minister said that he considered this to be one of the Measure's "big successes".[28]

28. Members asked the Minister whether there was sufficient capacity for the provision of primary mental health services through the medium of Welsh. The Minister indicated that provision varied between different levels of professional intervention, but that work was ongoing to explore innovative ways of ensuring that specialist services were

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[24] National Assembly for Wales, Health and Social Care Committee, Consultation responses *MHM07 Royal College of General Practitioners' Wales Mental Health in Primary Care Network*, *MHM14 Flintshire County Council*
[25] Ibid, *MHM14 Flintshire County Council*
[26] Ibid, *MHM07 Royal College of General Practitioners' Wales Mental Health in Primary Care Network*
[27] National Assembly for Wales, Health and Social Care Committee, *RoP [para 115]*, 20 November 2014
[28] Ibid, *RoP [para 114]*, 20 November 2014

available to people through the medium of Welsh, including the use of video links.[29]

29. The Minister said that while data collection was working well, it was not possible to compare primary mental health patients' outcomes under the Measure with those prior to its implementation, as the Measure had set up new local mental health primary care services.[30] In his written evidence, however, he said that data collection systems varied significantly across health boards and their partners, although they had:

> "recently agreed to find ways of sharing this information in order for there to be a clearer understanding of the impact of this part of the Measure."[31]

30. When asked whether the approach to data collection should have been addressed at an earlier stage, and whether this would have avoided inconsistencies in data quality, the Minister explained that the priority in the early stages of the implementation had been the establishment of services rather than collecting data.[32] He acknowledged however that there was a need to collect "greater age-differentiated data",[33] and that there was still work to be done to ensure that the right information was being collected in consistent ways across Wales.[34]

31. The Minister said that he had established "stretching, but achievable" targets for assessment and interventions under Part 1, which were updated as performance improved.[35] The data provided by the Minister shows reduced waiting times for primary mental health assessments since April 2013, although this improvement is less evident in waiting times for therapeutic interventions, and there is variation across Wales.[36] Members sought reassurance from the Minister that people experiencing severe distress would not have a lengthy wait for assessment and treatment. Dr Sarah Watkins, the

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[29] National Assembly for Wales, Health and Social Care Committee, *RoP [para 155]*, 20 November 2014
[30] Ibid, *RoP [para 118]*, 20 November 2014
[31] Ibid, *HSC(4)-28-14 Paper 3 Evidence from the Minister for Health and Social Services*, 20 November 2014
[32] Ibid, *RoP [para 123]*, 20 November 2014
[33] Ibid, *RoP [para 118]*, 20 November 2014
[34] Ibid, *RoP [para 123]*, 20 November 2014
[35] Ibid, *RoP [para 165]*, 20 November 2014
[36] Ibid, *HSC(4)-28-14 Paper 3 Evidence from the Minister for Health and Social Services*, 20 November 2014

Welsh Government's Head of Mental Health and Vulnerable Groups Division and Senior Medical Officer, said that clinically appropriate referral targets were also in place, and that these targets take account of the urgency of individuals' needs.[37] In a letter to the Chair, the Minister clarified that the 28 day target applies to referrals of people with mild to moderate needs to local primary mental health support services, and that GPs may also refer patients to secondary mental health services where appropriate. He said that data was not centrally collated in relation to referrals by GPs to secondary mental health services, but that:

> "A GP's ability to refer to secondary mental health services was not changed by the introduction of the Measure. Interim guidance for community mental health teams was introduced in July 2010 and remains extant. That guidance makes explicit when a community mental health team receives a referral the timescales referred to by Dr Watkins apply."[38]

32. In his written evidence, he said that he had asked health boards and their partners[39] to prepare action plans by December 2014 to address the inconsistencies in waiting times across Wales.[40]

*Access to psychological therapies*

33. The Minister told the Committee that access to psychological therapies needed to be improved, and said that he was providing an additional £650,000 for psychological therapies in 2014-15.[41] Dr Watkins explained that this money would be allocated between the seven health boards and Velindre NHS Trust to:

- provide psychological interventions for veterans with post-traumatic stress disorder;
- improve understanding of the gaps in psychological therapy provision across Wales;

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[37] National Assembly for Wales, Health and Social Care Committee, *RoP [para 168]*, 20 November 2014
[38] Ibid, *HSC(4)-30-14(ptn 1) Letter from the Minister for Health and Social Services*, 10 December 2014
[39] Section 1 of the Measure defines local mental health partners for local authority areas as the local authority for that area, and the relevant health board.
[40] National Assembly for Wales, Health and Social Care Committee, *HSC(4)-28-14 Paper 3 Evidence from the Minister for Health and Social Services*, 20 November 2014
[41] Ibid, *RoP [para 161]*, 20 November 2014

- develop a plan to address these gaps; and
- train current staff to support the delivery of evidence-based psychological therapies.[42]

34. When asked about psychological therapies for children and young people, the Minister said that in addition to the investment he was making in improved psychological therapies, he thought that it was important to avoid "the over-medicalisation of the struggles that some young people face with growing up". He explained that more needed to be done to ensure that professionals with whom young people come into contact, such as education professionals and youth services, were equipped to provide appropriate mental health support to children and young people.[43] Dr Watkins agreed that some young people were being referred to CAMHS inappropriately. She said CAMHS needed to work with and support other services working with young people, and that £5million of recurrent funding was being invested in school counselling initiatives to improve services.[44]

35. In his written evidence, the Minister acknowledged that concerns had been expressed about who is eligible to undertake primary mental health assessments under the Mental Health (Primary Care Referrals and Eligibility to Conduct Primary Mental Health Assessments) (Wales) Regulations 2012. He explained that a task and finish group had been established to look into this issue, and that he expected it to report in late November 2014.[45]

*Consistency of service*

36. The Minister told the Committee that before the Measure had been introduced the services available to assist people with mental health needs were "inconsistent, patchy and certainly did not amount to a reliable approach across Wales". In his view, the Measure had improved the consistency of local services, while enabling them to meet specific local needs.[46]

37. He explained that work which had been undertaken in the Aneurin Bevan Health Board area showed that local primary care

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[42] National Assembly for Wales, Health and Social Care Committee, *RoP [para 169]*, 20 November 2014
[43] Ibid *RoP [para 145]*, 20 November 2014
[44] Ibid, *RoP [paras 151-2]*, 20 November 2014
[45] Ibid, *HSC(4)-28-14 Paper 3 Evidence from the Minister for Health and Social Services*, 20 November 2014
[46] Ibid, *RoP [para 113]*, 20 November 2014

services were reaching "significant numbers of young people",[47] and that there was "some good practical evidence that the Measure is making an impact for younger people".[48]

38. The Committee asked about the impact of the Measure on particular groups, such as the homeless or prisoners. The Minister said that mental health services were working with third sector organisations such as Gofal to ensure that people from harder to reach groups with mental health needs were able to receive services in ways in which they felt comfortable.[49] He added that the provision of mental health services to meet the needs of prisoners was complex, particularly as ex-prisoners resident in Wales may not have been imprisoned in Wales, and those in Welsh prisons may not remain in Wales after their release. He indicated that specific guidance for prison health services and prison employees on how to meet the mental health needs of prisoners, and the interdependencies with the Measure, had been launched earlier in 2014.[50]

*Training*

39. The Minister told the Committee that when the Measure was implemented in 2012 a training programme for primary care teams had been developed by GPs who specialised in primary mental health. The training sought to ensure that everyone in GP practices fully understood the requirements of the Measure and how to respond appropriately to people with particular mental health needs. He said that the training required a significant time investment for GP practices, but that between 25 and 33 per cent of practices in Wales had now completed it.[51]

### *The Committee's view*

40. The Committee welcomes the progress that has been made in implementing Part 1 of the Measure, and the improvements to the accessibility of primary mental health services for adults. The development of new, open access services, is particularly encouraging. It is, however, concerned that the increased demand means that there

[47] National Assembly for Wales, Health and Social Care Committee, *RoP [para 133]*, 20 November 2014
[48] Ibid, *RoP [para 135]*, 20 November 2014
[49] Ibid, *RoP [para 150]*, 20 November 2014
[50] Ibid, *RoP [para 174]*, 20 November 2014
[51] Ibid, *RoP [paras 148-9]*, 20 November 2014

may not be sufficient capacity within primary mental health services, particularly for psychological therapies.

