



Pre-legislative scrutiny of the proposed Legislative Competence Order in Council relating to Mental Health: Call for written submissions

Response from the College of Occupational Therapists

1. Summary

- The College believes this power is essential to enable the Assembly Government to develop legislation which gives people access to assessment, treatment and advocacy before they become so unwell that there is need for compulsion.
- People with mental ill-health often recognise they are becoming unwell and report having sought early treatment, but have been unable to secure it.
- This would balance the current power of society to compel assessment and treatment when someone is deemed unwell with a similar power for individuals to identify this themselves and to require services to respond.

2. Response to Specific questions

Occupational therapists play a vital role in providing services for people with mental health problems and are instrumental in enabling people to recover and take up a quality of life including work, personal independence and leisure activities that all contribute to a person's mental wellbeing and sense of self, facilitating continued mental health and wellbeing in the long term.

Many service users tell us that it is occupational therapy, which has made the difference to their recovery. The service user's own goals and interests as well as their active participation directs therapy, ensuring that the pace and outcomes are what the service user wants.

2.1. Is the LCO request in the spirit and scope of the devolution settlement?

Yes, the College believes it is.

2.2. Is the use of the LCO mechanism in accordance with the Government of Wales Act 2006

Yes the College believes it is.

2.3. To what extent is there is a demand for legislation on the matter(s) in question?

The profession believes there are great opportunities for service improvement if legislative competence were given in this area.

In Wales, services have not modernised as rapidly as they should have. We remain tied to hospital-based services, which are frequently only accessible after a person has reached severe illness or crisis. Often by that time they have lost



their employment, their homes may be at risk, personal and familial relationships may have been irrevocably damaged and recovery can be a long process.

Occupational therapists believe that services need to be refocused to enable early access with community based services aimed at preventing deterioration and supporting people to remain in their own physical and social environment. GPs need access to alternatives to admission in times of crisis. The majority of the population with mental health problems are not admitted to specialist units but are managed by general practitioners. Those GPs need direct access to specialist staff such as occupational therapists and others. Crisis intervention teams are vitally important, but need to enable important rehabilitation and longer-term support, for example allowing occupational therapists to use their skills to support return to work, independent living and other activities, which enhance mental health. Therefore it is also important to ensure that there are rehabilitation teams or multi disciplinary community mental health teams providing ongoing access alongside crisis work.

Occupational health services also need access to mental health practitioners such as occupational therapists with the skill to keep people in employment as long as possible. Mental health problems may be characterised by a relapse and remission pattern where people may recognise they are becoming unwell and need to be able to directly access services straight away to prevent further deterioration. Such direct access services are very rare in Wales. These areas are part of the scope that occupational therapists would like to see included in new measures following legislative competence.

This offers the opportunity for Wales to create a whole-system, modern approach to mental health legislation. This should move away from the medical domination of access to services to a more client led, multi professional approach.

2.4. Are there any cross-border issues relating to the LCO? (e.g. financial or policy issues)

The College does not believe so. The LCO offers the opportunity bring forward measures which ensure that the people of Wales are able to access assessment, treatment and advocacy as soon as possible,

2.5. Are the purpose and scope of the LCO clearly defined, including the terms and definitions used

Yes and we would agree with all the points raised in page 11-12 in the attached memorandum. Paragraph 21 states that the duty for assessment and treatment will be for individuals NOT previously diagnosed. This is excellent for early intervention for the group (predominately young men with psychosis) who are becoming unwell for the first time. However, we also believe this order should include those already known to services who are becoming unwell and recognise it. As currently constructed, this group would still not get early assessment or treatment. This would miss the full benefits for Wales of this LCO.



2.7. Does the LCO have the potential to increase the regulatory burden on the private or public sector?

There is a potential that this will increase the burden on services in the short term. The current difficulty in accessing early services is perceived to be attempts at rationing / gate keeping access. However, in the long term the cost savings of supporting people early and of treating people before they require hospital admission or treatment under compulsion will be noticeable

It will be less of a burden if it is only for those not previously diagnosed. Services in Wales will need to consider how they finance any changes resulting from measures arising as a result of this LCO. In England money was removed from in-patient care to fund the early intervention services and this is a potential option to shift the focus away from inpatient care.

2.8. Would the proposed LCO necessitate the formation or abolition of Welsh institutions and structures? If so, where does the legislative competence to exercise such changes lie?

We do not believe so. This LCO would impact on the providers of mental health services in Wales as they currently exist.

2.9. Is the use of an LCO more appropriate than, for example, the use of framework powers in a Westminster Bill to confer competence on the Assembly?

Yes we believe so.

2.10. Has full use been made of any existing powers to issue statutory guidance and/or secondary legislation in relation to this Matter?

Yes, In relation to some of the issues of the new Mental Health Act 2007 the College has been pleased to play a part in the process. That Act does not resolve the issues of this LCO, namely ensuring that people can access assessment and treatment and advocacy before they become so unwell that the Mental Health Act is relevant.

Many service users and carers do not feel helped by the services they receive, and want more emphasis on social inclusion and recovery rather than crisis and compulsion, which the College would support. A reaffirmation of the recovery model would enable services to rediscover their therapeutic and rehabilitative ethos enabling them to target those who are functionally and occupationally deprived as a consequence of mental illness.

The needs of Black and Minority Ethnic communities should be fully addressed as they form a disproportionately high number of people who are sectioned under the Mental Health Act, and services (including occupational therapy) are criticised as not being culturally sensitive enough.

[26.6.09]

College of
Occupational Therapists

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There is a welcome recognition (page 8, para 6) that activity is key to mental wellbeing. Any new measure arising from these powers should enshrine the importance of access to activity, social inclusion and participation alongside a reduction in stigma and prejudice against persons with mental health problems.

If you require any further information, please do not hesitate to contact any of the Officers below.

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