



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

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Mental Health Act 1983

# Approval of Approved Clinicians in Wales

March 2011



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## Introduction

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1. In November 2008 the functions of Approved Clinicians were introduced into mental health legislation and care across England and Wales. An approved clinician is a mental health professional approved by the Welsh Ministers to act as such for the purposes of the Mental Health Act 1983 ('the 1983 Act'); some decisions under the 1983 Act can only be undertaken by people who are approved clinicians.
2. In practice, the Welsh Ministers have delegated the function of approval to Local Health Boards by way of Directions<sup>1</sup> made under the National Health Service (Wales) Act 2006; approval is undertaken on behalf of all the Boards in Wales by Betsi Cadwaladr University Health Board.
3. This Guidance has been developed to assist individuals and organisations that have interests and responsibilities relating to the approval of Approved Clinicians to understand and fulfil those responsibilities.

## Who the guidance is for

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4. The individuals and organisations that may have an interest in this guidance are likely to include –
  - a. those undertaking the functions of approved clinicians;
  - b. those wishing to seek approval as an approved clinician;
  - c. organisations that plan, secure or provide mental health services;
  - d. Clinical Directors and managers of mental health services;
  - e. those involved in the planning, securing or providing of training in mental health legislation.

## Background to the Guidance

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5. This guidance was developed following a review of the initial introduction of Approved Clinicians in Wales. That review sought to assess how the introduction of the new functions had progressed, and whether any actions needed to be taken to ensure the on-going success of the new functions. It took into account lesson learnt from stakeholders involved in the early implementation of the functions.
6. One of the recommendations of the review was that supplementary guidance relating to approval of Approved Clinicians should be produced. This Guidance has been written in light of that recommendation.

## Acknowledgements

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7. In preparing this Guidance, the Welsh Assembly Government wishes to acknowledge the support of a reference group comprising of mental health and

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<sup>1</sup> The Mental Health Act 1983 Approved Clinicians (Wales) Directions 2008 – an extract of these Directions is included at Annex A to this Guidance.

social care professionals, service managers and professional bodies. The Welsh Assembly Government also wishes to thank the current Approved Clinician Approval Team of Betsi Cadwaladr University Health Board, and The Royal College of Psychiatrists in Wales.

## Chapter 1 – Policy and legal background

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### Why the new functions of approved clinicians were introduced

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8. The 1983 Act was amended by the Mental Health Act 2007 against a background of –
  - a. significant workforce pressure within mental health services;
  - b. the advent of new ways of working and new roles in mental healthcare.
9. At the time the legislation was being developed areas of Wales, and other parts of the United Kingdom, were experiencing particularly serious problems in recruiting and retaining consultation psychiatrists and other senior medical staff in mental health services.
10. There were concerns that this workforce pressure might lead to compromised quality of care for patients and an inability of services to deliver acceptable and lawful levels of support to patients who receive assessment, care and treatment under the 1983 Act.
11. Over the past two decades health and social care professionals working with mental health multidisciplinary teams have taken on more responsibility for both delivering and overseeing the care of individuals with mental health problems, including those subject to compulsion under the 1983 Act. However the law prior to November 2008 only permitted medical doctors to take overall responsibility for a detained patient's case. During the development of the legislation that became the Mental Health Act 2007 a view was expressed by many health and social care stakeholders that mental health policy and legislation for England and Wales needed to be refined, so as to allow new roles within the multidisciplinary team to be developed and to enable new ways of working to be established within mental health services.
12. The new professional roles and functions within the 1983 Act, introduced by the 2007 Act, and the associated Welsh Assembly Government policy and strategy that derives from it, are intended to provide a 'permissive environment' in which workforce development and service modernisation may take place.

### Anticipated growth of the approved clinician workforce

13. The Welsh Assembly Government anticipates that the development and expansion of the approved clinician workforce to include more 'non-medical' approved clinicians will be incremental, and will take place over a number of years.
14. It is not anticipated that large numbers of non-medical health and social care professionals will become approved clinicians in the early years of the new functions being in force, with medical doctors continuing to provide the backbone of the workforce eligible to act as responsible clinicians.

## The legal framework

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15. The 1983 Act establishes the functions of Approved Clinicians and Responsible Clinicians. Some decisions under the 1983 Act can only be undertaken by people who are approved clinicians, and a responsible clinician is an approved clinician with overall responsibility for an individual patient's case.
16. Mental health professionals are approved by the Welsh Ministers to act as an approved clinician in Wales, but in practice this approval is done under Directions made by the Welsh Ministers by Local Health Boards. Approval is undertaken on behalf of all the Boards in Wales by Betsi Cadwaladr University Health Board. The *Mental Health Act 1983 Approval Clinician (Wales) Directions 2008* cover how Approved Clinicians are to be approved, for how long, which professions they can be drawn from, and what competencies they must demonstrate. The Directions came into force on 3 November 2008.
17. The Directions also set out the requirements upon individual approved clinicians for on-going approval, and the arrangements for suspension and ending of approval. An extract of the Directions is included at Annex A to this Guidance.