41. The Committee is also concerned about the evidence it has heard in relation to services for children and young people, particularly that young people, and their families, are being referred to Child and Adolescent Mental Health Services ("CAMHS") inappropriately. It is worrying that these young people are facing long waits for psychiatric services which may ultimately turn out to be inappropriate for their needs. Further consideration of the impact of the Measure on children and young people is included in Chapter 4.

42. The Committee welcomes the additional money to be provided to support veterans with post-traumatic stress disorder, but notes that the funding is for 2014-15 only.

43. The Committee also welcomes the additional funding in 2014-15 for the preparation of an action plan for psychological therapies, and additional staff training. It is important that the action plan takes account of the high levels of demand for primary mental health services, including services for children and young people, and any further latent demand which can be estimated. The action plan must also be properly resourced, with clear timescales for implementation.

**Recommendation 1: The Committee recommends that the Minister for Health and Social Services ensures that the action plan for psychological therapies includes details about the timescales for the completion of each action and how each action will be resourced. The action plan should include details about how its effectiveness and value for money will be evaluated.**

44. The Committee understands that priority has been given to the establishment of services during the first two years of the Measure's implementation. However, it is concerned that inconsistencies in the way that health boards and their partners have collected data have led to variance in data quality. It is especially concerned by the evidence that age-differentiated data is not routinely collected. The Committee expects that when new requirements for data collection are placed on health boards, whether as a result of legislative or policy changes, clear guidance should be given to health boards and relevant partners to ensure that data is collected in a consistent format which enables comparison across Wales, without impacting on the work required to change or establish services. The Committee acknowledges that any

data collection requirements will evolve and require refinement over time, but sufficient consistency must be maintained so as to allow appropriate benchmarking and comparison over time and across Wales.

**Recommendation 2: The Committee recommends that the Minister for Health and Social Services ensures that following policy or legislative changes, clear guidance is provided to health boards and relevant partners about minimum requirements for data collection. Such requirements should:**

- **be proportionate;**
- **ensure timely data collection;**
- **enable evaluation of the quality of care and outcomes;**
- **enable benchmarking and comparison over time and across Wales;**
- **ensure that data may be broken down and categorised appropriately, for example by service users' ages.**

### Part 2: coordination of and care planning for secondary mental health service users

45. Part 2 of the Measure creates statutory requirements around care and treatment planning and care coordination within secondary mental health services. The eight domains which form care and treatment plans are set out in section 18 of the Measure.[52] The Welsh Government's interim report said that all health boards are complying with the requirements relating to care coordination and care and treatment planning. Approximately 90 per cent of eligible service users have a care and treatment plan, which includes many who did not previously have a specific mental health care plan such as older people, children and those receiving learning disability services. The report said that there was some evidence of variability in care planning, and in the quality of care and treatment plans.[53]

[52] The eight domains are: finance and money; accommodation; personal care and physical well-being; education and training; work and occupation; parenting or caring relationships; social, cultural or spiritual; and medical and other forms of treatment including psychological interventions.
[53] Welsh Government, *The Duty to Review Interim Report: Post-legislative Assessment of the Mental Health (Wales) Measure 2010*, April 2014

### *Quality of care and treatment plans*

46. The RCP said that it had concerns that Part 2 could be a barrier to accessing secondary mental health services, increase bureaucracy and contribute to stigmatisation of mental ill-health.[54] However, the Committee heard that there was an increase in the proportion of people receiving secondary mental health services who had care and treatment plans.[55] Hafal explained that this meant that people receiving secondary mental health services were able to "take a comprehensive approach to their recovery from serious mental illness by agreeing and having recorded all of their recovery objectives and support needs".[56]

47. Health boards which responded to the Committee's consultation said that engagement between service users and staff was improving, and patients were becoming more involved in their care and treatment planning.[57] There were, however, concerns about duplication within the care and treatment planning process, as different assessment tools are used in primary and secondary care.[58]

48. The Committee heard that respondents were concerned that individuals, and particularly their carers, were sometimes excluded from the development of care and treatment plans,[59] and that patients did not always sufficiently understand their own plans.[60] In addition, Advocacy Support Cymru said that young people in particular did not feel that they were sufficiently informed or included in their care and treatment planning, and that young people did not think that they were provided with the tools that they needed to allow them to participate in the planning of their care.[61] The RCP questioned the suitability of care and treatment plans for children and young people, saying that "the language on the form is inappropriate".[62]

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[54] National Assembly for Wales, Health and Social Care Committee, Consultation response, *MHM19 Royal College of Psychiatrists*
[55] Ibid, *MHM08 Cwm Taf University Health Board*, *MHM09 Hafal*, *MHM12 Abertawe Bro Morgannwg University Health Board*
[56] Ibid, *MHM09 Hafal*
[57] Ibid, *MHM08 Cwm Taf University Health Board*, *MHM12 Abertawe Bro Morgannwg University Health Board*
[58] Ibid, *MHM05 Merthyr Tydfil County Borough Council*
[59] Ibid, *MHM11 Mind Cymru*
[60] Ibid, *MHM07 Royal College of General Practitioners' Wales Mental Health in Primary Care Network*
[61] Ibid, *MHM13 Advocacy Support Cymru*
[62] Ibid, *MHM19 Royal College of Psychiatrists*

49. The Committee heard that there were also concerns about the variability in quality of care and treatment plans across Wales, the way in which the eight domains set out on the face of the Measure were addressed, and the extent to which the plans are sufficiently focused on outcomes for patients.[63]

50. Cwm Taf Health Board said that it was increasing its focus on the quality of care and treatment plans, but referred to the administrative demands of the system. It told the Committee that these requirements meant that the care and treatment plan system was not suitable for all patients, and had led to:

> "high numbers of patients being discharged from secondary care and while entirely appropriate it has caused anxiety among service users, [...] coupled with fledgling primary care services."[64]

### *Care coordinators*

51. Mind Cymru said that one factor underpinning its concerns about the quality of care and treatment planning was a lack of adequate training for care coordinators.[65]

52. The RCP told the Committee that its members said that the administrative requirements of care and treatment planning, and particularly care coordination, were impacting on the time available for patient care. It also said that health professionals were reluctant to take on the care coordinator role. This stemmed partly from the time and administrative requirements, but also as a result of the holistic eight domain approach to care and treatment planning, as medical staff may not be best placed to advise on matters such as housing or benefits.[66]

### *Evidence from the Minister*

53. The Minister told the Committee Part 2 of the Measure meant that "a far higher and more consistent proportion of secondary care mental

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[63] National Assembly for Wales, Health and Social Care Committee, Consultation responses, *MHM09 Hafal*, *MHM11 Mind Cymru*
[64] Ibid, *MHM08 Cwm Taf University Health Board*
[65] Ibid, *MHM09 Hafal*
[66] Ibid, *MHM19 Royal College of Psychiatrists*

health patients have a care and treatment plan".[67] He acknowledged however that the inclusion of the eight domains of the care and treatment plan on the face of the Measure could limit flexibility.[68]

54. The Minister recognised that concerns had been raised about the suitability of care and treatment plans for children and young people. However, he said that the Welsh Government's Delivery and Support Unit had reviewed a number of care and treatment plans, and that:

> "some of the best care and treatment plans that they have seen are for young people and that, when the care and treatment plans are used flexibly and proportionately, they do a very good job for young people as well."[69]

55. In his written evidence, the Minister said that a task and finish group and working group were currently considering care coordinator eligibility, and the form and content of the care and treatment plans, and the training of care coordinators.[70]

***The Committee's view***

56. The Committee recognises and welcomes the progress that has been made in implementing Part 2 of the Measure, and the increase in the numbers of people in secondary mental health services with care and treatment plans. Those plans must, however, be of sufficient quality. Mental health service users and their carers, where appropriate, must be involved and engaged in the identification of their desired outcomes, and the development of their plans. This must include ensuring that there are suitable tools and approaches to empower children and young people receiving secondary mental health services.

