

2008 No. 1206

MENTAL HEALTH, ENGLAND

**The Mental Health (Approved Mental Health Professionals)
(Approval) (England) Regulations 2008**

Made - - - - *28th April 2008*
Laid before Parliament *7th May 2008*
Coming into force - - *3rd November 2008*

The Secretary of State, in exercise of the powers conferred by section 114 of the Mental Health Act 1983(a), makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Mental Health (Approved Mental Health Professionals) (Approval) (England) Regulations 2008 and shall come into force on 3rd November 2008.

(2) These Regulations apply to England only.

Interpretation

2. In these Regulations—

“the Act” means the Mental Health Act 1983;

“AMHP” means an approved mental health professional;

“approve” and “approval” include “re-approve” and “re-approval”;

“approving LSSA” means the local social services authority in England that has approved the person to act as an AMHP;

“Care Council for Wales” has the meaning given by section 54(1) of the Care Standards Act 2000(b);

“General Social Care Council” has the meaning given by section 54(1) of the Care Standards Act 2000;

“LSSA” means a local social services authority in England;

“professional requirements” means the requirements set out in Schedule 1.

Granting approval

3.—(1) An LSSA may only approve a person to act as an AMHP if it is satisfied that the person has appropriate competence in dealing with persons who are suffering from mental disorder.

(a) 1983 c.20. Section 114 was substituted by section 18 of the Mental Health Act 2007 (c.12). The Welsh Ministers are making separate Regulations in relation to Wales.
(b) 2000 c.14.

(2) In determining whether it is satisfied a person has appropriate competence, the LSSA must take into account the following factors—

- (a) that the person fulfils at least one of the professional requirements, and
- (b) the matters set out in Schedule 2.

(3) Before an LSSA may approve a person to act as an AMHP who has not been approved, or been treated as approved, before in England and Wales, the person must have completed within the last five years a course approved by the General Social Care Council or the Care Council for Wales.

Period of approval

4. An LSSA may approve a person to act as an AMHP for a period of five years.

Conditions

5. When any approval is granted under these Regulations, it shall be subject to the following conditions—

- (a) in each year that the AMHP is approved, the AMHP shall complete at least 18 hours of training agreed with the approving LSSA as being relevant to their role as an AMHP;
- (b) the AMHP shall undertake to notify the approving LSSA in writing as soon as reasonably practicable if they agree to act as an AMHP on behalf of another LSSA, and when such agreement ends;
- (c) the AMHP shall undertake to cease to act as an AMHP and to notify the approving LSSA immediately if they are suspended from any of the registers or listings referred to in the professional competencies, or if any such suspension ends, and
- (d) the AMHP shall undertake to cease to act as an AMHP and to notify the approving LSSA immediately if they no longer meet at least one of the professional requirements.

Suspension of approval

6.—(1) If at any time after being approved, the registration or listing required by the professional requirements of a person approved to act as an AMHP is suspended, the approving LSSA shall suspend that AMHP's approval for as long as the AMHP's registration or listing is suspended.

(2) Where an AMHP's approval is suspended, that person may not act as an AMHP unless and until the suspension of approval is ended by the approving LSSA in accordance with subsection (3).

(3) Where the approving LSSA is notified that the suspension of the AMHP's registration or listing has ended, the approving LSSA shall, unless it is not satisfied the AMHP has appropriate competence in dealing with persons suffering from mental disorder, end the suspension of approval.

(4) Where the suspension of approval has ended, the approval shall continue to run for any unexpired period of approval, unless the approving LSSA ends it earlier in accordance with regulation 7.

End of approval

7.—(1) Except where paragraph (2) applies, a person shall cease to be approved to act as an AMHP at the end of the day on which their period of approval expires.

(2) Except where regulation 6 applies, the approving LSSA shall end the approval of a person it has approved to act as an AMHP before their period of approval expires—

- (a) in accordance with a request in writing to do so from that AMHP;

- (b) if it is no longer satisfied that the AMHP has appropriate competence taking into account the matters set out in Schedule 2;
 - (c) immediately upon becoming aware that the AMHP—
 - (i) is no longer a person who meets at least one of the professional requirements;
 - (ii) is in breach of any of the conditions set out in regulation 5, or
 - (iii) has been approved to act as an AMHP by another LSSA.
- (3) When an approval ends, the approving LSSA shall notify the AMHP immediately that the approval has ended and give reasons for ending the approval.
- (4) When an approval ends, the approving LSSA shall notify that fact to any other LSSA for whom it knows the AMHP has agreed to act as an AMHP.
- (5) If an LSSA approves a person as an AMHP knowing that that AMHP is already approved by another LSSA, it shall notify the previous approving LSSA.