## Eligibility to seek approval

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18. The Directions establish that only certain practitioners may seek approval, and in seeking approval must meet the competencies set out the Directions, and have undertaken training. To be approved a person must therefore meet –
  - a. professional requirements;
  - b. competency requirements;
  - c. training requirements.

## Professional requirements

19. The applicant must be one of the following –
  - a. a registered medical practitioner;
  - b. a chartered psychologist (listed with the British Psychological Society) or a psychologist registered with the Health Professions Council);
  - c. a first level nurse in mental health or learning disabilities (registered with the Nursing and Midwifery Council);
  - d. an occupational therapist (registered with the Health Professions Council);
  - e. a social worker (registered with the Care Council for Wales or the General Social Care Council).

## Competency requirements

20. The competency requirements are set out in Schedule 2 to the Directions and cover –
  - a. the role of the approved clinician;
  - b. values based practice;
  - c. assessment;
  - d. care planning;

- e. treatment;
- f. leadership and multi disciplinary team working;
- g. equality and cultural diversity;
- h. mental health legislation and policy; and
- i. communication.

### **Training requirements**

21. The applicant must have completed within the last two years (prior to application) a course for the initial training of approved clinicians. The Welsh Assembly Government has not prescribed the specification for such training (see paragraphs, but guidance on content of such courses is given in Chapter 4 below).

## Chapter 2 – Process of approval

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### Underpinning principles

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22. Approval of approved clinicians exists to protect individual patients and the public, and to ensure that adequate numbers of potential responsible clinicians are available in Wales to maintain lawful and effective mental health services.
23. In order to balance the need to protect patients and the public, with that of ensuring a steady supply of practitioners, the process that is employed to approve such clinicians must be –
- a. transparent
  - b. proportionate
  - c. simple and
  - d. underpinned by robust governance and human resource management systems within the mental health service provider organisations where approved clinicians will work.
24. The approval system should not create an excessive burden of bureaucracy for either the individual seeking approval or re-approval, or the approving Health Board (ie Betsi Cadwaladr University Health Board).

### Summary of the process

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25. At a high level, the process for seeking and granting approval can be summarised as –
- a. the individual judges themselves to have met the professional, competence and initial training requirements of the Directions;
  - b. the Clinical Director is satisfied with the evidence put forward by the individual, and he or she confirms that in their opinion the individual meets the requirements of the Directions;
  - c. evidence of eligibility is submitted to the Approval Team in the Betsi Cadwaladr University Health Board;
  - d. if the Approval Team is satisfied with the evidence provided, the Betsi Cadwaladr University Health Board approves the individual as an approved clinician.
26. This approach to approval is based on the concept of distributed governance.

### Distributed governance

27. The concept of 'distributed regulation' provides a useful perspective when considering the complexities of the governance of approved and responsible clinicians. The arrangements for initial and on-going approval of the approved clinician may be seen as constituting 'distributed governance', because –

- a. under the 1983 Act the Welsh Ministers approve approved clinicians;
- b. the Welsh Ministers have delegated the approval function to Local Health Boards, and have tasked Betsi Cadwaladr University Health Board to undertake the approval function on behalf of all the Local Health Boards;
- c. the Betsi Cadwaladr University Health Board has established an Approval Team responsible for overseeing the system of approval;
- d. those who plan, secure or provide mental health services (ie Health Boards and Independent Hospitals) have responsibilities for ensuring that:
  - i. only suitably qualified, competent and trained professionals are supported in their application for approval;
  - ii. approved clinicians are properly supported within the organisation to fulfil the functions of an approved clinician and a responsible clinician (as the case may be);
  - iii. service level agreements with locum agencies provide that locum staff (of relevant professions) are properly qualified and competent to act as an approved clinician.
- e. Executive Directors, Clinical Directors and service managers are responsible for ensuring an effective regiment of clinical supervision, professional development planning and performance appraisal is in place for all approved clinicians, and for those seeking approval;
- f. approved clinicians are responsible for ensuring that at all times they practice within the boundaries of the professional competence, and for complying with the Directions in respect of on-going approval and renewal of approval.

