



# Mesur Iechyd Meddwl (Cymru) 2010

2010 mccc 7

## CYNNWYS

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# Mental Health (Wales) Measure 2010

2010 nawm 7

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## Mesur Iechyd Meddwl (Cymru) 2010

Mesur gan Gynulliad Cenedlaethol Cymru i wneud darpariaeth ynghylch gwasanaethau cymorth iechyd meddwl sylfaenol; cydlynu gwasanaethau iechyd meddwl eilaidd a chynllunio ar eu cyfer; asesiadau o anghenion defnyddwyr blaenorol gwasanaethau iechyd meddwl eilaidd; eiriolaeth annibynnol ar gyfer personau a gedwir yn gaeth o dan Ddeddf Iechyd Meddwl 1983 a phersonau eraill sy'n cael triniaeth iechyd meddwl fel claf mewn ysbyty; ac at ddibenion cysylltiedig.

Mae'r Mesur hwn, a basiwyd gan Gynulliad Cenedlaethol Cymru ar 2 Tachwedd 2010 ac a gymeradwyd gan Ei Mawrhydi yn Ei Chyngor ar 15 Rhagfyr 2010, yn deddfu'r darpariaethau a ganlyn:—

### RHAN 1

#### GWASANAETHAU CYMORTH IECHYD MEDDWL SYLFAENOL LLEOL

##### *Ystyr "partneriaid iechyd meddwl lleol"*

#### **1 Ystyr "partneriaid iechyd meddwl lleol"**

At ddibenion y Mesur hwn, y partneriaid iechyd meddwl lleol ar gyfer ardal awdurdod lleol yw—

- (a) y Bwrdd Iechyd Lleol a sefydlwyd o dan adran 11 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 ar gyfer ardal sy'n cynnwys ardal yr awdurdod lleol; a
- (b) yr awdurdod lleol ar gyfer yr ardal honno.

##### *Gwasanaethau cymorth iechyd meddwl sylfaenol lleol*

#### **2 Cynlluniau ar y cyd ar gyfer darparu gwasanaethau cymorth iechyd meddwl sylfaenol lleol**

- (1) Rhaid i'r partneriaid iechyd meddwl lleol ar gyfer ardal awdurdod lleol gymryd pob cam rhesymol i gytuno ar gynllun—
  - (a) sy'n dynodi'r driniaeth sydd i fod ar gael ar gyfer yr ardal honno at ddibenion y Rhan hon ("triniaeth iechyd meddwl sylfaenol leol"); a
  - (b) i sicrhau darpariaeth ar gyfer yr ardal honno o wasanaethau, gan gynnwys triniaeth iechyd meddwl sylfaenol leol, a ddisgrifir yn adran 5 ("gwasanaethau cymorth iechyd meddwl sylfaenol lleol").
- (2) Os cytunir ar gynllun, rhaid i'r partneriaid sicrhau ei fod yn cael ei gofnodi'n ysgrifenedig.



## Mental Health (Wales) Measure 2010

A Measure of the National Assembly for Wales to make provision about primary mental health support services; the coordination of and planning for secondary mental health services; assessments of the needs of former users of secondary mental health services; independent advocacy for persons detained under the Mental Health Act 1983 and other persons who are receiving in-patient hospital treatment for mental health; and for connected purposes.

This Measure, passed by the National Assembly for Wales on 2 November 2010 and approved by Her Majesty in Council on 15 December 2010, enacts the following provisions:—

### PART 1

#### LOCAL PRIMARY MENTAL HEALTH SUPPORT SERVICES

##### *Meaning of "local mental health partners"*

#### **1 Meaning of "local mental health partners"**

For the purposes of this Measure, the local mental health partners for a local authority area are—

- (a) the Local Health Board established under section 11 of the National Health Service (Wales) Act 2006 for an area which includes the local authority area; and
- (b) the local authority for that area.

##### *Local primary mental health support services*

#### **2 Joint schemes for the provision of local primary mental health support services**

- (1) The local mental health partners for a local authority area must take all reasonable steps to agree a scheme—
  - (a) which identifies the treatment which is to be made available for that area for the purposes of this Part ("local primary mental health treatment"); and
  - (b) for securing the provision for that area of the services, including local primary mental health treatment, described in section 5 ("local primary mental health support services").
- (2) If a scheme is agreed, the partners must ensure that it is recorded in writing.

- (3) Rhaid i gynllun ddynodi i ba raddau y mae pob un o'r partneriaid i fod yn gyfrifol am ddarparu gwasanaethau cymorth iechyd meddwl sylfaenol lleol.
- (4) Caiff gynllun ddarparu –
  - (a) bod un o'r partneriaid i fod yn gyfrifol am ddarparu'r holl wasanaethau cymorth iechyd meddwl sylfaenol lleol ar gyfer ardal yr awdurdod lleol;
  - (b) bod asesiadau iechyd meddwl sylfaenol i fod ar gael mewn cysylltiad â'r holl unigolion a ddisgrifir yn adran 8(1) neu â disgrifiadau neilltuol ohonynt;
  - (c) mae asesiadau iechyd meddwl sylfaenol i'w cynnal mewn cysylltiad â chategoriâu neilltuol o unigolyn na fyddai ganddynt fel arall hawl i asesiad.
- (5) Os yw gynllun yn gwneud darpariaeth o dan is-adran (4)(b), rhaid iddo hefyd ddarparu i staff o ddisgrifiadau neilltuol sy'n gweithio ar wasanaethau iechyd meddwl eilaidd allu atgyfeirio unigolyn y cyfeirir ato yn yr is-adran honno am asesiad iechyd meddwl sylfaenol.
- (6) Caiff y partneriaid wneud newidiadau i gynllun (gan gynnwys cynllun a benderfynwyd gan Weinidogion Cymru o dan adran 4 a chynllun y gwnaed newidiadau iddo eisoes) os ydynt yn cytuno ar y newidiadau.
- (7) Os gwneir newidiadau i gynllun o dan is-adran (6), rhaid i'r partneriaid sicrhau bod y newidiadau'n cael eu cofnodi'n ysgrifenedig.

### **3 Dyletswydd i ddarparu gwasanaethau cymorth iechyd meddwl sylfaenol lleol**

- (1) Onid yw adran 4(1)(a) yn gymwys, rhaid i'r partneriaid iechyd meddwl lleol ar gyfer ardal awdurdod lleol ddarparu gwasanaethau cymorth iechyd meddwl sylfaenol lleol yn unol â'r canlynol –
  - (a) cynllun ar gyfer eu hardal a gytunwyd o dan adran 2; neu
  - (b) cynllun ar gyfer eu hardal a benderfynwyd gan Weinidogion Cymru o dan adran 4.
- (2) Os gwnaed newidiadau i gynllun o dan adran 2(6) neu 4(2) rhaid i'r gwasanaethau gael eu darparu yn unol â'r cynllun y gwnaed newidiadau iddo.

### **4 Methiannau i gytuno ar gynlluniau**

- (1) Os na fydd y partneriaid iechyd meddwl lleol ar gyfer ardal yn gallu cytuno ar gynllun o dan adran 2 –
  - (a) tra nad oes cytundeb, rhaid i'r Bwrdd Iechyd Lleol benderfynu pa driniaeth iechyd meddwl sylfaenol leol sydd i fod ar gael yn ardal yr awdurdod lleol o dan sylw a bod yn gyfrifol am ddarparu gwasanaethau cymorth iechyd meddwl sylfaenol lleol ar gyfer yr ardal honno;
  - (b) rhaid i'r Bwrdd Iechyd Lleol hysbysu Gweinidogion Cymru na ellir dod i gytundeb;
  - (c) caiff Gweinidogion Cymru benderfynu ar gynllun ac, os ydynt yn gwneud hynny, rhaid iddynt ei gofnodi'n ysgrifenedig.
- (2) Os bydd un partner yn dymuno gwneud newidiadau i gynllun, ond nad yw'r llall yn dymuno hynny, caiff Gweinidogion Cymru, os gwneir cais iddynt gan y naill bartner neu'r llall, wneud newidiadau i'r cynllun i'r graddau y gwêl Gweinidogion Cymru'n dda eu gwneud.

- (3) A scheme must identify the extent to which each of the partners is to be responsible for providing local primary mental health support services.
- (4) A scheme may provide that—
  - (a) one of the partners is to be responsible for providing all local primary mental health support services for the local authority area;
  - (b) primary mental health assessments are to be made available in respect of all or particular descriptions of the individuals described in section 8(1);
  - (c) primary mental health assessments are to be carried out in respect of particular categories of individual who would not otherwise be entitled to an assessment.
- (5) If a scheme makes provision under subsection (4)(b), it must also provide for particular descriptions of staff working in secondary mental health services to be able to refer an individual referred to in that subsection for a primary mental health assessment.
- (6) The partners may alter a scheme (including a scheme determined by the Welsh Ministers under section 4 and a scheme which has already been altered) if they agree the alterations.
- (7) If a scheme is altered under subsection (6), the partners must ensure that the alterations are recorded in writing.

### **3 Duty to provide local primary mental health support services**

- (1) Unless section 4(1)(a) applies, the local mental health partners for a local authority area must provide local primary mental health support services in accordance with—
  - (a) a scheme for their area agreed under section 2; or
  - (b) a scheme for their area determined by the Welsh Ministers under section 4.
- (2) If a scheme has been altered under section 2(6) or 4(2) the services must be provided in accordance with the altered scheme.

### **4 Failures to agree schemes**

- (1) If the local mental health partners for an area cannot agree a scheme under section 2—
  - (a) for so long as there is no agreement, the Local Health Board must decide what local primary mental health treatment is to be made available in the local authority area in question and is responsible for providing local primary mental health support services for that area;
  - (b) the Local Health Board must inform the Welsh Ministers that agreement cannot be reached;
  - (c) the Welsh Ministers may determine a scheme and, if they do, must record it in writing.
- (2) If one partner wishes to alter a scheme, but the other does not, the scheme 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) Os bydd Gweinidogion Cymru'n gwneud newidiadau i gynllun o dan is-adran (2), rhaid iddynt gofnodi'r newidiadau'n ysgrifenedig.

## 5 Ystyr "gwasanaethau cymorth iechyd meddwl sylfaenol lleol"

- (1) Dyma yw gwasanaethau cymorth iechyd meddwl sylfaenol lleol –

- (a) cynnal asesiadau iechyd meddwl sylfaenol yn unol â darpariaethau canlynol y Rhan hon;
- (b) darparu ar gyfer unigolyn, yn dilyn asesiad iechyd meddwl sylfaenol, driniaeth iechyd meddwl sylfaenol leol a ddynodir gan yr asesiad yn driniaeth a allai wella iechyd meddwl yr unigolyn neu atal dirywiad ynddo;
- (c) gwneud atgyfeiriadau fel a ddisgrifir yn adran 10, yn dilyn asesiad iechyd meddwl sylfaenol, ynghylch gwasanaethau eraill y gallai eu darparu wella iechyd meddwl yr unigolyn a aseswyd neu atal dirywiad ynddo;
- (d) darparu gwybodaeth, cyngor a chymorth arall i ddarparwyr iechyd sylfaenol i fodloni gofynion rhesymol y darparwyr am y cyfryw wybodaeth, cyngor a chymorth arall at ddibenion gwella'r gwasanaethau mewn perthynas ag iechyd meddwl y maent yn eu darparu neu'n eu trefnu;
- (e) darparu gwybodaeth a chyngor ar gyfer cleifion a'u gofalmwyr ynghylch y gwasanaethau sydd ar gael iddynt i fodloni eu gofynion rhesymol am y cyfryw wybodaeth a chyngor.

- (2) Yn is-adran (1)(e) –

ystyr "cleifion" ("*patients*") yw unigolion y mae ganddynt, neu y gall fod ganddynt, anhwylder meddwl;

ystyr "gofalmwyr" ("*carers*") yw aelodau o deuluoedd cleifion, a ffrindiau cleifion, sy'n ymwneud â'u gofal ac yn achos claf sy'n blentyn mae'n cynnwys rhiant maeth awdurdod lleol y plentyn (o fewn ystyr adran 22C(12) o Ddeddf Plant 1989);

ystyr "gwasanaethau" ("*services*") yw –

- (a) gwasanaethau iechyd meddwl eilaidd;
- (b) gwasanaethau gofal cymunedol (nad ydynt yn wasanaethau iechyd meddwl eilaidd);
- (c) gwasanaethau a ddarperir o dan Ran III o Ddeddf Plant 1989 (nad ydynt yn wasanaethau iechyd meddwl eilaidd);
- (d) gwasanaethau tai neu wasanaethau llesiant; a
- (e) addysg neu hyfforddiant a all fod yn llesol i iechyd meddwl claf.

*Asesiadau iechyd meddwl sylfaenol*

## 6 Dyletswyddau i gynnal asesiadau iechyd meddwl sylfaenol: atgyfeiriadau ar gyfer cleifion cofrestredig mewn gofal sylfaenol

- (1) Mae'r adran hon yn gymwys i unigolyn –

- (a) nad yw'n dod o fewn unrhyw un o'r disgrifiadau yn adran 8(1); a

- (3) If the Welsh Ministers alter a scheme under subsection (2), they must record the alterations in writing.

## 5 Meaning of "local primary mental health support services"

- (1) Local primary mental health support services are the following –
- (a) the carrying out of primary mental health assessments in accordance with the following provisions of this Part;
  - (b) the provision for an individual, following a primary mental health assessment, of the local primary mental health treatment identified by the assessment as being treatment which might improve or prevent a deterioration in the individual's mental health;
  - (c) the making of referrals as described in section 10, following a primary mental health assessment, concerning other services the provision of which might improve or prevent a deterioration in the assessed individual's mental health;
  - (d) the provision of information, advice and other assistance to primary care providers to meet the providers' reasonable requirements for such information, advice and other assistance for the purpose of improving the services related to mental health which they provide or arrange;
  - (e) the provision for patients and their carers of information and advice about the services available to them, to meet their reasonable requirements for such information and advice.

- (2) In subsection (1)(e) –

"carers" ("*gofalwyr*") means members of the families of patients, and friends of patients, who are involved in their care and in the case of a patient who is a child, includes the child's local authority foster parent (within the meaning of section 22C(12) of the Children Act 1989);

"patients" ("*cleifion*") means individuals who have, or may have, a mental disorder;

"services" ("*gwasanaethau*") means –

- (a) secondary mental health services;
- (b) community care services (not being secondary mental health services);
- (c) services provided under Part III of the Children Act 1989 (not being secondary mental health services);
- (d) housing or well-being services; and
- (e) education or training which may be beneficial to a patient's mental health.

### *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) y gwneir atgyfeiriad perthnasol at ddibenion yr adran hon mewn cysylltiad ag ef.
- (2) Rhaid i asesiad iechyd meddwl sylfaenol gael ei gynnal mewn cysylltiad â'r unigolyn yn unol ag adran 9.
- (3) Ystyr atgyfeiriad perthnasol at ddibenion yr adran hon yw cais am i unigolyn gael asesiad iechyd meddwl sylfaenol sy'n bodloni'r amodau canlynol.
- (4) Yr amod cyntaf yw bod y cais yn cael ei wneud –
- (a) gan contractiwr yr ymrwymwyd mewn contract gwasanaethau meddygol cyffredinol gydag ef o dan adran 42 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 –
- (i) gan y Bwrdd Iechyd Lleol y gwnaed y cais iddo, neu
- (ii) os gwneir y cais i awdurdod lleol, y Bwrdd Iechyd Lleol sy'n bartner iechyd meddwl lleol i'r awdurdod;
- (b) gan berson y gwnaed trefniadau gydag ef o dan adran 50 o'r Ddeddf honno –
- (i) gan y Bwrdd Iechyd Lleol y gwneir y cais iddo, neu
- (ii) os gwneir y cais i awdurdod lleol, y Bwrdd Iechyd Lleol sy'n bartner iechyd meddwl lleol i'r awdurdod; neu
- (c) gan ymarferydd meddygol cofrestredig a gyflogir at ddibenion adran 41 o'r Ddeddf honno –
- (i) gan y Bwrdd Iechyd Lleol y gwneir y cais iddo, neu
- (ii) os gwneir y cais i awdurdod lleol, y Bwrdd Iechyd Lleol sy'n bartner iechyd meddwl lleol i'r awdurdod.
- (5) Yr ail amod yw bod yr unigolyn y gwneir y cais mewn cysylltiad ag ef yn un o gleifion cofrestredig y contractiwr, y person neu'r ymarferydd sy'n gwneud yr atgyfeiriad.
- (6) Y trydydd amod yw bod y cais yn cael ei wneud i bartner iechyd meddwl lleol ar gyfer ardal yr awdurdod lleol lle y mae'r unigolyn fel arfer yn preswyllo.
- (7) At ddibenion yr adran hon ac adrannau 7 ac 8 mae cais i'w drin fel pe bai wedi ei wneud gan contractiwr o dan contract gwasanaethau meddygol cyffredinol yr ymrwymwyd ynddo o dan adran 42 o Ddeddf y Gwasanaethau Iechyd Gwladol (Cymru) 2006, gan berson y mae trefniadau wedi eu gwneud gydag ef o dan adran 50 o'r Ddeddf honno, neu gan contractiwr sy'n cael ei gyflogi at ddibenion adran 41 o'r Ddeddf honno, os gwneir y cais gydag awdurdodaeth y contractiwr, y person neu'r ymarferydd.

**7 Dyletswyddau i gynnal asesiadau iechyd meddwl sylfaenol: atgyfeiriadau gofal sylfaenol eraill**

- (1) Mae'r adran hon yn gymwys i unigolyn –
- (a) nad yw'n dod o fewn unrhyw un o'r disgrifiadau yn adran 8(1); a
- (b) y gwneir atgyfeiriad perthnasol mewn cysylltiad ag ef at ddibenion yr adran hon.
- (2) Rhaid cynnal asesiad iechyd meddwl sylfaenol mewn cysylltiad â'r unigolyn yn unol ag adran 9.