**Recommendation 3: The Committee recommends that the Minister for Health and Social Services ensures that the task and finish group considering the form and content of care and treatment plans takes account of how to improve the quality of such plans. This should include identifying approaches which ensure that service users of all ages, and their carers where appropriate, feel**

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[67] National Assembly for Wales, Health and Social Care Committee, *RoP [para 119]*, 20 November 2014
[68] Ibid, *RoP [para 133]*, 20 November 2014
[69] Ibid, *RoP [paras 133-4]*, 20 November 2014
[70] Ibid, *HSC(4)-28-14 Paper 3 Evidence from the Minister for Health and Social Services*, 20 November 2014

**involved and engaged in the identification and achievement of their desired outcomes. The group should also consider what staff training might be required and how best practice will be shared across secondary mental health service providers in Wales, to ensure that every person receiving secondary mental health services in Wales has a high quality care and treatment plan.**

### Part 3: assessments of former users of secondary mental health services

57. Part 3 of the Measure provides for self-referral to secondary mental health services for former adult patients to allow those experiencing symptoms of deteriorating mental health to receive a mental health assessment. The Welsh Government's interim report said that all health boards were complying with the requirements of Part 3.[71]

58. Advocacy Support Cymru told the Committee that while the right to self-refer under Part 3 of the Measure made it easier for eligible patients to access secondary care assessments if they needed to do so, this was only the case for those patients who were aware of their eligibility. It said that in its experience, many of its clients were discharged without being made aware of their right to self-refer.[72]

59. The consensus was that there is a lack of information about, and understanding of, self-referral under Part 3, which is causing confusion for patients, GPs and secondary care services, and leading to a low level of self-referrals.[73]

60. Cwm Taf Health Board said that while some patients formerly in receipt of secondary mental health services were referring themselves for assessment, there had been no corresponding reduction in emergency assessments or admissions.[74]

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[71] Welsh Government, *The Duty to Review Interim Report: Post-legislative Assessment of the Mental Health (Wales) Measure 2010*, April 2014
[72] National Assembly for Wales, Health and Social Care Committee, Consultation response, *MHM13 Advocacy Support Cymru*
[73] Ibid, *MHM07 Royal College of General Practitioners' Wales Mental Health in Primary Care Network*, *MHM08 Cwm Taf University Health Board*, *MHM12 Abertawe Bro Morgannwg University Health Board*, *MHM13 Advocacy Support Cymru*
[74] Ibid, *MHM08 Cwm Taf University Health Board*

### *Evidence from the Minister*

61. The Minister acknowledged that there had been "some confusion amongst a few people discharged from secondary services regarding their entitlement".[75] He indicated that approximately 100 patients per month were seeking assessment under Part 3, with around 40 being readmitted to secondary care and the remaining 60 receiving help in other ways.[76] He told the Committee that independent research had been commissioned to report on the experiences of service users, their carers and practitioners in relation to Part 3, including how well they had been informed about their entitlement to self-refer.[77]

62. The Minister said that following the findings of the interim report in April 2014, a task and finish group was considering whether the exclusion of children and young people from the right under Part 3 of the Measure to self-refer for reassessment was consistent with the principle of the United Nations Convention on the Rights of the Child ("UNCRC") that children and young people should have the same right of access to services as other groups.[78]

### *The Committee's view*

63. The Committee is concerned about the levels of confusion and awareness among patients and mental health services about Part 3. While some patients are benefitting from the new rights available to them, it is important that all eligible patients understand their rights and how to exercise them, should they wish to do so. It must be recognised that individuals receiving secondary mental health services may be under significant stress. Information provided to them must take account of this, and be provided at the right time and in the right way. Similarly, it is important that both primary and secondary mental health practitioners understand the requirements under Part 3, to ensure that there are no unnecessary delays or barriers.

64. The Committee welcomes the commissioning of independent research on the experiences of service users, their carers and mental health practitioners under Part 3 of the Measure, but believes that

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[75] National Assembly for Wales, Health and Social Care Committee, *HSC(4)-28-14 Paper 3 Evidence from the Minister for Health and Social Services*, 20 November 2014
[76] Ibid, *RoP [para 120]*, 20 November 2014
[77] Ibid, *HSC(4)-28-14 Paper 3 Evidence from the Minister for Health and Social Services*, 20 November 2014
[78] Ibid, *RoP [para 134]*, 20 November 2014

steps must be taken at the earliest opportunity to ensure that there is greater clarity about the rights of eligible patients to self-refer for reassessment.

65. Greater understanding of the right to self-refer under Part 3 may lead to increased demand for secondary mental health services, and health boards must ensure that there is sufficient capacity to meet the needs of all patients, whether they are referred, or self-refer.

**Recommendation 4: The Committee recommends that the Minister for Health and Social Services works with health boards and the third sector as a matter of priority to improve the information and the way that is provided to patients and primary mental health service providers about people's rights to self-refer for reassessment under Part 3 of the Measure.**

66. The Committee accepts that the Measure was passed prior to the Rights of Children and Young Persons (Wales) Measure 2011,[79] which places a duty on Welsh Ministers to have due regard for the substantive rights and obligations within the UNCRC and its optional protocols, and prior to the publication of the Welsh Government's Children's Rights Scheme in 2012 and its update in 2014,[80] which sets out the arrangements by which the Welsh Government will comply with that duty when considering legislative or policy changes. It welcomes, therefore, the work outlined by the Minister to identify whether the rights available to adults under Part 3 of the Measure should be extended to children and young people to in accordance with the UNCRC.