28. Fuller guidance on all of these matters is given below and in the following chapters.

## **Evidence of eligibility for approval**

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29. The Approval Team within the Betsi Cadwaladr University Health Board are not responsible for the professional regulation of the mental professionals acting as or seeking to become approved clinicians. Neither will they be required to scrutinise in detail or determine the competence of those applying for approval against every competence requirement in the Directions.
30. The Approval Team of the Betsi Cadwaladr University Health Board is required to ensure that evidence of the eligibility for approval exists. There those seeking approval as an approved clinicians must make available to the Approval Team evidence of –

- a. extant professional registration (which meets the requirement of Schedule 1 of the Directions);
- b. the completion of an initial training programme for approved clinicians;
- c. a post-registration career history that equips them to act as a safe approved clinician and responsible clinician (this may be evidence by a comprehensive *curriculum vitae* that has been validated by a service manager within the employing organisation or locum service).

31. Applications for approval as an approved clinician must be accompanied by –

- a. a formal self-declaration by the applicant of their competence to fulfil the functions of an approved clinician;
- b. a formal declaration of support from the applicant's employer that confirms the applicant is competent to act as an approved clinician. This should be signed off by the Clinical Director (or equivalent) of the service employing the applicant, who has detailed knowledge of the competencies in the Directions, and the functions of approved and responsible clinicians under the 1983 Act. The declaration of support must also be counter-signed by a relevant Executive Director (or equivalent). For Health Boards a relevant Executive Director would be the Director of Primary, Community and Mental Health, the Nursing Director or the Medical Director.

32. Whilst there is no requirement for the Approval Team to consider the professional development portfolios of every applicant seeking approval, it may be appropriate for the Approval Team to request this information where they believe the core evidence submitted in support of an application does not meet the requirements of the Directions and/or this Guidance.

33. The Approval Team may also, periodically, request samples of detailed evidence from prospective applicants (on a randomised basis) to assure themselves of the robustness of the process followed by employing organisations who have supported the applications for approval being made.

### **Maintaining a professional development portfolio**

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34. The maintenance of a professional development portfolio, as part of mainstream job planning, professional development management and performance appraisal, is common practice amongst all of the professions eligible to be an approved clinician. Such a portfolio should provide the main source of evidence for employing authorities to satisfy themselves of an individual's competence as an approved clinician within their organisation.

35. There is no requirement for approved clinicians to maintain a separate portfolio of evidence relating to their functions under the 1983 Act, but they may do so if they wish.

36. Professional portfolios need not include detailed evidence in relation to every competence of Schedule 2 to the Directions. The fact that practitioners are formally deemed competent by the clinical supervisors and service managers (as assessed within the context of formal organisational governance and human resource management systems) should provide sufficient, proportionate evidence.
37. Mental health professionals will find that the list of competences set out in Schedule 2 to the Directions provides a useful framework for professional development planning and performance appraisal.

## Chapter 3 – Professional practice and meeting the competencies for approval

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### Extending the scope of practice

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38. The functions of approved clinicians and responsible clinicians are not new 'roles', 'posts, or new 'stand alone jobs' within the mental health multidisciplinary team, neither are they new types of mental health professionals.
39. By becoming an approved clinician (and for an individual patient, the responsible clinician) a mental health practitioner is effectively extending his or her core professional role, and engaging in an advanced level of practice within the context of that core role.
40. It is assumed that the core competencies of the mental health professionals that may seek approval as approved clinicians, provide the foundations of the knowledge, skills and behaviours required to act as a responsible clinician. The foundation of competence will be assured by extant professional registration.
41. It is expected that before a mental health or social professional is fit to practice as an approved clinician, they will have benefited from significant and relevant clinical and multidisciplinary team working experience, gained subsequent to their initial professional registration. They will also be expected to have benefited from relevant post-registration professional training, development and education. This will have been underpinned by a rigorous and effective regimen of clinical supervision, professional development planning and performance appraisal.

### A note on advanced practice

42. Much work has been undertaken in recent years to define advanced practice and to explore professional and organisational governance issues relating to it. A helpful summary of some of the key issues has been produced by the Council for Healthcare Regulatory Excellence in its 2009 report *Advanced Practice: Report to the four UK Health Departments*. The CHRE has concluded that, regardless of the professional role being considered, there is a general consensus that advanced practice is typified by:

*“Practice along a continuum in which practitioners develop their professional knowledge, skills and behaviours to a high level, at which they are capable of safe and effective practice in more complex situations and with greater autonomy, responsibility and clinical accountability.”*

43. The CHRE is also clear that *“professional roles and responsibilities that are of an advanced level are relative to the scope of practice of members of a profession.”*
44. For non-medical health practitioners working in Wales *A Framework on Advance Nursing, Midwifery and Allied Health Professionals Practice in Wales*<sup>2</sup> should be

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<sup>2</sup> Welsh Assembly Government (2010)

viewed as an essential enabling tool for the development of new roles within NHS Wales.

