

## Consultation response form

### The Mental Health (Regional Provision) (Wales) Regulations 2012

*Please use this section to tell us about yourself –*

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*If you are a representative of a group or organisation, please tell us a little bit about that organisation or group –*

The Royal College of Psychiatrists is the professional and educational body for psychiatrists in the United Kingdom. RCPsych in Wales represents the Members, Fellows and Inceptors of the College in Wales at the Royal College of Psychiatrists

## Consultation questions on the draft Regulations

### Question 1

These regulations will 'disapply' Parts 1 and 3 of the Measure in relation to certain local authority areas and instead apply Parts 1 and 3 (and so far as necessary, Parts 5 and 6) in relation to each of the 'regions' of combined local authority areas set out in column 1 of Schedule 2. This means that, if made, these regulations would oblige those LHBs and local authorities listed in column 2 of Schedule 2 to agree schemes for delivering Part 1 services, and to make Part 3 arrangements, on a regional basis. Do you foresee any administrative or practical difficulties in such an approach?

Yes  No

*Comments –*

The benefits of regional as opposed to local provision are clear. LA consortia could provide possible economies of scale for service provision. Establishing regional consortia could reduce the number of individual LA:LHB discussions and agreements required (particularly in Betsi Cadallader where there are six LAs) but it may also increase the administrative complexity in getting all partners to agree common and uniform arrangements. These regulations could ensure uniformity of services, at the very least across a single footprint. Ideally, there would be uniformity across Wales, but we feel that, overall, regional provision is a better way forward than what was originally recommended in the Measure.

There are, however, important issues which cannot be ignored. The disparity in resources across the larger footprints in an environment of shrinking resources is likely to appear to penalise the more developed in order to uplift those that are further behind. The moral implications, on staffing levels for example, are obvious. Redistribution of resources is a slow and patchy process at best and there is little plundering of better resourced services. Equally decisions from 'further away' will be harder to engage with and some strategy for keeping the decision makers close to the point of delivery is essential.

It is important to address anomalies that may arise from the suggested partnerships and to manage cross border issues, particularly in relation to Powys Local Authority and its arrangements with other Health Boards and with Cwm Taf LHB, which although smaller in geographical area, comprises several local authorities, possibly presenting a greater challenge. We are concerned that this may affect Child and Adolescent Mental Health services (CAMHS) and Learning Disability (LD) services in particular, which to a large extent already rely on cross boundary partnerships. For example, Learning Disability services within Abertawe Bro Morgannwg University Health Board<sup>1</sup> have always striven to develop collaborative arrangements between multiple Health and Local Authority services. .

It is unclear how these Regulations will affect wide area clinical networks. These are Regulations about the provision of generic primary mental health services. Clinical networks may well be considered to be secondary mental health services; it is unclear if they would continue to be developed and maintained under different arrangements. People receiving long term specialist services who develop a “mental health” problem (however that is defined) should have access to a primary mental health service. We hope that other aspects of the Measure would drive the development of these services and these should be developed to address the needs of specific groups – such as those experiencing learning difficulties.

We feel that, overall this is a positive move, provided the local connections can be ensured and that arrangement are managed well and properly supported.

**Question 2**

In your view, will the approach set out in these

Yes

No

regulations, whereby all local authorities within an LHB area will enter into partnership arrangements with that LHB and each other to deliver local primary mental health support services on a regional basis within the LHB area, deliver effective and cost efficient services?

*Comments –*

We agree to the idea partnership working over a broader area or “patch” as this will allow for greater consistency and continuity. With regional provisions in place, it might be easier to engage with the larger, national third sector groups, such as Mind Cymru, yet at the same time more difficult to relate effectively to the smaller third sector developments that are likely to be focused on small, geographical groups and hence will be harder to 'fit in' to larger overlapping services. It is important that rural communities do not slip through the net.

Regarding CAMHS and LD (see response to Q1) it would be perverse if the legislation as drafted became a de facto barrier to effective regional collaboration within these services.

**Question 3**

Do you have any concerns regarding the provision of primary mental health services on a regional, LHB-wide, basis, rather than on an individual local authority, basis?

Yes

No

*Comments –*

It is possible that with greater partnership working, inequalities of secondary service provision may be better highlighted.

