



# Mental Health (Wales) Measure 2010

2010 nawm 7

## PART 1

### LOCAL PRIMARY MENTAL HEALTH SUPPORT SERVICES

#### *Primary mental health assessments*

- 6 Duties to carry out primary mental health assessments: referrals for registered patients in primary care**
- (1) This section applies to an individual—
    - (a) who does not fall within any of the descriptions in section 8(1); and
    - (b) in respect of whom a relevant referral for the purposes of this section is made.
  - (2) A primary mental health assessment must be carried out in respect of the individual in accordance with section 9.
  - (3) A relevant referral for the purposes of this section means a request that an individual has a primary mental health assessment which meets the following conditions.
  - (4) The first condition is that the request is made by—
    - (a) a contractor with whom a general medical services contract has been entered into under section 42 of the National Health Service (Wales) Act 2006 by—
      - (i) the Local Health Board to which the request is made, or
      - (ii) where the request is made to a local authority, the Local Health Board which is the authority's local mental health partner;
    - (b) a person with whom arrangements have been made under section 50 of that Act by—
      - (i) the Local Health Board to which the request is made, or
      - (ii) where the request is made to a local authority, the Local Health Board which is the authority's local mental health partner; or
    - (c) a registered medical practitioner employed for the purposes of section 41 of that Act by—

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- (i) the Local Health Board to which the request is made, or
  - (ii) where the request is made to a local authority, the Local Health Board which is the authority's local mental health partner.
- (5) The second condition is that the individual in respect of whom the request is made is a registered patient of the contractor, person or practitioner making the referral.
- (6) The third condition is that the request is made to a local mental health partner for the local authority area in which the individual is usually resident.
- (7) For the purposes of this section and sections 7 and 8 a request is to be treated as made by a contractor under a general medical services contract entered into under section 42 of the National Health Service (Wales) Act 2006, a person with whom arrangements have been made under section 50 of that Act, or a practitioner employed for the purposes of section 41 of that Act, if it is made with the contractor's, person's or practitioner's authority.

## **7 Duties to carry out primary mental health assessments: other primary care referrals**

- (1) This section applies to an individual–
- (a) who does not fall within any of the descriptions in section 8(1); and
  - (b) in respect of whom a relevant referral for the purposes of this section is made.
- (2) A primary mental health assessment must be carried out in respect of the individual in accordance with section 9.
- (3) A relevant referral for the purposes of this section means a request that an individual has a primary mental health assessment which meets the following conditions.
- (4) The first condition is that the request is made by–
- (a) a contractor with whom a general medical services contract has been entered into under section 42 of the National Health Service (Wales) Act 2006 by–
    - (i) the Local Health Board to which the request is made, or
    - (ii) where the request is made to a local authority, the Local Health Board which is the authority's local mental health partner;
  - (b) a person with whom arrangements have been made under section 50 of that Act by–
    - (i) the Local Health Board to which the request is made, or
    - (ii) where the request is made to a local authority, the Local Health Board which is the authority's local mental health partner;
  - (c) a registered medical practitioner employed for the purposes of section 41 of that Act by–
    - (i) the Local Health Board to which the request is made, or
    - (ii) where the request is made to a local authority, the Local Health Board which is the authority's local mental health partner; or
  - (d) a registered medical practitioner providing services to prisoners under arrangements made between the registered medical practitioner and a person responsible for the provision or running of a contracted out prison (within the meaning of section 84(4) of the Criminal Justice Act 1991) in Wales.

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- (5) The second condition is that the request is made to a local mental health partner for the local authority area in which the contractor, person or practitioner carries on the majority of the contractor's, person's or practitioner's business or activities.
- (6) The third condition is that the individual in respect of whom the request is made falls within a category specified in—
  - (a) regulations made by the Welsh Ministers; or
  - (b) the scheme for that local authority area under section 2(4)(c).

#### **Commencement Information**

- I1** S. 7 in force in so far as not already in force at 1.10.2012 by S.I. 2012/2411, art. 2(c)
- I2** S. 7 partly in force; s. 7 in force at 15.2.2011 in so far as it confers power to make subordinate legislation see s. 55

### **8 Duties to carry out primary mental health assessments: secondary mental health care referrals**

- (1) This section applies to an individual who falls within any of the following descriptions—
  - (a) an individual who is liable to be detained under the Mental Health Act 1983;
  - (b) an individual who is subject to guardianship under that Act;
  - (c) an individual who is a community patient within the meaning given by section 17A of that Act;
  - (d) an individual who is receiving secondary mental health services.
- (2) A primary mental health assessment must be carried out in respect of the individual in accordance with section 9 if—
  - (a) the relevant scheme provides under section 2(4)(b) that primary mental health assessments are to be made available in respect of all or specified categories of the individuals referred to in subsection (1);
  - (b) the individual falls within the scheme's description of those individuals in respect of whom primary mental health assessments are to be made available; and
  - (c) a relevant referral for the purposes of this section is made.
- (3) A relevant referral for the purposes of this section means a request that an individual has a primary mental health assessment which meets the following conditions.
- (4) The first condition is that the request is made to a local mental health partner for the local authority area in which the individual is usually resident.
- (5) The second condition is that the request is made by a member of staff who falls within a category specified in the scheme for that local authority area under section 2(5).

### **9 Conduct of primary mental health assessments**

- (1) A primary mental health assessment is an analysis of an individual's mental health which identifies—

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- (a) the local primary mental health treatment (if any) which might improve or prevent a deterioration in the individual's mental health (any treatment so identified must be provided: see sections 3 and 5); and
  - (b) other services (if any) which might improve or prevent a deterioration in the individual's mental health.
- (2) The local mental health partners must ensure that the assessment is carried out by an individual who is eligible to carry out primary mental health assessments under regulations made under section 47.
- (3) The reference to other services in subsection (1)(b) is a reference to–
- (a) secondary mental health services;
  - (b) services of a type that are normally provided by primary care providers;
  - (c) community care services (not being secondary mental health services);
  - (d) services provided under [<sup>F1</sup>sections 37 to 39 and Part 6 of the Social Services and Well-being (Wales) Act 2014] (not being secondary mental health services);
  - (e) housing or well-being services; and
  - (f) education or training which may be beneficial to an individual's mental health.

#### **Textual Amendments**

- F1** Words in s. 9(3)(d) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **282**

## **10 Action following a primary mental health assessment**

- (1) Where a primary mental health assessment identifies under section 9(1)(b) services which might improve, or prevent a deterioration in, an individual's mental health, the local mental health partner which carried out the assessment must–
- (a) if the partner considers that it would be the responsible authority for providing any of the services, decide whether or not the provision of any of those services is called for; and
  - (b) if the partner considers that it would not be the responsible authority for providing any of the services, make a referral to the person whom the partner considers would be the responsible authority for providing those services.
- (2) A referral under subsection (1)(b) must inform the recipient that–
- (a) the local mental health partner making the referral has identified services which it considers might improve, or prevent a deterioration in, the individual's mental health; and
  - (b) that the partner considers that the recipient would be the responsible authority for providing those services.
- (3) A person to whom a referral has been made must decide whether the provision of any of the services to which the referral relates is called for.
- (4) In this section “responsible authority” means the person who would be responsible for providing services if a decision were made to provide the services.
- (5) Nothing in this section requires or authorises a referral to be made to a responsible authority constituted, or acting exclusively, for an area wholly within England.

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**Changes to legislation:**

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