45. The *Career Framework for Health* places Advanced Practitioners at a minimum of Level 7 of the NHS Career Ladder, defining such practitioners as:

*“Experienced clinical practitioners who have developed their skills and theoretical knowledge to a very high standard. They are empowered to make high-level clinical decision and will often have their own caseloads.”*

## Judgements about competence

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46. Other than the requirements of the Directions, there is no criteria in legislation that can be used to identify when a mental health professional has achieved the level of experience and competence required in clinical practice, case management and multidisciplinary team working to safe and effectively act as an approved clinician or responsible clinician.
47. Post-registration education and training requirements vary for the professionals eligible to see approval as an approved clinician. So do the governance and regulatory arrangements relating to post-registration professional development. The career progression pathways of each of the professions also vary. Although a consensus of professional opinion is beginning to emerge about advanced practice and the implications for its regulation in health and social care, there are currently no formal arrangements to regulated advanced practice roles that may be undertaken across professions (as is the case with the approved and responsible clinician functions).
48. Given this situation, effective judgements about the readiness of any mental health professional to apply for approval as an approved clinician, and their fitness to practice as a responsible clinician, will be dependent on the individual professional recognising themselves as competent, and their self-declared competence being validated by their clinical supervisors and service managers.
49. Judgements about the competence of individual practitioners as potential or actual approved and responsible clinicians must be made within the context of formal organisational governance and human resource systems. These will include –
- a. job planning;
  - b. clinical or casework supervision;
  - c. professional development planning;
  - d. performance appraisal.
50. Current arrangements for professional registration are also relevant. The emerging arrangements for professional re-validation, for all professions, will need to be considered in the future.

## Indicators as to potential eligibility

51. Given the varying post-registration career pathways of the different mental health professionals eligible to seek approval, it is not possible to offer definitive advice as to whether professionals achieving a particular job grade or level of formal professional education are indicators of their level of clinical competence or readiness to see approval. Despite this certain assumptions may not be considered unreasonable. For instance, whilst the governance and human resource management requirements recommended in this guidance must be taken into account, it would be likely that a eligible practitioner would have worked for a significant period of time post-registration in mental health practice, and that their experience is current or very recent. It also may be fair to conclude that any –

- a. medical doctor who is registered on the Specialist Register of the General Medical Council for psychiatric specialities is likely to be proficient in the competencies set out in Schedule 2 of the Directions;
- b. medical doctor not on the Specialist Register but who has extant approval under section 12(2) of the 1983 Act may be proficient in the competencies;
- c. psychologist is likely to be employed at Level 8 in the *Career Framework for Health*;
- d. mental health or learning disability nurse, or occupational therapist, is possibly employed in a post that meets the criteria for Level 7 of the *Career Framework for Health* but more likely at Level 8;
- e. social worker will be working in senior practitioner role, and expected to have significant recent experience as an approved mental health professional.

## Chapter 4 – Initial training for approved clinicians

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52. As well as fulfilling the professional and competency requirements to become an approved clinician, individuals seeking approval must have undertaken (within the last two years) an initial training course for approved clinicians.
53. It is not the intention of the Welsh Assembly Government to prescribe in detail a specification for such a training course, but the following guidance is included to indicate expectations for such a course.
54. When the Directions were prepared, and consulted upon, it was anticipated that the initial training course would be relative short (probably of two or three days duration). This view was premised on the assumption that the professionals seeking approval would not be novice practitioners, and would therefore be competent to meet the requirements of the role. As a consequence they would have benefited from significant and relevant –
- a. clinical practice and multi-disciplinary team working experience subsequent to initial professional registration; and
  - b. post-registration professional development, training and education, relevant to becoming a responsible clinician.
55. It was also expected that professionals with this level of experience, education and training would have benefited within their employing organisations from an on-going formal regimen of clinical or casework supervision, professional development and performance appraisal.
56. The purpose of the initial training course is therefore not to enable professionals to meet the competencies of the Directions, but rather to consolidate understanding of the key fundamental issues relating to the functions of approved and responsible clinicians.
57. As a minimum, prospective applications for approval who have successfully completed an initial training course for the role would be expected to have a clear understanding of the –
- a. Mental Health Act 1983, the Mental Capacity Act 2005 and the Mental Health (Wales) Measure 2010, including associated subordinate legislation;
  - b. the Code of Practice for Wales to the 1983 Act, the Codes of Practice to the 2005 Act, and any Codes or guidance for the 2010 Measure;
  - c. Mental Health Act 1983 Approved Clinician (Wales) Directions 2008;
  - d. the functions and responsibilities of approved clinicians;
  - e. the functions and responsibilities of responsible clinicians;
  - f. the role and function of the Mental Health Review Tribunal for Wales under the 1983 Act;
  - g. the role and function of the Hospital Managers under the 1983 Act;

h. the need to proactively maintain their competence as an approved clinician.