### Part 4: mental health advocacy

67. Part 4 of the Measure extends entitlement to Independent Mental Health Advocacy to some new groups of patients of all ages who are subject to the formal powers of the Mental Health Act 1983, and to informal hospital patients receiving mental health treatment. The Welsh Government's interim report said that all health boards were providing the independent mental health advocacy services required by Part 4. The report said that nearly twice the number of patients

[79] *Rights of Children and Young Persons (Wales) Measure 2011*
[80] Welsh Government, *Children's Rights Scheme 2014*, May 2014

were accessing independent mental health advocacy services than were doing so prior to the Measure's introduction.[81]

68. The evidence received by the Committee was that the extended eligibility for advocacy was welcomed as it had increased clarity about eligibility, and improved access and uptake, although uptake of advocacy services in general hospital settings was still quite low.[82]

69. Mind Cymru told the Committee that a survey it had carried out of mental health patients showed that levels of awareness of the right to advocacy were still low. Among those who responded to the survey and had received support from an advocate, the modal average waiting time was three days, but a significant number had waited more than a week.[83]

70. Cwm Taf Health Board said that where IMHAs were active, mental health literacy among staff improved, which was essential to ensuring that patients could benefit from advocacy services and improved outcomes.[84] Advocacy Support Cymru said, however, that across Wales, awareness among healthcare staff about patients' rights for advocacy was inadequate, and recommended mandatory training for relevant staff to ensure that the right patients could benefit. It did say however that the increasing demand for advocacy services could be a barrier to timely access to services, as it could require waiting lists to be established.[85]

### *Evidence from the Minister*

71. The Minister told the Committee that on average 370 people use the advocacy service every month, and that "over half the people who use the advocacy service today would not have been eligible to use the advocacy service before the Measure was introduced".[86]

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[81] Welsh Government, *The Duty to Review Interim Report: Post-legislative Assessment of the Mental Health (Wales) Measure 2010*, April 2014
[82] National Assembly for Wales, Health and Social Care Committee, Consultation responses, *MHM05 Merthyr Tydfil County Borough Council*, *MHM11 Mind Cymru*, *MHM12 Abertawe Bro Morgannwg University Health Board*
[83] Ibid, *MHM11 Mind Cymru*
[84] Ibid, *MHM08 Cwm Taf University Health Board*
[85] Ibid, *MHM13 Advocacy Support Cymru*
[86] National Assembly for Wales, Health and Social Care Committee, *RoP [para 121]*, 20 November 2014

### *The Committee's view*

72. The Committee welcomes the evidence that the extended eligibility for advocacy services is benefitting patients, but believes that patients' access to advocacy services could be improved through better staff awareness.

**Recommendation 5: The Committee recommends that the Minister for Health and Social Services requires health boards to ensure that appropriate training and information is available to staff in relevant healthcare settings about who is eligible for independent mental health advocacy under Part 4 of the Measure, and how to support patients to access advocacy services.**

# 4. The making and implementation of the Measure

### Impact of the Measure

73. The Measure was welcomed by those who responded to the Committee's consultation, who said that it had resulted in improvements in mental health services,[87] including better choice for individuals.[88] One local authority said that the Measure was "providing much needed guidance and clarity on the intended direction of travel and way forward for Mental Health Service provision in Wales".[89]

74. Concerns were expressed however about insufficient "joined up strategic planning across health and social care, public and voluntary sectors", which in some areas was resulting in confusion and duplication for services and service users.[90] The Committee heard that implementation was still at an early stage, and that a continued focus on mental health was required to ensure that the outcomes for people in need of mental health services, their carers and their families improved.[91] Gofal said:

> "The challenges facing mental health services are not going to be solved within two years of implementation and we reiterate the need for a continued focus on the Measure, support for health professionals and monitoring of patient outcomes."[92]

75. The Committee heard mixed views about the impact of the Measure on the profile of mental health. Some respondents thought that the Measure had had limited success in this area,[93] with one local authority saying that there was a need for more training and awareness-raising work, as:

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[87] National Assembly for Wales, Health and Social Care Committee, Consultation response, *MHM17 Gofal*
[88] Ibid, *MHM12 Abertawe Bro Morgannwg University Health Board*
[89] Ibid, *MHM14 Flintshire County Council*
[90] Ibid, *MHM11 Mind Cymru*
[91] Ibid, *MHM07 Royal College of General Practitioners' Wales Mental Health in Primary Care Network*, *MHM14 Flintshire County Council*
[92] Ibid, *MHM17 Gofal*
[93] Ibid, *MHM01 National Institute for Health Research Health Services and Delivery Research Programme-funded Cross-national comparative study of recovery-focused mental health care planning and coordination*, *MHM14 Flintshire County Council*

> "mental health problems continue to be a taboo subject and are often poorly understood both by the general public and in many instances by the practitioner."[94]

76. Other respondents said that the Measure had raised the profile of mental health,[95] and that access to earlier interventions or preventative services within the community was helping to destigmatise mental health and encourage people to access services.[96]

77. Health boards told the Committee that the inclusion of mental health performance targets within their Tier 1 priorities had raised the profile of mental health services at board and management levels.[97] However, Cwm Taf Health Board said that the targets "take no account of actual outcomes for individuals".[98] There was also concern that while the Measure was raising the profile of mental health, services were not always in place to provide the support people needed.[99]

78. In the Regulatory Impact Assessment ("RIA") for the proposed Measure, the Welsh Government said that it was choosing to legislate because:

> "Doing nothing is [...] likely to perpetuate existing disparities in the range and extent of provision within primary care, and variability in how these services are accessed and delivered."[100]

79. However, those who responded to the Committee's consultation said that there were inconsistencies in the way in which the Measure was being implemented across Wales. Particular areas of concern included:

- the reliance of primary care services on the "confidence, knowledge and interest of practitioners in mental health";[101]

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[94] National Assembly for Wales, Health and Social Care Committee, Consultation response, *MHM14 Flintshire County Council*
[95] Ibid, *MHM05 Merthyr Tydfil County Borough Council*, *MHM06 British Association for Counselling and Psychotherapy*, *MHM07 Royal College of General Practitioners' Wales Mental Health in Primary Care Network*, *MHM12 Abertawe Bro Morgannwg University Health Board*
[96] Ibid, *MHM05 Merthyr Tydfil County Borough Council*
[97] Ibid, *MHM08 Cwm Taf University Health Board*, *MHM12 Abertawe Bro Morgannwg University Health Board*
[98] Ibid, *MHM08 Cwm Taf University Health Board*
[99] Ibid, *MHM07 Royal College of General Practitioners' Wales Mental Health in Primary Care Network*, *MHM08 Cwm Taf University Health Board*,
[100] Welsh Government, *Explanatory Memorandum to the proposed Mental Health (Wales) Measure 2010*, March 2010

- the lack of a system by which outcomes for patients across health boards and across Wales are monitored;[102]
- variation in operational policies and secondary care thresholds across local primary mental health teams;[103] and
- the impact of the Measure on access to services for particular groups of service users, such as deaf children and young people,[104] and homeless people,[105] as access to mental health services is largely dependent on individuals being in contact with their GPs.[106]

80. In addition, a number of unforeseen issues arose during the implementation of the Measure, including:

- "inadequate attention" to the infrastructure and governance arrangements required for the implementation of Part 1 of the Measure, including facilities in GP practices and access to records;[107]
- the implementation of Part 2 of the Measure before Part 1 resulting in high numbers of patients who had previously been monitored by psychiatrists being discharged from secondary mental health services if they did not meet the criteria for care and treatment plans. Cwm Taf Health Board said that such discharges had taken place before primary care services had been sufficiently developed to respond to the increased demand, and without sufficient information or advice for patients, which had led to confusion and misunderstanding for service providers and service users;[108] and
- confusion about the impact of the Measure on services for people with learning disabilities, which led to delays to the implementation of Parts 2 and 3 of the Measure within NHS learning disability services.[109]

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[101] National Assembly for Wales, Health and Social Care Committee, Consultation response, *MHM11 Mind Cymru*
[102] Ibid, *MHM09 Hafal*
[103] Ibid, *MHM08 Cwm Taf University Health Board*
[104] Ibid, *MHM03 National Deaf Children's Society*
[105] Ibid, *MHM07 Royal College of General Practitioners' Wales Mental Health in Primary Care Network*
[106] Ibid, *MHM08 Cwm Taf University Health Board*
[107] Ibid, *MHM07 Royal College of General Practitioners' Wales Mental Health in Primary Care Network*, *MHM18 Royal College of Nursing*
[108] Ibid, *MHM08 Cwm Taf University Health Board*
[109] Ibid, *MHM12 Abertawe Bro Morgannwg University Health Board*

### *Evidence from the Minister*

81. The Minister acknowledged that there was "always a tension between the ambitions that we all have to make services better quickly and the capacity of the service to absorb change", and explained that there was a need for an achievable timetable to be established which:

> "allows you to continue to take with you that quite wide-ranging coalition, from consultant psychiatrists at one end of the spectrum to small, local, third sector organisations at grass-roots level, and to keep that coalition together through the implementation phase as well as the formation phase."[110]

82. He referred to the duty to review the Measure, and said that following the publication of the interim report in April 2014, four task and finish groups had been established to address the issues which the interim report had identified in relation to each part of the Measure, including issues raised by practitioners and service user groups.[111]

### *The Committee's view*

83. The Committee notes that the Measure has been broadly welcomed by stakeholders, and that some progress is being made in raising the profile of mental health. However, it believes that if the Measure is to be implemented to its fullest potential across Wales, it is important that the focus on mental health outcomes and the provision of the right services is maintained and further developed.