- (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.
- (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) Ystyr atgyfeiriad perthnasol at ddibenion yr adran hon yw cais am i unigolyn gael asesiad iechyd meddwl sylfaenol sy'n bodloni'r amodau canlynol.
- (4) Yr amod cyntaf yw bod cais yn cael ei wneud –
- (a) gan gontractiwr yr ymrwymwyd mewn contract gwasanaethau meddygol cyffredinol gydag ef o dan adran 42 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 –
    - (i) gan y Bwrdd Iechyd Lleol y gwneir y cais iddo, neu
    - (ii) os gwneir y cais i awdurdod lleol, gan y Bwrdd Iechyd Lleol sy'n bartner iechyd meddwl lleol i'r awdurdod;
  - (b) gan berson y mae trefniadau wedi eu gwneud o dan adran 50 o'r Ddeddf honno –
    - (i) gan y Bwrdd Iechyd lleol y gwneir y cais iddo, neu
    - (ii) os gwneir y cais i awdurdod lleol, y Bwrdd Iechyd Lleol sy'n bartner iechyd meddwl lleol i'r awdurdod;
  - (c) gan ymarferydd meddygol cofrestredig a gyflogir at ddibenion adran 41 o'r Ddeddf honno –
    - (i) gan y Bwrdd Iechyd Lleol y gwneir y cais iddo, neu
    - (ii) os gwneir y cais i awdurdod lleol, y Bwrdd Iechyd Lleol sy'n bartner iechyd meddwl lleol i'r awdurdod; neu
  - (d) gan ymarferydd meddygol cofrestredig sy'n darparu gwasanaethau i garcharorion o dan drefniadau a wnaed rhwng yr ymarferydd meddygol cofrestredig a pherson sy'n gyfrifol am ddarparu neu redeg carchar sydd wedi ei gontractio allan (o fewn ystyr adran 84(4) o Ddeddf Cyfiawnder Troseddol 1991) yng Nghymru.
- (5) Yr ail amod yw bod y cais yn cael ei wneud i bartner iechyd meddwl lleol ar gyfer ardal yr awdurdod lleol lle y mae'r contractiwr, y person neu'r ymarferydd yn ymgymryd â'r rhan fwyaf o fusnes neu weithgareddau'r contractiwr, y person neu'r ymarferydd.
- (6) Y trydydd amod yw bod yr unigolyn y gwneir y cais mewn cysylltiad ag ef yn dod o fewn categori a bennir –
- (a) mewn rheoliadau a wneir gan Weinigogion Cymru; neu
  - (b) yn y cynllun ar gyfer yr ardal awdurdod lleol honno o dan adran 2(4)(c).

## 8 **Dyletswyddau i gynnal asesiadau iechyd meddwl sylfaenol: atgyfeiriadau gofal iechyd meddwl eilaidd**

- (1) Mae'r adran hon yn gymwys i unigolyn sy'n dod o fewn unrhyw un neu ragor o'r disgrifiadau canlynol –
- (a) unigolyn sy'n agored i gael ei gadw'n gaeth o dan Ddeddf Iechyd Meddwl 1983;
  - (b) unigolyn sy'n ddarostyngedig i warcheidiaeth o dan y Ddeddf honno;
  - (c) unigolyn sy'n glaf cymunedol o fewn yr ystyr a roddir gan adran 17A o'r Ddeddf honno;
  - (d) unigolyn sy'n cael gwasanaethau iechyd meddwl eilaidd.

- 
- (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.
- (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).

## **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) Rhaid i asesiad iechyd meddwl sylfaenol gael ei gynnal mewn cysylltiad â'r unigolyn yn unol ag adran 9—
  - (a) os bydd y cynllun perthnasol yn darparu o dan adran 2(4)(b) fod asesiadau iechyd meddwl sylfaenol i fod ar gael mewn cysylltiad â'r holl gategorïau neu â chategorïau penodedig o unigolion y cyfeirir atynt yn is-adran (1);
  - (b) os bydd yr unigolyn yn dod o fewn y disgrifiad yn y cynllun o'r unigolion hynny y mae asesiadau iechyd meddwl sylfaenol i fod ar gael mewn cysylltiad â hwy; a
  - (c) os gwneir atgyfeiriad perthnasol at ddibenion yr adran hon.
- (3) Ystyr atgyfeiriad perthnasol at ddibenion yr adran hon yw cais am i unigolyn gael asesiad iechyd meddwl sylfaenol sy'n bodloni'r amodau canlynol.
- (4) Yr amod cyntaf yw bod y cais yn cael ei wneud i bartner iechyd meddwl lleol ar gyfer ardal yr awdurdod lleol lle y mae'r unigolyn fel arfer yn preswyllo.
- (5) Yr ail amod yw bod y cais yn cael ei wneud gan aelod o staff sy'n dod o fewn categori a bennir yn y cynllun ar gyfer yr ardal awdurdod lleol honno o dan adran 2(5).

## 9 Cynnal asesiadau iechyd meddwl sylfaenol

- (1) Mae asesiad iechyd meddwl sylfaenol yn ddadansoddiad o iechyd meddwl unigolyn sy'n dynodi—
  - (a) y driniaeth iechyd meddwl sylfaenol leol (os oes un) a allai wella iechyd meddwl yr unigolyn neu atal dirywiad ynddo (rhaid darparu unrhyw driniaeth a ddynodir felly: gweler adrannau 3 a 5); a
  - (b) y gwasanaethau eraill (os oes rhai) a allai wella iechyd meddwl yr unigolyn neu atal dirywiad ynddo.
- (2) Rhaid i'r partneriaid iechyd meddwl lleol sicrhau bod yr asesiad yn cael ei gynnal gan unigolyn sy'n gymwys i gynnal asesiadau iechyd meddwl sylfaenol o dan reoliadau a wneir o dan adran 47.
- (3) Mae'r cyfeiriad at wasanaethau eraill yn is-adran (1)(b) yn gyfeiriad at—
  - (a) gwasanaethau iechyd meddwl eilaidd;
  - (b) gwasanaethau o fath a ddarperir fel arfer gan ddarparwyr gofal sylfaenol;
  - (c) gwasanaethau gofal cymunedol (nad ydynt yn wasanaethau iechyd meddwl eilaidd);
  - (d) gwasanaethau a ddarperir o dan Ran III o Ddeddf Plant 1989 (nad ydynt yn wasanaethau iechyd meddwl eilaidd);
  - (e) gwasanaethau tai neu wasanaethau llesiant; ac
  - (f) addysg neu hyfforddiant a all fod o fudd i iechyd meddwl unigolyn.

## 10 Camau i'w cymryd yn sgil asesiad iechyd meddwl sylfaenol

- (1) Pan fo asesiad iechyd meddwl sylfaenol yn dynodi gwasanaethau o dan adran 9(1)(b) a allai wella iechyd meddwl unigolyn neu atal dirywiad ynddo, rhaid i'r partner iechyd meddwl lleol a gynhaliodd yr asesiad—

- (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 –
  - (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 Part III of the Children Act 1989 (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.

## **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) os yw'r partner o'r farn mai ef fyddai'r awdurdod cyfrifol dros ddarparu unrhyw un neu ragor o'r gwasanaethau, benderfynu p'un a oes galw am unrhyw un neu ragor o'r gwasanaethau hynny ai peidio; a
  - (b) os yw'r partner o'r farn nad ef fyddai'r awdurdod cyfrifol dros ddarparu unrhyw un neu ragor o'r gwasanaethau, atgyfeirio at y person y mae'r partner o'r farn mai hwnnw fyddai'r awdurdod cyfrifol dros ddarparu'r gwasanaethau hynny.
- (2) Rhaid i atgyfeiriad o dan is-adran (1)(b) hysbysu'r derbynnydd—
- (a) bod y partner iechyd meddwl lleol sy'n gwneud yr atgyfeiriad wedi dynodi gwasanaethau y mae o'r farn a allai wella iechyd meddwl yr unigolyn neu atal dirywiad ynddo; a
  - (b) bod y partner o'r farn mai'r derbynnydd fyddai'r awdurdod cyfrifol dros ddarparu'r gwasanaethau hynny.
- (3) Rhaid i berson y gwnaed yr atgyfeiriad iddo benderfynu p'un a oes galw am ddarparu unrhyw un neu ragor o'r gwasanaethau y mae'r atgyfeiriad yn berthnasol iddynt ai peidio.
- (4) Yn yr adran hon ystyr "awdurdod cyfrifol" yw'r person a fyddai'n gyfrifol dros ddarparu gwasanaethau pe bai penderfyniad yn cael ei wneud i ddarparu'r gwasanaethau.
- (5) Nid oes dim yn yr adran hon yn ei gwneud yn ofynnol neu'n awdurdodi gwneud atgyfeiriad i awdurdod cyfrifol, wedi ei gyfansoddi ar gyfer ardal sy'n gyfan gwbl o fewn Lloegr neu'n gweithredu ar gyfer y cyfryw ardal yn unig.

*Diwygio Deddf Plant 2004*

**11 Cynnwys cynlluniau o dan y Rhan hon mewn cynlluniau Plant a Phobl Ifanc**

Ar ôl adran 26(1B)(b) o Ddeddf Plant 2004 rhowch y canlynol—

- "(c) the scheme for the authority's area under Part 1 of the Mental Health (Wales) Measure 2010."

**RHAN 2**

**CYDGYSYLLTU A CHYNLLUNIO GOFAL AR GYFER DEFNYDDWYR  
GWASANAETHAU IECHYD MEDDWL EILAIDD**

*Diffiniadau*

**12 Ystyr "claf perthnasol"**

- (1) At ddibenion y Rhan hon, mae unigolyn yn glaf perthnasol os yw darparpwydd gwasanaeth iechyd meddwl yn gyfrifol am ddarparu wasanaeth iechyd meddwl eilaidd i'r unigolyn.
- (2) Mae unigolyn nad yw'n dod o fewn is-adran (1) hefyd yn glaf perthnasol os—
  - (a) yw'r unigolyn o dan warcheidiaeth awdurdod lleol yng Nghymru; neu

- (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.

*Amendment to Children Act 2004*

**11 Inclusion of schemes under this Part in Children and Young People's plans**

After section 26(1B)(b) of the Children Act 2004 insert the following—

- "(c) the scheme for the authority's area under Part 1 of the Mental Health (Wales) Measure 2010."

**PART 2**

**COORDINATION OF AND CARE PLANNING FOR SECONDARY MENTAL HEALTH SERVICE USERS**

*Definitions*

**12 Meaning of "relevant patient"**

- (1) For the purposes of this Part, an individual is a relevant patient if a mental health service provider is responsible for providing a secondary mental health service for the individual.
- (2) An individual who does not fall within subsection (1) is also a relevant patient if—
  - (a) the individual is under the guardianship of a local authority in Wales; or

- (b) mae darparydd gwasanaeth iechyd meddwl wedi penderfynu y byddai gwasanaeth iechyd meddwl eilaidd yn cael ei ddarparu i'r unigolyn pe byddai'r unigolyn yn cydweithredu â'r ddarpariaeth honno.

### 13 Ystyr "darparydd gwasanaeth iechyd meddwl"

- (1) At ddibenion y Rhan hon, dyma'r darparwyr gwasanaethau iechyd meddwl—
- (a) Gweinidogion Cymru;
  - (b) Bwrdd Iechyd Lleol;
  - (c) awdurdod lleol yng Nghymru.
- (2) Ond nid yw Gweinidogion Cymru i'w trin fel rhai sy'n gyfrifol am ddarparu unrhyw wasanaeth a gaiff ei ddarparu wrth arfer swyddogaeth y mae cyfarwyddyd a roddir o dan adran 12(1) o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 yn ymwneud â hi.

#### *Penodi cydgysylltwyr gofal*

### 14 Dyletswydd i benodi cydgysylltydd gofal ar gyfer claf perthnasol

- (1) Rhaid i'r darparydd gwasanaeth iechyd meddwl perthnasol ar gyfer claf perthnasol benodi unigolyn yn gydgysylltydd gofal ar gyfer y claf i weithredu swyddogaethau ynglŷn â'r claf a roddir i gydgysylltwyr gofal gan ac o dan y Rhan hon.
- (2) Mae'r ddyletswydd o dan is-adran (1) i'w chyflawni cyn gynted ag y bydd yn rhesymol ymarferol—
- (a) ar ôl i unigolyn ddod yn glaf perthnasol; neu
  - (b) mewn achos pan fydd unigolyn yn peidio â bod wedi ei benodi'n gydgysylltydd gofal claf perthnasol yn barhaol, ar ôl terfynu'r penodiad hwnnw yn barhaol.
- (3) Pan fo'r darparydd gwasanaeth iechyd meddwl perthnasol o'r farn bod cydgysylltydd gofal claf am ba reswm bynnag yn analluog dros dro i weithredu felly, caiff y darparydd benodi unigolyn yn gydgysylltydd gofal dros dro ar gyfer y claf i gyflawni mewn perthynas â'r claf y swyddogaethau y cyfeirir atynt yn is-adran (1).
- (4) Mae penodiad dros dro o dan is-adran (3) yn terfynu pan fo'r darparydd gwasanaeth iechyd meddwl perthnasol o'r farn bod yr unigolyn a benodwyd yn flaenorol yn gydgysylltydd gofal wedi adennill y gallu i weithredu felly, ac yn yr achos hwnnw adferir penodiad yr unigolyn hwnnw.
- (5) Caniateir i drefniadau gael eu gwneud rhwng dau Fwrdd Iechyd Lleol er mwyn i swyddogaethau'r naill o dan is-adran (1) neu (3) gael eu harfer gan y llall.
- (6) Ni fydd unrhyw drefniadau a wneir o dan is-adran (5) yn effeithio ar gyfrifoldeb Bwrdd Iechyd Lleol fel darparydd gwasanaeth iechyd meddwl perthnasol o dan is-adrannau (1) neu (3).
- (7) Mae adran 15 yn gwneud darpariaeth ynghylch dynodi'r darparydd gwasanaeth iechyd meddwl perthnasol ar gyfer claf perthnasol.

### 15 Dynodi'r darparydd gwasanaeth iechyd meddwl perthnasol ar gyfer claf perthnasol

- (1) Mae'r is-adran hon yn gymwys—

- (b) a mental health service provider has decided that the individual would be provided with a secondary mental health service if the individual cooperated with its provision.

### **13 Meaning of "mental health service provider"**

- (1) For the purposes of this Part, mental health service providers are the following –
  - (a) the Welsh Ministers;
  - (b) a Local Health Board;
  - (c) a local authority in Wales.
- (2) But the Welsh Ministers are not to be treated as being responsible for providing any service that is provided in the exercise of a function to which a direction given under section 12(1) of the National Health Service (Wales) Act 2006 relates.

#### *Appointment of care coordinators*

### **14 Duty to appoint a care coordinator for a relevant patient**

- (1) The relevant mental health service provider for a relevant patient must appoint an individual as care coordinator for the patient to perform in relation to the patient the functions conferred on care coordinators by and under this Part.
- (2) The duty under subsection (1) is to be performed as soon as is reasonably practicable after –
  - (a) an individual becomes a relevant patient; or
  - (b) in a case where an individual permanently ceases to be appointed as a relevant patient's care coordinator, that permanent cessation.
- (3) Where the relevant mental health service provider considers that a patient's care coordinator is for whatever reason temporarily unable to act as such, the provider may appoint an individual to be the patient's temporary care coordinator to perform in relation to the patient the functions referred to in subsection (1).
- (4) A temporary appointment under subsection (3) ceases when the relevant mental health service provider considers that the individual previously appointed as care coordinator has regained the ability to act as such, in which case that individual's appointment shall revive.
- (5) Arrangements may be made between two Local Health Boards for the functions of one of them under subsection (1) or (3) to be exercised by the other.
- (6) Any arrangements under subsection (5) do not affect the responsibility of a Local Health Board as relevant mental health service provider under subsection (1) or (3).
- (7) Section 15 makes provision about the identification of the relevant mental health service provider for a relevant patient.

### **15 Identification of the relevant mental health service provider for a relevant patient**

- (1) This subsection applies where –



- (a) pan fydd Bwrdd Iechyd Lleol yn gyfrifol am ddarparu gwasanaeth iechyd meddwl eilaidd ar gyfer claf perthnasol; a
- (b) pan na fydd awdurdod lleol yn gyfrifol am ddarparu cyfryw wasanaeth.
- (2) Pan fydd is-adran (1) yn gymwys, y Bwrdd yw'r darparydd gwasanaeth iechyd meddwl perthnasol.
- (3) Mae'r is-adran hon yn gymwys—
  - (a) pan fydd Bwrdd Iechyd Lleol yn gyfrifol am ddarparu gwasanaeth iechyd meddwl eilaidd ar gyfer claf perthnasol; a
  - (b) pan fydd awdurdod lleol hefyd yn gyfrifol am ddarparu'r cyfryw wasanaeth.
- (4) Pan fydd is-adran (3) yn gymwys, mae dynodi mai un o'r personau y cyfeirir atynt yn yr is-adran honno yw'r darparydd gwasanaeth iechyd meddwl perthnasol i'w wneud yn unol â darpariaeth mewn rheoliadau a wneir gan Weinidogion Cymru.
- (5) Caiff rheoliadau o dan is-adran (4)—
  - (a) darparu i Weinidogion Cymru ddyfarnu ar anghydfodau o ran gweithredu'r rheoliadau;
  - (b) darparu i Weinidogion Cymru wneud y cyfryw ddyfarniad ag y gwelant yn dda ei wneud sy'n ddyfarniad sy'n ei gwneud yn ofynnol i daliadau gael eu gwneud gan un o'r personau y cyfeirir atynt yn is-adran (3) i'r person arall yn sgil dyfarniad y cyfeirir ato ym mharagraff (a);
  - (c) dynodi mai darparydd yw'r darparydd gwasanaeth iechyd meddwl perthnasol tra disgwylir dyfarniad o dan baragraff (a).
- (6) Os nad yw nac is-adran (1) nac is-adran (3) yn gymwys, dyma yw'r darparydd gwasanaeth iechyd meddwl perthnasol—
  - (a) os yw awdurdod lleol yn gyfrifol am ddarparu gwasanaeth iechyd meddwl eilaidd ar gyfer y claf, yr awdurdod;
  - (b) os yw'r claf o dan warcheidiaeth awdurdod lleol, yr awdurdod;
  - (c) os nad yw na pharagraff (a) na pharagraff (b) yn gymwys ond bod Gweinidogion Cymru'n gyfriol am ddarparu gwasanaeth iechyd meddwl eilaidd i'r claf, Gweinidogion Cymru.

