

**Statement on behalf of Association of Directors of Social
Services (Cymru)**

1. Would the terms of the proposed Order confer the appropriate powers on the National Assembly for Wales to allow for the implementation of the policy proposals outlined in the Explanatory Memorandum?

A. Right to assessment and treatment in a therapeutic setting before compulsion becomes the only safe option.

The challenge for health and social care agencies is to ensure the consolidation of integrated community mental health services that are not dominated by acute episodes of care.

Evidence points to the benefits of early intervention, whereas most interventions operate at the point of crisis in people's lives. There have been an increased number of detentions under the Mental Health Act 1983, from 46,700 in 2004/5 to 47,400 in 2005/06.

The WAO Baseline Review of MH services (2005) found that there was a "limited focus on mental health promotion, tackling stigma and early intervention". Service users, carers and some practitioners complained about the lack of support from statutory agencies, except when a person was in crisis.

It can be argued that the right to an assessment already exists within assessment guidelines in NHS and 'Fair Access to Care Services' in local government. However our view is that the emphasis in the order reinforces this right and is welcomed. It will help to recognise the role played by general practitioners and other primary care staff, but if 'talking therapies' are to be made more readily available, they will require resourcing and ensuring that there are the right number of appropriately trained staff to meet current and future need.

There are areas of good practice in parts of Wales, but overall there is no consistency in the standards experienced. This is also reflected in the availability of resources, with the added complication of the NHS in Wales allocating less to mental health services as a proportion of the total budget than the NHS in England.

B. Independent advocacy for persons who are or may be mentally disordered

The automatic right to advocacy is currently restricted to those detained under the Mental Health Act. Access for other service users is patchy, and depends on the investment in advocacy services by different statutory bodies. This can result in a postcode lottery for service users. Access to independent advocacy is recognised as beneficial to vulnerable people where there is a current statutory responsibility, e.g. Mental Capacity Act 2005. There is no reason to believe that people with mental health problems who do not meet the current eligibility criteria would not benefit from such support.

Demand is difficult to predict but current advocacy schemes will have information on unmet need that can be aggregated. If this was to become a statutory requirement, there would be a need for an injection of additional funds, at least on the same basis as the current statutory schemes, with the development of eligibility criteria to help manage demand.

2. Is the scope of the proposed Order appropriate, too narrow or too broad to allow the Assembly to bring forward the Measures to address issues you believe should be addressed via legislation in the field of mental health in Wales? If necessary how should the proposed Order be redrafted and why?

Most recent estimates suggest that 25% of the population will suffer from some form of mental health problem at some time – most will be of short term duration, with a smaller number classified as chronically ill, the majority of whom will be treated in the community within primary care services, and with support from other public and voluntary sector agencies. Only 20% (or those classed as “Seriously mentally ill”) will be assessed and treated by Community Mental Health teams, with access into secondary care. Currently, the focus of mental health services is on this small proportion of the population.

If the intention of this LCO is to widen the scope of assessment and treatment to the 80%, or in some way support the 20% at an earlier stage, this could provide an opportunity to promote a ‘mental health’ rather than a ‘mental illness’ service, which only serves to perpetuate the medicalisation of people with mental health problems. Making that clear in the early drafting of the order will be helpful.

In widening the scope of the service, there will inevitably be a need for additional resources, due the need for a sufficient number of appropriately trained staff, a wider range of community-based services that offer access to services that have ‘recovery’ as their focus. These will include good housing, a decent income, good educational opportunities and sustainable employment opportunities. Extending the focus of mental health services also depends on the nature of the

partnership between the NHS and local government and the ability and capacity of these partnerships to deliver the standards set out in the National Service Framework (NSF) for people with mental health problems. Progress has been variable across Wales, and greater consistency can only be achieved through Mental Health Services moving away from the margins in terms of both political attention and resource allocation. The LCO alone will not deliver improved services to the population of Wales, but restating the significance of the NSF will place it as a strong foundation for best practice.

3. The proposal is to impose duties on the Health Service to provide assessment and treatment for mentally disordered persons. Should it cover duties on other bodies?

The NSF focus promotes the holistic nature of mental health – whereby, following treatment, people will gain from leading purposeful and productive lives, with access to good opportunities to leisure, education, employment good housing and financial stability. If the LCO aims to widen and challenge a narrow medical definition of assessment and treatment, it should refer to the responsibilities of other public sector bodies, e.g. local government, which provides and commissions services that make up this holistic picture, without which ‘recovery’ will remain a distant goal. These include:

- Multi disciplinary assessment (including social work)
- Provision of appropriate services to support independence and dignity as goals, e.g. exercise on prescription, adult education,, welfare rights and benefits support
- Support to return to employment (through government and independent agencies)
- Priority for appropriate housing via local government and RSLs
- Support to voluntary organisations, in view of the importance of their support to vulnerable people living in the community.

4. The parts of the proposed Matter which relate to assessment and treatment (paragraphs (a) and (b)) are limited to “the health service in Wales”. Would this deal appropriately with any cross border issues?

This is particularly an issue in N.E Wales and S.E Wales where there is regular contact with and commissioning of services in England for both health and social care services. It is important that we learn from the experience in Scotland in dealing with ‘cross border’ issues in South East and South West Scotland with England, following their recent legislative changes. These matters are more likely to be dealt with successfully through careful negotiation, informed by what makes sense to local people, rather than legislative directive.

5. **In relation to assessment of persons and advocacy services, the matter applies to persons “who are or may be mentally disordered”. What are your views on this?**

See 1(B) above

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

People detained under the Mental Health Act are covered by the terms of that legislation and there is little point in extending the terms of the LCO to them. The LCO's purpose appears to be to ensure that people who are not currently guaranteed a service from mental health professionals and others receive recognition and a right to an assessment and support.

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

The definition of “mentally disordered persons” is appropriate and offers a consistent approach, that is welcomed.

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

The term “treatment” can imply a medical model of support. Point 3 above allows a broader definition of both assessment and treatment to those suffering from a mental disorder. It would be helpful to offer a broader definition that includes services offered by professionals other than those traditionally associated with a medical model of treatment.

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