84. The Committee acknowledges that in the implementation of any piece of legislation, unforeseen issues will arise, and it accepts that the implementation of the Measure is a work in progress. It welcomes the establishment of task and finish groups in relation to Parts 1 to 4 of the Measure, to enable lessons to be learned, and progress to be made before the Welsh Government lays its final report required by the duty to review the Measure in January 2016.

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[110] National Assembly for Wales, Health and Social Care Committee, *RoP [para 184]*, 20 November 2014
[111] Ibid, *RoP [para 127]*, 20 November 2014

**Recommendation 6: The Committee recommends that the Minister for Health and Social Services sets out the timescales within which the task and finish groups established to review Parts 1 to 4 of the Measure are expected to report. Once the groups have reported, the Committee expects that the Minister will write to the Committee to provide details of the recommendations made by the groups and how he intends to respond to them.**

### Consultation and communication

85. The majority of stakeholders were positive about the consultation process during the development and implementation of the Measure and the associated subordinate legislation.[112] In particular, the range of formal and informal opportunities for services and service users to feed into the process was praised.[113] The Welsh NHS Confederation said that:

> "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."[114]

86. Flintshire County Council said that it had found it useful to be involved in the consultations, but thought that more use could be made of innovative consultation methods, such as webinars or online discussion groups, to ensure that frontline staff were able to participate and receive information accessibly.[115]

87. However, the evidence in relation to the outcomes of the consultation process was more mixed. Some respondents said that not all of the feedback which had been provided during the consultations on the Measure and the accompanying guidance had been taken into account, which was creating some challenges for delivery.[116] The

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[112] National Assembly for Wales, Health and Social Care Committee, Consultation responses, *MHM05 Merthyr Tydfil County Borough Council*, *MHM06 British Association for Counselling and Psychotherapy*, *MHM07 Royal College of General Practitioners' Wales Mental Health in Primary Care Network*, *MHM09 Hafal*, *MHM12 Abertawe Bro Morgannwg University Health Board*, *MHM21 Gwent Mental Health and Learning Disability Partnership*
[113] Ibid, *MHM17 Gofal*
[114] Ibid, *MHM20 Welsh NHS Confederation*
[115] Ibid, *MHM14 Flintshire County Council*
[116] Ibid, *MHM21 Gwent Mental Health and Learning Disability Partnership*

Committee also heard views that the consultations had not sufficiently addressed the potential negative consequences of the Measure,[117] or the "parity of esteem and funding for mental health services cf. physical health services".[118] The Royal College of Nursing ("RCN") said that its members had felt that "the consultation process was in name only".[119]

88. The Committee also heard about the importance of ensuring that engagement with stakeholders and service users continued throughout the implementation and review of the Measure.[120] Advocacy Support Cymru praised the process of dialogue which had taken place during the development of the Measure, but said that it was concerned about the lack of involvement of IMHA providers and commissioners in the evaluation of the effectiveness of Part 4.[121]

89. Abertawe Bro Morgannwg University ("ABMU") Health Board said that it found the ongoing national meetings to share good practice and learn lessons to be of benefit to ensuring the continuing delivering of quality services.[122] This was echoed by the Welsh NHS Confederation, which said that in the development of Welsh legislation, consideration should be given to the establishment of implementation groups to assist in the implementation process and the subsequent reviews of legislation.[123]

90. The Committee heard mixed evidence in relation to the information and support provided to service providers and service users during the implementation of the Measure. The Welsh NHS Confederation told the Committee that considerable efforts had been made by health services and the third sector to ensure that service users, their carers, and service providers had "comprehensive and accessible information".[124] Mental Health Matters Wales, which provides advocacy services under Part 4, agreed that the support and guidance

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[117] National Assembly for Wales, Health and Social Care Committee, Consultation response, *MHM06 British Association for Counselling and Psychotherapy*
[118] Ibid, *MHM07 Royal College of General Practitioners' Wales Mental Health in Primary Care Network*
[119] Ibid, *MHM18 Royal College of Nursing*
[120] Ibid, *MHM17 Gofal*
[121] Ibid, *MHM13 Advocacy Support Cymru*
[122] Ibid, *MHM12 Abertawe Bro Morgannwg University Health Board*
[123] Ibid, *MHM20 Welsh NHS Confederation*
[124] Ibid, *MHM20 Welsh NHS Confederation*

provided had been effective, and that the timescales had been sufficient to respond to the changes required.[125]

91. However, the Committee also heard concerns about how the Measure and its impact on mental health service provision had been communicated, and about the levels of awareness, understanding and confusion among service providers[126] and service users.[127] The RCP said that some of this confusion resulted from "interpretation of ambiguous guidance by individual managers".[128] Gofal agreed that health professionals would have benefitted from more support during the implementation of the Measure, and said that guidance and support were required to ensure that "the spirit of the law is successfully enacted".[129]

92. Mind Cymru was concerned about the information provided to people with mental health needs and their carers, saying that there was a "lack of communication and accessible information at all levels".[130] Local authorities agreed, saying that in particular there was a lack of information for children,[131] younger people and service users from harder to reach groups.[132] Cwm Taf Health Board told the Committee that:

> "it is highly likely that the lack of understanding among service users and patients will also impact on the quality of the evidence produced by the review."[133]

### *Evidence from the Minister*

93. The Minister said in his written evidence that there were clear examples of the ways in which "the final shape of the Measure was influenced [...] by input from stakeholders".[134] He subsequently told the Committee that in his view lessons could be learned from the strong

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[125] National Assembly for Wales, Health and Social Care Committee, Consultation response, *MHM15 Mental Health Matters Wales*
[126] Ibid, *MHM19 Royal College of Psychiatrists*
[127] Ibid, *MHM22 Neath Port Talbot Council for Voluntary Services*
[128] Ibid, *MHM19 Royal College of Psychiatrists*
[129] Ibid, *MHM17 Gofal*
[130] Ibid, *MHM11 Mind Cymru*
[131] Ibid, *MHM05 Merthyr Tydfil County Borough Council*
[132] Ibid, *MHM14 Flintshire County Council*
[133] Ibid, *MHM08 Cwm Taf University Health Board*, *MHM17 Gofal*
[134] National Assembly for Wales, Health and Social Care Committee, *HSC(4)-28-14 Paper 3 Evidence from the Minister for Health and Social Services*, 20 November 2014

engagement with the mental health and third sectors in the development and formulation of the Measure.[135]

94. The Minister told the Committee that a wide range of guidance, support and information was provided to service providers and service users through a range of formats. He explained that to take account of the significant service remodelling required by Part 1, additional funding had been provided to each health board for the employment of a Part 1 lead, supported by an all-Wales national lead.[136]

***The Committee's view***

95. The Committee notes that the majority of respondents found the consultation arrangements for development and implementation of the Measure and the associated subordinate legislation to be effective and inclusive. The Committee believes that effective consultation processes must be complemented by asking the right questions, and making good use of the information which is gathered. The evidence suggests that greater focus may be needed on the potential practical implications of implementation, to avoid unintended consequences. The limitations of traditional consultation mechanisms, such as public meetings or written responses, should also be recognised. While such models should continue to be employed where they will be effective, the Committee believes that appropriate use should also be made of social media and innovative engagement and outreach methods to ensure that the widest possible range of stakeholders and service users have the opportunity to participate if they wish to do so.