## 16 Darpariaeth bellach ynghylch penodi cydgysylltwyr gofal

- (1) Rhaid i ddarparydd beidio â phenodi unigolyn yn gydgysylltydd gofal o dan adran 14(1) onid yw'r unigolyn yn gymwys i'w benodi'n gydgysylltydd gofal o dan reoliadau a wneir o dan adran 47.
- (2) Rhaid i ddarparydd beidio â phenodi unigolyn yn gydgysylltydd gofal o dan adran 14(1) o blith staff person arall heb gydsyniad y person hwnnw.
- (3) Onid yw rheoliadau a wneir gan Weinidogion Cymru'n darparu fel arall, nid yw penodiad unigolyn yn gydgysylltydd gofal yn dod i ben o ganlyniad i newid darparydd gwasanaeth iechyd meddwl perthnasol claf perthnasol fel y'i dynodir o dan adran 15.
- (4) Caiff darparydd gwasanaeth iechyd meddwl perthnasol derfynu penodiad unigolyn a benodwyd yn gydgysylltydd gofal o dan adran 14(1).

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- (a) a Local Health Board is responsible for providing a secondary mental health service for a relevant patient; and
    - (b) a local authority is not responsible for providing such a service.
  - (2) Where subsection (1) applies, the Board is the relevant mental health service provider.
  - (3) This subsection applies where—
    - (a) a Local Health Board is responsible for providing a secondary mental health service for a relevant patient; and
    - (b) a local authority is also responsible for providing such a service.
  - (4) Where subsection (3) applies, the identification of one of the persons referred to in that subsection as the relevant mental health service provider is to be made in accordance with provision in regulations made by the Welsh Ministers.
  - (5) Regulations under subsection (4) may—
    - (a) provide for disputes as to the operation of the regulations to be determined by the Welsh Ministers;
    - (b) provide for the Welsh Ministers to make such determination as they think fit requiring payments to be made by one of the persons referred to in subsection (3) to the other person in the light of a determination referred to in paragraph (a);
    - (c) identify a provider as the relevant mental health service provider pending a determination under paragraph (a).
  - (6) Where neither subsection (1) nor subsection (3) apply, the relevant mental health service provider is—
    - (a) if a local authority is responsible for providing the patient with a secondary mental health service, the authority;
    - (b) if the patient is under the guardianship of a local authority, the authority;
    - (c) where neither paragraph (a) nor (b) apply but the Welsh Ministers are responsible for providing a secondary mental health service for the patient, the Welsh Ministers.

## **16 Further provision about the appointment of care coordinators**

- (1) A provider must not appoint an individual as a care coordinator under section 14(1) unless the individual is eligible to be appointed as a care coordinator under regulations made under section 47.
- (2) A provider must not appoint an individual as a care coordinator under section 14(1) from amongst the staff of another person without that person's consent.
- (3) Unless regulations made by the Welsh Ministers provide otherwise, an individual's appointment as a care coordinator does not come to an end as a result of a change in a relevant patient's relevant mental health service provider as identified under section 15.
- (4) A relevant mental health service provider may terminate the appointment of an individual appointed as a care coordinator under section 14(1).

*Cydgysylltu gwasanaethau iechyd meddwl***17 Dyletswydd i gydgysylltu darpariaeth gwasanaethau iechyd meddwl**

- (1) At ddibenion gwella effeithiolrwydd gwasanaethau iechyd meddwl a ddarperir i glaf perthnasol, rhaid i ddarparydd gwasanaeth iechyd meddwl gymryd pob cam rhesymol i sicrhau –
  - (a) bod gwahanol wasanaethau iechyd meddwl y mae'n gyfrifol am eu darparu i glaf yn cael eu cydgysylltu â'i gilydd; a
  - (b) bod y gwasanaethau iechyd meddwl y mae'n gyfrifol am eu darparu i'r claf yn cael eu cydgysylltu ag unrhyw wasanaethau eraill y mae unrhyw ddarparydd gwasanaeth iechyd meddwl arall yn gyfrifol am eu darparu;
  - (c) bod y gwasanaethau iechyd meddwl y mae'n gyfrifol am eu darparu yn cael eu cydgysylltu ag unrhyw wasanaethau sy'n ymwneud ag iechyd meddwl ac sy'n cael eu darparu ar gyfer y claf gan gorff gwirfoddol.
- (2) Caiff darparydd gwasanaeth iechyd meddwl geisio cyngor cydgysylltydd gofal claf o ran sut y dylai'r darparydd gyflawni ei ddyletswydd o dan is-adran (1).
- (3) Caiff cydgysylltydd gofal ar unrhyw adeg roi cyngor i ddarparydd gwasanaeth iechyd meddwl o ran sut y dylai'r darparydd gyflawni ei ddyletswydd o dan is-adran (1).
- (4) Rhaid i ddarparydd gwasanaeth iechyd meddwl roi sylw i unrhyw gyngor a roddir o dan is-adran (2) neu (3) wrth iddo gyflawni ei ddyletswydd o dan is-adran (1).
- (5) Yn yr adran hon gwasanaethau iechyd meddwl yw –
  - (a) gwasanaethau iechyd meddwl eilaidd;
  - (b) gwasanaethau o dan Ran 1 o'r Mesur hwn;
  - (c) pethau a wneir wrth arfer pwerau awdurdod lleol yn adran 8 o Ddeddf Iechyd Meddwl 1983 mewn cysylltiad â pherson sy'n destun gwarcheidiaeth yr awdurdod.
- (6) Yn yr adran hon ystyr "corff gwirfoddol" yw corff y mae ei weithgareddau'n cael eu cyflawni mewn modd ac eithrio ar gyfer gwneud elw.

**18 Swyddogaethau'r cydgysylltydd gofal**

- (1) Rhaid i gydgysylltydd gofal i glaf perthnasol weithio gyda'r claf perthnasol a chyda darparwyr gwasanaeth iechyd meddwl y claf –
  - (a) gyda'r bwriad o gytuno ar y canlyniadau y mae'r ddarpariaeth o wasanaethau iechyd meddwl wedi eu llunio i'w cyflawni, gan gynnwys (ond heb fod yn gyfyngedig i hynny) cyflawniadau yn un neu fwy o'r meysydd canlynol –
    - (i) cyllid ac arian;
    - (ii) llety;
    - (iii) gofal personol a llesiant corfforol;
    - (iv) addysg a hyfforddiant;
    - (v) gwaith a galwedigaeth;

*Coordination of mental health services***17 Duty to coordinate provision of mental health services**

- (1) For the purpose of improving the effectiveness of the mental health services provided to a relevant patient, a mental health service provider must take all reasonable steps to ensure that—
  - (a) different mental health services which it is responsible for providing for the patient are coordinated with each other;
  - (b) the mental health services which it is responsible for providing for the patient are coordinated with any other such services the provision of which is the responsibility of any other mental health service provider;
  - (c) the mental health services which it is responsible for providing are coordinated with any services related to mental health provided for the patient by a voluntary organisation.
- (2) A mental health service provider may seek the advice of a patient's care coordinator as to how the provider should discharge its duty under subsection (1).
- (3) A care coordinator may at any time give advice to a mental health service provider as to how the provider should discharge its duty under subsection (1).
- (4) A mental health service provider must have regard to any advice given under subsections (2) and (3) in discharging its duty under subsection (1).
- (5) In this section mental health services are—
  - (a) secondary mental health services;
  - (b) services under Part 1 of this Measure;
  - (c) things done in the exercise of a local authority's powers in section 8 of the Mental Health Act 1983 in respect of a person who is subject to the authority's guardianship.
- (6) In this section "voluntary organisation" means a body whose activities are carried on otherwise than for profit.

**18 Functions of the care coordinator**

- (1) A relevant patient's care coordinator must work with the relevant patient and the patient's mental health service providers—
  - (a) with a view to agreeing the outcomes which the provision of mental health services for the patient are designed to achieve, including (but not limited to) achievements in one or more of the following areas—
    - (i) finance and money;
    - (ii) accommodation;
    - (iii) personal care and physical well-being;
    - (iv) education and training;
    - (v) work and occupation;

- (vi) perthnasau gofalu a rhianta;
  - (vii) cymdeithasol, diwylliannol ac ysbrydol;
  - (viii) triniaeth feddygol a mathau eraill o driniaeth gan gynnwys ymyriadau seicolegol;
- (b) gyda'r bwriad o gytuno ar gynllun ("cynllun gofal a thriniaeth") i gyflawni'r canlyniadau hynny;
  - (c) mewn cysylltiad ag adolygu a diwygio'r cynllun gofal a thriniaeth yn unol â darpariaeth mewn rheoliadau a wneir gan Weinidogion Cymru.
- (2) Pan fo cynllun gofal a thriniaeth wedi'i gytuno, rhaid i'r cydgysylltydd gofal gofnodi'r cynllun yn ysgrifenedig.
- (3) Mae is-adrannau (4) a (5) yn gymwys os na all y personau a grybwyllir yn is-adran (1) gytuno ar y canlyniadau y cyfeirir atynt yn is-adran (1)(a) neu'r cynllun y cyfeirir ato yn is-adran (1)(b).
- (4) Os un darparydd gwasanaeth iechyd meddwl sydd gan y claf perthnasol, rhaid i'r darparydd, gan roi sylw i unrhyw safbwyntiau a fynegir gan y claf perthnasol, benderfynu pa ganlyniadau y mae darparu gwasanaethau iechyd meddwl ar gyfer y claf wedi ei lunio i gyflawni a phenderfynu ar gynllun ar gyfer cyflawni'r canlyniadau hynny.
- (5) Os oes gan y claf perthnasol ragor nag un darparydd gwasanaeth iechyd meddwl, rhaid i bob darparydd, gan roi sylw i unrhyw safbwyntiau a fynegir gan y claf, benderfynu pa ganlyniadau y mae darparu gwasanaethau iechyd meddwl ar gyfer y claf gan y darparydd wedi ei lunio i gyflawni a phenderfynu ar gynllun ar gyfer cyflawni'r canlyniadau hynny.
- (6) Rhaid i'r cydgysylltydd gofal –
- (a) os penderfynwyd ar gynllun o dan is-adran (4), gofnodi'r cynllun yn ysgrifenedig;
  - (b) os penderfynwyd ar gynlluniau o dan is-adran (5), eu cofnodi i gyd yn ysgrifenedig mewn un ddogfen.
- (7) Cynlluniau gofal a thriniaeth at ddibenion is-adran (1)(c) ac (8) i (10) yw'r cofnodion a wneir o dan is-adran (6).
- (8) Caiff Gweinidogion Cymru drwy reoliadau ddarparu o ran –
- (a) ffurf a chynnwys y cynlluniau gofal a thriniaeth;
  - (b) unrhyw berson y mae'r cydgysylltydd gofal i ymgynghori ag ef mewn cysylltiad ag arfer swyddogaethau'r cydgysylltydd o dan is-adran (1)(a) neu (b);
  - (c) rhwymedigaethau personau a bennir yn y rheoliadau mewn cysylltiad â chytuno neu benderfynu ar gynlluniau gofal a thriniaeth;
  - (d) personau y mae copïau ysgrifenedig o'r cynllun gofal a thriniaeth i'w rhoi iddynt (gan gynnwys mewn achosion penodedig roi copïau heb gydsyniad y claf perthnasol y mae'r cynllun yn ymwneud ag ef);
  - (e) yr wybodaeth i'w darparu gan ddarparwyr gwasanaethau iechyd meddwl i unigolyn sydd wedi peidio â bod yn glaf perthnasol.

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- (vi) parenting or caring relationships;
  - (vii) social, cultural or spiritual;
  - (viii) medical and other forms of treatment including psychological interventions;
- (b) with a view to agreeing a plan ("a care and treatment plan") for achieving those outcomes;
  - (c) in connection with the review and revision of a care and treatment plan in accordance with provision in regulations made by the Welsh Ministers.
- (2) Where a care and treatment plan has been agreed, the care coordinator must record the plan in writing.
  - (3) Subsections (4) and (5) apply if the outcomes referred to in subsection (1)(a) or the plan referred to in subsection (1)(b) cannot be agreed between the persons mentioned in subsection (1).
  - (4) If the relevant patient has a sole mental health service provider, the provider must, having regard to any views expressed by the relevant patient, determine the outcomes which the provision of mental health services for the patient are designed to achieve and determine a plan for achieving those outcomes.
  - (5) If the relevant patient has more than one mental health service provider, each provider must, having regard to any views expressed by the patient, determine the outcomes which the provision of mental health services by the provider are designed to achieve and determine a plan for achieving those outcomes.
  - (6) The care coordinator must—
    - (a) where a plan has been determined under subsection (4), record the plan in writing;
    - (b) where plans have been determined under subsection (5), record all of them in writing in a single document.
  - (7) The records made under subsection (6) are care and treatment plans for the purposes of subsection (1)(c) and (8) to (10).
  - (8) The Welsh Ministers may by regulations make provision as to—
    - (a) the form and content of care and treatment plans;
    - (b) any persons whom the care coordinator is to consult in connection with the exercise of the coordinator's functions under subsection (1)(a) or (b);
    - (c) the obligations of persons specified in the regulations in connection with the agreement or determination of care and treatment plans;
    - (d) the persons to whom written copies of a care and treatment plan are to be provided (including in specified cases the provision of copies without the consent of the relevant patient to whom the plan relates);
    - (e) the information to be provided by mental health service providers to an individual who has ceased to be a relevant patient.

- (9) Mae'r ddarpariaeth y caniateir ei gwneud drwy reoliadau o dan is-adran (1)(c) yn cynnwys (ond heb fod yn gyfyngedig i hynny) darpariaeth –
- (a) bod cynlluniau gofal a thriniaeth i'w hadolygu a'u diwygio mewn amgylchiadau penodedig;
  - (b) sy'n rhoi disgresiwn i'r cydgysylltydd gofal p'un a oes adolygiad neu ddiwygiad i gael ei gynnal;
  - (c) o ran unrhyw bersonau y mae'r cydgysylltydd gofal i ymgynghori ag ef mewn cysylltiad ag adolygiad neu ddiwygiad;
  - (d) gosod rhwymedigaethau ar bersonau a bennir yn y rheoliadau mewn cysylltiad ag adolygiad neu ddiwygiad;
  - (e) o ran darparu copïau o'r cynlluniau diwygiedig i bersonau a bennir (gan gynnwys mewn achosion penodedig darparu copïau heb gydsyniad y claf perthnasol y mae'r cynllun yn ymwneud ag ef).
- (10) I'r graddau y mae'n rhesymol ymarferol i wneud hynny, rhaid i ddarparydd gwasanaeth iechyd meddwl sicrhau bod gwasanaeth iechyd meddwl yn cael eu darparu i'r claf perthnasol yn unol â chynllun gofal a thriniaeth cyfredol y claf.
- (11) Yn yr adran hon mae i "gwasanaethau iechyd meddwl" yr un ystyr ag a roddir yn adran 17(5).

### RHAN 3

#### ASESIADAU AR DDEFNYDDWYR BLAENOROL O WASANAETHAU IECHYD MEDDWL EILAIDD

##### *Trefniadau asesiad*

- 19 Trefniadau ar gyfer asesu defnyddwyr blaenorol o wasanaethau iechyd meddwl eilaidd**
- (1) Rhaid i bartneriaid iechyd meddwl lleol ar gyfer ardal awdurdod lleol gymryd pob cam rhesymol i gytuno ar drefniadau ar gyfer –
    - (a) cynnal asesiadau yn unol ag adrannau 25 a 26 ar gyfer oedolion sydd fel arfer yn preswyllo yn yr ardal honno a chanddynt hawl i asesiadau o'r fath o dan adran 22; a
    - (b) gwneud atgyfeiriadau a ddisgrifir yn adran 28(1) yn dilyn asesiadau o'r fath.
  - (2) Os cytunwyd ar drefniadau, rhaid i'r partneriaid sicrhau bod y trefniadau'n cael eu cofnodi'n ysgrifenedig.
  - (3) Rhaid i'r trefniadau ddynodi i ba raddau y mae pob partner i gynnal yr asesiadau hynny a gwneud yr atgyfeiriadau hynny.
  - (4) Caiff y trefniadau ddarparu –
    - (a) bod un o'r partneriaid i ddarparu pob asesiad a gwneud pob atgyfeiriad;
    - (b) bod partneriaid gwahanol yn ymgymryd â gwahanol agweddau ar asesiad, a gwahanol atgyfeiriadau yn dilyn asesiad.

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- (9) The provision that may be made by regulations under subsection (1)(c) includes (but is not limited to) provision—
- (a) for care and treatment plans to be reviewed and revised in specified circumstances;
  - (b) conferring a discretion upon the care coordinator as to whether a review or revision is to be carried out;
  - (c) as to any persons whom the care coordinator is to consult in connection with a review or revision;
  - (d) imposing obligations upon persons specified in the regulations in connection with a review or revision;
  - (e) as to the provision of copies of revised plans to specified persons (including in specified cases the provision of copies without the consent of the relevant patient to whom the plan relates).
- (10) So far as it is reasonably practicable to do so, a mental health service provider must ensure that mental health services for a relevant patient are provided in accordance with the patient's current care and treatment plan.
- (11) In this section "mental health services" has the same meaning as in section 17(5).

### 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) Caiff y partneriaid newid eu trefniadau (gan gynnwys trefniadau a benderfynwyd gan Weinidogion Cymru o dan adran 21 a threfniadau sydd eisoes wedi eu newid) os ydynt yn cytuno ar y newidiadau.
- (6) Os newidir trefniadau o dan is-adran (5), rhaid i'r partneriaid sicrhau bod y newidiadau'n cael eu cofnodi'n ysgrifenedig.

## 20 Dyletswydd i gynnal asesiadau

- (1) Oni fydd adran 21(1)(a) yn gymwys, rhaid i'r partneriaid iechyd meddwl lleol ar gyfer ardal awdurdod lleol gynnal asesiadau a gwneud atgyfeiriadau yn unol â'r trefniadau a—
  - (a) gytunwyd ar gyfer eu hardal o dan adran 19; neu
  - (b) benderfynwyd ar gyfer eu hardal gan Weinidogion Cymru o dan adran 21.
- (2) Os yw'r trefniadau wedi eu newid o dan adran 19(5) neu 21(2), rhaid cynnal asesiadau a gwneud atgyfeiriadau yn unol â'r trefniadau fel y'u newidiwyd.

