

MHB018 – Pobl yn Gyntaf Cymru Gyfan

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: Joe Powell, Prif Weithredwr, Pobl yn Gyntaf Cymru Gyfan | Evidence from: Joe Powell, Chief Executive, All Wales People First

Enshrining overarching principles in legislation

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

Can you provide reasons for your answer.

Yes, there is a need for this legislation or legislation which makes important changes to current mental health standards. This is for many reasons. Firstly, there are people with learning disabilities in Wales who are being kept in secure mental health units because the services they need cannot be provided. People who do not have mental health difficulties.

A merger in one region in Wales between inpatient mental health and learning disability services has made this problem worse. There is a real danger that more health boards in Wales will follow this model as funds tighten. There are also people in Wales with learning disabilities who, when admitted with genuine mental health difficulties, are not re-integrated to their communities once their mental health recovers. I refer you to the 'Improving Care, Improving Lives: Chief Nursing Officer's National Care Review of Learning Disability Hospital Inpatient Provision Managed or Commissioned by NHS Wales' [report](#) (2020).

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

Yes, the principles themselves are sound. However, there are similar principles already in place within Welsh Government legislation. Existing legislation should already be giving patients the same rights, yet that is not happening. I am not confident the new proposals will change the current situation unless those with a duty of care are held accountable. This includes decision makers and those who incarcerate people with learning disabilities in secure units because the services they need cannot be provided.

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.

Yes, this would increase the autonomy of the patient to choose the person they would like to support them. The nearest relative is not necessarily the best person in every case. For example, I am aware that many people with learning disabilities have turbulent relationships or no contact with parents and/ or family. Often a consequence of having chosen for themselves to make their own life choices and/ or to live independently.

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.

Yes, this is very important. However as stated earlier, this should only be the case for people with genuine mental health conditions. This should not be in place for people with learning disabilities just because appropriate services cannot be provided for them. Some people with learning disabilities find themselves in this category unjustly and through no fault of their own, because their outward behaviour suggests they pose a significant risk to themselves or others. Too often, these assumptions are used to justify detaining them, when in fact the behaviours are distress behaviours as a result of inappropriate support for their learning disability/ condition.

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.

Yes, patients should go into hospital to get better not to increase their mental distress. As mentioned, in regards to people with learning disabilities who are

placed into mental health facilities because the appropriate services cannot be provided, the secure units are far from therapeutic or least restrictive.

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.

Yes, this is important because there is in my experience a major gap in the understanding of the mental capacity act. This has led to sectioning where sectioning was not lawful, least restrictive or proportionate. It is clear that many practitioners do not always understand the difference between learning disabilities and mental health conditions. It is important that other condition specific opinions are sought to ensure that these mistakes are no longer 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, this is fair and sensible. Mental health is not static and it is important that support is based on current need not historic records.

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 would be an important measure giving choice and control to the patient and to reassure them that an assessor has their best interests at heart and understands their personal situation.

General Views

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

As mentioned previously, the measures if carried out along with our feedback would prevent people from learning disabilities from being placed inappropriately into mental health services. For those who do need mental health services it would ensure they get the right support at the right time followed by re-integration to their communities or adequate placements, whichever is right for them.

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

This is not our specific area of expertise. All Wales People First do not work with children.

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

The proposal has to be enforceable in conjunction with real accountability otherwise it will make no difference to the current situation in Wales. The details look good on paper, but what will underpin success is a robust accountability on those who have a duty to deliver on these new standards.

It is also crucial that people with learning disabilities have support from professionals who understand learning disability if they are detained in mental health units. There are cases when assessors and decision makers make decisions based on 'behaviour' through a mental health lens, without understanding that the patient is displaying those behaviours because of the distress that the inappropriate placement is causing them.
