



**BWRDD YR IAITH
GYMRAEG • WELSH
LANGUAGE BOARD**

1 November 2004

Richard Dawson
Committee Office Scrutiny Unit
House of Commons
LONDON
SW1P 3JA

Dear Richard

Please find below the Welsh Language Board's response to the draft Mental Health Bill.

About the Welsh Language Board

- 1 The Welsh Language Board (The Board) was established as a statutory body by the Welsh Language Act 1993 to promote and facilitate the use of the Welsh language. The Act establishes the principle that in the conduct of public business in Wales, the Welsh and English languages should be treated on a basis of equality. The Board has statutory functions and powers which require public bodies to prepare Language Schemes, detailing how they will give practical effect to the aforementioned principle. Such bodies include all the Local Health Trusts in Wales, the Welsh Assembly Government, the recently created Local Health Boards, the Mental Health Act Commission, the Commission for Health Improvement and the National Institute for Clinical Excellence.

Welsh Language Provision in the Health Sector

2. The Board believes that there are two core themes guiding the provision of care services to the public in Wales, namely;
 - that a full quality service means a bilingual service;
 - that providing such a service, respecting the principle of language equality, means that the service provider offers linguistic choice to whoever receives it.

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3. The importance of providing bilingual health care is evidenced in a report by the Welsh Consumer Council¹, which concluded *“that in the case of Welsh-speaking patients, there are instances where they cannot be treated effectively except in their first language or in both their languages. This is especially true in the case of those receiving speech and language therapy, and for the following key groups: people with mental health problems; people with learning disabilities and other special needs; older people and young children.”*
4. Following the publication of this report, an All Wales Language Task Group for Health was formed by Jane Hutt AM, the Minister for Health and Social Services at the National Assembly for Wales. The Task Group was formed to analyse deficiencies in providing Welsh language services in the NHS. It also co-ordinates measures to ensure improvement and comprises officials from the Assembly, the Board and health sector provider and user representatives. The Mental Health Act Commission has given a presentation to the Task Group on its work.
5. The Welsh Assembly Government’s key policy document *laith Pawb – A National Action Plan for a Bilingual Wales* (Welsh Assembly Government, February 2003) refers specifically to health and social care: *“The Assembly Government is determined to impress the importance of being able to deliver services in the service users’ language of choice in key service areas such as health and social care, and we are working with the service delivery organisations in these areas to delivery organisations in these areas to help them achieve this aim.”*
6. The Mental Health Act Commission, which currently has responsibility for many of the functions set out in the Bill, has a Welsh Language Scheme which sets out how it will treat the English and Welsh languages on the basis of equality. The Commission recognises that the effective use of the Welsh language in the care of detained patients in Wales is a fundamental aspect of providing quality care and treatment.
7. We are aware that this Bill proposes the abolition of the Mental Health Act Commission, with its functions being integrated into the Commission for Healthcare Audit and Inspection (CHAI). The Board will expect CHAI to continue to implement the Welsh Language Scheme which was adopted by its predecessor, CHI. This scheme will need to be updated in due course to reflect any additional powers vested in CHAI under the Mental Health Bill. We would expect the Welsh Assembly Government to consider whether it needs to bring CHAI within the scope of the Welsh Language Act, enabling the Board to notify CHAI formally that it should prepare its own language scheme.

¹ Welsh in the Health Service: The Scope, Nature and Adequacy of Welsh Language Provision in the National Health Service in Wales by Andrew Misell. Published by The Welsh Consumer Council (July 2000)



The Mental Health Bill and the Welsh Language Act

- 8.** In light of the above, the Board believes that the Bill could be improved by referring to the statutory responsibilities, in relation to the Welsh language, of bodies providing services to the public in Wales. We believe that the Bill would benefit from the insertion of a clause, or numerous clauses, which state that those bodies with a remit in Wales, including the National Assembly for Wales as the Responsible Authority, the Mental Health Tribunal for Wales and CHAI, should treat Welsh and English on a basis of equality, in accordance with the Welsh Language Act 1993. In addition to this general point, the Board would like to draw attention to those areas of the Bill which have most impact on the needs of Welsh speakers.

