WELSH STATUTORY INSTRUMENTS

2011 No. 2942 (W.318)

MENTAL HEALTH, WALES

The Mental Health (Care Co-ordination and Care and Treatment Planning) (Wales) Regulations 2011

Made - - - -	*6 December 2011*
Coming into force - -	*6 June 2012*

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 15(4), 18(1)(c), 18(8), 18(9), 47(1)(b), 47(2) and 52(2) of the Mental Health (Wales) Measure 2010(**1**).

A draft of this instrument has been laid before the National Assembly for Wales in accordance with section 52(6) of the Measure, and approved by resolution of the National Assembly for Wales.

Part 1 —

General

Title, commencement and application

1.—(1) The title of these Regulations is The Mental Health (Care Co-ordination and Care and Treatment Planning) (Wales) Regulations 2011 and they come into force on 6 June 2012.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

"adult placement carer" ("*gofalwr lleoliad oedolyn*") means a person in whose home an adult is or may be accommodated and provided with personal care under an adult placement agreement entered into or proposed to be entered into by the carer;

"care and treatment plan" ("*cynllun gofal a thriniaeth*") means a plan prepared for the purpose of achieving the outcomes which the provision of mental health services for a relevant patient(**2**) is designed to achieve, as provided in section 18(1)(b) (functions of the care coordinator) of the Measure;

(**1**) 2010 nawm 7.
(**2**) See section 12 (meaning of "relevant patient") of the Measure for the definition of relevant patient.

"carer" ("*gofalwr*") means, in relation to a relevant patient, an individual who provides or intends to provide a substantial amount of care on a regular basis for that patient, but does not include an individual who provides, or intends to provide care for that patient by virtue of a contract of employment or other contract with any person or as a volunteer for a body (whether incorporated or not incorporated);

"employed" ("*wedi'i gyflogi*") means employed under a contract of service or engaged under a contract for services;

"guardian" ("*gwarcheidwad*") means the person named as guardian in a guardianship application made under section 7 (application for guardianship) of the 1983 Act or a guardianship order made under section 37 (powers of courts to order hospital admission or guardianship) of the 1983 Act;

"managing authority" ("*awdurdod rheoli*") in relation to a National Health Service hospital has the meaning given by paragraph 176 (hospitals and their managing authorities) of Schedule A1 (hospital and care home residents: deprivation of liberty) to the 2005 Act, in relation to an independent hospital has the meaning given by paragraph 177(b) (hospitals and their managing authorities) of Schedule A1 to the 2005 Act, and in relation to a care home has the meaning given by paragraph 179(b) (care homes and their managing authorities) of Schedule A1 to the 2005 Act;

"the Measure" ("*y Mesur*") means the Mental Health (Wales) Measure 2010(**3**);

"parental responsibility" ("*cyfrifoldeb rhiant*") has the meaning given by section 3 (meaning of "parental responsibility") of the 1989 Act;

"relevant discharge period" ("*cyfnod rhyddhau perthnasol*") means the period within which an adult may request that a mental health assessment is carried out following discharge from secondary mental health services(**4**);

"relevant mental health service provider" ("*darparydd gwasanaeth iechyd meddwl perthnasol*") means the secondary mental health service provider who is identified as a relevant patient's relevant mental health service provider in accordance with section 15 (identification of the relevant mental health service provider for a relevant patient) of the Measure or regulation 3 of these Regulations;

"relevant patient's medical practitioner" ("*ymarferydd meddygol claf perthnasol*") means, in relation to a relevant patient, the registered medical practitioner with whom the patient is registered and any registered medical practitioner with whom a patient is not registered but by whom that patient is referred for a primary mental health assessment under Part 1 (local primary mental health support services) of the Measure;

"responsible clinician" ("*clinigydd cyfrifol*") has the meaning given by section 34(1) (interpretation of Part II) of the 1983 Act;