## 21 Methiant i gytuno ar drefniadau

- (1) Os na fydd y partneriaid yn gallu cytuno ar drefniadau o dan adran 19—
  - (a) tra na bo cytundeb, rhaid i'r Bwrdd Iechyd Lleol gynnal yr asesiadau y cyfeirir atynt yn adran 19(1)(a) a gwneud yr atgyfeiriadau y cyfeirir atynt yn adran 19(1)(b);
  - (b) rhaid i'r Bwrdd Iechyd Lleol hysbysu Gweinidogion Cymru na ellir dod i gytundeb;
  - (c) caiff Gweinidogion Cymru benderfynu ar y trefniadau ac, os byddant yn gwneud hynny, rhaid iddynt eu cofnodi'n ysgrifenedig.
- (2) Os bydd un partner yn dymuno newid y trefniadau, ond nad yw'r llall yn dymuno gwneud, caiff Gweinidogion Cymru, os gwneir cais i Weinidogion Cymru gan y naill bartner neu'r llall, newid y trefniadau i'r graddau y gwél Gweinidogion Cymru yn dda.
- (3) Os bydd Gweinidogion Cymru'n newid trefniadau o dan is-adran (2), rhaid iddynt gofnodi'r newidiadau'n ysgrifenedig.

### *Hawliau asesu*

## 22 Hawl i asesiad

- (1) Mae gan oedolyn hawl i asesiad fel a ddisgrifir yn adran 25—
  - (a) os yw'r oedolyn yn gwneud cais i'r naill neu'r llall o'r partneriaid iechyd meddwl lleol ar gyfer ardal yr awdurdod lleol y mae'r oedolyn fel arfer yn preswyllo ynddi i gynnal asesiad o'r fath;
  - (b) os yw'r oedolyn wedi'i ryddhau o wasanaethau iechyd meddwl eilaidd (p'un a oedd y gwasanaethau yn gyfrifoldeb partner iechyd meddwl lleol y gwnaed y cais am asesiad iddo ai peidio);

- (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.

## **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) os gwneir y cais o fewn y cyfnod rhyddhau perthnasol (gweler adran 23); a
  - (d) os nad yw'r partner iechyd meddwl lleol y gwneir y cais iddo yn ystyried y cais yn flinderus neu'n wacsaw.
- (2) At ddibenion is-adran (1)(b), mae oedolyn wedi'i ryddhau o wasanaethau iechyd meddwl eilaidd os darparwyd gwasanaeth neu wasanaethau iechyd meddwl eilaidd i'r oedolyn ond na ddarperir iddo bellach, am ba reswm bynnag, unrhyw wasanaeth iechyd meddwl eilaidd.
- (3) Mae'r cyfeiriad at ryddhau oedolyn o wasanaeth iechyd meddwl eilaidd yn cynnwys rhyddhau a ddigwyddodd pan oedd yr oedolyn yn blentyn.

### 23 Asesiadau: y cyfnod rhyddhau perthnasol

- (1) Mae'r cyfnod rhyddhau perthnasol mewn perthynas ag oedolyn—
- (a) yn dechrau ar y dyddiad pan gafodd yr oedolyn ei ryddhau o wasanaethau iechyd meddwl eilaidd (o fewn ystyr adran 22(2)); a
  - (b) yn gorffen pan fo'r cyfnod o amser a bennir mewn rheoliadau a wneir at ddibenion yr adran hon gan Weinidogion Cymru wedi dod i ben.
- (2) Mae'r cyfnod rhyddhau perthnasol hefyd yn dod i ben, cyn i'r cyfnod o amser y cyfeirir ati yn is-adran (1)(b) ddod i ben, os bydd achlysur a bennir mewn rheoliadau a wneir gan Weinidogion Cymru yn digwydd.

### 24 Darparu gwybodaeth am asesiadau

- (1) Pan fo Bwrdd Iechyd Lleol yn rhyddhau oedolyn o wasanaethau iechyd meddwl eilaidd, rhaid i'r Bwrdd roi gwybodaeth ysgrifenedig i'r oedolyn ynghylch hawl i asesiad o dan y Rhan hon os nad yw unrhyw awdurdod lleol, ar ddyddiad rhyddhau'r oedolyn, yn darparu gwasanaeth iechyd meddwl eilaidd iddo.
- (2) Pan fo awdurdod lleol yn rhyddhau oedolyn o wasanaethau iechyd meddwl eilaidd, rhaid i'r awdurdod roi gwybodaeth ysgrifenedig i'r oedolyn ynghylch hawl i asesiad o dan y Rhan hon os nad oes unrhyw Fwrdd Iechyd Lleol, ar ddyddiad yr asesiad, yn darparu gwasanaeth iechyd meddwl eilaidd ar gyfer yr oedolyn.
- (3) Pan fo'r cyfnod rhyddhau perthnasol yn cychwyn pan fo unigolyn yn blentyn ac yn dod i ben pan fo'r unigolyn hwnnw'n dod yn oedolyn, mae'r Bwrdd neu'r awdurdod o dan yr un ddyletswydd i roi gwybodaeth i'r unigolyn hwnnw ynghylch ei hawl i asesiad ag y mae i roi'r cyfryw wybodaeth i oedolyn o dan is-adrannau (1) a (2).
- (4) At ddibenion yr adran hon, mae Bwrdd neu awdurdod yn rhyddhau unigolyn o wasanaethau iechyd meddwl eilaidd pan fydd yn gweithredu penderfyniad nad oes angen i'r Bwrdd neu'r awdurdod ddarparu mwyach unrhyw wasanaeth o'r fath ar gyfer yr unigolyn.

*Y broses asesu*

### 25 Diben asesu

Mae asesiad o dan y Rhan hon yn ddadansoddiad o iechyd meddwl oedolyn sy'n dynodi—

- (a) y gwasanaethau iechyd meddwl eilaidd (os oes rhai) a allai wella iechyd meddwl y person sy'n cael ei asesu neu atal dirywiad ynddo;

- (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.

### **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.

### **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) y gwasanaethau gofal cymunedol, nad ydynt yn wasanaethau iechyd meddwl eilaidd, (os oes rhai) a allai wella iechyd meddwl y person sy'n cael ei asesu neu atal dirywiad ynddo; ac
- (c) y gwasanaethau tai neu'r gwasanaethau llesiant (os oes rhai) a allai wella iechyd meddwl y person sy'n cael ei asesu neu atal dirywiad ynddo.

## 26 Asesiadau: darpariaeth bellach

- (1) Rhaid cynnal asesiad o dan y Rhan hon cyn gynted ag y bo'n rhesymol ymarferol ar ôl i'r cais y cyfeirir ato yn adran 22(1) gael ei wneud.
- (2) Rhaid i bartneriaid iechyd meddwl lleol sicrhau –
  - (a) bod asesiad yn arwain at un adroddiad ysgrifenedig sy'n cofnodi a yw'r asesiad wedi dynodi unrhyw wasanaethau'n unol ag adran 25; a
  - (b) bod copi o'r adroddiad hwnnw yn cael ei roi i'r oedolyn a gafodd ei asesu o fewn y cyfryw gyfnod yn dilyn cwblhau'r asesiad ag a bennir mewn rheoliadau a wneir gan Weinidogion Cymru.
- (3) Os un partner iechyd meddwl lleol sydd wedi cynnal asesiad o dan y Rhan hon, rhaid i'r partner, os yw o'r farn ei bod yn briodol iddo wneud hynny, roi copi o'r adroddiad i'r partner arall cyn gynted ag y bo'n rhesymol ymarferol iddo wneud hynny.

## 27 Camau yn dilyn asesiad

- (1) Mae is-adran (2) yn gymwys os yw asesiad o dan adran 25(a) neu (b) wedi dynodi gwasanaethau iechyd meddwl eilaidd neu wasanaethau gofal cymunedol (nad ydynt yn wasanaethau iechyd meddwl eilaidd) a allai helpu i wella iechyd meddwl oedolyn neu atal dirywiad ynddo.
- (2) Os un o'r partneriaid iechyd meddwl lleol fyddai'r awdurdod cyfrifol mewn perthynas ag unrhyw wasanaeth o'r fath, rhaid i'r partner hwnnw benderfynu p'un a oes galw am ddarparu'r gwasanaeth hwnnw ai peidio.
- (3) Yn yr adran hon ystyr "awdurdod cyfrifol" yw'r awdurdod a fyddai'n gyfrifol am ddarparu gwasanaethau pe bai penderfyniad yn cael ei wneud i'w darparu.

## 28 Atgyfeiriadau sy'n ymwneud â gwasanaethau tai neu wasanaethau llesiant

- (1) Onid yw is-adran (2) yn gymwys, pan fo asesiad iechyd meddwl eilaidd o dan adran 25(c) wedi dynodi gwasanaeth tai neu wasanaeth llesiant a allai helpu i wella iechyd meddwl oedolyn neu atal dirywiad ynddo, rhaid i'r partner ofyn i'r darparydd gwasanaeth cyfrifol ystyried a fydd yn darparu'r gwasanaeth i'r oedolyn neu, os nad yw hynny'n briodol, a fydd yn gwahodd yr oedolyn i wneud cais am y gwasanaeth.
- (2) Os y partner iechyd meddwl awdurdod lleol fyddai'r darparydd gwasanaeth cyfrifol mewn perthynas â'r gwasanaeth tai hwnnw neu'r gwasanaeth llesiant hwnnw, rhaid i'r awdurdod benderfynu a oes galw am ddarparu'r gwasanaeth neu, os nad yw hynny'n briodol, benderfynu a fydd yn gwahodd yr oedolyn i wneud cais am y gwasanaeth.
- (3) Yn is-adrannau (1) a (2), ystyr "darparydd gwasanaeth cyfrifol" yw person sy'n ymgymryd â gweithgareddau yng Nghymru a fyddai'n darparu'r gwasanaeth pe bai penderfyniad yn cael ei wneud i'w ddarparu.

- (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
- (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.

## **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.
- (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.

*Atodol***29 Penderfynu man preswyllo arferol**

- (1) At ddibenion y Rhan hon, mae unrhyw gwestiwn o ran ardal yr awdurdod lleol y mae oedolyn fel arfer yn preswyllo ynddi i'w benderfynu yn unol â darpariaeth mewn rheoliadau a wneir gan Weinidogion Cymru.
- (2) Mae'r ddarpariaeth y caniateir iddi gael ei gwneud mewn rheoliadau o dan is-adran (1) yn cynnwys darpariaeth (ond nid yw wedi ei chyfyngu iddi) –
  - (a) sy'n rhoi pŵer i benderfynu ar ardal yr awdurdod lleol y mae oedolyn fel arfer yn preswyllo ynddi;
  - (b) ar gyfer tybio bod oedolyn fel arfer yn preswyllo mewn ardal.

**30 Cymhwysiad y Rhan hon i bersonau o dan warcheidiaeth awdurdod lleol**

- (1) Mae'r adran hon yn gymwys i unigolyn –
  - (a) sydd wedi peidio â bod o dan warcheidiaeth awdurdod lleol, a
  - (b) wrth beidio â bod felly, na ddarparwyd iddo wasanaeth iechyd meddwl eilaidd.
- (2) At ddibenion y Rhan hon, mae'r unigolyn i'w drin fel un a gafodd ei ryddhau o wasanaethau iechyd meddwl eilaidd ar y dyddiad pan beidiodd yr unigolyn â bod o dan warcheidiaeth yr awdurdod lleol.

**RHAN 4****EIRIOLAETH IECHYD MEDDWL****31 Eiriolwyr iechyd meddwl annibynnol: Cymru**

Ar ôl adran 130D o Ddeddf Iechyd Meddwl 1983 mewnosoder –

**"130E Independent mental health advocates: Wales**

- (1) The Welsh Ministers shall make such arrangements as they consider reasonable to enable persons ("independent mental health advocates") to be available to help –
  - (a) Welsh qualifying compulsory patients; and
  - (b) Welsh qualifying informal patients.
- (2) The Welsh Ministers may by regulations make provision as to the appointment of persons as independent mental health advocates.
- (3) The regulations may, in particular, provide –
  - (a) that a person may act as an independent mental health advocate only in such circumstances, or only subject to such conditions, as may be specified in the regulations;

*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.

**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.

**PART 4****MENTAL HEALTH ADVOCACY****31 Independent mental health advocates: Wales**

After section 130D of the Mental Health Act 1983 insert—

**"130E Independent mental health advocates: Wales**

- (1) The Welsh Ministers shall make such arrangements as they consider reasonable to enable persons ("independent mental health advocates") to be available to help—
  - (a) Welsh qualifying compulsory patients; and
  - (b) Welsh qualifying informal patients.
- (2) The Welsh Ministers may by regulations make provision as to the appointment of persons as independent mental health advocates.
- (3) The regulations may, in particular, provide—
  - (a) that a person may act as an independent mental health advocate only in such circumstances, or only subject to such conditions, as may be specified in the regulations;



- (b) for the appointment of a person as an independent mental health advocate to be subject to approval in accordance with the regulations.
- (4) In making arrangements under this section, the Welsh Ministers shall have regard to the principle that any help available to a patient under the arrangements should, so far as practicable, be provided by a person who is independent of any person who—
  - (a) is professionally concerned with the patient's medical treatment; or
  - (b) falls within a description specified in regulations made by the Welsh Ministers.
- (5) For the purposes of subsection (4) above, a person is not to be regarded as professionally concerned with a patient's medical treatment merely because he is representing him in accordance with arrangements—
  - (a) under section 35 of the Mental Capacity Act 2005; or
  - (b) of a description specified in regulations under this section.
- (6) Arrangements under this section may include provision for payments to be made to, or in relation to, persons carrying out functions in accordance with the arrangements.
- (7) Regulations under this section and sections 130F to 130H—
  - (a) may make different provision for different cases;
  - (b) may make provision which applies subject to specified exceptions;
  - (c) may include transitional, consequential, incidental or supplemental provision."

**32 Darpariaeth bellach ynghylch eiriolaeth iechyd meddwl annibynnol ar gyfer cleifion cymwys Cymru dan orfodaeth**

Ar ôl adran 130E o Ddeddf Iechyd Meddwl 1983 mewnosoder—

**"130F Arrangements under section 130E for Welsh qualifying compulsory patients**

- (1) The help available to a Welsh qualifying compulsory patient under arrangements under section 130E shall include help in obtaining information about and understanding—
  - (a) the provisions of this Act by virtue of which he is a qualifying compulsory patient;
  - (b) any conditions or restrictions to which he is subject by virtue of this Act;
  - (c) what (if any) medical treatment is given to him or is proposed or discussed in his case;
  - (d) why it is given, proposed or discussed;
  - (e) the authority under which it is, or would be, given; and
  - (f) the requirements of this Act which apply, or would apply, in connection with the giving of the treatment to him.

- (b) for the appointment of a person as an independent mental health advocate to be subject to approval in accordance with the regulations.
- (4) In making arrangements under this section, the Welsh Ministers shall have regard to the principle that any help available to a patient under the arrangements should, so far as practicable, be provided by a person who is independent of any person who—
  - (a) is professionally concerned with the patient's medical treatment; or
  - (b) falls within a description specified in regulations made by the Welsh Ministers.
- (5) For the purposes of subsection (4) above, a person is not to be regarded as professionally concerned with a patient's medical treatment merely because he is representing him in accordance with arrangements—
  - (a) under section 35 of the Mental Capacity Act 2005; or
  - (b) of a description specified in regulations under this section.
- (6) Arrangements under this section may include provision for payments to be made to, or in relation to, persons carrying out functions in accordance with the arrangements.
- (7) Regulations under this section and sections 130F to 130H—
  - (a) may make different provision for different cases;
  - (b) may make provision which applies subject to specified exceptions;
  - (c) may include transitional, consequential, incidental or supplemental provision."

### 32 Further provision about independent mental health advocacy for Welsh qualifying compulsory patients

After section 130E of the Mental Health Act 1983 insert—

#### "130F Arrangements under section 130E for Welsh qualifying compulsory patients

- (1) The help available to a Welsh qualifying compulsory patient under arrangements under section 130E shall include help in obtaining information about and understanding—
  - (a) the provisions of this Act by virtue of which he is a qualifying compulsory patient;
  - (b) any conditions or restrictions to which he is subject by virtue of this Act;
  - (c) what (if any) medical treatment is given to him or is proposed or discussed in his case;
  - (d) why it is given, proposed or discussed;
  - (e) the authority under which it is, or would be, given; and
  - (f) the requirements of this Act which apply, or would apply, in connection with the giving of the treatment to him.

- (2) The help available under the arrangements to a Welsh qualifying compulsory patient shall also include—
- (a) help in obtaining information about and understanding any rights which may be exercised under this Act by or in relation to him;
  - (b) help (by way of representation or otherwise)—
    - (i) in exercising the rights referred to in paragraph (a);
    - (ii) for patients who wish to become involved, or more involved, in decisions made about their care or treatment, or care or treatment generally;
    - (iii) for patients who wish to complain about their care or treatment;
  - (c) the provision of information about other services which are or may be available to the patient;
  - (d) other help specified in regulations made by the Welsh Ministers."

**33 Darpariaeth bellach ynghylch eiriolaeth iechyd meddwl annibynnol ar gyfer cleifion anffurfiol cymwys Cymru**

Ar ôl adran 130F o Ddeddf Iechyd Meddwl 1983 mewnosoder —

**"130G Arrangements under section 130E for Welsh qualifying informal patients**

- (1) The help available to a Welsh qualifying informal patient under arrangements under section 130E shall include help in obtaining information about and understanding—
- (a) what (if any) medical treatment is given to him or is proposed or discussed in his case;
  - (b) why it is given, proposed or discussed;
  - (c) the authority under which it is, or would be, given.
- (2) The help available under the arrangements to a Welsh qualifying informal patient shall also include—
- (a) help (by way of representation or otherwise)—
    - (i) for patients who wish to become involved, or more involved, in decisions made about their care or treatment, or care or treatment generally;
    - (ii) for patients who wish to complain about their care or treatment;
  - (b) the provision of information about other services which are or may be available to the patient;
  - (c) other help specified in regulations made by the Welsh Ministers."