Language choice

- 9.** It is vitally important that service providers offer linguistic choice in all aspects of their work. Offering language choice will be relevant to many of the procedures outlined in the Bill such as examinations, assessments and any subsequent treatment. The issue of language choice is particularly relevant given the proposed changes to providing treatment at home instead of in hospital, when appropriate. Quality of care would be improved if individuals received treatment in their preferred language.
- 10** The Bill aims to ensure that patients receive 'appropriate treatment'. The Board believes that it should be made clear, preferably on the face of the Bill or in any appropriate secondary legislation, but certainly within guidance and codes of practice, that offering treatment or services in Welsh falls within the definition of appropriateness.
- 11.** Guidance should also be made available on how to offer language choice, as well as how to record the choice for future contact. This would enable the individual to continue to be dealt with in his/her preferred language throughout the process, without having to ask on each occasion.

Codes of Practice (*Part 1*)

- 12** It is essential that the National Assembly for Wales, as the body responsible for preparing the Codes of Practice for Wales, ensures that linguistic issues generally, and the needs of Welsh speakers specifically, are reflected in the Codes of Practice. Issues relating to languages, and the principle of equality established by the Welsh Language Act, should be made explicit within all relevant aspects of the Code. Furthermore, the Code should establish that individuals should be able to access and receive services in either English or Welsh.
- 13.** The Bill and Codes of Practice also need to take into consideration rural issues such as access and travel for different elements of treatment, as well as



attendance at tribunals or appeals. The Board looks forward to having regular contact with the Welsh Assembly Government as the code is developed.

Mental Health Tribunal for Wales (*Part 2, Chapter 9*)

14. The Board believes that the Bill would be strengthened by having a clause which stipulates clearly that the Mental Health Tribunal for Wales will need to treat Welsh and English on a basis of equality, in line with the Welsh Language Act. We would also expect the Welsh Assembly Government to prepare legislation to bring the proposed tribunal within the scope of the Welsh Language Act at the earliest opportunity, thus enabling the Board to notify the Tribunal that it should prepare a Welsh Language Scheme.
15. The Board believes it important that there is an adequate Welsh language representation on the tribunal, and that the tribunals can take place in Welsh when required.

Expert Panel (*Part 2, Chapter 9*)

16. The Board also believes that there should be adequate Welsh language representation amongst members of the Expert Panel. The National Assembly for Wales, as the Responsible Authority, will appoint the members of the expert panel. The Board believes that there is an opportunity for the Bill to make a specific reference to having adequate Welsh language representation on the panel.

Cross border provisions (*Part 4*)

17. The Board believes that the Bill would benefit from greater clarity regarding cross-border issues, particularly in relation to the linguistic implications of individuals who move, or are moved, from Wales to England or vice-versa. The Board believes that there needs to be arrangements in place for individuals who, for whatever reason, need to receive treatment in England but who have already been dealt with through the medium of Welsh. Ensuring that appropriate arrangements are put in place would help to improve quality of care to individuals who would already be in an unfamiliar environment.

Mental Health Advocates (*Part 8, Chapter 2*)

18. The responsible authority, in this case the National Assembly for Wales, will need to ensure that there are sufficient Mental Health Advocates who are able to speak Welsh. The Board sees this as critical to ensuring that the new arrangements are responsive to the needs of Welsh Language speakers, since the advocate will be the main contact for many people. If individuals are unable to discuss issues in their choice of language this could create confusion or tension, thereby undermining the quality of care provided.



Appeals - Mental Health Appeal Tribunal and Court of Appeal (Part 9)

19. There is currently no reference in the bill as to how appeals in the Welsh language will be dealt with by the Mental Health Appeal Tribunal and the Court of Appeal. We believe it is important that consideration is given at this stage as to how such cases might be dealt with by the appeal tribunal. Indeed, it may be appropriate to consider having a separate Appeal Tribunal for Wales. We believe the Bill would be improved by making it clear that the Tribunal would be expected to conduct its business in accordance with the Welsh Language Act.
20. If the final Bill proposes a joint England and Wales Mental Health Appeal Tribunal, then we would expect the Welsh Assembly Government to prepare legislation to bring the Mental Health Appeal Tribunal within the scope of the Welsh Language Act at the earliest opportunity.

I would like to thank you for the opportunity to provide evidence to the joint committee and would be happy to expand on any of the points covered in this written response.

Yours sincerely,

PRYS DAVIES
Director, Strategic Operations Team