96. The Committee notes the benefits to health boards of the ongoing national group, and the concerns raised about the lack of engagement of IMHA providers in the evaluation of Part 4. The making of legislation is only the first step – it must also be implemented and evaluated. Consideration therefore needs to be given to how to ensure that those who have been consulted on the development and initial implementation of legislation have appropriate opportunities to be engaged in ongoing implementation and evaluation.

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[135] National Assembly for Wales, Health and Social Care Committee, *RoP [para 183]*, 20 November 2014
[136] Ibid, *HSC(4)-28-14 Paper 3 Evidence from the Minister for Health and Social Services*, 20 November 2014

**Recommendation 7: The Committee recommends that the Welsh Ministers ensure that appropriate approaches to consultation are employed throughout the development, implementation and evaluation of the Welsh Government's legislation. This should include the use of both traditional and innovative consultation methods to facilitate wide engagement with all those who might wish to participate.**

97. The Committee recognises that the information, support and guidance provided to service users and providers is considered to be inadequate by some respondents to the consultation. In particular, it is concerned that the information suitable for children, younger people and harder to reach groups is considered insufficient.

**Recommendation 8: The Committee recommends that the Minister for Health and Social Services requires health boards to ensure that sufficient information is available in appropriate formats for all mental health service users, including children and young people, and harder to reach groups.**

### Inclusion of children and young people within the scope of the Measure

98. As it was initially proposed, the Measure would only have applied to people over the age of 18. However, on the basis of evidence received by Legislation Committee No.3 during its Stage 1 scrutiny of the proposed Measure, amendments were made to extend many of the provisions of the Measure (excluding self-referral under Part 3) to children and young people.

99. The Committee heard that, in principle, the extension of the scope to include children and young people was welcomed.[137] However, many stakeholders expressed concern about the impact of the Measure on children and young people in practice. The Neath Port Talbot Council for Voluntary Service said that:

> "in practice inclusion of services for children and young people has proved challenging for many providers used to working

[137] National Assembly for Wales, Health and Social Care Committee, Consultation responses, *MHM09 Hafal*, *MHM12 Abertawe Bro Morgannwg University Health Board*, *MHM22 Neath Port Talbot Council for Voluntary Services*

> within age-specific services, in particular the embedding of CAMHS services within the provisions of the new Measure."[138]

100. In its written evidence, the RCP said that assumptions had been made about the transferability of processes suitable for some service user groups to other service user groups, and that "inadequate attention [had been] paid to the diversity of mental health services that are provided".[139] The RCN echoed this, saying that practitioners in primary mental health services were now expected to have "very wide" skill sets, which was taking time to develop.[140]

101. Cwm Taf Health Board described the extension of the scope of the Measure to include children and young people as "ill thought out", and said that it had caused disruption to CAMHS services.[141] ABMU Health Board agreed that there had been practical difficulties in implementing an all-age service under the Measure, which it said had been exacerbated by the single format for care and treatment plans and the prescriptive guidance issued for local primary mental health support services.[142]

### *Evidence from the Minister*

102. The Minister acknowledged that the decision to amend the proposed Measure to include children and young people within its scope had resulted in "a series of issues [...] that were not part of the original thinking".[143] However, he said:

> "I do not myself believe that the inclusion of children within the Measure has been detrimental either to them, or that it has, by itself, been the cause of large unexpected costs to those services implementing it."[144]

103. When asked whether the Measure had helped to ensure that children and young people receive appropriate primary mental health

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[138] National Assembly for Wales, Health and Social Care Committee, Consultation response, *MHM22 Neath Port Talbot Council for Voluntary Services*
[139] Ibid, *MHM19 Royal College of Psychiatrists*
[140] Ibid, *MHM18 Royal College of Nursing*
[141] Ibid, *MHM08 Cwm Taf University Health Board*
[142] Ibid, *MHM12 Abertawe Bro Morgannwg University Health Board*
[143] National Assembly for Wales, Health and Social Care Committee, *RoP [para 132]*, 20 November 2014
[144] Ibid, *RoP [para 178]*, 20 November 2014

services rather than being inappropriately referred to CAMHS, the Minister acknowledged that:

> "it would be very difficult to argue, I think, that the Measure has succeeded in making sure that the right people get to that service."[145]

104. He explained that the provision of the new local primary mental health services had unlocked a latent demand for mental health services for children and young people, and said that there had been a 103 per cent rise in the number of referrals to CAMHS in the four years since the Measure was passed.[146] He acknowledged that to address the issue of inappropriate referrals, suitable signposting and referrals to appropriate services or interventions needed to be in place.[147]

105. The Minister said that the Measure "was intended to supplement, and not supplant, services that were already there" for children and young people, and told the Committee that in his view there was "some good practical evidence that the Measure is making an impact".[148] The Minister acknowledged that there was a need for action to be taken in relation to CAMHS following a report produced by Healthcare Inspectorate Wales and the Wales Audit Office earlier in 2014. He said that he was developing a specific action plan for CAMHS, which included a review by Professor Dame Sue Bailey, a former president of the RCP, of the CAMHS service.[149]

106. Members asked whether the significant change to the scope of the Measure in response to issues raised during Stage 1 of the legislative process suggested that more pre-legislative scrutiny of legislative proposals would be helpful, and provide more time for such considerations before a Bill is introduced. The Minister said that mental health had been the subject of a Legislative Competence Order ("LCO") prior to the proposal of the Measure, and that "you could argue, that, in effect, there was a pre-legislative phase to this Measure".[150]

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[145] National Assembly for Wales, Health and Social Care Committee, *RoP [para 140]*, 20 November 2014
[146] Ibid, *RoP [para 140]*, 20 November 2014
[147] Ibid, *RoP [para 145]*, 20 November 2014
[148] Ibid, *RoP [para 135]*, 20 November 2014
[149] Ibid, *RoP [paras 137-8]*, 20 November 2014
[150] Ibid, *RoP [para 180]*, 20 November 2014

### *The Committee's view*

107. The evidence received by the Committee indicates that the changes introduced by the Measure were designed around adult services, and may not be appropriate for meeting the needs of children and young people with mental health difficulties. Concerns have been raised in a number of areas, including the appropriateness of referrals within primary mental health services, whether local primary mental health support services have the appropriate skill sets to deliver services to children and young people, and the way in which children and young people are involved in care and treatment planning.

108. It is arguable that the impact of the Measure on children and young people might have been different had they been included within the scope of the Measure from an earlier stage. The Committee acknowledges that the Measure was scrutinised under the Third Assembly's legislative procedures, and that mental health policy was subject to the making of a LCO prior to the introduction of the Measure. The extent to which the LCO process provided opportunities for pre-legislative scrutiny of proposed Measures is debatable, and perhaps a question for academic consideration since the commencement of Part 4 of the Government of Wales Act 2006.