58. Employing organisations supporting prospective approved clinicians in their application for approval should assure themselves that the initial training undertaken by applicants adheres to this guidance, as the Betsi Cadwaladr University Health Board will require completion of suitable initial training which meets this guidance.

## **Chapter 5 – Responsibilities**

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### **Betsi Cadwaladr University Health Board**

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59. The Betsi Cadwaladr University Health Board is accountable for approving approved clinicians in Wales on behalf of the Welsh Ministers. It is responsible for –

- a. overseeing a system for approval that is proportionate, effective and efficient; and
- b. providing information to the Welsh Assembly Government, as required, on the fulfilment of this role.

### **Approval Team of the Betsi Cadwaladr University Health Board**

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60. The Approval Team is accountable for designing, implementing and keeping under review an approval process, in line with this guidance, on behalf of the Betsi Cadwaladr University Health Board. It is responsible for –

- a. receiving applications from those seeking approval;
- b. considering the evidence submitted in support of the applications;
- c. approving practitioners who satisfy the requirements of the Directions;
- d. notifying applicants and their nominating employers of the outcome of the application;
- e. re-approval of approval clinicians;
- f. suspending or ending the approval of individuals as necessary;
- g. maintaining a record of approved clinicians; and
- h. keeping the system and processes of approval under review.

### **Planners and providers of services**

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61. Those who plan, secure or provide mental health services are accountable for ensuring that the services that they oversee are able to lawfully support patients who are receiving care and treatment under the provisions of the 1983 Act. To this end they are responsible for satisfying themselves that –

- a. service models and delivery are fit for purpose;
- b. the clinical workforce delivering the service models are adequate;

- c. services are employing sufficient numbers of approved clinicians to maintain an effective responsible clinician service (including responsible clinicians from clinical specialisms);
- d. only suitable qualified and competent mental health professionals are supported in their applications to become approved clinicians;
- e. approved clinicians are properly supported within the organisation to fulfil the functions of approved and responsible clinicians (as the case may be); and
- f. service level agreements with locum agencies ensure locum staff are properly qualified and competent to act as approved clinicians.

### **Clinical directors and service managers**

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62. Clinical directors and service managers are accountable for ensuring that the approved clinicians and responsible clinicians within their services are qualified to undertake the functions, and are supported and supervised in doing so. They are responsible for ensuring that –
- a. only those eligible to become approved clinicians are allowed to apply for approval;
  - b. only those professional that are competent to act as a responsible clinician undertake those functions; and
  - c. an effective regimen of clinical supervision, professional development management and performance appraisal is in place for all approved clinicians (and those preparing for or seeking approval).

### **Approved and responsible clinicians**

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63. Approved clinicians, and those acting as responsible clinicians, are accountable for ensuring that they at all times practice within the boundaries of their competence. They are responsible for –
- a. always acting lawfully when undertaking functions as an approved clinician or responsible clinician (as the case may be);
  - b. never practicing beyond the boundaries of their competence;
  - c. maintaining their professional registration relating to their core role within the mental health multidisciplinary team;
  - d. maintaining their competence as an approved clinician;
  - e. undertaking refresher training relating to the functions of approved and responsible clinicians as necessary;
  - f. maintaining their approval as an approved clinician, by –

- i. submitting annual declarations of competence to the Approval team;
  - ii. submitting evidence to the Approval Team every five years to seek re-approval
- g. ensuring that their professional development portfolio is kept up to date and is available on request as evidence of competence, if necessary; and
- h. participating in their employer's process for clinical supervision, professional development management and performance appraisal.

### **Prospective approved clinicians**

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64. Those professionals seeking approval are responsible for ensuring that they meet the requirements for approval set out in the Directions before seeking approval. They are responsible for –

- a. maintaining their professional registration relating to their core role within the mental health multidisciplinary team;
- b. developing their competence to become an approved clinician and to act as a responsible clinician;
- c. ensuring that their professional development portfolio is kept up to date and is available on request as evidence of competence, if necessary;
- d. participating in their employer's process for clinical supervision, professional development management and performance appraisal; and
- e. undertaking an initial training course for approved clinicians.

### **Planners and providers of initial training**

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65. Those who secure, plan or provide initial training courses for prospective approved clinicians are accountable for ensuring that such courses are fit for purpose. In order to effectively meet this requirement, they are responsible for –

- a. ensuring that the specification for training courses meets the recommended requirements set out in this guidance; and
- b. maintaining and having available for scrutiny a record of those professionals who have successfully completed the training.