**34 Eiriolwyr iechyd meddwl annibynnol: pwerau a dyletswyddau atodol**

Ar ôl adran 130G o Ddeddf Iechyd Meddwl 1983 mewnosoder —

- (2) The help available under the arrangements to a Welsh qualifying compulsory patient shall also include—
- (a) help in obtaining information about and understanding any rights which may be exercised under this Act by or in relation to him;
  - (b) help (by way of representation or otherwise)—
    - (i) in exercising the rights referred to in paragraph (a);
    - (ii) for patients who wish to become involved, or more involved, in decisions made about their care or treatment, or care or treatment generally;
    - (iii) for patients who wish to complain about their care or treatment;
  - (c) the provision of information about other services which are or may be available to the patient;
  - (d) other help specified in regulations made by the Welsh Ministers."

**33 Further provision about independent mental health advocacy for Welsh qualifying informal patients**

After section 130F of the Mental Health Act 1983 insert—

**"130G Arrangements under section 130E for Welsh qualifying informal patients**

- (1) The help available to a Welsh qualifying informal patient under arrangements under section 130E shall include help in obtaining information about and understanding—
- (a) what (if any) medical treatment is given to him or is proposed or discussed in his case;
  - (b) why it is given, proposed or discussed;
  - (c) the authority under which it is, or would be, given.
- (2) The help available under the arrangements to a Welsh qualifying informal patient shall also include—
- (a) help (by way of representation or otherwise)—
    - (i) for patients who wish to become involved, or more involved, in decisions made about their care or treatment, or care or treatment generally;
    - (ii) for patients who wish to complain about their care or treatment;
  - (b) the provision of information about other services which are or may be available to the patient;
  - (c) other help specified in regulations made by the Welsh Ministers."

**34 Independent mental health advocates: supplementary powers and duties**

After section 130G of the Mental Health Act 1983 insert—

**"130H Independent mental health advocates for Wales: supplementary powers and duties**

- (1) For the purpose of providing help to a patient in accordance with arrangements made under section 130E, an independent mental health advocate may –
  - (a) visit and interview the patient in private;
  - (b) visit and interview –
    - (i) any person who is professionally concerned with his medical treatment;
    - (ii) any other person who falls within a description specified in regulations made by the Welsh Ministers;
  - (c) require the production of and inspect any records relating to his detention, treatment or assessment in any hospital or registered establishment or to any after-care services provided for him under section 117 above;
  - (d) require the production of and inspect any records of, or held by, a local social services authority which relate to him.
- (2) But an independent mental health advocate is not entitled to the production of, or to inspect, records in reliance on subsection (1)(c) or (d) above unless –
  - (a) in a case where the patient has capacity or is competent to consent, he does consent; or
  - (b) in any other case, the production or inspection would not conflict with a decision made by a donee or deputy or the Court of Protection and the person holding the records, having regard to such matters as may be prescribed in regulations under section 130E above, considers that –
    - (i) the records may be relevant to the help to be provided by the advocate;
    - (ii) the production or inspection is appropriate.
- (3) For the purpose of providing help to a Welsh qualifying compulsory patient in accordance with the arrangements, an independent mental health advocate shall comply with any reasonable request made to him by any of the following for him to visit and interview the patient –
  - (a) the patient;
  - (b) the person (if any) appearing to the advocate to be the patient's nearest relative;
  - (c) the responsible clinician for the purposes of this Act;
  - (d) an approved mental health professional;
  - (e) a registered social worker who is professionally concerned with the patient's care, treatment or assessment;
  - (f) where the patient is liable to be detained in a hospital or registered establishment, the managers of the hospital or establishment or a person duly authorised on their behalf;

**"130H Independent mental health advocates for Wales: supplementary powers and duties**

- (1) For the purpose of providing help to a patient in accordance with arrangements made under section 130E, an independent mental health advocate may –
  - (a) visit and interview the patient in private;
  - (b) visit and interview –
    - (i) any person who is professionally concerned with his medical treatment;
    - (ii) any other person who falls within a description specified in regulations made by the Welsh Ministers;
  - (c) require the production of and inspect any records relating to his detention, treatment or assessment in any hospital or registered establishment or to any after-care services provided for him under section 117 above;
  - (d) require the production of and inspect any records of, or held by, a local social services authority which relate to him.
- (2) But an independent mental health advocate is not entitled to the production of, or to inspect, records in reliance on subsection (1)(c) or (d) above unless –
  - (a) in a case where the patient has capacity or is competent to consent, he does consent; or
  - (b) in any other case, the production or inspection would not conflict with a decision made by a donee or deputy or the Court of Protection and the person holding the records, having regard to such matters as may be prescribed in regulations under section 130E above, considers that –
    - (i) the records may be relevant to the help to be provided by the advocate;
    - (ii) the production or inspection is appropriate.
- (3) For the purpose of providing help to a Welsh qualifying compulsory patient in accordance with the arrangements, an independent mental health advocate shall comply with any reasonable request made to him by any of the following for him to visit and interview the patient –
  - (a) the patient;
  - (b) the person (if any) appearing to the advocate to be the patient's nearest relative;
  - (c) the responsible clinician for the purposes of this Act;
  - (d) an approved mental health professional;
  - (e) a registered social worker who is professionally concerned with the patient's care, treatment or assessment;
  - (f) where the patient is liable to be detained in a hospital or registered establishment, the managers of the hospital or establishment or a person duly authorised on their behalf;

- (g) the patient's donee or deputy.
- (4) For the purpose of providing help to a Welsh qualifying informal patient in accordance with the arrangements, an independent mental health advocate shall comply with any reasonable request made to him by any of the following for him to visit and interview the patient –
- (a) the patient;
  - (b) the managers of the hospital or establishment in which the patient is an in-patient or a person duly authorised on their behalf;
  - (c) any person appearing to the advocate to whom the request is made to be the patient's carer;
  - (d) the patient's donee or deputy;
  - (e) a registered social worker who is professionally concerned with the patient's care, treatment or assessment.
- (5) But nothing in this Act prevents the patient from declining to be provided with help under the arrangements.
- (6) In subsection (2) above the reference to a patient who has capacity is to be read in accordance with the Mental Capacity Act 2005.
- (7) In subsection (4) above –
- (a) "carer", in relation to a Welsh qualifying informal patient, means an individual who provides or intends to provide a substantial amount of care on a regular basis for the patient, but does not include any individual who provides, or intends to provide care by virtue of a contract of employment or other contract with any person or as a volunteer for a body (whether or not incorporated);
  - (b) "registered social worker" means a person included in the principal part or the visiting European part of a register maintained under section 56(1) of the Care Standards Act 2000.
- (8) In subsections (2) to (4) above –
- (a) the reference to a donee is to a donee of a lasting power of attorney (within the meaning of section 9 of the Mental Capacity Act 2005) created by the patient, where the donee, in making the decision referred to in subsection (2) or the request referred to in subsection (3) or (4), is acting within the scope of his authority and in accordance with that Act;
  - (b) the reference to a deputy is to a deputy appointed for the patient by the Court of Protection under section 16 of that Act, where the deputy, in making the decision referred to in subsection (2) or the request referred to in subsection (3) or (4), is acting within the scope of his authority and in accordance with that Act."

### 35 Cleifion cymwys Cymru dan orfodaeth

Ar ôl adran 130H o Ddeddf Iechyd Meddwl 1983 mewnosoder –

#### "130I Welsh qualifying compulsory patients

- (1) This section applies for the purposes of section 130E above.

- (g) the patient's donee or deputy.
- (4) For the purpose of providing help to a Welsh qualifying informal patient in accordance with the arrangements, an independent mental health advocate shall comply with any reasonable request made to him by any of the following for him to visit and interview the patient –
- (a) the patient;
  - (b) the managers of the hospital or establishment in which the patient is an in-patient or a person duly authorised on their behalf;
  - (c) any person appearing to the advocate to whom the request is made to be the patient's carer;
  - (d) the patient's donee or deputy;
  - (e) a registered social worker who is professionally concerned with the patient's care, treatment or assessment.
- (5) But nothing in this Act prevents the patient from declining to be provided with help under the arrangements.
- (6) In subsection (2) above the reference to a patient who has capacity is to be read in accordance with the Mental Capacity Act 2005.
- (7) In subsection (4) above –
- (a) "carer", in relation to a Welsh qualifying informal patient, means an individual who provides or intends to provide a substantial amount of care on a regular basis for the patient, but does not include any individual who provides, or intends to provide care by virtue of a contract of employment or other contract with any person or as a volunteer for a body (whether or not incorporated);
  - (b) "registered social worker" means a person included in the principal part or the visiting European part of a register maintained under section 56(1) of the Care Standards Act 2000.
- (8) In subsections (2) to (4) above –
- (a) the reference to a donee is to a donee of a lasting power of attorney (within the meaning of section 9 of the Mental Capacity Act 2005) created by the patient, where the donee, in making the decision referred to in subsection (2) or the request referred to in subsection (3) or (4), is acting within the scope of his authority and in accordance with that Act;
  - (b) the reference to a deputy is to a deputy appointed for the patient by the Court of Protection under section 16 of that Act, where the deputy, in making the decision referred to in subsection (2) or the request referred to in subsection (3) or (4), is acting within the scope of his authority and in accordance with that Act."

### 35 Welsh qualifying compulsory patients

After section 130H of the Mental Health Act 1983 insert –

#### "130I Welsh qualifying compulsory patients

- (1) This section applies for the purposes of section 130E above.



- (2) A patient is a Welsh qualifying compulsory patient if he is –
- (a) liable to be detained under this Act (other than under section 135 or 136 below) and the hospital or registered establishment in which he is liable to be detained is situated in Wales;
  - (b) subject to guardianship under this Act and the area of the responsible local social services authority within the meaning of section 34(3) above is situated in Wales; or
  - (c) a community patient and the responsible hospital is situated in Wales.
- (3) A patient is also a Welsh qualifying compulsory patient if the patient is to be regarded as being in Wales for the purposes of this subsection and –
- (a) not being a qualifying patient falling within subsection (2) above, he discusses with a registered medical practitioner or approved clinician the possibility of being given a form of treatment to which section 57 above applies; or
  - (b) not having attained the age of 18 years and not being a qualifying patient falling within subsection (2) above, he discusses with a registered medical practitioner or approved clinician the possibility of being given a form of treatment to which section 58A above applies.
- (4) For the purposes of subsection (3), a patient is to be regarded as being in Wales if that has been determined in accordance with arrangements made for the purposes of that subsection and section 130C(3), and published, by the Secretary of State and the Welsh Ministers.
- (5) Where a patient who is a Welsh qualifying compulsory patient falling within subsection (3) above is informed that the treatment concerned is proposed in his case, he remains a qualifying patient falling within that subsection until –
- (a) the proposal is withdrawn; or
  - (b) the treatment is completed or discontinued."

### 36 Cleifion anffurfiol cymwys Cymru

Ar ôl adran 130I o Ddeddf Iechyd Meddwl 1983 mewnosoder –

#### "130J Welsh qualifying informal patients

- (1) This section applies for the purposes of section 130E above.
- (2) A patient is a Welsh qualifying informal patient if –
  - (a) the patient is an in-patient at a hospital or registered establishment situated in Wales;
  - (b) the patient is receiving treatment for, or assessment in relation to, mental disorder at the hospital or registered establishment; and
  - (c) no application, order, direction or report renders the patient liable to be detained under this Act."

- (2) A patient is a Welsh qualifying compulsory patient if he is –
- (a) liable to be detained under this Act (other than under section 135 or 136 below) and the hospital or registered establishment in which he is liable to be detained is situated in Wales;
  - (b) subject to guardianship under this Act and the area of the responsible local social services authority within the meaning of section 34(3) above is situated in Wales; or
  - (c) a community patient and the responsible hospital is situated in Wales.
- (3) A patient is also a Welsh qualifying compulsory patient if the patient is to be regarded as being in Wales for the purposes of this subsection and –
- (a) not being a qualifying patient falling within subsection (2) above, he discusses with a registered medical practitioner or approved clinician the possibility of being given a form of treatment to which section 57 above applies; or
  - (b) not having attained the age of 18 years and not being a qualifying patient falling within subsection (2) above, he discusses with a registered medical practitioner or approved clinician the possibility of being given a form of treatment to which section 58A above applies.
- (4) For the purposes of subsection (3), a patient is to be regarded as being in Wales if that has been determined in accordance with arrangements made for the purposes of that subsection and section 130C(3), and published, by the Secretary of State and the Welsh Ministers.
- (5) Where a patient who is a Welsh qualifying compulsory patient falling within subsection (3) above is informed that the treatment concerned is proposed in his case, he remains a qualifying patient falling within that subsection until –
- (a) the proposal is withdrawn; or
  - (b) the treatment is completed or discontinued."

### 36 Welsh qualifying informal patients

After section 130I of the Mental Health Act 1983 insert –

#### "130J Welsh qualifying informal patients

- (1) This section applies for the purposes of section 130E above.
- (2) A patient is a Welsh qualifying informal patient if –
  - (a) the patient is an in-patient at a hospital or registered establishment situated in Wales;
  - (b) the patient is receiving treatment for, or assessment in relation to, mental disorder at the hospital or registered establishment; and
  - (c) no application, order, direction or report renders the patient liable to be detained under this Act."

**37 Dyletswydd i roi gwybodaeth am eiriolwyr iechyd meddwl annibynnol i gleifion cymwys Cymru dan orfodaeth**

Ar ôl adran 130J o Ddeddf Iechyd Meddwl 1983 mewnosoder –

**"130K Duty to give information about independent mental health advocates to Welsh qualifying compulsory patients**

- (1) The responsible person in relation to a Welsh qualifying compulsory patient (within the meaning given by section 130I above) shall take such steps as are practicable to ensure that the patient understands –
  - (a) that help is available to him from an independent mental health advocate; and
  - (b) how he can obtain that help.
- (2) In subsection (1) above, the "responsible person" means –
  - (a) in relation to a Welsh qualifying compulsory patient falling within section 130I(2)(a) above (other than one also falling within paragraph (b) below), the managers of the hospital or registered establishment in which he is liable to be detained; or
  - (b) in relation to a Welsh qualifying compulsory patient falling within section 130I(2)(a) above and conditionally discharged by virtue of section 42(2), 73 or 74 above, the responsible clinician;
  - (c) in relation to a Welsh qualifying compulsory patient falling within section 130I(2)(b) above, the responsible local social services authority within the meaning of section 34(3) above;
  - (d) in relation to a Welsh qualifying compulsory patient falling within section 130I(2)(c) above, the managers of the responsible hospital;
  - (e) in relation to a Welsh qualifying compulsory patient falling within section 130I(3) above, the registered medical practitioner or approved clinician with whom the patient first discusses the possibility of being given the treatment concerned.
- (3) The steps to be taken under subsection (1) above shall be taken –
  - (a) where the responsible person falls within subsection (2)(a) above, as soon as practicable after the patient becomes liable to be detained;
  - (b) where the responsible person falls within subsection (2)(b) above, as soon as practicable after the conditional discharge;
  - (c) where the responsible person falls within subsection (2)(c) above, as soon as practicable after the patient becomes subject to guardianship;
  - (d) where the responsible person falls within subsection (2)(d) above, as soon as practicable after the patient becomes a community patient;
  - (e) where the responsible person falls within subsection (2)(e) above, while the discussion with the patient is taking place or as soon as practicable thereafter.
- (4) The steps to be taken under subsection (1) above shall include giving the requisite information both orally and in writing.

**37 Duty to give information about independent mental health advocates to Welsh qualifying compulsory patients**

After section 130J of the Mental Health Act 1983 insert—

**"130K Duty to give information about independent mental health advocates to Welsh qualifying compulsory patients**

- (1) The responsible person in relation to a Welsh qualifying compulsory patient (within the meaning given by section 130I above) shall take such steps as are practicable to ensure that the patient understands—
  - (a) that help is available to him from an independent mental health advocate; and
  - (b) how he can obtain that help.
- (2) In subsection (1) above, the "responsible person" means—
  - (a) in relation to a Welsh qualifying compulsory patient falling within section 130I(2)(a) above (other than one also falling within paragraph (b) below), the managers of the hospital or registered establishment in which he is liable to be detained; or
  - (b) in relation to a Welsh qualifying compulsory patient falling within section 130I(2)(a) above and conditionally discharged by virtue of section 42(2), 73 or 74 above, the responsible clinician;
  - (c) in relation to a Welsh qualifying compulsory patient falling within section 130I(2)(b) above, the responsible local social services authority within the meaning of section 34(3) above;
  - (d) in relation to a Welsh qualifying compulsory patient falling within section 130I(2)(c) above, the managers of the responsible hospital;
  - (e) in relation to a Welsh qualifying compulsory patient falling within section 130I(3) above, the registered medical practitioner or approved clinician with whom the patient first discusses the possibility of being given the treatment concerned.
- (3) The steps to be taken under subsection (1) above shall be taken—
  - (a) where the responsible person falls within subsection (2)(a) above, as soon as practicable after the patient becomes liable to be detained;
  - (b) where the responsible person falls within subsection (2)(b) above, as soon as practicable after the conditional discharge;
  - (c) where the responsible person falls within subsection (2)(c) above, as soon as practicable after the patient becomes subject to guardianship;
  - (d) where the responsible person falls within subsection (2)(d) above, as soon as practicable after the patient becomes a community patient;
  - (e) where the responsible person falls within subsection (2)(e) above, while the discussion with the patient is taking place or as soon as practicable thereafter.
- (4) The steps to be taken under subsection (1) above shall include giving the requisite information both orally and in writing.

- (5) The responsible person in relation to a Welsh qualifying compulsory patient falling within section 130I(2) above (other than a patient liable to be detained by virtue of Part 3 of this Act) shall, except where the patient otherwise requests, take such steps as are practicable to furnish any person falling within subsection (6) with a copy of any information given to the patient in writing under subsection (1) above.
- (6) A person falls within this subsection if –
  - (a) the person appears to the responsible person to be the patient's nearest relative;
  - (b) the person is a donee of a lasting power of attorney (within the meaning of section 9 of the Mental Capacity Act 2005) created by the patient and the scope of the donee's authority includes matters related to the care and treatment of the patient;
  - (c) the person is a deputy appointed for the patient by the Court of Protection under section 16 of that Act and the scope of the deputy's authority includes matters related to the care and treatment of the patient.
- (7) The steps to be taken under subsection (5) above shall be taken when the information concerned is given to the patient or within a reasonable time thereafter."

