



# Mental Health (Wales) Measure 2010

2010 nawm 7

## PART 3

### ASSESSMENTS OF FORMER USERS OF SECONDARY MENTAL HEALTH SERVICES

#### *Assessment arrangements*

#### **19 Arrangements for assessment of former users of secondary mental health services**

- (1) The local mental health partners for a local authority area must take all reasonable steps to agree arrangements for—
  - (a) the carrying out of assessments in accordance with sections 25 and 26 for adults who are usually resident in that area and are entitled to such assessments under section 22; and
  - (b) the making of referrals described in section 28(1) following such assessments.
- (2) If arrangements have been agreed, the partners must ensure that the arrangements are recorded in writing.
- (3) The arrangements must identify the extent to which each of the partners is to carry out those assessments and make those referrals.
- (4) The arrangements may provide that—
  - (a) one of the partners is to provide all the assessments and make all the referrals;
  - (b) different aspects of an assessment, and different referrals following an assessment, will be undertaken by different partners.
- (5) The partners may alter their arrangements (including arrangements determined by the Welsh Ministers under section 21 and arrangements which have already been altered) if they agree the alterations.
- (6) If arrangements are altered under subsection (5), the partners must ensure that the alterations are recorded in writing.

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*Changes to legislation: There are currently no known outstanding effects for the Mental Health (Wales) Measure 2010, PART 3 . (See end of Document for details)*

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## **20 Duty to carry out assessments**

- (1) Unless section 21(1)(a) applies, the local mental health partners for a local authority area must carry out assessments and make referrals in accordance with—
  - (a) the arrangements for their area agreed under section 19; or
  - (b) the arrangements for their area determined by the Welsh Ministers under section 21.
- (2) If arrangements have been altered under section 19(5) or 21(2), assessments must be carried out and referrals made in accordance with the altered arrangements.

## **21 Failure to agree arrangements**

- (1) If the partners cannot agree arrangements under section 19—
  - (a) for so long as there is no agreement, the Local Health Board must carry out the assessments referred to in section 19(1)(a) and make the referrals referred to in section 19(1)(b);
  - (b) the Local Health Board must inform the Welsh Ministers that agreement cannot be reached;
  - (c) the Welsh Ministers may determine arrangements and, if they do, must record them in writing.
- (2) If one partner wishes to alter the arrangements, but the other does not, the arrangements may, upon a request being made to the Welsh Ministers by either partner, be altered by the Welsh Ministers to such extent as the Welsh Ministers think fit.
- (3) If the Welsh Ministers alter arrangements under subsection (2), they must record the alterations in writing.

### *Assessment entitlements*

## **22 Entitlement to assessment**

- (1) An adult is entitled to an assessment as described in section 25 if—
  - (a) the adult requests either of the local mental health partners for the local authority area in which the adult is usually resident to carry out such an assessment;
  - (b) the adult has been discharged from secondary mental health services (whether or not the services were the responsibility of the local mental health partner to whom the request for an assessment is made);
  - (c) the request is made within the relevant discharge period (see section 23); and
  - (d) the local mental health partner to whom the request is made does not consider the request to be frivolous or vexatious.
- (2) For the purposes of subsection (1)(b), an adult has been discharged from secondary mental health services if the adult was being provided with a secondary mental health service or services but is no longer, for whatever reason, being provided with any secondary mental health service.
- (3) The reference to an adult being discharged from secondary mental health services includes a discharge that occurred when the adult was a child.

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## 23 Assessments: the relevant discharge period

- (1) The relevant discharge period in relation to an adult—
  - (a) begins on the date on which the adult was discharged from secondary mental health services (within the meaning of section 22(2)); and
  - (b) ends upon the expiry of the period of time specified in regulations made for the purposes of this section by the Welsh Ministers.
- (2) The relevant discharge period also ends if, before the expiry of the period of time referred to in subsection (1)(b), an event specified in regulations made by the Welsh Ministers occurs.

