### Document Information

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<th>Document title</th>
<th>Implementing the Mental Health Act 2007</th>
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<tr>
<td>Document purpose</td>
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<tr>
<td>Action required</td>
<td>To prepare for implementation of the Mental Health Act 2007</td>
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<td>Author</td>
<td>Welsh Assembly Government</td>
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<td>September 2007</td>
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<tr>
<td>Target audience</td>
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<td>Superseded documents</td>
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1. Foreword

The Mental Health Act 1983 (MHA83) is concerned with the reception, care and treatment of mentally disordered people. The legislation is now being amended by the Mental Health Act 2007 (MHA07) to reflect modern patterns of care and treatment for severe mental illness.

The MHA07 will also amend the Mental Capacity Act 2005 (MCA05) and the Domestic Violence, Crime and Victims Act 2004 (DVCVA04):
- The amendments to the MCA05 will provide a procedure for the authorisation of the deprivation of liberty of persons resident in hospital or care home, who lack capacity (for the decision to reside there), and who are not subject to the mental health legislation safeguards. These are known as the Deprivation of Liberty Safeguards (DoLS);
- The amendments to the DVCVA04 will extend victim's rights to information about the discharge of mentally disordered offenders.

This implementation plan supersedes earlier guidance published by the Welsh Assembly Government in November 2006. Like that earlier document, this guidance has been prepared by the Mental Health Act Implementation Project team within the Welsh Assembly Government, in consultation with members of the Implementation Reference Group and the National Leadership & Innovations Agency for Healthcare (NLIAH).

It is intended to provide guidance for a programme of actions that should be carried out by statutory, independent and voluntary organisations in Wales to ensure the smooth implementation of the changes set out in the amended legislation. The suggested actions in section 7 for agencies are not intended to be exhaustive, and do not replace the legal responsibilities organisations have to ensure that they perform the statutory functions under the amended legislation correctly.

Local Authorities, NHS Trusts and Local Health Boards are being notified regarding the allocation of monies arising from these amendments for pre-commencement costs in 2007/2008. The same bodies will be notified in advance of the commencement of the legislation of any revenue allocations in respect of the amendments.

Further information

For further information on the Welsh Assembly Government’s implementation project, contact Claire Fife, Mental Health Act Implementation Project Manager on 029 2082 6988 (email: Claire.Fife@wales.gsi.gov.uk)

For further information on Welsh Assembly Government mental health policy, contact Peter Lawler, Head of Mental Health Branch, on 029 2082 5303 (email: Peter.Lawler@wales.gsi.gov.uk)
2. Introduction to the Implementation Plan

2.1 About the implementation plan

This implementation plan has been developed by the Welsh Assembly Government in consultation with the NHS, Local Authorities and other organisations affected by the Mental Health Act 2007.

It is intended to provide guidance for a programme of actions that should be carried out by statutory, independent and voluntary organisations in Wales to ensure the smooth implementation of the changes set out in the amended legislation.

2.2 Who should use the implementation plan

This implementation plan has been developed for use at a local level by the Regional Offices, Local Health Boards, Trusts, Local Authorities, criminal justice system, and independent hospitals and voluntary organisations in Wales. It is intended to be of value to everyone involved in implementing the amended legislation.

The primary audience will be the Implementation Leads within those organisations. The plan recognises that in mental health a number of patients are placed within private and voluntary sector provider organisations.

User groups, carer networks, managers, clinicians and human resources staff may also find this plan useful to support them in understanding the nature of the changes required by law.

2.3 Other supporting documentation

Organisations will also find the following documents of assistance in preparing for implementation of the new legislation:

- Mental Health Act 2007\(^1\)
- Explanatory Notes\(^2\)
- Race Equality Impact Assessment and the Regulatory Impact Assessment\(^3\)

2.4 Scope and content of the implementation plan

The implementation plan covers the key aspects of the amendments to the MHA83, MCA05, and the DVCVA04. The aim of the plan is to:

- offer a broad overview of the changes to be implemented;
- set out the timescales associated with implementation;
- provide a suggested framework for detailed action plans to be followed and further developed within individual statutory organisations, in order to achieve timely and consistent application of the amended legislative framework;

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\(^1\) Available on the Office of Public Service Information website (www.opsi.gov.uk)
\(^2\) Also available on the OPSI website
\(^3\) Both documents available via the Department of Health website (www.dh.gov.uk)
It is important to make the connections between this implementation plan and wider service developments across and within mental health services:

- Improving the mental health and well being of the people of Wales and delivering improved mental health services continues to be a key health and social care priority of the Welsh Assembly Government. ‘Raising the Standard’ the revised National Service Framework (NSF) and Action Plan sets out the clear policy and strategic framework to achieve this.