**38 Dyletswydd i roi gwybodaeth am eiriolwyr iechyd meddwl annibynnol i gleifion anffurfiol cymwys Cymru**

Ar ôl adran 130K o Ddeddf Iechyd Meddwl 1983 mewnosoder –

**"130L Duty to give information about independent mental health advocates to Welsh qualifying informal patients**

- (1) The responsible person in relation to a Welsh qualifying informal patient (within the meaning given by section 130J above) shall take such steps as are practicable to ensure that the patient understands –
  - (a) that help is available to him from an independent mental health advocate; and
  - (b) how he can obtain that help.
- (2) In subsection (1) above, the "responsible person" means the managers of the hospital or registered establishment to which the patient is admitted as an in-patient.
- (3) The steps to be taken under subsection (1) above shall be taken as soon as practicable after the patient becomes an in-patient.
- (4) The steps to be taken under subsection (1) above shall include giving the requisite information both orally and in writing.
- (5) The responsible person in relation to a Welsh qualifying informal patient shall, except where the patient otherwise requests, take such steps as are practicable to furnish any person falling within subsection (6) with a copy of any information given to the patient in writing under subsection (1) above.
- (6) A person falls within this subsection if –

- (5) The responsible person in relation to a Welsh qualifying compulsory patient falling within section 130I(2) above (other than a patient liable to be detained by virtue of Part 3 of this Act) shall, except where the patient otherwise requests, take such steps as are practicable to furnish any person falling within subsection (6) with a copy of any information given to the patient in writing under subsection (1) above.
- (6) A person falls within this subsection if—
  - (a) the person appears to the responsible person to be the patient's nearest relative;
  - (b) the person is a donee of a lasting power of attorney (within the meaning of section 9 of the Mental Capacity Act 2005) created by the patient and the scope of the donee's authority includes matters related to the care and treatment of the patient;
  - (c) the person is a deputy appointed for the patient by the Court of Protection under section 16 of that Act and the scope of the deputy's authority includes matters related to the care and treatment of the patient.
- (7) The steps to be taken under subsection (5) above shall be taken when the information concerned is given to the patient or within a reasonable time thereafter."

**38 Duty to give information about independent mental health advocates to Welsh qualifying informal patients**

After section 130K of the Mental Health Act 1983 insert—

**"130L Duty to give information about independent mental health advocates to Welsh qualifying informal patients**

- (1) The responsible person in relation to a Welsh qualifying informal patient (within the meaning given by section 130J above) shall take such steps as are practicable to ensure that the patient understands—
  - (a) that help is available to him from an independent mental health advocate; and
  - (b) how he can obtain that help.
- (2) In subsection (1) above, the "responsible person" means the managers of the hospital or registered establishment to which the patient is admitted as an in-patient.
- (3) The steps to be taken under subsection (1) above shall be taken as soon as practicable after the patient becomes an in-patient.
- (4) The steps to be taken under subsection (1) above shall include giving the requisite information both orally and in writing.
- (5) The responsible person in relation to a Welsh qualifying informal patient shall, except where the patient otherwise requests, take such steps as are practicable to furnish any person falling within subsection (6) with a copy of any information given to the patient in writing under subsection (1) above.
- (6) A person falls within this subsection if—

- (a) the person appears to the responsible person to be a carer of the patient;
  - (b) the person is a donee of a lasting power of attorney (within the meaning of section 9 of the Mental Capacity Act 2005) created by the patient and the scope of the donee's authority includes matters related to the care and treatment of the patient;
  - (c) the person is a deputy appointed for the patient by the Court of Protection under section 16 of that Act and the scope of the deputy's authority includes matters related to the care and treatment of the patient.
- (7) In subsection (6), "carer", in relation to a Welsh qualifying informal patient, means an individual who provides or intends to provide a substantial amount of care on a regular basis for the patient, but does not include any individual who provides, or intends to provide care by virtue of a contract of employment or other contract with any person or as a volunteer for a body (whether or not incorporated);
- (8) The steps to be taken under subsection (5) above shall be taken when the information concerned is given to the patient or within a reasonable time thereafter."

**39 Cymhwyso cod ymarfer Deddf Iechyd Meddwl 1983 i eiriolwyr iechyd meddwl annibynnol Cymru**

- (1) Diwygir adran 118 o Ddeddf Iechyd Meddwl 1983 fel a ganlyn.
- (2) Ar ôl is-adran (1) mewnosoder –
  - "(1A) The Code which must be prepared, and from time to time revised, in relation to Wales shall also be for the guidance of independent mental health advocates appointed under arrangements made under section 130E below".
- (3) Yn is-adran (2D), ar ôl "subsection (1)(a) or (b)" mewnosoder "and subsection (1A)".

**40 Gweithdrefnau ar gyfer gwneud rheoliadau o dan Ddeddf Iechyd Meddwl 1983**

- (1) Diwygir Adran 143 o Ddeddf Iechyd Meddwl 1983 fel a ganlyn.
- (2) Yn is-adran (3A), yn lle "(3D)" rhodder "(3DB)".
- (3) Ar ôl is-adran (3D) mewnosoder –
  - "(3DA) Subsection (3C) does not apply to regulations to which subsection (3DB) applies
  - (3DB) A statutory instrument which contains (alone or with other provisions) the first regulations to be made under any of the following provisions –
    - (a) section 130E(2),
    - (b) section 130E(4)(b),
    - (c) section 130E(5)(b),
    - (d) section 130F(2)(d),
    - (e) section 130G(2)(c), or

- (a) the person appears to the responsible person to be a carer of the patient;
  - (b) the person is a donee of a lasting power of attorney (within the meaning of section 9 of the Mental Capacity Act 2005) created by the patient and the scope of the donee's authority includes matters related to the care and treatment of the patient;
  - (c) the person is a deputy appointed for the patient by the Court of Protection under section 16 of that Act and the scope of the deputy's authority includes matters related to the care and treatment of the patient.
- (7) In subsection (6), "carer", in relation to a Welsh qualifying informal patient, means an individual who provides or intends to provide a substantial amount of care on a regular basis for the patient, but does not include any individual who provides, or intends to provide care by virtue of a contract of employment or other contract with any person or as a volunteer for a body (whether or not incorporated);
- (8) The steps to be taken under subsection (5) above shall be taken when the information concerned is given to the patient or within a reasonable time thereafter."

**39 Application of the Mental Health Act 1983 code of practice to Welsh independent mental health advocates**

- (1) Section 118 of the Mental Health Act 1983 is amended as follows.
- (2) After subsection (1) insert—
  - "(1A) The Code which must be prepared, and from time to time revised, in relation to Wales shall also be for the guidance of independent mental health advocates appointed under arrangements made under section 130E below".
- (3) In subsection (2D), after "subsection (1)(a) or (b)" insert "and subsection (1A)".

**40 Procedures for making regulations under the Mental Health Act 1983**

- (1) Section 143 of the Mental Health Act 1983 is amended as follows.
- (2) In subsection (3A), for "(3D)" substitute "(3DB)".
- (3) After subsection (3D) insert—
  - "(3DA) Subsection (3C) does not apply to regulations to which subsection (3DB) applies.
  - (3DB) A statutory instrument which contains (alone or with other provisions) the first regulations to be made under any of the following provisions—
    - (a) section 130E(2),
    - (b) section 130E(4)(b),
    - (c) section 130E(5)(b),
    - (d) section 130F(2)(d),
    - (e) section 130G(2)(c), or



(f) section 130H(1)(b)(ii),

must not be made unless a draft of the instrument containing the regulations has been laid before, and approved by resolution of, the National Assembly for Wales."

## RHAN 5

### CYFFREDINOL

#### 41 Cydweithio a gweithio ar y cyd rhwng Byrddau Iechyd Lleol ac awdurdodau lleol

- (1) Caiff y partneriaid iechyd meddwl lleol at ddibenion eu swyddogaethau o dan Rannau 1 a 3 o'r Mesur hwn—
  - (a) darparu staff, nwyddau, gwasanaethau, adeiladau neu adnoddau eraill i'w gilydd;
  - (b) sefydlu a chynnal cronfa gyfun.
- (2) Caiff Byrddau Iechyd Lleol ac awdurdodau lleol at ddibenion eu swyddogaethau o dan Ran 2 o'r Mesur hwn—
  - (a) roi staff, nwyddau, gwasanaethau, adeiladau neu adnoddau eraill i'w gilydd;
  - (b) sefydlu a chadw cronfa gyfun.
- (3) At ddibenion is-adrannau (1) a (2) cronfa gyfun yw cronfa—
  - (a) sy'n cael ei ffurfio o gyfraniadau gan bersonau a grybwyllir yn is-adrannau (1) a (2); a
  - (b) y caniateir gwneud taliadau allan ohoni tuag at wariant a dynnir wrth gyflawni swyddogaethau o dan Rannau 1 i 3.
- (4) Caiff partneriaid iechyd meddwl lleol, os gwelant yn dda, arfer unrhyw un neu ragor o'u swyddogaethau o dan Rannau 1 a 3 ar y cyd.

#### 42 Rhannu gwybodaeth

- (1) Caiff partner iechyd meddwl lleol (partner 1) roi i bartner arall (partner 2)—
  - (a) gwybodaeth a gafodd partner 1 wrth gyflawni ei swyddogaethau o dan Ran 1 neu 3 o'r Mesur hwn; a
  - (b) gwybodaeth sy'n ymwneud ag unigolyn y darperir neu y gellid bod yn darparu gwasanaethau cymorth iechyd meddwl sylfaenol lleol iddo gan bartner 2 neu oedolyn y mae partner 2 yn arfer swyddogaethau o dan Ran 3 o'r Mesur hwn mewn perthynas ag ef.
- (2) Caiff awdurdodau lleol, Byrddau Iechyd Lleol a Gweinidogion Cymru roi i'w gilydd wybodaeth—
  - (a) y mae unrhyw un neu ragor ohonynt wedi ei chael wrth gyflawni eu swyddogaethau o dan Ran 2 o'r Mesur hwn; a
  - (b) sy'n ymwneud â chlaf perthnasol at ddibenion y Rhan honno.
- (3) Nid oes dim yn is-adran (1) neu (2) sy'n awdurdodi datgelu unrhyw wybodaeth yn groes i unrhyw ddarpariaeth, neu a wneir o dan unrhyw ddarpariaeth, yn y Mesur hwn neu yn unrhyw Fesur arall neu yn unrhyw Ddeddf Seneddol neu Ddeddf gan Gynulliad Cenedlaethol Cymru (pryd bynnag y cawsant eu pasio neu eu gwneud) sy'n atal datgelu'r wybodaeth.

(f) section 130H(1)(b)(ii),

must not be made unless a draft of the instrument containing the regulations has been laid before, and approved by resolution of, the National Assembly for Wales."

## PART 5

### GENERAL

#### **41 Cooperative and joint working between Local Health Boards and local authorities**

- (1) Local mental health partners may for the purposes of their functions under Parts 1 and 3 of this Measure—
  - (a) provide staff, goods, services, accommodation or other resources to each other;
  - (b) establish and maintain a pooled fund.
- (2) Local Health Boards and local authorities may for the purposes of their functions under Part 2 of this Measure—
  - (a) provide staff, goods, services, accommodation or other resources to each other;
  - (b) establish and maintain a pooled fund.
- (3) For the purposes of subsections (1) and (2) a pooled fund is a fund—
  - (a) which is made up of contributions by persons mentioned in subsections (1) and (2); and
  - (b) out of which payments may be made towards expenditure incurred in the discharge of functions under Parts 1 to 3.
- (4) The local mental health partners may, if they think fit, exercise any of their functions under Parts 1 and 3 jointly.

#### **42 Information sharing**

- (1) A local mental health partner (partner 1) may supply to the other partner (partner 2) information—
  - (a) which partner 1 has obtained in the discharge of its functions under Part 1 or 3 of this Measure; and
  - (b) which relates to an individual for whom local primary mental health support services are being, or might be, provided by partner 2 or an adult in respect of whom partner 2 is exercising functions under Part 3 of this Measure.
- (2) Local authorities, Local Health Boards and the Welsh Ministers may supply to each other information—
  - (a) which any of them have obtained in the discharge of their functions under Part 2 of this Measure; and
  - (b) which relates to a relevant patient for the purposes of that Part.
- (3) Nothing in subsection (1) or (2) authorises the disclosure of any information in contravention of any provision of, or made under, this or any other Measure or any Act of Parliament or Act of the National Assembly for Wales (whenever passed or made) which prevents disclosure of the information.

- (4) Nid yw'r adran hon yn rhagfarnu unrhyw bŵer arall sydd gan awdurdod lleol, Bwrdd Iechyd Lleol neu Weinidogion Cymru i roi gwybodaeth.

#### 43 Diwygio Deddf Gwasanaethau Cymdeithasol Awdurdodau Lleol 1970

- (1) Diwygir Deddf Gwasanaethau Cymdeithasol Awdurdodau Lleol 1970 fel a ddisgrifir yn is-adran (2).
- (2) Ar ddiwedd y tabl yn Atodlen 1 i'r Ddeddf mewnosoder –

"Mental Health (Wales) Measure 2010  Parts 1 to 3	Local primary mental health support services, coordination of and care planning for secondary mental health service users, assessments of former users of secondary mental health services."
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#### 44 Codau ymarfer

- (1) Caiff Gweinidogion Cymru baratoi, ac o bryd i'w gilydd adolygu, un neu ragor o godau ymarfer at y dibenion canlynol –
- er mwyn rhoi canllawiau i awdurdodau lleol, Byrddau Iechyd Lleol, cydgysylltwyr gofal neu unrhyw bersonau eraill mewn perthynas â'u swyddogaethau o dan y Mesur hwn;
  - er mwyn rhoi canllawiau i unrhyw bersonau mewn cysylltiad â gweithrediad darpariaethau'r Mesur hwn.
- (2) Rhaid i Weinidogion Cymru drefnu bod unrhyw god o'r fath, neu unrhyw god o'r fath sydd wedi ei adolygu, yn cael ei gyhoeddi.
- (3) Wrth gyflawni eu swyddogaethau o dan y Mesur hwn, rhaid i'r personau y cyfeirir atynt yn is-adran (1)(a) roi sylw i unrhyw god ymarfer a gyhoeddir o dan yr adran hon.
- (4) Cyn paratoi neu adolygu unrhyw god o'r fath, rhaid i Weinidogion Cymru ymgynghori ag unrhyw bersonau y mae Gweinidogion Cymru'n ystyried ei bod yn briodol ymgynghori â hwy.
- (5) Rhaid i Weinidogion Cymru osod copïau o unrhyw god o'r fath neu unrhyw god o'r fath sydd wedi ei adolygu gerbron Cynulliad Cenedlaethol Cymru; ac os bydd Cynulliad Cenedlaethol Cymru yn pasio penderfyniad yn ei gwneud yn ofynnol i'r cod gael ei dynnu'n ôl, rhaid i Weinidogion Cymru dynnu'r cod yn ôl.
- (6) Ni chaiff Cynulliad Cenedlaethol Cymru basio penderfyniad ynghylch cod neu god wedi ei adolygu o dan is-adran (5) ar ôl i gyfnod o 40 o ddiwrnodau yn dechrau ar y diwrnod y gosodwyd copi o'r cod gerbron y Cynulliad ddod i ben.
- (7) At ddibenion is-adran (6), ni chymerir i ystyriaeth unrhyw amser pryd y bydd Cynulliad Cenedlaethol Cymru wedi'i ddiddymu neu wedi cymryd saib am fwy na phedwar diwrnod.
- (8) Caiff Gweinidogion Cymru ddirymu unrhyw god ymarfer drwy gyfarwyddyd.
- (9) Rhaid i unrhyw gyfarwyddyd o dan is-adran (8) gael ei osod gerbron Cynulliad Cenedlaethol Cymru.

- (4) This section is without prejudice to any other power of a local authority, Local Health Board or the Welsh Ministers to supply information.

#### 43 Amendment of the Local Authority Social Services Act 1970

- (1) The Local Authority Social Services Act 1970 is amended as described in subsection (2).
- (2) At the end of the table in Schedule 1 to the Act insert—

"Mental Health (Wales) Measure 2010  Parts 1 to 3	Local primary mental health support services, coordination of and care planning for secondary mental health service users, assessments of former users of secondary mental health services."
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#### 44 Codes of practice

- (1) The Welsh Ministers may prepare, and from time to time revise, one or more codes of practice for the following purposes—
- for the guidance of local authorities, Local Health Boards, care coordinators or any other persons in relation to their functions under this Measure;
  - for the guidance of any persons in connection with the operation of the provisions of this Measure.
- (2) The Welsh Ministers must arrange for any such code or revised code to be published.
- (3) In performing their functions under this Measure, the persons mentioned in subsection (1)(a) must have regard to any code of practice published under this section.
- (4) Before preparing or revising any such code, the Welsh Ministers must consult any persons they consider appropriate.
- (5) The Welsh Ministers must lay copies of any such code or revised code before the National Assembly for Wales; and if the National Assembly for Wales passes a resolution requiring the code to be withdrawn, the Welsh Ministers must withdraw the code.
- (6) No resolution may be passed by the National Assembly for Wales under subsection (5) in respect of a code or revised code after the expiration of the period of 40 days beginning with the day on which a copy of the code was laid before the Assembly.
- (7) For the purposes of subsection (6) no account is to be taken of any time during which the National Assembly for Wales is dissolved or is in recess for more than four days.
- (8) The Welsh Ministers may revoke any code of practice by direction.
- (9) Any direction under subsection (8) must be laid before the National Assembly for Wales.