### Annotations:

#### Commencement Information

- I1 [S. 23](#) in force in so far as not already in force at 6.6.2012 by [S.I. 2012/1397, art. 2\(1\)](#)
- I2 [S. 23](#) partly in force; [s. 23](#) in force at 15.2.2011 in so far as it confers power to make subordinate legislation see [s. 55](#)

## 24 Provision of information about assessments

- (1) Where a Local Health Board discharges an adult from secondary mental health services, the Board must provide the adult with information in writing about entitlement to assessment under this Part if, at the date of discharge, no local authority is providing the adult with a secondary mental health service.
- (2) Where a local authority discharges an adult from secondary mental health services, the authority must provide the adult with information in writing about entitlement to assessment under this Part if, at the date of discharge, no Local Health Board is providing the adult with a secondary mental health service.
- (3) Where the relevant discharge period begins when an individual is a child and ends when that individual becomes an adult, the Board or authority has the same duty to provide that individual with information about their entitlement to an assessment as it has to provide an adult with such information under subsections (1) and (2).
- (4) For the purposes of this section, a Board or authority discharges an individual from secondary mental health services when it implements a decision that the Board or authority no longer needs to provide the individual with any such service.

### *Assessment process*

## 25 Purpose of assessment

An assessment under this Part is an analysis of an adult's mental health which identifies—

- (a) the secondary mental health services (if any) which might improve or prevent a deterioration in the mental health of the person being assessed;
- (b) the community care services, not being secondary mental health services, (if any) which might improve or prevent a deterioration in the mental health of the person being assessed; and

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- (c) the housing or well-being services (if any) which might improve or prevent a deterioration in the mental health of the person being assessed.

## 26 Assessments: further provision

- (1) An assessment under this Part must be carried out as soon as is reasonably practicable after the request referred to in section 22(1) is made.
- (2) The local mental health partners must ensure that–
  - (a) an assessment results in a single report in writing which records whether the assessment has identified any services in accordance with section 25; and
  - (b) a copy of that report is provided to the adult who has been assessed within such period following completion of the assessment as is specified in regulations made by the Welsh Ministers.
- (3) Where a sole local mental health partner has carried out an assessment under this Part, the partner must, if it considers it appropriate to do so, provide a copy of the report to the other partner as soon as it is reasonably practicable to do so.

### Annotations:

#### Commencement Information

- I3** S. 26 in force in so far as not already in force at 6.6.2012 by [S.I. 2012/1397](#), [art. 2\(o\)](#)
- I4** S. 26 partly in force; s. 26 in force at 15.2.2011 in so far as it confers power to make subordinate legislation see [s. 55](#)

## 27 Action following an assessment

- (1) Subsection (2) applies where an assessment under section 25(a) or (b) has identified secondary mental health services or community care services (not being secondary mental health services) which might help to improve, or prevent a deterioration in, an adult's mental health.
- (2) Where one of the local mental health partners would be the responsible authority in relation to any such service, that partner must decide whether the provision of the service is called for.
- (3) In this section “responsible authority” means the authority which would be responsible for providing services if a decision were made to do so.

## 28 Referrals relating to housing or well-being services

- (1) Unless subsection (2) applies, where a secondary mental health assessment has under section 25(c) identified a housing or well-being service which might help to improve, or prevent a deterioration in, an adult's mental health, the partner must ask the responsible service provider to consider whether to provide the service to the adult or, if that is not appropriate, whether to invite the adult to apply for the service.
- (2) Where the local authority mental health partner would be the responsible service provider in relation to such a housing or well-being service, the authority must decide whether the provision of the service is called for or, if that is not appropriate, whether to invite the adult to apply for the service.

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- (3) In subsections (1) and (2), “responsible service provider” means a person carrying out activities in Wales who would provide the service if a decision were made to do so.

### *Supplementary*

## **29 Determination of usual residence**

- (1) For the purposes of this Part, any question as to the local authority area in which an adult usually resides is to be determined in accordance with provision in regulations made by the Welsh Ministers.
- (2) The provision that may be made in regulations under subsection (1) includes (but is not limited to) provision—
- (a) conferring power to determine the local authority area in which an adult usually resides;
  - (b) for deeming an adult to be usually resident in an area.

#### **Annotations:**

#### **Commencement Information**

**I5** [S. 29](#) in force in so far as not already in force at 6.6.2012 by [S.I. 2012/1397](#), [art. 2\(r\)](#)

## **30 Application of this Part to persons under local authority guardianship**

- (1) This section applies to an individual—
- (a) who has ceased to be under the guardianship of a local authority, and
  - (b) upon so ceasing, was not being provided with any secondary mental health service.
- (2) For the purposes of this Part, the individual is to be treated as having been discharged from secondary mental health services on the date on which the individual ceased to be under the guardianship of the local authority.

**Changes to legislation:**

There are currently no known outstanding effects for the Mental Health (Wales) Measure 2010, PART 3 .