- The focus of the Welsh Assembly Government is on developing a mental health service that is determined by the needs of those using the service, and one that treats patients and carers with dignity and respect. A key part of this is ensuring that Care Programme Approach is fully implemented and adopted.

- In keeping with the Welsh Assembly Government Race Equality Scheme for health and social care mental health services are to support people from all ethnic groups to live healthy and independent lives and work to eliminate unlawful discrimination and promote good relations in NHS and social care settings. The Race Equality Action Plan for Adult Mental Health Services in Wales (October 2006) sets out the specific actions that will be taken to further promote race equality in order to meet the general duty as contained in the Race Relations (Amendment) Act 2000.

- ‘Designed to Work’ is the Assembly’s strategy for ensuring that the right staff with the right skills doing the right jobs are in place in an efficiently planned and managed service.

3. Welsh strategic context

3.1 The general population and provision of mental health services

Health and social care services in Wales serve a population of approximately 3 million people.

Wales’ statutory services with responsibilities under mental health legislation include 22 Local Health Boards (LHBs), 22 Local Authorities (LA’s), 14 NHS Trusts of which 11 directly provide mental health services, 4 police authorities and the Welsh Ambulance NHS Trust. There are four prisons in Wales, on five different sites, all of which have healthcare provision.

Whilst 9% of adults in Wales report that they are currently being treated for mental illness\(^4\), the significant majority of these have not required inpatient treatment. In the 2005-06\(^5\) there were 13,459 admissions (excluding place of safety detentions) to mental health facilities in Wales. 92% of admissions were to NHS facilities, with the remainder admitted to independent hospitals. 1,426 were admitted under the Mental Health Act 1983 and other legislation (a small increase from the previous period), excluding place of safety detentions. Part II admissions account for 92% of


\(^5\) National Assembly for Wales (October 2006 ‘Admission of patients to mental health facilities in Wales (including patients detained under the Mental Health Act 1983)’ SDR 127/2006
formal admissions with two thirds of these (64%) being admitted for assessment, with or without treatment, under section 2 of the MHA.

3.2 Black and minority ethnic groups

The findings of the Count Me In Census 2006 show that:

- In England & Wales there were a total of 32023 inpatients in 2006, compared with 33785 in 2005. Of these 2117 (6.6%) were inpatients in Wales, this compares with 2117 (6.3%) in 2005. 152 of these patients were from an ethnic group. Ethnic origin was recorded for 99.5% of inpatients in Wales, this compares with 99.4% in 2005. The proportion of BME patients (i.e. those not White British) was 7.2%, compared with 21.3% in England, and slightly up from 6.8% in 2005. The ethnic origin of BME patients was 1.5% White Irish, 3% White Other, and 2.7% from other minority ethnic groups.
- 30.6% of inpatients in Wales were admitted under the Mental Health Act, compared with 40% of inpatients in England; in 2005 26.7% of patients in Wales and 39.5% in England were detained on admission.
- 24 (1.1%) inpatients in Wales had been placed in seclusion; in 2005 this figure was 15 (0.6%). This compared to 2.7% among inpatients in England, 3% in 2005.
- 156 (7.4%) inpatients in Wales were restrained at least once, in 2005 this figure was 87 (4.1%). This compared to 8.4% of inpatients in England.
- 111 (5.2%) of inpatients in Wales had recorded self harm, compared to 6% of inpatients in England.
- 296 (14%) of inpatients in Wales had a recorded accident, compared to 11.7% of inpatients in England.
- 262 (12.4%) of inpatients in Wales had a recorded assault, compared to 12.8% of inpatients in England.
- Wales had a higher ratio of proportion of patients on enhanced Care Programme than England. This represents a change from the results in 2005, when inpatients in Wales were significantly less likely to be on an enhanced CPA.