109. The Assembly is a maturing legislature with increasing legislative powers, and it is important that, where appropriate, Assembly Committees are able to undertake pre-legislative scrutiny of emerging legislative proposals. The Constitutional and Legislative Affairs Committee is currently undertaking an inquiry on making laws in the Fourth Assembly, which includes consideration of the use made of pre-legislative scrutiny in Welsh legislation, and the extent to which legislation which is significantly amended after Stage 1 is then subject to sufficient scrutiny.[151] The HSC Committee therefore does not intend to make a recommendation in relation to pre-legislative scrutiny at this stage.

110. On the basis of the evidence it has received in relation to the Measure, the HSC Committee shares the concerns expressed by the Children, Young People and Education Committee ("the CYPE Committee") about mental health services for children and young

[151] More information about the Constitutional and Legislative Affairs Committee's inquiry on making laws in the Fourth Assembly is available on its website.

people in its report on its recent inquiry into CAMHS.[152] The HSC Committee welcomes the Minister's announcement of an external review led by Professor Dame Sue Bailey to address these issues, and notes that, in a letter to the CYPE Committee, the Minister has outlined the timescales for this work, including a national conference and workshop session in March, and the agreement of a plan "with clear deliverables and dates for delivery by late 2015".[153]

111. The HSC Committee also notes that the CYPE Committee intends to undertake further work to monitor the progress and outcomes of the review as well as work in relation to prescribing trends for young people with mental health problems and primary care provision.

**Recommendation 9: The Committee recommends that, once the plan for the improvement of Child and Adolescent Mental Health Services has been published in 2015, the Minister for Health and Social Services writes to the Committee to provide details of the actions set out in the plan, and how they will be delivered.**

[152] National Assembly for Wales, Children, Young People and Education Committee, *Inquiry into Child and Adolescent Mental Health Services (CAMHS)*, November 2014
[153] *Letter from the Minister for Health and Social Services to the Chair of the Children, Young People and Education Committee*, 23 October 2014

# 5. Financial implications of the Measure

### Resourcing the Measure

112. Written evidence received by the Committee suggested that the initial RIA had underestimated the level of unmet demand for primary mental health services and overestimated the reduction in demand for secondary mental health services. The Committee heard that this resulted in underestimation of the costs of the Measure.[154] In contrast, the Minister said in his written evidence that "the current demand for services is broadly in line with that expected".[155]

113. However, respondents to the consultation said that the inclusion of children and young people within the scope of the Measure during its progress through the Assembly had contributed to the underestimation of demand for services and of the resources required for the implementation of the Measure.[156]

114. The Committee heard mixed evidence about whether the implementation of the Measure had been adequately resourced. Some witnesses suggested that the Welsh Government's policy of ring-fencing mental health budgets, and its allocation of resources to the implementation of the Measure, had been effective, and were ensuring that the Measure was meeting demand and making a difference to mental health services and service users.[157] Nevertheless, the Welsh Government's review of the ring-fence policy was generally welcomed.[158]

115. The Committee also heard from some witnesses that the level of funding for mental health services prior to the introduction of the Measure had been too low, which had contributed to under-resourcing

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[154] National Assembly for Wales, Health and Social Care Committee, Consultation responses, *MHM04 College of Occupational Therapists*, *MHM12 Abertawe Bro Morgannwg University Health Board*

[155] National Assembly for Wales, Health and Social Care Committee, *HSC(4)-28-14 Paper 3 Evidence from the Minister for Health and Social Services*, 20 November 2014

[156] National Assembly for Wales, Health and Social Care Committee, Consultation responses, *MHM07 Royal College of General Practitioners' Wales Mental Health in Primary Care Network*, *MHM08 Cwm Taf University Health Board*

[157] Ibid, *MHM14 Flintshire County Council*, *MHM20 Welsh NHS Confederation*

[158] Ibid, *MHM06 British Association for Counselling and Psychotherapy*, *MHM11 Mind Cymru*, *MHM17 Gofal*, *MHM19 Royal College of Psychiatrists*

the Measure's implementation.[159] Mind Cymru raised concerns about the way in which resources had been allocated, saying that "in part due to poor communication and a lack of joined up planning resources are not directed to maximise benefit".[160] The RCN agreed that the resources and timescales allotted for the implementation of the Measure had been insufficient, and had resulted in demand increasing before the relevant services were in place.[161] These concerns were shared by the College of Occupational Therapists, which said that while local primary mental health support services were achieving positive results, "these services have been woefully understaffed and [...] the ideals of the Measure will only be met with a substantial increase in primary care resources".[162]

116. ABMU Health Board said that the funding for an implementation lead for Part 1 of the Measure had been welcome, and suggested that the pace of implementation of Parts 2 and 3 of the Measure could have been improved had similar leads been funded.[163]

117. Respondents to the Committee's consultation acknowledged the importance of prudent approaches to health and social care and the links between mental and physical health,[164] but said that there was more to be done to ensure that there was parity between the way in which mental and physical healthcare needs were met.[165]

118. Evidence received by the Committee suggested that there are concerns about the sustainability of the Measure in the current economic context. Particular concerns included the impacts of the decrease in Welsh Government funding to local government,[166] welfare reform, and the economic downturn on individuals' mental health and well-being, and therefore on the demand for and sustainability of mental health services.[167]

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[159] National Assembly for Wales, Health and Social Care Committee, Consultation responses, *MHM07 Royal College of General Practitioners' Wales Mental Health in Primary Care Network*, *MHM11 Mind Cymru*
[160] Ibid, *MHM11 Mind Cymru*
[161] Ibid, *MHM18 Royal College of Nursing*
[162] Ibid, *MHM04 College of Occupational Therapists*
[163] Ibid, *MHM12 Abertawe Bro Morgannwg University Health Board*
[164] Ibid, *MHM04 College of Occupational Therapists*, *MHM06 British Association for Counselling and Psychotherapy*
[165] Ibid, *MHM17 Gofal*
[166] Ibid, *MHM14 Flintshire County Council*
[167] Ibid, *MHM20 Welsh NHS Confederation*

## Value for money

119. Respondents to the Committee's consultation thought that if the Measure were fully implemented, it should deliver value for money.[168] Gofal explained that the costs of mental health problems in Wales were estimated to be £7.2billion per year. It said that in its view investment in services which enabled early intervention and recovery could provide value for money if there was sufficient investment and suitable support for health boards to "follow the spirit (as well as the letter) of the law".[169]

120. Hafal agreed that if fully implemented the Measure would represent value for money, but said that at present resources were not targeted sufficiently to:

> "ensure that people receive support and treatment at the earliest possible point following diagnosis of a serious mental illness, and that through good use of Care and Treatment Plans people move decisively from dependence on high-cost services through to lower-cost support and on to economic activity."[170]

121. The Welsh NHS Confederation agreed that the Measure appeared to represent value for money, and said that the previous pace of change and development of mental health services had been slow, suggesting that the Measure had been an appropriate use of resources, but went on to say that:

> "it could be argued that the Measure has sought to implement good practice. Therefore investment of time and money in services without additional legal duties would have represented better use of resource."[171]

122. The RCN told the Committee that while it was possible to identify local costs, no "meaningful benefits assessment" had been undertaken on which the value for money of the Measure could be assessed.[172]

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[168] National Assembly for Wales, Health and Social Care Committee, Consultation responses, *MHM08 Cwm Taf University Health Board*, *MHM15 Mental Health Matters Wales*, *MHM17 Gofal*, *MHM20 Welsh NHS Confederation*
[169] Ibid, *MHM17 Gofal*
[170] Ibid, *MHM09 Hafal*
[171] Ibid, *MHM20 Welsh NHS Confederation*
[172] Ibid, *MHM18 Royal College of Nursing*