**45 Rhan 1: y pŵer i sicrhau darpariaeth ranbarthol**

- (1) Caiff Gweinidogion Cymru drwy reoliadau wneud darpariaeth ar gyfer y canlynol ac mewn cysylltiad â hwy –
  - (a) datgymhwyso Rhan 1 (cyhyd ag y bo'r rheoliadau mewn grym) mewn perthynas â dwy neu ragor o ardaloedd awdurdodau lleol; a
  - (b) yn lle cymhwyso'r Rhan honno ac, i'r graddau y bo hynny'n angenrheidiol y Rhan hon a Rhan 6, mewn perthynas ag ardaloedd cyfun yr awdurdodau y cyfeirir atynt ym mharagraff (a) (cyfeirir at yr ardal gyfun honno yn yr adran hon fel "rhanbarth").
- (2) Rhaid i'r ddarpariaeth a wneir gan reoliadau o dan is-adran (1) gynnwys darpariaeth yn pennu o leiaf un Bwrdd Iechyd Lleol ac un awdurdod lleol yn bartneriaid iechyd meddwl ar gyfer y rhanbarth (ac nid oes ots os nad yw unrhyw ran o'r ardal y cyfansoddwyd y cyfryw Fwrdd neu awdurdod ar ei chyfer yn dod o fewn y rhanbarth).
- (3) Mae'r ddarpariaeth y caniateir ei gwneud drwy reoliadau o dan is-adran (1) yn cynnwys (ond heb fod yn gyfyngedig i hynny) darpariaeth –
  - (a) sy'n pennu mwy nag un Bwrdd neu awdurdod o'r fath ymhlith y partneriaid iechyd meddwl ar gyfer y rhanbarth;
  - (b) sy'n gwneud yr addasiadau hynny i Ran 1 yr ymddengys i Weinidogion Cymru eu bod yn angenrheidiol neu'n hwylus.

**46 Rhan 3: y pŵer i sicrhau darpariaeth ranbarthol**

- (1) Caiff Gweinidogion Cymru drwy reoliadau wneud darpariaeth ar gyfer y canlynol ac mewn cysylltiad â hwy –
  - (a) datgymhwyso Rhan 3 (cyhyd ag y bo'r rheoliadau mewn grym) mewn perthynas â dwy neu ragor o ardaloedd awdurdodau lleol; a
  - (b) yn lle cymhwyso'r Rhan honno ac, i'r graddau y bo hynny'n angenrheidiol y Rhan hon a Rhan 6, mewn perthynas ag ardaloedd cyfun yr awdurdodau y cyfeirir atynt ym mharagraff (a) (cyfeirir at yr ardal gyfun honno yn yr adran hon fel "rhanbarth").
- (2) Rhaid i'r ddarpariaeth a wneir gan reoliadau o dan is-adran (1) gynnwys darpariaeth yn pennu o leiaf un Bwrdd Iechyd Lleol ac un awdurdod lleol yn bartneriaid iechyd meddwl ar gyfer y rhanbarth (ac nid oes ots os nad yw unrhyw ran o'r ardal y cyfansoddwyd y cyfryw Fwrdd neu awdurdod ar ei chyfer yn dod o fewn y rhanbarth).
- (3) Mae'r ddarpariaeth y caniateir ei gwneud drwy reoliadau o dan is-adran (1) yn cynnwys (ond heb fod yn gyfyngedig i hynny) darpariaeth –
  - (a) sy'n pennu mwy nag un Bwrdd neu awdurdod o'r fath ymhlith y partneriaid iechyd meddwl ar gyfer y rhanbarth;
  - (b) sy'n gwneud yr addasiadau hynny i Ran 1 yr ymddengys i Weinidogion Cymru eu bod yn angenrheidiol neu'n hwylus.

**45 Part 1: power to secure regional provision**

- (1) The Welsh Ministers may by regulations make provision for and in connection with—
  - (a) disapplying (for so long as the regulations are in force) Part 1 in relation to two or more local authority areas; and
  - (b) instead applying that Part and, so far as necessary this Part and Part 6, in relation to the combined areas of the authorities referred to in paragraph (a) (that combined area being referred to in this section as a "region").
- (2) The provision made by regulations under subsection (1) must include provision specifying at least one Local Health Board and one local authority as the mental health partners for the region (and it does not matter if no part of the area for which such a Board or authority is constituted falls within the region).
- (3) The provision that may be made by regulations under subsection (1) includes (but is not limited to) provision—
  - (a) specifying more than one such Board or authority amongst the mental health partners for the region;
  - (b) making such modifications of Part 1 as appear to the Welsh Ministers to be necessary or expedient.

**46 Part 3: power to secure regional provision**

- (1) The Welsh Ministers may by regulations make provision for and in connection with—
  - (a) disapplying (for so long as the regulations are in force) Part 3 in relation to two or more local authority areas; and
  - (b) instead applying that Part and, so far as necessary this Part and Part 6, in relation to the combined areas of the authorities referred to in paragraph (a) (that combined area being referred to in this section as a "region").
- (2) The provision made by regulations under subsection (1) must include provision specifying at least one Local Health Board and one local authority as the mental health partners for the region (and it does not matter if no part of the area for which such a Board or authority is constituted falls within the region).
- (3) The provision that may be made by regulations under subsection (1) includes (but is not limited to) provision—
  - (a) specifying more than one such Board or authority amongst the mental health partners for the region;
  - (b) making such modifications of Part 1 as appear to the Welsh Ministers to be necessary or expedient.

**47 Rheoliadau o ran yr unigolion y caniateir iddynt gynnal asesiadau iechyd meddwl sylfaenol a gweithredu fel cydgysylltwyr gofal**

- (1) Caiff Gweinidogion Cymru drwy reoliadau ddarparu ynghylch cymhwysra unigolion—
  - (a) i arfer swyddogaethau partner iechyd meddwl lleol er mwyn cynnal asesiadau iechyd meddwl sylfaenol o dan adran 9;
  - (b) i gael eu penodi'n gydgysylltwyr gofal o dan adran 14.
- (2) Caiff y rheoliadau ddarparu ynghylch y materion canlynol o ran person—
  - (a) cymwysterau;
  - (b) sgiliau;
  - (c) hyfforddiant; neu
  - (d) profiad.
- (3) Caiff y rheoliadau wneud darpariaeth wahanol mewn perthynas â chymhwysra unigolion i gynnal y cyfnod dadansoddi o ran asesiad iechyd meddwl sylfaenol o'i chymharu â'r ddarpariaeth a wneir o ran cymhwysra unigolion i gael eu penodi'n gydgysylltwyr gofal.

**48 Dyletswydd i adolygu'r Mesur**

- (1) Rhaid i Weinidogion Cymru adolygu gweithrediad y Mesur hwn at ddibenion cyhoeddi adroddiad neu adroddiadau yn unol ag is-adrannau (3) i (6).
- (2) Cyn ymgymryd ag adolygiad o weithrediad unrhyw ran neu ddarpariaeth o'r Mesur, rhaid i Weinidogion Cymru eu bodloni eu hunain bod amser digonol wedi mynd heibio i'r rhan honno neu'r ddarpariaeth honno fod ar waith; ond mae hyn yn ddarostyngedig i is-adrannau (3) i (6).
- (3) Rhaid cyhoeddi adroddiad ar adolygiad o weithrediad Rhan 1 o fewn pedair blynedd ar ôl cychwyn yr holl ddyletswyddau a geir yn y darpariaethau canlynol: adrannau 2(1), 3(1), 4(1), 6(2), 7(2), 8(2), 9(2) a 10(1) i (3).
- (4) Rhaid cyhoeddi adroddiad ar adolygiad o weithrediad Rhan 2 o fewn pedair blynedd ar ôl cychwyn yr holl ddyletswyddau a geir yn y darpariaethau canlynol: adrannau 13(1), 16(1) ac 17(1) a (10).
- (5) Rhaid cyhoeddi adroddiad ar adolygiad o weithrediad Rhan 3 o fewn pedair blynedd ar ôl cychwyn yr holl ddyletswyddau a geir yn y darpariaethau canlynol: adrannau 18(1) a (3), 19, 23(1) a (2), 25, 26(2) a 27(1) a (2).
- (6) Rhaid cyhoeddi adroddiad ar adolygiad o weithrediad Rhan 4 o fewn pedair blynedd ar ôl cychwyn yr holl ddyletswyddau a geir yn adran 130E(1) o Ddeddf Iechyd Meddwl 1983, fel y'i mewnosodwyd gan adran 31 o'r Mesur hwn.
- (7) Caniateir cyhoeddi unrhyw ddau adroddiad neu ragor yn yr un ddogfen.
- (8) At ddibenion yr adran hon, ystyr "cychwyn" yw cychwyn ar gyfer unrhyw achos, dosbarth o achos, ardal neu ddiben.
- (9) Rhaid i Weinidogion Cymru osod copi o unrhyw adroddiad y mae'n ofynnol ei gyhoeddi o dan is-adrannau (3) i (6) gerbron Cynulliad Cenedlaethol Cymru.

**47 Regulations as to the individuals who may carry out primary mental health assessments and act as care coordinators**

- (1) The Welsh Ministers may by regulations make provision about the eligibility of individuals to—
  - (a) exercise the function of a local mental health partner to carry out primary mental health assessments under section 9;
  - (b) be appointed as a care coordinator under section 14.
- (2) The regulations may make provision relating to a person's—
  - (a) qualifications;
  - (b) skills;
  - (c) training; or
  - (d) experience.
- (3) The regulations may make different provision in relation to the eligibility of individuals to carry out a primary mental health assessment compared to that which is made in relation to the eligibility of individuals to be appointed as care coordinators.

**48 Duty to review the Measure**

- (1) The Welsh Ministers must review the operation of this Measure for the purposes of publishing a report or reports in accordance with subsections (3) to (6).
- (2) Before undertaking a review of the operation of any part or provision of the Measure, the Welsh Ministers must satisfy themselves that there has been sufficient time for that part or provision to have been in operation; but this is subject to subsections (3) to (6).
- (3) A report on a review of the operation of Part 1 must be published within four years of the commencement of all the duties contained in the following provisions: sections 2(1), 3(1), 4(1), 6(2), 7(2), 8(2), 9(2) and 10(1) to (3).
- (4) A report on a review of the operation of Part 2 must be published within four years of the commencement of all the duties contained in the following provisions: sections 13(1), 16(1) and 17(1) and (10).
- (5) A report on a review of the operation of Part 3 must be published within four years of the commencement of all the duties contained in the following provisions: sections 18(1) and (3), 19, 23(1) and (2), 25, 26(2) and 27(1) and (2).
- (6) A report on a review of the operation of Part 4 must be published within four years of the commencement of all the duties contained in section 130E(1) of the Mental Health Act 1983, as inserted by section 31 of this Measure.
- (7) Any two or more reports may be published in the same document.
- (8) For the purposes of this section, "commencement" means commencement for any case, class of case, area or purpose.
- (9) The Welsh Ministers must lay a copy of any report required to be published under subsections (3) to (6) before the National Assembly for Wales.



**RHAN 6****AMRYWIOL AC ATODOL****49 Ystyr gwasanaethau iechyd meddwl eilaidd**

- (1) Yn ddarostyngedig i ddarpariaethau canlynol yr adran hon, at ddibenion y Mesur hwn, gwasanaeth iechyd meddwl eilaidd yw –
  - (a) gwasanaeth ar ffurf triniaeth i anhwylder meddwl unigolyn a ddarperir o dan Ran 1 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006;
  - (b) gwasanaeth a ddarperir o dan adran 117 o Ddeddf Iechyd Meddwl 1983;
  - (c) gwasanaeth gofal cymunedol ei brif ddiben yw diwallu angen sy'n ymwneud ag iechyd meddwl oedolyn;
  - (d) gwasanaeth a ddarperir i blentyn o dan Ran III o Ddeddf Plant 1989 a'i brif ddiben yw bodloni angen sy'n ymwneud ag iechyd meddwl y plentyn hwnnw.
- (2) At ddibenion is-adran (1), nid yw gwasanaeth i'w ystyried fel un a ddarperir o dan Ran 1 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 os darperir ef –
  - (a) o dan adran 41 o'r Ddeddf honno;
  - (b) o dan gontract gwasanaethau meddygol cyffredinol yr ymrwymwyd ynddo gan Fwrdd Iechyd Lleol o dan adran 42 o'r Ddeddf honno;
  - (c) o dan drefniadau ar gyfer darparu gwasanaethau meddygol sylfaenol yr ymrwymwyd ynddynt gan Fwrdd Iechyd Lleol o dan adran 50 o'r Ddeddf honno;
  - (d) o dan Atodlen 1 i'r Ddeddf honno.
- (3) Mae gwasanaeth ar ffurf triniaeth ar gyfer anhwylder meddwl unigolyn yn cynnwys gwasanaeth sydd, ym marn y person sy'n darparu neu sy'n gwneud trefniadau ar gyfer darparu'r gwasanaeth, yn wasanaeth y bwriedir iddo drin yr anhwylder meddwl yr amheuir ei fod gan yr unigolyn sy'n cael y gwasanaeth.
- (4) Caiff Gweinidogion Cymru, drwy orchymyn –
  - (a) pennu gwasanaethau eraill sydd i'w hystyried yn wasanaethau iechyd meddwl eilaidd at ddibenion unrhyw un neu ragor o ddarpariaethau'r Mesur hwn;
  - (b) darparu bod gwasanaethau a fyddai fel arall yn cael eu hystyried yn wasanaethau iechyd meddwl eilaidd i beidio a chael eu hystyried felly at ddibenion unrhyw un neu ragor o ddarpariaethau'r Mesur hwn.

**50 Ystyr gwasanaethau tai a gwasanaethau llesiant**

- (1) At ddibenion y Mesur hwn, ystyr "gwasanaethau tai neu wasanaethau llesiant" yw –
  - (a) dyroddi llety gan awdurdod tai lleol o dan Ran 6 o Ddeddf Tai 1996 (dyroddi tai'n llety) neu sicrhau llety gan y cyfryw awdurdod o dan Ran 7 o'r Ddeddf honno (digartrefedd);
  - (b) unrhyw wasanaethau yn ymwneud â llesiant (gan gynnwys tai) a bennir mewn rheoliadau a wneir gan Weinidogion Cymru (p'un a ddarperir hwy gan neu o dan drefniadau a wneir gydag awdurdod cyhoeddus);

**PART 6**

## MISCELLANEOUS AND SUPPLEMENTAL

**49 Meaning of secondary mental health services**

- (1) Subject to the following provisions of this section, for the purposes of this Measure, a secondary mental health service is –
  - (a) a service in the form of treatment for an individual's mental disorder which is provided under Part 1 of the National Health Service (Wales) Act 2006;
  - (b) a service provided under section 117 of the Mental Health Act 1983;
  - (c) a community care service the main purpose of which is to meet a need related to an adult's mental health;
  - (d) a service provided for a child under Part III of the Children Act 1989 the main purpose of which is to meet a need related to that child's mental health.
- (2) For the purposes of subsection (1), a service is not to be taken as provided under Part 1 of the National Health Service (Wales) Act 2006 if it is provided under –
  - (a) section 41 of that Act;
  - (b) a general medical services contract entered into by a Local Health Board under section 42 of that Act;
  - (c) arrangements for the provision of primary medical services entered into by a Local Health Board under section 50 of that Act;
  - (d) Schedule 1 to that Act.
- (3) A service in the form of treatment for an individual's mental disorder includes a service that, in the opinion of the person providing or making arrangements for the provision of the service, is intended to treat a mental disorder that the individual receiving the service is suspected to have.
- (4) The Welsh Ministers may, by order –
  - (a) specify other services that are to be regarded as secondary mental health services for the purpose of any provision of this Measure;
  - (b) provide that services that would otherwise be regarded as secondary mental health services for the purpose of any provision of this Measure are not to be so regarded.

**50 Meaning of housing or well-being services**

- (1) For the purposes of this Measure, "housing or well-being services" means –
  - (a) the allocation of accommodation by a local housing authority under Part 6 of the Housing Act 1996 (allocation of housing accommodation) or the securing of accommodation by such an authority under Part 7 of that Act (homelessness);
  - (b) any services related to well-being (including housing) which are specified in regulations made by the Welsh Ministers (whether or not provided by or under arrangements made with a public authority);

- (c) darparu gwybodaeth neu gyngor ynghylch unrhyw wasanaeth sy'n dod o fewn paragraff (a) neu (b) uchod (p'un ai wedi ei ddarparu gan neu o dan drefniadau a wneir gydag awdurdod cyhoeddus).
- (2) Mae'r cyfeiriadau i wasanaethau yn is-adran (1)(b) yn cynnwys taliadau, grantiau a benthyciadau.

## 51 Dehongli'n gyffredinol

- (1) Yn y Mesur hwn –

ystyr "ardal awdurdod lleol" ("*local authority area*") yw prif ardal yng Nghymru o fewn ystyr adran 20 o Ddeddf Llywodraeth Leol 1972;

"asesiad iechyd meddwl sylfaenol" ("*primary mental health assessment*") yw asesiad o dan adran 9;

ystyr "awdurdod lleol" ("*local authority*") yw cyngor sir neu gyngor bwrdeistref sirol;

ystyr "Bwrdd Iechyd Lleol" ("*Local Health Board*") yw Bwrdd a sefydlir o dan adran 11 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006;

ystyr "claf cofrestredig" ("*registered patient*") –

- (a) mewn perthynas â contractiwr o dan contract gwasanaethau meddygol cyffredinol yr ymrwymwyd ynddo o dan adran 42 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006, yw unigolyn –
- (i) y mae'r contractiwr wedi ei dderbyn yn glaf o dan reoliadau a wneir o dan adran 47(3)(a) o'r Ddeddf honno, a
- (ii) nad yw'r contractiwr wedi terfynu cyfrifoldeb mewn cysylltiad ag ef o dan reoliadau a wneir o dan adran 47(3)(c) o'r Ddeddf honno;
- (b) mewn perthynas â pherson y mae trefniadau wedi eu gwneud gydag ef o dan adran 50 o'r Ddeddf honno, yw unigolyn –
- (i) y mae'r person wedi ei dderbyn yn glaf o dan reoliadau a wneir o dan adran 52(8)(a) o'r Ddeddf honno, a
- (ii) nad yw'r contractiwr wedi terfynu cyfrifoldeb mewn cysylltiad ag ef o dan reoliadau a wneir o dan adran 52(8)(c) o'r Ddeddf honno;
- (c) mewn perthynas ag ymarferydd meddygol cofrestredig a gyflogir gan Fwrdd Iechyd Lleol at ddibenion adran 41 o'r Ddeddf honno, yw unigolyn sy'n dod o fewn categori a bennir mewn rheoliadau a wneir gan Weinidogion Cymru;

ystyr "darparydd gofal sylfaenol" ("*primary care provider*") yw contractiwr o dan contract gwasanaethau meddygol cyffredinol yr ymrwymwyd ynddo o dan adran 42 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006, person y mae trefniadau wedi eu gwneud gydag ef o dan adran 50 o'r Ddeddf honno ymarferydd meddygol cofrestredig a gyflogir gan Fwrdd Iechyd Lleol at ddibenion adran 41 o'r Ddeddf honno, ac ymarferydd meddygol cofrestredig sy'n darparu gwasanaethau i garcharorion o dan drefniadau a wnaed rhwng yr ymarferydd meddygol cofrestredig a pherson sy'n gyfrifol am ddarparu neu redeg carchar wedi ei gontractio allan (o fewn ystyr adran 84(4) o Ddeddf Cyfiawnder Troseddol 1991) yng Nghymru;

- (c) the provision of information or advice about any service falling within paragraph (a) or (b) above (whether or not provided by or under arrangements made with a public authority).
- (2) The reference to services in subsection (1)(b) includes payments, grants and loans.