## Summary of key points

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- The Mental Health Act 1983 and the associated Directions relating to the functions of approved and responsible clinicians allow mental health services to lawfully address workforce shortages where they arise, and enable them to modernise services over time via the development of new roles and new ways of working.
- Whilst taking into account the issues and advice set out in this guidance relating to clinical supervision, professional development management and performance appraisal, it is reasonable to assume that medical doctors who are registered on the Specialist Register for psychiatrists, are likely to be proficient in the competencies set out in the Directions.
- The approval process for approved clinicians in Wales must strike a proportionate balance between patient and public protection and the need to maintain an adequate workforce of responsible clinicians.
- The governance systems that underpin the functions of approved and responsible clinicians must be transparent, simple and not over-bureaucratic for either those administering the approval process or those practitioners seeking approval or re-approval.
- Judgements about the readiness of an individual to apply for approval, and so their fitness to practice as an approved or responsible clinician, will be dependent on individual professionals recognising themselves as being competent to perform the functions, and their competence being evidenced and validated by their clinical supervisors, and clinical and service managers supporting their application.
- Rigorous and effective regimens of clinical supervision, professional development planning and performance appraisal within the service provider organisations must provide the cornerstone of the governance arrangements that need to be in place to assure patient and public safety in relation to the functions undertaken by approved and responsible clinicians.

# Annex A – Copy of the Mental Health Act 1983 Approved Clinician (Wales) Directions 2008

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An extract of the Directions has been included – the provisions relating to transitional arrangements (which no longer apply) have not been included.

## NATIONAL HEALTH SERVICE, WALES

### NATIONAL HEALTH SERVICE (WALES) ACT 2006

#### Mental Health Act 1983 Approved Clinician (Wales) Directions 2008

*Made* 20 October 2008  
*Coming into force* 3 November 2008

The Welsh Ministers give the following directions in exercise of the powers conferred on them by sections 12, 13 and 203 of the National Health Service (Wales) Act 2006.

#### PART 1

Application etc.

##### Application, commencement and interpretation

1. – (1) These Directions apply to Local Health Boards.
- (2) These Directions apply in relation to Wales.
- (3) These Directions come into force on 3 November 2008.
- (4) In these Directions—

“the Act” (“*y Ddeddf*”) means the Mental Health Act 1983;

except in the context of direction 3, “approve” (“*cymeradwyo*”) and “approval” (“*cymeradwyaeth*”) include “reapproval” (“*ail gymeradwyo*”) and “reapproval” (“*ail gymeradwyaeth*”);

“approved clinician” (“*clinigydd cymeradwy*”) has the meaning given by section 145(1) of the Act;

“approving Board” (“*Bwrdd sy’n cymeradwyo*”) means the Board that has approved the person to be an approved clinician;

“Board” (“*Bwrdd*”) means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;

“commencement day” (“*diwrnod cychwyn*”) means 3 November 2008;

“community responsible medical officer” (“*swyddog meddygol cyfrifol cymunedol*”) has the meaning given by section 34(1) of the Act;

“medical treatment” (“*triniaeth feddygol*”) has the meaning given by section 145 of the Act;

“mental disorder” (“*anhwylder meddwl*”) has the meaning given by section 1(2) of the Act;

“period of approval” (“*cyfnod cymeradwyaeth*”) means the period of time for which the approval is granted in accordance with direction 5 or direction 8;

“professional requirements” (“*gofynion proffesiynol*”) means the requirements set out at

Schedule 1 to these Directions;

“responsible medical officer” (“*swyddog meddygol cyfrifol*”) has the meaning given by section 34(1) of the Act;

“relevant competencies” (“*cymwyseddau perthnasol*”) means the skills set out at Schedule 2 to these Directions;

“responsible clinician” (“*clinigydd cyfrifol*”) has the meaning given by section 34(1) of the Act; and

“treatment” (“*triniaeth*”) in the context of these Directions means medical treatment for a mental disorder.

## PART 2

### Approvals: General

#### Function of approval

2. The Welsh Ministers direct the Boards to exercise the function of approving persons to be approved clinicians.

#### Granting approval

3. —(1) Subject to paragraph (2), a Board may only grant approval to a person to be an approved clinician (where that person is not already approved as an approved clinician under these Directions, or has not been so approved within the previous five years) if that person—
- (a) fulfils the professional requirements;
  - (b) is able to demonstrate that he or she possesses the relevant competencies; and
  - (c) has completed within the last two years a course for the initial training of approved clinicians.
- (2) A Board may only grant approval to a person to be an approved clinician, where that person is not already approved as an approved clinician under these Directions, but is approved to act in relation to England, or has been so approved within the previous five years, if that person—
- (a) fulfils the professional requirements; and
  - (b) is able to demonstrate that he or she possesses the relevant competencies such as will enable that person to act within Wales, or, if not, completes such course as the approving Board deems necessary to enable him or her to do so.
- (3) In determining whether the person seeking approval as an approved clinician possesses the relevant competencies as required under paragraphs (1)(b) or (2)(b) above, the Board must have regard to the references of that person.