In May 2006 the Welsh Assembly Government hosted an event on behalf of the Department of Health as part of their Race Equality Impact Assessment (REIA) work for the Bill. This event was part of a wider stakeholder engagement programme. A number of concerns and issues have been expressed during this programme, including:

- the proposed broader definition of mental disorder leading to increased detentions from the BME communities
- lack of engagement of BME community leaders in development of the draft Bill
- insufficient recognition of the needs of BME communities who use mental health services

Given the cultural diversity in Wales it will be important during the implementation phases of the new legislative framework to remain cognisant of widespread disquiet and anxiety amongst people from black and minority ethnic communities that the reform of mental health law has generated. The REIA prepared by the Department of Health is published alongside the Bill.

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6 Mental Health Act Commission (2007) Count me in: Results of the 2006 national census of inpatients in mental health and learning disability services in England and Wales
3.3 Welsh language

Mental health services in Wales must be underpinned by the principle that the Welsh and English languages should be treated on a basis of equality.

The Welsh Assembly Government’s Mental Health Legislation Project Board is committed to ensuring that the project relating to the implementation of the Mental Health Act 2007 reflects this principle. This commitment is shared by the Mental Health Act Implementation Reference Group. Service commissioners and providers, in all sectors, are required to ensure that their implementation plans reflect this commitment.

4. Mental Health Act 2007

4.1 Background

In 1998 the UK Government announced its intention to review the Mental Health Act 1983 and established an Expert Committee to advise how mental health legislation could be shaped to reflect contemporary patterns of care.

The task of amending Mental Health legislation across England and Wales has been a long and, on occasions, complex process that has not been without controversy.

4.2 Why legislative reform was necessary

The UK Government considered that legislative reform was needed in order to:

- help ensure that people with serious mental disorders can be required, where necessary, to receive the treatment they need to protect them and the public from harm - this is achieved through amending the 1983 Act to simplify and modernise the definition of mental disorder and the criteria for detention; by introducing supervised community treatment; and abolishing finite restriction orders
- bring mental health legislation into line with modern service provision - by allowing a broader range of professionals to carry out functions within the 1983 Act and by enabling people to be treated in the community where appropriate.
- strengthen patient safeguards and tackle human rights incompatibilities - by introducing safeguards, through the Mental Capacity Act, for people who lack capacity and are deprived of their liberty; by allowing, for the first time, patients to make applications for displacement of their Nearest Relative; and by speeding up access to the Tribunal for those who do not apply under that Act.

4.3 Summary of amendments

Although the structure of the Mental Health Act 1983 remains intact, some significant changes have been made to it by the 2007 legislation. They include:

- The introduction of a simplified definition of mental disorder that will apply throughout the Act, and the abolition of the current four separate categories of mental disorder
A requirement that appropriate treatment must be available if patients are to be subject to detention or the new provisions for supervised treatment in the community

The introduction of supervised community treatment, which will be available for patients following an initial period of detention and treatment in hospital

The replacement of the Responsible Medical Officer with a Responsible Clinician, who need not be a consultant psychiatrist (but must be an ‘approved clinician’)

The replacement of the Approved Social Worker with an Approved Mental Health Professional; in addition to registered social workers other mental health professionals will be able to take on the role of AMHP after suitable training

A new ground for an application to be made to the county court for the nearest relative of a patient to be displaced, and a new power to enable the patient to apply to the county court for the displacement of their nearest relative

A duty on hospital managers to ensure that an age-appropriate environment is provided to all patients who are under the age of 18 years

For 16 or 17 year old patients with capacity their consent or refusal to admission informally may not be overridden by a person with parental responsibility for them

A requirement that those performing functions under the Act have regard to the Code of Practice published under the Act, and that the Code includes a statement of principles that must inform decisions taken under the Act

Abolition of the power to impose electro-convulsive therapy (ECT) on a detained patient with capacity in a non-emergency situation

The introduction of a new independent mental health advocacy scheme for qualifying patients

Changes to the provisions that require the Hospital Managers to refer a patient’s case to the Mental Health Review Tribunal (MHRT)

