

## **MHB010- Unigolyn**

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### **Senedd Cymru | Welsh Parliament**

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

Ymateb gan: Unigolyn | Evidence from: Individual

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I am a retired GP and senior medical manager, having worked in South Wales as Assistant Medical Director for Primary Care. I am also the mother of an adult son with schizophrenia and have direct, recent experience of the use of Mental Health legislation by mental health professionals.

### **Enshrining overarching principles in legislation**

#### **Question 1: Do you think there is a need for this legislation?**

#### **Can you provide reasons for your answer.**

I believe there is a need for a review of mental health legislation to ensure that those with serious mental health conditions have a voice equal to those receiving care for physical conditions. They should receive the same degree of respect and dignity, and have access to resources (in terms of professional expertise, inpatient services and community care) that meet all their needs. There should be robust, transparent accountability at all levels of mental health services for service users who represent the most vulnerable people in society.

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

- A. Choice and Autonomy
- B. Least Restriction
- C. Therapeutic Benefit
- D. The Person as an Individual

Yes, I agree that these principles should be at the heart of all health care. The challenge is to ensure that they are embedded in every professional's working practice and that this is evidenced regularly and consistently through transparent systems of accountability.

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At present there seems to be huge variability in the quality of care and the expertise of professionals in positions of considerable authority and power over people's lives.

## **Specific changes to existing legislation**

### **A. Nearest Relative and Nominated Person**

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

**Can you provide reasons for your answer.**

No I do not agree with this proposal, though I understand why it might seem to be a move towards greater autonomy and respect for adult service users.

A potential difficulty arises when a service user with a serious mental health condition (such as psychosis) and who does not have the capacity or insight to make rational choices about their care, excludes their NR from all decision making. The evidence supports the targeting of close family members in paranoid psychotic states.

The NR and other family members may well be the only people who have closely witnessed the decline in their loved one's mental health and yet the very nature of the condition may result in a paranoid state against the family. The degree and nature of mental health decline may not be obvious to others, including experienced health professionals, who do not know the person well.

Therefore to exclude the NR and leave the choice of NP to someone who is experiencing their first episode of psychosis is dangerous and misguided. Once the person has been appropriately treated and has full capacity to make a choice, then a decision about the best NP could be made.

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

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

**Can you provide reasons for your answer.**

This, on superficial reading, makes perfect sense. But the variable quality of risk assessments by health professionals at the present time, along with inadequate numbers of inpatient beds and senior professionals, creates inconsistent decision-making and detention rates.

There are many factors that determine whether someone will be detained and yet there is no transparency about these within and between organizations. It is therefore difficult to identify good and poor practice.

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

**Can you provide reasons for your answer.**

I thought this was always the case. Why would a health professional decide to detain someone if they did not believe it would be in the person's best interest from a safety, therapeutic and personal perspective? It is a surprise to me that it requires a change in legislation to ensure this principle is enshrined.

## **C. Remote (Virtual) assessment**

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

**Can you provide reasons for your answer.**

I do not agree with this. Our recent personal experiences of Mental Health Assessments have shown that even when the SOAD is present in person, their role as an objective opinion and decision-maker has not been as robust as it should be. If this role were to become virtual, I believe it would be little more than a box-ticking exercise without the careful considerations vital for robust decisions. It is essential that the SOAD sees and examines in person to ensure

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they have all the information needed for a sound diagnosis and decision about detention to be made.

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

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

**Can you provide reasons for your answer.**

Yes.

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

**Can you provide reasons for your answer.**

Yes, this is vital and safeguards the service user.

#### **General Views**

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

No

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

No

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

At present, in my experience as both a retired professional and parent/carer, mental health services in South Wales are woefully under resourced, do not ensure all service users' needs are heard or met, and mental health professionals are not held to account for the quality of their service provision. I have witnessed misuse by mental health professionals of the principles of consent and least restrictive practice, based on inadequate assessments of capacity to justify their actions. Service users, their families and carers are being failed at every level of mental health provision.

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I am not sure that the current proposals for amending the legislation will address these failings and resource issues. But to start a national conversation about the state of mental health services, and what should be done to address the problems, is an urgent and essential requirement.

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