"responsible Local Social Services Authority" ("*Awdurdod Gwasanaethau Cymdeithasol Lleol cyfrifol*") has the meaning provided by section 34(3) of the 1983 Act;

"supervisory body" ("*corff goruchwylio*") in relation to a hospital has the identity given by paragraph 181 (supervisory bodies: hospitals) of Schedule A1 to the 2005 Act, and in relation to a care home has the identity given by paragraph 182 (supervisory bodies: care homes) of Schedule A1 to the 2005 Act;

"the 1983 Act" ("*Deddf 1983*") means the Mental Health Act 1983(**5**);

(**3**) 2010 nawm 7.
(**4**) See regulation 3 (relevant discharge period) of The Mental Health (Assessment of Former Users of Secondary Mental Health Services) (Wales) Regulations 2011 (S.I.2011/2500 (W. 272)).
(**5**) 1983 c. 20.

"the 1989 Act" ("*Deddf 1989*") means the Children Act 1989(**6**);

"the 2005 Act" ("*Deddf 2005*") means the Mental Capacity Act 2005(**7**); and

"working day" ("*diwrnod gwaith*") means any day except Saturday, Sunday, Christmas Day, Good Friday or a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(**8**).

Part 2 —

Care coordinators

Identification of relevant mental health service provider

3.—(1) Where a Local Health Board is responsible for providing a secondary mental health service(**9**) to a relevant patient and a local authority is also responsible for providing such a service, then the provisions of this regulation apply.

(2) The Local Health Board is the relevant mental health service provider for a relevant patient unless paragraphs (3) or (4) apply.

(3) A local authority is the relevant mental health service provider for a relevant patient if that patient is the subject of—

(a) a guardianship application made under section 7 of the 1983 Act; or

(b) a guardianship order made under section 37 of the 1983 Act.

(4) A local authority is the relevant mental health service provider for a relevant patient if that patient is under the age of eighteen years and—

(a) is looked after by a local authority within the meaning of section 22(1) (general duty of local authority in relation to children looked after by them) of the 1989 Act;

(b) is a relevant child within the meaning of section 23A (the responsible authority and relevant children) of the 1989 Act;

(c) qualifies for advice and assistance under section 24(1A) (persons qualifying for advice or assistance) or section 24(1B) of the 1989 Act; or

(d) is admitted to a school in accordance with a statement of special educational needs made under section 324 (statement of special educational needs) of the Education Act 1996(**10**) that names the school.

Eligibility requirements for care coordinators

4.—(1) A person is eligible to be appointed as a care coordinator if that person—

(a) fulfils one or more of the professional requirements in Schedule 1 to these Regulations; and

(b) has demonstrated to the satisfaction of the relevant mental health service provider that he or she has appropriate experience, skills or training, or an appropriate combination of experience, skills and training.

(**6**) 1989 c. 41.
(**7**) 2005 c. 9.
(**8**) 1971 c. 80.
(**9**) See section 49 of the Measure (meaning of secondary mental health services) for the definition of secondary mental health services.
(**10**) 1996 c. 56.

(2) When determining whether a person satisfies the appointment requirement in paragraph (1)(b) regard must be had to standards in any Codes of Practice issued under section 44 (codes of practice) of the Measure, and any guidance that may be from time to time issued by the Welsh Ministers.

Part 3 —

Care and treatment plans

Form and content of care and treatment plans

5.—(1) A care coordinator must ensure that a care and treatment plan which records all of the outcomes which the provision of mental health services are designed to achieve for a relevant patient is completed in writing in the form set out in Schedule 2.

(2) The outcomes must include (but are not limited to) achievements in at least one of the areas provided in section 18(1)(a) (functions of the care coordinator) of the Measure.