The abolition of finite restriction orders

The power to transfer a s136 patient from one place of safety to another

A new power to "take and convey" a guardianship patient to the place where they are required to reside

Increase the tariff for an offence of ill-treatment

The MHA07 also amends the MCA05 to provide for a procedure, subject to particular requirements and safeguards, for the authorisation of the deprivation of liberty of persons resident in a hospital or care home who lack capacity in relation to the question of whether they should be a patient in the relevant hospital or care home, and who are not subject to mental health legislation safeguards. The aim of the proposals is to provide legal safeguards for those vulnerable people, to prevent arbitrary decisions to deprive a person of liberty and to give rights of appeal.

4.4 Codes of Practice (MHA and MCA)

The MHA07 will require changes to be made to the Code of Practice to the MHA, and provides an opportunity to update it. The Code of Practice for Wales will reflect mental health policy in Wales and will give guidance to statutory bodies and
professionals on how the Mental Health Act should be applied in practice. The Code of Practice is a useful source of information to patients and their representatives.

The Assembly will publish a draft Code of Practice for Wales for consultation, and it is anticipated that consultation will take place from October 2007 for a twelve-week period.

Similarly, the Department of Health will be publishing a draft Code of Practice for England.

The Code of Practice to the MCA has been published, and covers both England and Wales. The Lord Chancellor will produce for consultation chapters for this Code relating to the Deprivation of Liberty Safeguards, which will be laid before Parliament in due course. These new chapters will also apply to Wales and England.

5. **Timescales for implementation**

Following Royal Assent, it is the current intention of the UK Government and the Welsh Ministers to commence most of the provisions of the Mental Health Act 2007 in October 2008. Some provisions will be commenced earlier, and some will be commenced to a later time frame.

Timescales are summarised in table 3 below.

| Consultation by the Welsh Ministers on draft Code of Practice for Wales, draft secondary legislation (including new draft statutory forms) | October 2007 (for 12 weeks) |
| National Assembly for Wales procedures for Code of Practice for Wales and secondary legislation | February 2008 to Easter 2008 |
| Commencement of most amendments to MHA83 | October 2008 |
| Commencement of DoL Safeguards (MCA05) | October 2008 |
| Commencement of amendments to DVCVA04 | October 2008 |

**Table 3: Timescales for implementation**

As at September 2007 three Commencement Orders have been made in respect of the 2007 Act. They provide commencement dates for the following sections of the 2007 Act (show in commencement date order:

<table>
<thead>
<tr>
<th>Order</th>
<th>Section (to be) commenced</th>
<th>Date of commencement</th>
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<tbody>
<tr>
<td>Commencement Order No 1</td>
<td>45 - Delegation of powers of managers of NHS foundation trusts</td>
<td>24/07/07</td>
</tr>
<tr>
<td>Commencement Order No 2</td>
<td>51 - Amendment to section 20(1) of Mental Capacity Act 2005</td>
<td>01/10/07</td>
</tr>
<tr>
<td>Commencement Order No 3</td>
<td>19 - Approval of courses etc for approved mental health professionals</td>
<td>01/10/07</td>
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<td></td>
<td>20 - Amendment to section 62 of Care Standards Act 2000</td>
<td>01/10/07</td>
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6. **Actions being taken at national level**

6.1 **Welsh Assembly Government**

It is essential that thorough preparation for the successful implementation of the new legislation is made and put into practice. Welsh Ministers will be responsible for facilitating tasks to bring about the successful implementation and operation of the Act in Wales.

To secure this, the Assembly has established a Mental Health Act Implementation Project. The purpose of the Implementation Project is to facilitate full and successful transition to the amended legislative frameworks without detriment to either service users, carers, service providers or the public, within the timescales set by the legislative process.

The Implementation Project puts into place the measures needed to ensure that all the provisions of the Mental Health Act 2007 when enacted and regulations, Codes of Practice and associated guidance made under the Act are appropriately carried out in practice by the organisations and people with responsibilities under the Act.

The Implementation Project will ensure that the Welsh Ministers are able to meet their responsibilities under the Act, including the making of all secondary legislation within the agreed timescales.