## Evidence from the Minister

### *Resourcing the Measure*

123. The Minister said that the cost estimates set out in the RIA had been based on the initial proposals that the Measure would apply to adults only. He also explained that the Welsh Government at the time had been clear that "the precise resource implications of the Measure were difficult to be sure about". Part of the reason for this was the latent demand for primary mental health services which had been unlocked by the Measure.[173] The Minister told the Committee that he did not believe that the inclusion of children and young people within the scope of the Measure by amendment during the scrutiny process had "by itself, been the cause of large unexpected costs to those services implementing it".[174]

### *Value for money*

124. The Minister's paper reflected on the impact of mental health on the Welsh economy. He cited work undertaken by the Mental Health Foundation which had found that the cost to Wales in 2010 was £7.2billion, and said:

> "Investing in services that provide timely assessment and intervention much earlier must be a sensible and prudent way to ensure we do all we can to reduce the impact of mental health problems."[175]

## The Committee's view

### *Resourcing the Measure*

125. The Committee notes that there is concern about whether the original estimates made about the level of demand for primary mental services, the corresponding anticipated reduction in demand for secondary mental health services, and the financial implications of the Measure were accurate. The Committee accepts that forecasting the costs of legislation is difficult, and that introducing new services can unlock latent demand for such services, but expects that the Welsh

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[173] National Assembly for Wales, Health and Social Care Committee, *RoP [paras 177-8]*, 20 November 2014
[174] Ibid *RoP [para 178]*, 20 November 2014
[175] Ibid, *HSC(4)-28-14 Paper 3 Evidence from the Minister for Health and Social Services*, 20 November 2014

Government will continue to refine and improve the ways in which it estimates the demand and financial implications of legislation.

126. If the Measure is to be implemented fully, and be sustainable in the medium and longer term, it must be resourced adequately. The Committee is mindful, particularly in the current economic context, that spending must be prioritised appropriately. However, in allocating money to and within health services, the Welsh Government and health boards must ensure that sufficient priority is given to meeting mental health needs. If, as we would hope, the Measure will help to reduce the impact of mental ill-health, full and effective implementation should generate economies in the long term.

### *Value for money*

127. The Committee strongly believes that it is important to have services in place to support people with their mental health needs. However, to identify whether the Measure represents value for money, there needs to be clarity not only about the inputs (the costs of the Measure and its implementation), but also about the outputs and, more importantly, the outcomes for people's mental health at individual and population levels, and the impact of mental health problems on the Welsh economy.

128. While some of the respondents to the Committee's consultation said that they believed that the Measure could provide value for money if it was effectively implemented, there was limited firm evidence to support these views. The Welsh Government's inception report included value for money as one of the criteria by which its final report, due in 2016, will assess the implementation and operation of the Measure. However, the interim report did not include an interim assessment of value for money, nor an indication of how this work will be undertaken.

**Recommendation 10: The Committee recommends that the Minister for Health and Social Services confirms that a robust cost benefit analysis of the Measure will be included in the final review report in 2016, and that he sets out:**

- **how this analysis will be undertaken; and**
- **the preparatory steps which are being taken to ensure that relevant data is being collected.**

## Annex A – witnesses

The following witnesses provided oral evidence to the Committee on the date noted below. A transcript of the oral evidence session can be viewed in full on the Committee's website.

*20 November 2014*

| | |
|---|---|
| Mark Drakeford AM | Minister for Health and Social Services |
| Dr Sarah Watkins | Welsh Government |
| Andrea Gray | Welsh Government |

## Annex B – list of written evidence

The following people and organisations provided written evidence to the Committee. All consultation responses can be viewed in full on the Committee's website.

| *Organisation* | *Reference* |
|---|---|
| National Institute for Health Research Health Services and Delivery Research Programme-funded Cross-national comparative study of recovery-focused mental health care planning and coordination | MHM01 |
| North Wales Community Health Council | MHM02 |
| National Deaf Children's Society | MHM03 |
| College of Occupational Therapists | MHM04 |
| Merthyr Tydfil County Borough Council | MHM05 |
| British Association for Counselling and Psychotherapy | MHM06 |
| Royal College of General Practitioners | MHM07 |
| Cwm Taf University Health Board | MHM08 |
| Hafal | MHM09 |
| Royal Pharmaceutical Society | MHM10 |
| Mind Cymru | MHM11 |
| Abertawe Bro Morgannwg University Health Board | MHM12 |
| Advocacy Support Cymru | MHM13 |
| Flintshire County Council | MHM14 |
| Mental Health Matters Wales | MHM15 |
| Hywel Dda University Health Board | MHM16 |
| Gofal | MHM17 |
| Royal College of Nursing | MHM18 |
| Royal College of Psychiatrists | MHM19 |
| Welsh NHS Confederation | MHM20 |
| Gwent Mental Health and Learning Disability Partnership | MHM21 |
| Neath Port Talbot Council for Voluntary Services | MHM22 |

## Annex C – commencement

The table below indicates the dates on which the Parts of Mental Health (Wales) Measure 2010 were commenced.

| *Part* | *Commencement date* |
|---|---|
| Part 1 | October 2012 |
| Part 2 | June 2012 |
| Part 3 | June 2012 |
| Part 4 (expansion of advocacy to short-term sections under the Mental Health Act 1983) | January 2012 |
| Part 4 (expansion of advocacy to informal patients not subject to the Mental Health Act 1983) | April 2012 |

## Annex D – subordinate legislation

The table below sets out the subordinate legislation made under the Mental Health (Wales) Measure 2010. More information is available on www.legislation.gov.uk.

| *Subordinate legislation* | *Purpose* |
|---|---|
| Mental Health (Independent Mental Health Advocates) (Wales) Regulations 2011<br><br>Made: 28 October 2011<br>Came into force: 3 January 2012 | To make provision under Part 3 as to the arrangements for the appointment of Independent Mental Health Advocates. Made under the Mental Health Act 1983 as amended by the Measure. |
| Mental Health (Assessment of Former Users of Secondary Mental Health Services (Wales) Regulations 2011<br><br>Made: 18 October 2011<br>Came into force: 6 June 2012 | To make provision under Part 2 about mental health assessments for former users of mental health services, and enable former users of secondary mental health services to 'self-refer' themselves back to mental health services if they consider that their mental health is deteriorating. Applicable to adults only. |
| Mental Health (Care Coordination and Care and Treatment Planning) (Wales) Regulations 2011<br><br>Made: 6 December 2011<br>Came into force: 6 June 2012 | To make provision under Part 2 about care coordination and care and treatment planning for patients using secondary mental health services. |
| Mental Health (Regional Provision) (Wales) Regulations 2012<br><br>Made: 8 May 2012<br>Came into force: 6 June 2012 | To make provision under Part 1 for the local primary mental health treatment and local primary mental health support services which may be provided on a regional basis, and to provide that 'self-referral' for former service users under Part 2 is to apply on a regional basis. |

| *Subordinate legislation* | *Purpose* |
| --- | --- |
| Mental Health (Secondary Mental Health Services) (Wales) Order 2012<br><br>Made: 29 May 2012<br>Came into force: 6 June 2012 | To provide under Part 1 that local primary mental health support services made available in a particular local authority area under a scheme are not to be regarded as secondary mental health services in that local authority area. |
| Mental Health (Primary Care Referrals and Eligibility to Conduct Primary Mental Health Assessments) (Wales) Regulations 2012<br><br>Made: 15 May 2012<br>Came into force: 1 October 2012 | To provide under Part 1 that GPs may refer patients to a local mental health partner for the area where the patient is usually resident for a primary mental health assessment, and to make provision under Part 1 about the eligibility requirements for persons who may carry out primary mental health assessments. |