## 51 General interpretation

- (1) In this Measure –

"adult" (*"oedolyn"*) means a person aged 18 or above;

"child" (*"plentyn"*) means a person who has not attained the age of 18;

"community care services" (*"gwasanaethau gofal cymunedol"*) has the same meaning as in section 46 of the National Health Service and Community Care Act 1990;

"functions" (*"swyddogaethau"*) includes powers and duties;

"housing or well-being services" (*"gwasanaethau tai neu wasanaethau llesiant"*) must be construed in accordance with section 50;

"local authority" (*"awdurdod lleol"*) means a county council or a county borough council;

"local authority area" (*"ardal awdurdod lleol"*) means a principal area in Wales within the meaning of section 20 of the Local Government Act 1972;

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

"local mental health partners" (*"partneriaid iechyd meddwl lleol"*), and related expressions, must be construed in accordance with section 1;

"local primary mental health treatment" (*"triniaeth iechyd meddwl sylfaenol leol"*), in relation to a local authority area, means the treatment referred to in the scheme for the area agreed under section 2 or determined by the Welsh Ministers under section 4(1)(c) or, where there is no scheme, the treatment which a Local Health Board has decided to make available for the area under section 4(1)(a);

"primary care provider" (*"darparnydd gofal sylfaenol"*) means 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, a registered medical practitioner employed by a Local Health Board for the purposes of section 41 of that Act, and 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;

"primary mental health assessment" (*"asesiad iechyd meddwl sylfaenol"*) is an assessment under section 9;

"registered patient" (*"claf cofrestredig"*) means –

- (a) in relation to a contractor under a general medical services contract entered into under section 42 of the National Health Service (Wales) Act 2006, an individual –

mae i "gwasanaethau gofal cymunedol" yr ystyr a roddir i "*community care services*" yn adran 46 o Deddf y Gwasanaeth Iechyd Gwladol a Gofal Cymunedol 1990;

mae i "gwasanaethau iechyd meddwl eilaidd" ("*secondary mental health services*") yr ystyr a roddir gan adran 49;

rhaid dehongli "gwasanaethau tai neu wasanaethau llesiant" ("*housing or well-being*") yn unol ag adran 50;

ystyr "oedolyn" ("*adult*") yw person 18 oed neu hŷn;

rhaid dehongli "partneriaid iechyd meddwl lleol" ("*local mental health partners*"), ac ymadroddion cysylltiedig, yn unol ag adran 1;

ystyr "plentyn" ("*child*") yw person nad yw wedi cyrraedd 18 mlwydd oed;

mae "swyddogaethau" ("*functions*") yn cynnwys pwerau a dyletswyddau;

ystyr "triniaeth" ("*treatment*") yw triniaeth ar gyfer anhwylder meddwl o fewn ystyr maes 9 o Ran 1 o Atodlen 5 i Ddeddf Llywodraeth Cymru 2006;

ystyr "triniaeth iechyd meddwl sylfaenol leol" ("*local primary mental health treatment*"), mewn perthynas ag ardal awdurdod lleol, yw'r driniaeth y cyfeirir ati yn y cynllun ar gyfer yr ardal y cytunwyd arno o dan adran 2 neu a benderfynwyd gan Weinidogion Cymru o dan adran 4(1)(c) neu, os nad oes cynllun, y driniaeth y mae Bwrdd Iechyd Lleol wedi penderfynu sicrhau ei bod ar gael ar gyfer yr ardal o dan adran 4(1)(a).

- (2) At ddibenion y Mesur hwn, mae unigolyn dan warcheidiaeth awdurdod lleol yng Nghymru os oes gan awdurdod lleol, mewn perthynas â'r unigolyn, y pwerau sydd yn adran 8(1) o Ddeddf Iechyd Meddwl 1983.
- (3) Yn y Mesur hwn mae unrhyw gyfeiriad (sut bynnag y'i mynegir) at wasanaeth a ddarperir gan berson yn cynnwys cyfeiriad at wasanaeth a ddarperir o dan drefniadau a wnaed gan y person.
- (4) Hyd nes y daw adran 8(1) o Ddeddf Plant a Phobl Ifanc 2008 i rym, mae pob cyfeiriad at adran 22C(12) o Ddeddf Plant 1989 i'w ddarllen fel cyfeiriad at adran 23(3) o Ddeddf Plant 1989.
- (5) Mae cyfeiriadau yn y Mesur hwn at gydgyssylltydd gofal i'w dehongli fel cyfeiriadau at gydgyssylltydd gofal sy'n gweithredu ar ran y darparwydd gwasanaeth iechyd meddwl a oedd yn gyfrifol am benodi'r unigolyn fel cydgysylltydd gofal o dan adran 14(1) neu (3), oni bai bod y cyd-destun yn mynnu fel arall.

## 52 Gorchymynion a rheoliadau

- (1) Mae unrhyw bŵer sydd gan Weinidogion Cymru i wneud gorchymyn neu reoliadau o dan y Mesur hwn yn arferadwy drwy offeryn statudol.
- (2) Mae unrhyw bŵer sydd gan Weinidogion Cymru i wneud gorchymyn neu reoliadau o dan y Mesur hwn yn cynnwys pŵer –
  - (a) i wneud darpariaeth wahanol ar gyfer achosion neu ddsbarthau o achosion gwahanol, ardaloedd gwahanol neu at ddibenion gwahanol;
  - (b) i wneud darpariaeth yn gyffredinol neu'n ddarostyngedig i esemptiadau neu eithriadau penodol neu'n unig mewn perthynas ag achosion neu ddsbarthau penodol o achos;

- (i) whom the contractor has accepted as a patient under regulations made under section 47(3)(a) of that Act, and
- (ii) in respect of whom the contractor has not terminated responsibility under regulations made under section 47(3)(c) of that Act;
- (b) in relation to a person with whom arrangements have been made under section 50 of that Act, an individual—
  - (i) whom the person has accepted as a patient under regulations made under section 52(8)(a) of that Act, and
  - (ii) in respect of whom the person has not terminated responsibility under regulations made under section 52(8)(c) of that Act;
- (c) in relation to a registered medical practitioner employed by a Local Health Board for the purposes of section 41 of that Act, an individual falling within a category specified in regulations made by the Welsh Ministers;

"secondary mental health services" ("*gwasanaethau iechyd meddwl eilaidd*") has the meaning given by section 49;

"treatment" ("*triniaeth*") means treatment for mental disorder within the meaning of field 9 of Part 1 of Schedule 5 to the Government of Wales Act 2006.

- (2) For the purposes of this Measure, an individual is under the guardianship of a local authority in Wales if a local authority has, in respect of the individual, the powers in section 8(1) of the Mental Health Act 1983.
- (3) In this Measure any reference (however expressed) to a service being provided by a person includes a reference to a service being provided under arrangements made by the person.
- (4) Until the coming into force of section 8(1) of the Children and Young Persons Act 2008, all references to section 22C(12) of the Children Act 1989 are to be read as references to section 23(3) of the Children Act 1989.
- (5) References in this Measure to a care coordinator are to be construed as references to a care coordinator acting on behalf of the mental health service provider who had responsibility for appointing the individual as care coordinator under section 14(1) or (3), unless the context otherwise requires.

## 52 Orders and regulations

- (1) Any power of the Welsh Ministers to make an order or regulations under this Measure is exercisable by statutory instrument.
- (2) Any power of the Welsh Ministers to make an order or regulations under this Measure includes power—
  - (a) to make different provision for different cases or classes of case, different areas or different purposes;
  - (b) to make provision generally or subject to specified exemptions or exceptions or only in relation to specific cases or classes of case;

- (c) i wneud y cyfryw ddarpariaeth gysylltiedig, atodol, darfodol, canlyniadol, trosiannol neu arbed ag y gwêl Gweinidogion Cymru'n dda ei gwneud.
- (3) Mae unrhyw offeryn statudol sy'n cynnwys rheoliadau a wneir o dan y Mesur hwn neu orchymyn o dan adran 53(3)(b) yn ddarostyngedig i'w ddirymu yn unol â phenderfyniad gan Gynulliad Cenedlaethol Cymru.
- (4) Nid yw is-adran (3) yn gymwys i reoliadau a gorchymynion y mae is-adrannau (5) a (6) yn gymwys iddynt.
- (5) Rhaid peidio â gwneud offeryn statudol sy'n cynnwys (yn unigol neu ynghyd a darpariaeth arall) –
- (a) gorchymyn o dan adran 49(4) neu adran 53(3)(a); neu
- (b) rheoliadau o dan adran 7(6)(a), 23(1)(b), 23(2), 45 neu 46,
- onid oes drafft o'r offeryn wedi ei osod gerbron Cynulliad Cenedlaethol Cymru, a'i gymeradwyo ganddo drwy benderfyniad.
- (6) Rhaid peidio a gwneud offeryn statudol sy'n cynnwys (yn unigol neu ynghyd â darpariaethau eraill) y rheoliadau cyntaf i gael eu gwneud o dan adran 18(1)(c) neu 18(8) onid oes drafft o'r offeryn wedi ei osod gerbron Cynulliad Cenedlaethol Cymru, a'i gymeradwyo ganddo drwy benderfyniad.

### 53 Diwygiadau canlyniadol etc

- (1) Mae gan Atodlen 1 effaith i wneud mân ddiwygiadau a diwygiadau canlyniadol mewn cysylltiad â Rhan 4.
- (2) Caiff Gweinidogion Cymru drwy orchymyn wneud y darpariaethau hynny sy'n briodol ym marn Gweinidogion Cymru at ddibenion cyffredinol y Mesur hwn, neu at unrhyw ddibenion neilltuol yn y Mesur hwn, neu o ganlyniad i unrhyw ddarpariaeth a wneir gan y Mesur hwn neu gan reoliadau o dan adrannau 45 a 46 neu er mwyn rhoi llawn effaith i'r darpariaethau hynny.
- (3) Mae'r ddarpariaeth y caniateir ei gwneud mewn gorchymyn o dan is-adran (2) yn cynnwys darpariaeth i ddiwygio, diddymu, dirymu neu addasu cymhwyso unrhyw ddarpariaeth mewn –
- (a) unrhyw Deddf Seneddol neu unrhyw un o Ddeddfau neu Fesurau Cynulliad Cenedlaethol Cymru (gan gynnwys y Mesur hwn); a
- (b) is-ddeddfwriaeth.
- (4) Yn yr adran hon mae i'r term "is-ddeddfwriaeth" yr ystyr sydd i "subordinate legislation" yn Neddf Dehongli 1978.

### 54 Diddymiadau

Mae gan Atodlen 2 effaith i wneud diddymiadau mewn cysylltiad â Rhan 4.

### 55 Cychwyn

- (1) Mae'r darpariaethau yn is-adran (2) yn dod i rym ar ddiwedd cyfnod o ddau fis sy'n dechrau ar y diwrnod y cymeradwyir y Mesur hwn gan Ei Mawrhydi yn y Cyfrin Gyngor.
- (2) Dyma'r darpariaethau –

- (c) to make such incidental, supplemental, consequential, transitory, transitional or saving provision as the Welsh Ministers think fit.
- (3) Any statutory instrument containing regulations made under this Measure or an order under section 53(3)(b) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (4) Subsection (3) does not apply to regulations and orders to which subsections (5) and (6) apply.
- (5) A statutory instrument containing (alone or with other provisions)—
  - (a) an order under section 49(4) or section 53(3)(a), or
  - (b) regulations under section 7(6)(a), 23(1)(b), 23(2), 45 or 46,
 must not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.
- (6) A statutory instrument containing (alone or with other provisions) the first regulations to be made under section 18(1)(c) or 18(8) must not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.

### **53 Consequential etc amendments**

- (1) Schedule 1 has effect to make minor and consequential amendments in connection with Part 4.
- (2) The Welsh Ministers may by order make such provision as the Welsh Ministers consider appropriate for the general purposes, or any particular purposes, of this Measure, or in consequence of, or for giving full effect to, any provision made by this Measure or regulations under sections 45 and 46.
- (3) The provision that may be made in an order under subsection (2) includes provision to amend, repeal, revoke or modify the application of any provision of—
  - (a) any Act of Parliament or Act or Measure of the National Assembly for Wales (including this Measure); and
  - (b) subordinate legislation.
- (4) In this section "subordinate legislation" has the same meaning as in the Interpretation Act 1978.

### **54 Repeals**

Schedule 2 has effect to make repeals in connection with Part 4.

### **55 Commencement**

- (1) The provisions in subsection (2) come into force at the end of the period of two months beginning on the day on which this Measure is approved by Her Majesty in Council.
- (2) The provisions are—



- (a) y rhai sydd wedi eu cynnwys yn y Rhan hon (ac eithrio yn adrannau 53(1) a 54); a
  - (b) unrhyw ddarpariaeth sy'n rhoi pŵer i wneud rheoliadau neu orchymyn, i'r graddau y mae'r ddarpariaeth yn rhoi'r cyfryw bŵer.
- (3) Daw gweddill darpariaethau'r Mesur hwn i rym yn unol â darpariaeth a wneir gan Weinidogion Cymru drwy orchymyn.

**56 Enw byr**

Enw'r Mesur hwn yw Mesur Iechyd Meddwl (Cymru) 2010.

- (a) those contained in this Part (other than in sections 53(1) and 54); and
  - (b) any provision conferring power to make regulations or an order, to the extent that the provision confers such power.
- (3) The remaining provisions of this Measure come into force in accordance with provision made by the Welsh Ministers by order.

**56 Short title**

This Measure may be cited as the Mental Health (Wales) Measure 2010.

ATODLEN 1  
(a gyflwynwyd gan adran 53(1))

DIWYGIADAU CANLYNIADOL I DDEDDF IECHYD MEDDWL 1983

- 1 Diwygier Deddf Iechyd Meddwl 1983 fel a ganlyn.
- 2 Ar ddiwedd teitl adran 130A mewnosoder ": England".
- 3 Yn adran 130A(1), (2) a (4) yn lle "appropriate national authority" mewnosoder "Secretary of State".
- 4 Yn lle adran 130C(2) rhodder –
  - "(2) A patient is a qualifying patient if he is –
    - (a) liable to be detained under this Act (otherwise than by virtue of section 4 or 5(2) or (4) above or section 135 or 136 below) and the hospital or registered establishment in which he is liable to be detained is situated in England;
    - (b) subject to guardianship under this Act and the area of the responsible local social services authority within the meaning of section 34(3) above is situated in England;
    - (c) a community patient and the responsible hospital is situated in England."
- 5 Yn adran 130C(3) ar ôl "qualifying patient if" mewnosoder "the patient is to be regarded as being in England for the purposes of this subsection and".
- 6 Ar ôl adran 130C(3) mewnosoder –
  - "(3A) For the purposes of subsection (3), a patient is to be regarded as being in England if that has been determined in accordance with arrangements made for the purposes of that subsection and section 130I(4), and published, by the Secretary of State and the Welsh Ministers."
- 7 Hepgorer adran 130C(5) a (6).
- 8 Yn adran 134(3A)(b)(i) ar ôl "130A" mewnosoder "or section 130E".

SCHEDULE 1  
(introduced by section 53(1))

CONSEQUENTIAL AMENDMENTS TO THE MENTAL HEALTH ACT 1983

- 1 Amend the Mental Health Act 1983 as follows.
- 2 At the end of the title of section 130A insert ": England".
- 3 In section 130A(1), (2) and (4) for "appropriate national authority" substitute "Secretary of State".
- 4 For section 130C(2) substitute—
  - "(2) A patient is a qualifying patient if he is—
    - (a) liable to be detained under this Act (otherwise than by virtue of section 4 or 5(2) or (4) above or section 135 or 136 below) and the hospital or registered establishment in which he is liable to be detained is situated in England;
    - (b) subject to guardianship under this Act and the area of the responsible local social services authority within the meaning of section 34(3) above is situated in England;
    - (c) a community patient and the responsible hospital is situated in England."
- 5 In section 130C(3) after "qualifying patient if" insert "the patient is to be regarded as being in England for the purposes of this subsection and".
- 6 After section 130C(3) insert—
  - "(3A) For the purposes of subsection (3), a patient is to be regarded as being in England if that has been determined in accordance with arrangements made for the purposes of that subsection and section 130I(4), and published, by the Secretary of State and the Welsh Ministers."
- 7 Omit section 130C(5) and (6).
- 8 In section 134(3A)(b)(i) after "130A" insert "or section 130E".

ATODLEN 2  
(a gyflwynwyd gan adran 54)

DIDDYMIADAU

<i>Teitl byr a phennod</i>	<i>Graddau'r diddymiad</i>
Deddf Iechyd Meddwl 1983 (p. 20)	Yn adran 130C, is-adrannau (5) a (6).

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SCHEDULE 2  
*(introduced by section 54)*

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Mental Health Act 1983 (c. 20)	In section 130C, subsections (5) and (6).

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