**Question 4**

Do you foresee any problems or difficulties with local mental health partners (the LHB and local authorities within that LHB area) making regional, LHB-wide, arrangements for undertaking assessments of former users of secondary mental health services under Part 3 of the Measure?

Yes

No

*Comments –*

Re-engaging a patient who is vulnerable works best when there is a relationship to start with. We need to have the information systems to know who these people are to ensure that secondary care are not discharging people to fall into the gaps.

### Question 5

If these regulations are made, they will exclude arrangements for dealing with requests for assessment under Parts 1 and 3, or the determination of usual residence under Part 3: these will continue to be determined on a local authority, rather than regional basis. Do you agree with this approach?

Yes

No

#### Comments –

The question of determination of usual residence is a particularly controversial issue within Learning Disability and Children's services. Unfortunately, current regulations do not clearly define responsibility for the care of individuals who lack the capacity to define or decide their place of residence but are, nonetheless, moved between localities by those responsible for commissioning their care often with little regard to dialogue between exporting and receiving services. Greater clarity of this issue would greatly enhance the dialogue between agencies and reduce the possibility of disagreements over local interpretation of responsibilities.

## Consultation questions on the draft Explanatory Memorandum and Regulatory Impact Assessment

### Question 6

Is there sufficient information in the Explanatory Memorandum to understand the purpose and effect of these Regulations?

Yes

No

#### Comments –

Although the Regulations are concerned with organisational and structural issues surrounding the Measure and not clinical ones, we remain concerned that the failure to define terminology is a major issue which pervades the Measure. Even at the fundamental level there is a lack of clarity over what is meant by "Mental Health". Will this be strictly applied to mean just *Mental Illness* or does it include individuals with a learning disability or those with development disorders such as ADHD, ASD, personality disorders and dementia which all fulfil the criteria for mental disorders under the Mental Health Act and can be associated with considerable mental health support needs? Even if a strict definition of "Mental Illness" is adopted clarification is still required as to whether some or all of Specialist CAMHS, Learning Disabilities & Psychiatry of old age will be part of "primary Mental Health Support services"; many patients in such services receive complex packages of treatment including psychological and pharmacological approaches. Will inpatients in Learning Disabilities Assessment and Treatment Units or EMI units constitute "secondary Mental Health services"? If the terminology is reserved purely for adult Mental Health services (i.e. general Mental Illness services) this would appear to exclude significant vulnerable groups from the benefit of the measures and, therefore,

presumably fail the Welsh Government's Equality Impact Assessment.

### Question 7

Do you agree with the preferred option in the Regulatory Impact Assessment (option 2 – make regulations)? If not, please provide further details.  Yes  No

#### Comments –

We are in agreement with the concept of making regulations provided the anomalies arising from the suggested partnerships are addressed in relation to Learning Disability services and Child and Adolescent Mental Health services (CAMHS). See response to Question 1

### Question 8

Are you content with the estimated costs/benefits regarding the implementation of these Regulations? If not, please supply evidence in the box below to support your views.  Yes  No

#### Comments –

The regulations, as drafted, could inadvertently increase costs by necessitating duplication of services and administration. The relationship between CPA and UAP has in some cases resulted in duplication or omission of effective care planning – will arrangements for the Measure resolve these concerns?

## Equality Impact Assessment

### Question 9

We would welcome your views on the potential impact of the draft Regulations on:

- a) Disability
- b) Race
- c) Gender and gender reassignment
- d) Age
- e) Religion and belief and non-belief
- f) Sexual orientation
- g) Human Rights

#### Comments –

As outlined in our response to Question 6, the fundamental issue of eligibility of the “relevant patient” in particular to those with a learning disability to the whole of the Mental Health (Wales) Measure appears unclear. These specific Regulations, being of a purely administrative nature, are more likely to disadvantage services

and, therefore, only indirectly impact upon the individuals they serve.

## Other issues

### Question 10

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

## Confidentiality

Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept confidential, please tick here:

## Returning this form

The closing date for replies is 16 December 2011.

Please send this completed form to:

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

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

If you are sending your response by email, please mark the subject of your email:  
**Consultation on Regional Provision Regulations**

<sup>i</sup> The Directorate of Learning Disability services within ABMU Health Board have submitted their own response to this Consultation. The College has incorporated some of their points in our own response.