#### Period of approval

4. A person may be approved as an approved clinician for a period of up to five years.

#### Suspension of or conditions attaching to Registration

5. —(1) If at any time after being approved, an approved clinician’s registration or listing in accordance with the fulfilment of the professional requirements as required under direction 3(1)(a) or 3(2)(a) as the case may be is suspended, the approving Board must suspend that person’s approval for the duration of the suspension of his or her registration or listing.
- (2) In the event of conditions being attached to an approved clinician’s registration or listing, as the case may be, the Board may attach such conditions to the approval, or may suspend approval, as it may deem necessary.
- (3) Where the suspension of approval has ended, the approval will continue to run for any unexpired period of approval, unless the approving Board ends it earlier in accordance with direction 6.

### **End of approval**

6. —(1) Subject to paragraph (2), below, the approval of an approved clinician ends upon the expiry of the period of approval.
- (2) The approving Board must end the approval of an approved clinician before the period of approval has expired in the following circumstances—
- (a) if, in the opinion of the approving Board, the approved clinician does not meet any of the conditions attached to his or her approval; or
  - (b) if, in the reasonable opinion of the approving Board, the approved clinician no longer possesses the relevant competencies; or
  - (c) if, in the opinion of the approving Board, the approved clinician no longer meets the professional requirements; or
  - (d) if the approved clinician makes a written request for cessation of approval.
- (3) Where an approving Board ends the approval of an approved clinician under paragraph (2), that Board must immediately notify that clinician in writing of the date of the ending of approval and the reason for the ending of approval.

### **Conditions of Approval**

7. Any approval granted under these Directions is subject to the following conditions—
- (a) the approved clinician must notify the approving Board immediately if he or she no longer continues to meet any of the requirements set out in direction 3 in the case of initial approval, or direction 8 in the case of re-approval or if he or she is suspended from registration or listing under such requirements, or has conditions attached to the same;
  - (b) the approved clinician must provide evidence to the approving Board's satisfaction, at no less than annual intervals of the date of his or her approval, that he or she continues to possess the relevant competencies to carry out functions as an approved clinician; and
  - (c) any such other conditions as the approving Board thinks appropriate.

### **Reapproval**

8. —(1) A Board may grant approval of a person who has previously been approved within Wales, such approval having been in force within the previous five years prior to the proposed date of reapproval, in accordance with these Directions where that person—
- (a) fulfils the professional requirements; and
  - (b) is able to demonstrate that he or she possesses the relevant competencies.
- (2) In determining whether the person seeking approval as an approved clinician possesses the relevant competencies as required under paragraph (1)(b) above, the Board must have regard to the references of that person.

### **Monitoring and Records**

9. —(1) The approving Board must keep a record of all approved clinicians that it approves, including—
- (a) their names;
  - (b) their professions;
  - (c) the dates of approval;
  - (d) the periods for which approval is given;
  - (e) details of the completion of any training referred to in direction 3;
  - (f) evidence provided to it by approved clinicians under direction 7; and
  - (g) any details of the ending or suspension of approval, or conditions attached to the same.
- (2) The approving Board must keep the records referred to in paragraph (1) above relation to each approved clinician approved by it for three years following the ending of an approved clinician's approval.

[Note: Part 3 of the Directions has not been included in this extract]

Minister for Health and Social Services, one of the Welsh Ministers 20 October 2008

## SCHEDULE 1

Direction 1

### Professional Requirements

1. In order to fulfil the professional requirements a person must be one of the following—
  - (a) a registered medical practitioner;
  - (b) a chartered psychologist who is listed in the British Psychological Society's Register of Chartered Psychologists and who holds a relevant practicing certificate issued by that Society, or a psychologist registered in Part 14 of the register maintained by the Health Professions Council;
  - (c) a first level nurse, registered in Sub-Part 1 of the Nurses' Part of the Register established and kept by the Nursing and Midwifery Council, which registration includes an entry indicating that the nurse's field of practice is mental health or learning disabilities nursing;
  - (d) an occupational therapist, registered as such with the Health Professions Council;
  - (e) a social worker, registered as such with the Care Council for Wales or the General Social Care Council.

## SCHEDULE 2

Direction 1

### Relevant competencies

#### **1 The role of the approved clinician**

- 1.1 A comprehensive understanding of the role, legal responsibilities and key functions of the approved clinician and the responsible clinician.

#### **2 Values based practice**

- 2.1 The ability to identify what constitutes least restrictive health and social care for those dealt with or who may be dealt with under the Act.
- 2.2 Understanding and respect of individuals' qualities, abilities and diverse backgrounds.
- 2.3 Sensitivity to individuals' needs in terms of respect to the patient and the patient's choice, dignity and privacy whilst exercising the role of approved clinician or responsible clinician.
- 2.4 The ability to promote the rights, dignity and self determination of patients consistent with their own needs and wishes, to enable them to contribute to the decisions made affecting their quality of life and liberty.