Part 4 —

Preparing, reviewing and revising care and treatment plans

Persons to be consulted

6.—(1) Where a relevant patient's care coordinator must work with a relevant patient and that patient's mental health service providers to—

(a) agree the outcomes which the provision of mental health services for that patient are designed to achieve as provided by section 18(1)(a) of the Measure;

(b) agree a care and treatment plan for that patient as provided by section 18(1)(b) of the Measure; or

(c) review and revise a care and treatment plan for that patient as provided by section 18(1)(c) of the Measure,

then the provisions of this regulation apply.

(2) Subject to paragraph (4), the care coordinator is to take all practicable steps to consult the following persons where those persons are identified in relation to a relevant patient—

(a) all persons with parental responsibility for that patient;

(b) all carers and adult placement carers of that patient;

(c) that patient's responsible clinician;

(d) where a guardian has been appointed for that patient as a result of a guardianship application made under section 7 of the 1983 Act or a guardianship order made under section 37 of the 1983 Act, that patient's guardian;

(e) a donee of that patient's lasting power of attorney who has been appointed in accordance with section 10 (appointment of donees) of the 2005 Act, or a deputy of that patient who has been appointed by the Court of Protection in accordance with section 16 (powers to make decisions and appoint deputies: general) of the 2005 Act, provided that—

(i) in the case of a donee, the matters which are to be considered in the consultation fall within the scope of the lasting power of attorney, or

(ii) in the case of a deputy, the matters which are to be considered in the consultation fall within the scope of the order, directions or terms of appointment of the deputy which have been specified by the Court of Protection;

(f) where there are acts or decisions proposed in relation to that patient under sections 37 (provision of serious medical treatment by NHS body), 38 (provision of accommodation by NHS body), 39 (provision of accommodation by local authority), 39A (person becomes subject to Schedule A1), 39C (person unrepresented whilst subject to Schedule A1) or 39D (person subject to Schedule A1 without paid representative) of the 2005 Act, an Independent Mental Capacity Advocate who has been appointed to represent that patient in accordance with section 35 (appointment of independent mental capacity advocates) of that Act;

(g) where that patient is subject to a standard authorisation given under Part 4 (standard authorisations) of Schedule A1 to the 2005 Act, the managing authority, the supervisory body and the relevant person's representative who has been appointed for that patient under paragraph 139 (supervisory body to appoint representative) of Schedule A1 to the 2005 Act; and

(h) where that patient is subject to an urgent authorisation given under Part 5 (urgent authorisations) of Schedule A1 to the 2005 Act, the managing authority and the supervisory body.

(3) Subject to paragraph (4), where the following persons are identified in relation to a relevant patient, he or she may be consulted by the care coordinator—

(a) any person who the care coordinator wishes to consult, in order to facilitate the carrying out of the care coordinator's functions; and

(b) any person who that patient wishes to be consulted in connection with the care coordinator carrying out his or her functions.

(4) Before consulting any of the persons mentioned in paragraphs (2) and (3)(a) the care coordinator is to take account of the views of a relevant patient regarding whether such persons ought to be consulted.

(5) But the care coordinator may consult any of the persons mentioned in paragraphs (2) and (3)(a) against the wishes of a relevant patient provided that the care coordinator has given due consideration to the views of that patient.

(6) Where the same person is to be consulted in more than one capacity under paragraphs (2) and (3), only one consultation need take place.

(7) Where the person consulted is not an individual, consultation may take place with an individual acting on behalf of, or employed by, the person.

Review and revision of care and treatment plans

7.—(1) A care and treatment plan may be reviewed or revised by the care coordinator at any time provided that the care coordinator agrees to that review or revision.

(2) Subject to regulation 11, a care coordinator must review and, if necessary revise, a care and treatment plan when—

(a) a period of no more than 12 calendar months has elapsed since the initial preparation or the last review of that plan;

(b) a relevant patient requests a review of his or her plan before the 12 calendar month period has elapsed;

(c) a relevant patient's carer or adult placement carer requests a review of that patient's plan before the 12 calendar month period has elapsed; or