Records

8.—(1) The approving LSSA shall keep a record of each AMHP it approves which shall include—

- (a) the name of the AMHP;
- (b) the AMHP's profession;
- (c) the AMHP's date of approval;
- (d) details of any period of suspension under regulation 6;
- (e) details of the completion of training to comply with regulation 5(a);
- (f) details of any previous approvals as an AMHP within the previous five years;
- (g) the names of other LSSAs for whom the AMHP has agreed to act as an AMHP, and
- (h) the date of and reason for the end of approval, if applicable.

(2) The record referred to in paragraph (1) shall be retained by the approving LSSA for a period of five years commencing with the day on which the AMHP's approval ended.

Signed by authority of the Secretary of State for Health.

Ivan Lewis
Parliamentary Under-Secretary of State
Department of Health

28th April 2008

SCHEDULE 1

Regulation 2

Professional Requirements

The professional requirements are as follows—

- (a) a social worker registered with the General Social Care Council;
- (b) a first level nurse, registered in Sub-Part 1 of the Nurses' Part of the Register maintained under article 5 of the Nursing and Midwifery Order 2001(a), with the inclusion of an entry indicating their field of practice is mental health or learning disabilities nursing;

(a) S.I. 2002/253. The Register is divided into parts in accordance with the Nurses and Midwives (Parts of and Entries in the Register) Order of Council 2004 (S.I. 2004/1765).

- (c) an occupational therapist registered in Part 6 of the Register maintained under article 5 of the Health Professions Order 2001(a); or
- (d) a chartered psychologist who is listed in the British Psychological Society's Register of Chartered Psychologists and who holds a relevant practising certificate issued by that Society(b).

SCHEDULE 2

Regulation 3(2)

Matters to be taken into account to determine competence

1. Key Competence Area 1: Application of Values to the AMHP Role

Whether the applicant has—

- (a) the ability to identify, challenge and, where possible, redress discrimination and inequality in all its forms in relation to AMHP practice;
- (b) an understanding of and respect for individuals' qualities, abilities and diverse backgrounds, and is able to identify and counter any decision which may be based on unlawful discrimination;
- (c) 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, and
- (d) a sensitivity to individuals' needs for personal respect, confidentiality, choice, dignity and privacy while exercising the AMHP role.

2. Key Competence Area 2: Application of Knowledge: The Legal and Policy Framework

(1) Whether the applicant has—

- (a) appropriate knowledge of and ability to apply in practice—
 - (i) mental health legislation, related codes of practice and national and local policy guidance, and
 - (ii) relevant parts of other legislation, codes of practice, national and local policy guidance, in particular the Children Act 1989(c), the Children Act 2004(d), the Human Rights Act 1998(e) and the Mental Capacity Act 2005(f);
- (b) a knowledge and understanding of the particular needs of children and young people and their families, and an ability to apply AMHP practice in the context of those particular needs;
- (c) an understanding of, and sensitivity to, race and culture in the application of knowledge of mental health legislation;
- (d) an explicit awareness of the legal position and accountability of AMHPs in relation to the Act, any employing organisation and the authority on whose behalf they are acting;
- (e) the ability to—
 - (i) evaluate critically local and national policy to inform AMHP practice, and

(a) S.I. 2002/254.

(b) The British Psychological Society is a Royal Charter body, registered as a charity in England and Wales No.229642 and is at St Andrews House, 48 Princess Road East, Leicester, LE1 7DR.

(c) 1989 c.41.

(d) 2004 c.31.

(e) 1998 c.42.

(f) 2005 c.9.

- (ii) base AMHP practice on a critical evaluation of a range of research relevant to evidence-based practice, including that on the impact on persons who experience discrimination because of mental health.

(2) In paragraph (1), “relevant” means relevant to the decisions that an AMHP is likely to take when acting as an AMHP.