#### **3 Assessment**

- 3.1 Able to identify the presence or absence of mental disorder and the severity of the disorder,

including whether it is of a kind or degree warranting the use of detention under the Act.

- 3.2 Able to undertake a mental health assessment incorporating biological, psychological, cultural and social perspectives.
- 3.3 Able to assess all levels of clinical risk, and the safety of the patient and others within an evidence based framework for risk assessment and management.
- 3.4 Demonstrate a high level of skill in determining whether a patient has capacity to consent to treatment.

#### **4. Care Planning**

- 4.1 Possesses the skills and knowledge necessary to undertake safe, effective and efficient care planning, being able to:
  - (a) involve patients and (where appropriate) their families and carers in care planning;
  - (b) assess patients' needs;
  - (c) formulate individual care plans to meet identified needs;
  - (d) ensure that care plans are implemented as agreed;
  - (e) review and evaluate care plans (and revise as necessary).

#### **5. Treatment**

- 5.1 Has the skills and knowledge necessary to harness the specialist treatment expertise of the multidisciplinary team, for the benefit of the patient. Specifically, must be able to understand the roles and specialist competences of the various members of a multidisciplinary team, in relation to specific treatments and therapies.
- 5.2 Broad understanding of all mental health related treatments, i.e. physical, psychological and social interventions.

#### **6. Leadership and Multi Disciplinary Team Working:**

- 6.1 Possesses the skills and knowledge necessary to:
  - (a) lead effectively a multi-disciplinary team in the delivery of co-ordinated programmes of care, in order to meet the needs of patients for whom he or she is responsible;
  - (b) take into account the views and opinions of patients and (where appropriate) their families and carers when developing programmes of care involving the team;
  - (c) consider objectively the professional opinions of other colleagues within the team when formulating programmes of care, so as to ensure that care and treatment decisions are multi-disciplinary and based on sound evidence.
- 6.2 An advanced level of skills in making and taking responsibility for complex judgements and decisions, without referring to supervision in each individual case.

#### **7. Equality and Cultural Diversity:**

- 7.1 Demonstrates an up to date knowledge of race equality legislation and other equality issues, including disability, sexual orientation and gender.
- 7.2 Has a broad grasp of issues of social exclusion.
- 7.3 Understands the need to promote equality and diversity.
- 7.4 Aware of how cultural factors and personal values can affect practitioners' judgements and decisions in the application of mental health legislation.
- 7.5 Ability to identify, challenge, and where possible redress discrimination and inequality in all its forms in relation to approved clinician practice.

#### **8. Mental Health Legislation and Policy:**

- 8.1 Up to date working knowledge of:

- (a) the Act;
- (b) relevant NICE Guidelines;
- (c) relevant parts of other related legislation (including the Mental Capacity Act 2005, the Human Rights Act 1998 and the Children Acts);
- (d) all other relevant codes, national policies and protocols related to mental health; Case law relevant to the practice of approved clinicians and responsible clinicians.

**9 Communication**

- 9.1 Able to communicate effectively with professions, service users, carers and others, particularly in relation to decisions taken and the underlying reasons for these.
- 9.2 Consideration of the needs of individuals for whom Welsh is their language of choice.
- 9.3 Able to demonstrate appropriate record keeping and an awareness of the legal requirements with respect to record keeping.
- 9.4 Ability to compile and complete statutory documentation and to provide written reports as required of an approved clinician.
- 9.5 Ability with regard to effective report writing.
- 9.6 Ability to competently present evidence both verbal and written, to courts and tribunals.

## Annex B – Further reading

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Council for Regulatory Excellence (2009) *Advanced Practice: Report to the four UK Health Departments*

Council for Regulatory Excellence (2010) *Distributed Regulation: A call for information*

National Leadership and Innovations Agency for Healthcare (2010) *All Wales Guidelines for Delegation*

Welsh Assembly Government (2008) *The Mental Health Act 1983 Code of Practice for Wales*

Welsh Assembly Government (2010) *A Framework on Advance Nursing, Midwifery and Allied Health Professionals Practice in Wales*

## Annex C – Further information

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For further information in relation to this guidance, please contact:

Mental Health Legislation Team  
Welsh Assembly Government  
Cathays Park  
Cardiff CF10 3NQ

Telephone: 029 2082 6988

Email: [mentalhealthandvulnerablegroups@wales.gsi.gov.uk](mailto:mentalhealthandvulnerablegroups@wales.gsi.gov.uk)

For further information on approvals, please contact:

All Wales Approved Clinician Approval Team  
Betsi Cadwaladr University Health Board  
Technology Park  
Rhyd Broughton Lane  
Wrexham LL13 7YP

Telephone: 01978 346522