The project will ensure that the Welsh Ministers duty to publish a Mental Health Act Code of Practice to support the operation of that Act is met.

Certain parts of the MHA07 will not be for the Assembly to implement and will be implemented by UK government departments (i.e. the Ministry of Justice). The project is working closely with those departments to ensure consistency of operation across Wales and England.

A key component of the Implementation Project has been the establishment of an Implementation Reference Group (IRG). The purpose of the IRG is to advise
Assembly officials about the further development of the UK Government’s mental health legislation. This includes providing guidance and advice on the development of Regulations, a Code of Practice for Wales and other implementation projects.

The key outcomes of the Implementation Project, and expected dates for completion, are set out in table 4 below.

| 4. | Information leaflets (section specific) | Available Spring 2008 |
| 5. | MHA Administration manual | Available Summer 2008 |
| 7. | Release of training and implementation monies to Trusts, LA’s and LHBs | Autumn 2007 and April 2008 |
| 9. | Consultation events | Winter 2007 |
| 10. | MHRT secretariat process redesign (taking account of new legislative framework) | Summer ’07 to Autumn ‘08 |
| 11. | Supporting the role of the Mental Health Act Commission | Summer ‘07 to Autumn’08 |

Table 4: Assembly Implementation outcomes

6.2 National Leadership & Innovations Agency for Healthcare (NLIAH)

The Assembly has commissioned NLIAH to work with health and social care commissioners and providers in Wales to:

i) Enable medium to long term workforce re-design as set out in “Designed for Life” and “Raising the Standard”, and

ii) Undertake short term action to ensure that services are “Mental Health Act ready” by the time the legislation takes effect.

Mental health workforce planning will align with the human resources strategy for the NHS in Wales, “Designed to Work” and with the new workforce planning arrangements for NHS Wales.

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7 These leaflets are to explain a person’s rights when they are liable to be detained or subject to a Community Treatment Order.
8 The agreed monies will be released in two phases, reflecting the financial years (07/08 and 08/09)
NLIAH has contracted with Damascus Services Ltd to deliver this project. The key outcomes in respect of the Act preparation element (see ii) above) of the project, and expected dates for completion are set out in table 5 below.

<table>
<thead>
<tr>
<th></th>
<th>Establish geographically based networks for which the Bill Implementation leads are the primary contact in order to determine support requirements to implement the Act</th>
<th>From September 2007 to September 30th 2008</th>
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<tr>
<td>2</td>
<td>Provide advice and support to organisations to ensure smooth implementation, in particular in relation to the development of working practices and underpinning Human Resource processes, to achieve compliance with the Act on October 1st 2008</td>
<td>From September 2007 to September 30th 2008</td>
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<td>3</td>
<td>Production of Guidance for Employers on the introduction of new roles and responsibilities arising from the Act</td>
<td>Available late March 2008</td>
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<td>4</td>
<td>Ensure that accredited training is available such that organisations can make full use of the flexibilities for Approved Mental Health Professionals and Approved Clinicians provided for within the Act</td>
<td>September 30th 2008 to September 30th 2008</td>
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<tr>
<td>5</td>
<td>Assist Human Resource Directors and Training Managers with implementing the new legislation, Code of Practice and Memorandum</td>
<td>From September 2007 to September 30th 2008</td>
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<tr>
<td>6</td>
<td>Assist organisations in developing the processes that will support and enable implementation of the Act with regard to their responsibilities for implementing Deprivation of Liberty Safeguards</td>
<td>From October 2007 to September 30th 2008</td>
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<tr>
<td>7</td>
<td>Establish processes with the NHS in Wales that will enable the new workforce planning process to be aligned to the new Mental Health Act</td>
<td>From September 2007 to September 30th 2008</td>
</tr>
<tr>
<td>8</td>
<td>To support organisations in developing and implementing their transitional arrangements</td>
<td>May 2008 - 30th September 2008</td>
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Table 5: NLIAH project Implementation outcomes

7. Actions required at local level

7.1 Background

Service providers will be required to identify the necessary changes arising from the new and amended legislation and agree approaches to inform their stakeholders and prepare for implementation. This will require rethinking the ways in which things are done presently, designing new processes, restructuring around new processes and implementing new systems).