3. Key Competence Area 3: Application of Knowledge: Mental Disorder

Whether the applicant has a critical understanding of, and is able to apply in practice—

- (a) a range of models of mental disorder, including the contribution of social, physical and development factors;
- (b) the social perspective on mental disorder and mental health needs, in working with patients, their relatives, carers and other professionals;
- (c) the implications of mental disorder for patients, their relatives and carers, and
- (d) the implications of a range of treatments and interventions for patients, their relatives and carers.

4. Key Competence Area 4: Application of Skills: Working in Partnership

Whether the applicant has the ability to—

- (a) articulate, and demonstrate in practice, the social perspective on mental disorder and mental health needs;
- (b) communicate appropriately with and establish effective relationships with patients, relatives, and carers in undertaking the AMHP role;
- (c) articulate the role of the AMHP in the course of contributing to effective inter-agency and inter-professional working;
- (d) use networks and community groups to influence collaborative working with a range of individuals, agencies and advocates;
- (e) consider the feasibility of and contribute effectively to planning and implementing options for care such as alternatives to compulsory admission, discharge and aftercare;
- (f) recognise, assess and manage risk effectively in the context of the AMHP role;
- (g) effectively manage difficult situations of anxiety, risk and conflict, and an understanding of how this affects the AMHP and other people concerned with the patient’s care;
- (h) discharge the AMHP role in such a way as to empower the patient as much as practicable;
- (i) plan, negotiate and manage compulsory admission to hospital or arrangements for supervised community treatment;
- (j) manage and co-ordinate effectively the relevant legal and practical processes including the involvement of other professionals as well as patients, relatives and carers, and
- (k) balance and manage the competing requirements of confidentiality and effective information sharing to the benefit of the patient and other persons concerned with the patient’s care.

5. Key Competence Area 5: Application of Skills: Making and Communicating Informed Decisions

Whether the applicant has the ability to—

- (a) assert a social perspective and to make properly informed independent decisions;
- (b) obtain, analyse and share appropriate information having due regard to confidentiality in order to manage the decision-making process including decisions about supervised community treatment;
- (c) compile and complete statutory documentation, including an application for admission;
- (d) provide reasoned and clear verbal and written reports to promote effective, accountable and independent AMHP decision making;

- (e) present a case at a legal hearing;
- (f) exercise the appropriate use of independence, authority and autonomy and use it to inform their future practice as an AMHP, together with consultation and supervision;
- (g) evaluate the outcomes of interventions with patients, carers and others, including the identification of where a need has not been met;
- (h) make and communicate decisions that are sensitive to the needs of the individual patient, and
- (i) keep appropriate records with an awareness of legal requirements with respect to record keeping and the use and transfer of information.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out a number of matters in connection with the giving by local social services authorities in England of approvals to persons to act as approved mental health professionals (“AMHPs”) for the purposes of the Mental Health Act 1983 (c.20).

Before a person can be approved (or re-approved) in England to act as an AMHP by a local social services authority, the person must have appropriate competence. In deciding whether it is satisfied that the person has appropriate competence to act as an AMHP, the local social services authority must take into account that the person has at least one of the professional requirements set out in Schedule 1 and the matters set out in Schedule 2 (regulation 3).

Before a person can be approved to act as an AMHP if he has not been approved before, that person must have completed a course within the last five years that was approved by the General Social Care Council or the Care Council for Wales. The period for which an AMHP is approved (or re-approved) is five years (regulation 4).

Approval (or re-approval) is subject to specified conditions (regulation 5).

The approval shall be suspended for any period that the AMHP is suspended from the register or list relevant to the AMHP’s professional requirements (regulation 6).

The approval or re-approval of an AMHP will end when the period of approval expires or before that in specified circumstances. When the approval ends, the local social services authority must inform the AMHP and any other local social services authority for which it knows that AMHP has agreed to act. If one local social services authority approves a person to act as an AMHP who is already approved by another, it must inform that other local social services authority (regulation 7).

Each local social services authority is required to keep records with specified details of AMHPs for whom it is the approving local social services authority (regulation 8).

The Welsh Ministers are making separate regulations relating to the approval of persons to act as AMHPs in relation to Wales.

An impact assessment on the changes in these regulations was carried out in the Mental Health Bill: Regulatory Impact Assessment revised June 2007. This can be found at http://www.dh.gov.uk/en/publicationsandstatistics/Legislation/Regulatoryimpactassessment/DH_076477.

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