It is anticipated that the MHA 2007 further foster joint working between agencies. The developments relating to new roles and responsibilities will engender improved flexibilities across the health and social care workforce. It is anticipated that agencies will benefit from working together to achieve implementation.

Many organisations have identified implementation leads within their services, to coordinate the work required to achieve successful implementation.
To reduce the financial burden of these changes, and resultant training requirements, the Assembly will make some funds available to statutory organisations (LHBs, NHS Trusts and Local Authorities). Statutory organisations will be invited to set out their implementation arrangements in order to access pre-commencement funding.

The following programme of actions is intended to be viewed as guidance which will prompt and stimulate further discussion to enable statutory, independent and voluntary organisations in Wales ensure the smooth and effective implementation of the changes set out in the amended legislation. The suggested actions are not intended to be exhaustive, and do not replace the legal responsibilities organisations have to ensure that they perform the statutory functions under the amended legislation correctly.

7.2 General approach

Organisations may find it of assistance to:

- complete a stakeholder analysis as a basis for broad stakeholder involvement and to support ongoing communications and information provision;
- identify the opportunities and risks that arise from key provisions in the MHA07, and from these consider how the opportunities can be maximised and adopted within their organisation, and how the risks can be safely and effectively managed. This approach can help in the development of implementation plans.

Key questions, which were generated through the REIA process, should be considered during the implementation phase. These may include:

- what action is needed to ensure equitable implementation of the amended legislation?
- what action plans are in place to ensure equitable implementation?
- how will progress be measured?

The availability of staff, with appropriate skills in assessment, clinical competencies and case management, is critical to the workability of the amended legislation.

7.3 Particular note for ‘Accommodation, etc’ (section 31 MHA07)

This section of the MHA07 requires hospital managers to ensure that patients aged under 18 admitted to hospital for mental disorder are accommodated in an environment that is suitable for their age (subject to their needs).

Although it is expected that this section will commence after October 2008 in Wales (actual date to be confirmed) Local Health Boards, Health Commission Wales and NHS Trusts will need to work collaboratively to prepare for implementation of this provision.

7.4 Local Social Services Authorities

Local Social Services Authorities will need to:
- use existing partnership structures to consider implementation with their wider local mental health community working with NHS Trusts, LHBs, care homes, user and carer organisations, ambulance and police services, and the judicial system
- plan for the financial impact of the changes that will need to occur before and after the MHA07 is enacted
- revise and update governance arrangements (e.g. risk plans, audit programmes, staffing and staff management plans, etc)
- plan and implement the transition from the existing ASW service to an AMHP service, ensuring that there are sufficient AMHPs to meet the needs of the local mental health community
- develop approval and re-approval frameworks in respect of AMHPs acting on behalf of LSSAs
- compile and maintain a register of AMHPs acting on behalf of the LSSAs
- to adapt workforce planning systems to take into account the new legislation. Workforce planning needs to be undertaken in tandem with service modernisation. Consideration should be given to adopting new ways of working and the development of new roles
- brief staff on the legislative changes and ensure training and guidance is available to them
- review and develop all relevant policies and procedures for the operation of the MHA for example, nearest relative, guardianship, place of safety and conveyance.
- develop arrangements and processes to perform the function of supervisory body under the Deprivation of Liberty Safeguards (DoLS)
- ensure that local authority care homes are familiar with the DoLS and the local arrangements for applying for standard and urgent authorisations

7.5 Local Health Boards

Local Health Boards will need to:

- use existing partnership structures to consider implementation with their wider local mental health community working with NHS Trusts, LSSAs, care homes, user and carer organisations, ambulance and police services, and the judicial system
- plan for the financial impact of the changes that will need to occur before and after the MHA is enacted
- ensure that commissioning agreements with providers of mental health services include explicit specification of actions to be taken in implementing the amended legislation
- ensure that all current section 12 approved doctors are provided with transitional training in the amendments to the MHA to enable them to continue to undertake the role
- develop arrangements and processes to perform the function of approving Approved Clinicians (further guidance will follow)
- prepare for the commissioning of independent mental health advocacy (IMHA) (further guidance will follow)
- develop arrangements and processes to perform the function of supervisory body under the Deprivation of Liberty Safeguards (DoLS)

7.6 NHS Trusts

NHS Trusts will need to:
• use existing partnership structures to consider implementation with their wider local mental health community working with LSSAs, LHBs, care homes, user and carer organisations, ambulance and police services, and the judicial system
• plan for the financial impact of the changes that will need to occur before and after the MHA is enacted
• revise and update governance arrangements (e.g. risk plans, audit programmes, staffing and staff management plans, etc)
• to adapt workforce planning systems to take into account the new legislation. Workforce planning needs to be undertaken in tandem with service modernisation. Consideration should be given to adopting new ways of working and the development of new roles
• provide to patients, nearest relatives and carers timely and accurate information on the legislative changes
• brief staff on the legislative changes and ensure training and guidance is available to them
• plan and provide transitional training and support to enable existing RMOs to undertake the AC and RC functions
• ensure there are appropriate arrangements for identifying and appointing Responsible Clinicians to patients
• ensure that they have sufficient approved clinicians to perform the required duties under the Act
• develop and maintain a register of approved clinicians
• ensure Hospital Managers are aware of their revised functions under the Act and the Code of Practice
• ensure that they have taken account of the transitional provisions relating to the abolition of Aftercare under supervision (supervised discharge)
• Review and develop all relevant policies and procedures for the operation of the MHA for example, access to advocacy, place of safety, consent to treatment and holding powers
• Ensure that processes are developed in conjunction with the local probation board to take account of the victims scheme under the DVCVA04
• ensure that they are familiar with the Deprivation of Liberty Safeguards (DoLS) and the local arrangements for applying for standard and urgent authorisations as well as processes for reviewing

7.7 Regional Offices

Regional Offices will need to:

• ensure that all NHS organisations in their area develop local action plans and work together in order to ensure that there is a coordinated approach to the introduction of the amendments made by the MHA07
• monitor, as part of their overall mental health performance management responsibilities, the workforce planning and development initiatives in their area required to ensure that the right number of competent staff are in place to carry out their responsibilities and implement new ways of working under the amended legislation within NHS provision

7.8 Police services, including British Transport Police

The identified implementation issues for the police service are:

• review working procedures with health and social care organisations, in particular joint protocols required by the Code of Practice
to brief staff on the changes introduced by the new legislation and scope/provide training, with particular reference to the Code of Practice for Wales and the secondary legislation in Wales.

- review policies and procedures under s135 and s136 of the current Act, in light of the legislative changes and revision of the Code of Practice

7.9 Welsh Ambulance Trust

The identified implementation issues for the Welsh Ambulance Trust are:

- to brief staff on the changes introduced by the new legislation and scope/provide training
- review policies and procedures on the conveyance of patients with NHS, Social Care and police partners

7.10 Health Commission Wales (HCW)

HCW will need to:

- plan for the financial impact of the changes that will need to occur before and after the amended Bill is enacted
- ensure that commissioning agreements with providers of mental health services include explicit specification of actions to be taken in implementing the amended legislation
- consider any cross-border operability matters with England (NB. separate regulations and Code of Practice in England)

7.11 Independent Mental Healthcare providers

The Code of Practice will apply to the independent sector as well as the statutory sector. The independent sector may find it useful to review the recommendations above for NHS Trusts and other agencies.

In addition, the following specific issues have been identified for independent hospitals and care homes:

Independent hospitals will need to:

- plan for the financial impact of the changes that will need to occur before and after the MHA07 is enacted
- revise and update governance arrangements
- provide timely and accurate information on changes to patients, nearest relatives and carers
- introduce revised ways of working
- train staff on the legislative changes and ensure guidance is available to them
- review the competency framework for certain posts
- ensure that they have sufficient approved clinicians to perform the required duties under the Act
- ensure Hospital Managers are aware of their revised functions under the Act and the Code of Practice
- ensure that they are familiar with the Deprivation of Liberty Safeguards (DoLS) and the local arrangements for applying for standard and urgent authorisations

Care homes will need to:
- revise and update governance arrangements
- brief and train staff
- ensure that they are familiar with the Deprivation of Liberty Safeguards (DoLS) and the local arrangements for applying for standard and urgent authorisations

8. References and bibliography


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