

## **MHB024 – Barnardo’s Cymru**

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### **Senedd Cymru | Welsh Parliament**

Bil arfaethedig – Datblygu'r Bil Safonau Gofal Iechyd Meddwl (Cymru) |  
Proposed Development of the Mental Health Standards of Care (Wales) Bill

Ymateb gan: Abigail Rees, Swyddog Polisi a Materion Cyhoeddus Barnardo's Cymru | Evidence from: Abigail Rees, Policy and Public Affairs Officer, Barnardo's Cymru

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### **Enshrining overarching principles in legislation**

**Question 1: Do you think there is a need for this legislation?  
Can you provide reasons for your answer.**

We agree that there could be improvements to reform mental health legislation and we welcome the focus on children and young people as being distinct from adult provision.

Mental health and wellbeing challenges and approaches to support have changed since the introduction of the Mental Health Act 1983. In April 2020, as the country went into lockdown, Barnardo's UK surveyed nearly 1,000 Barnardo's practitioners on the impact of Covid-19<sup>1</sup>.

In Wales:

92% of respondents were supporting someone with their mental health, 75% of whom were supporting children.

81% of respondents said they were supporting someone experiencing an increase in mental health issues due to Covid-19.

The most commonly cited issues increasing as a result of Covid-19 related to anxiety and sleep dysregulation – for children, while for parents, the most commonly cited issues were around anxiety and stress.

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<sup>1</sup> [lessons-from-lockdown-supporting-vulnerable-children-young-people-returning-school-learning-english.pdf](https://www.barnardos.org.uk/learning-english/pdf/lessons-from-lockdown-supporting-vulnerable-children-young-people-returning-school-learning-english.pdf) (barnardos.org.uk)

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In January 2024, we surveyed our practitioners across Wales. The results were stark. 82% said there had been a change in the number of children and young people experiencing mental health and wellbeing issues in the 12 months prior<sup>2</sup>. Mental health continues to be a significant issue in the lives of children and young people and Barnardo's Cymru welcomes a focus on reducing the stigma of mental health challenges and improving the delivery plans for CAMHs services.

**Question 2: Do you agree or disagree with the overarching principles that the Bill seeks to enshrine?**

We agree with the overarching principles set forth by this Bill. In particular, we are pleased that the Bill sets out the necessity of working to a strengths-based model, respecting the individual. We also welcome the principle of ensuring the voice of the individual is taken into account as far as possible. In addition, we welcome steps to ensure that the person understands their rights and entitlements whilst they are subject to the Act, this is important for all but particularly when involving children and young people.

We urge for engagement with children and young people throughout the passage of the Bill so they can share their views and experiences of accessing mental health provision and the changes they would like to see going forward.

Several Barnardo's Cymru specialist services support children and young people who are affected by mental health challenges, however almost all of our services, whether they be family support or care leaver support, are experiencing a rise in mental health and wellbeing issues among children, young people and their families. Demand for services, both statutory and within the third sector, has increased exponentially and young people tell us that there needs to be better access to mental health support<sup>3</sup>.

In one local authority area, we support children and young people dealing with mental health crises. Our first episode psychosis service works through an innovative and integrated partnership model, to use an assertive community outreach approach to engage with young people, aged 14 – 25, who are diagnosed as experiencing a first episode psychosis. The service enables young people to have improved daily living, access mainstream and specialist services,

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<sup>2</sup> Internal survey – 51 respondents

<sup>3</sup> From a focus group session with young people in one of our services.

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employment, education and training, supporting improved mental health, confidence, and progress towards their social recovery.

It is in this context that we welcome the development of a new Mental Health Standards Bill for Wales which considers the needs of children and young people.

## **Specific changes to existing legislation**

### **A. Nearest Relative and Nominated Person**

**Question 3: Do you agree or disagree with the proposal to replace the Nearest Relative (NR) provisions in the Mental Health Act 1983 with a new role of Nominated Person?**

**Can you provide reasons for your answer.**

The proposal to replace the Nearest Relative provision with a new role of a nominated person poses some distinct challenges for children and young people, particularly in relation to safeguarding. We would welcome greater clarity on how this would work in practice for children and young people. The current provision within the Mental Health Act 1983 takes into account the challenges faced by many children and young people, recognising the differences in family structure including for those who are subject to a care order and those living in kinship care.

We would like further detail on the process of selecting a nominated person. For example, how would this process be supported for children and young people to make the right decision for them? Would there be an age limit to nominate or change Nominated Person? What safeguarding provisions would be included in this decision?

It is also vital to understand to what extent this nomination would be extended to children and young people in the care of the local authority? Would the proposed legislation allow for children and young people to nominate a person who is not their social worker or corporate parent? We would welcome more information on the process in this specific instance as it could potentially raise safeguarding concerns and there is an important need to understand the implications and mitigations more fully.

We welcome the prospect of ensuring that the child's voice is at the centre of this process but how will this legislation ensure that the child or young person has made a decision with informed consent? At what age would a child or young

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person be able to make this nomination, and will there be any limits on who they can nominate, for example length of time known, relationship etc.

We hope that these questions are able to help flesh out the provisions of the Bill as it is developed.

## **B. Changing the criteria for detention, ensuring the prospect for therapeutic benefit**

**Question 4: Do you agree or disagree with the proposal to change in the criteria for detention to ensure that people can only be detained if they pose a risk of serious harm either to themselves or to others?**

**Can you provide reasons for your answer.**

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**Question 5: Do you agree or disagree with the proposal to change in the criteria that there must be reasonable prospect of therapeutic benefit to the patient?**

**Can you provide reasons for your answer.**

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## **C. Remote (Virtual) assessment**

**Question 6: Do you agree or disagree with the proposal to introduce remote (virtual) assessment under 'specific provisions' relating to Second Opinion Appointed Doctors (SOADs), and Independent Mental Health Advocates (IMHA)?**

**Can you provide reasons for your answer.**

We recognise that there is a place for virtual or hybrid offers to patients facing mental health challenges. This could help with access to support. We have previously called for a hybrid option to appointments for children and young people to alleviate issues with transport including cost and consider the barriers to accessing services in rural areas of Wales.

Barnardo's Cymru offers several specialist mental health support services to young people. Services have previously recognised the need to offer a hybrid approach to supporting children and young people, particularly where rurality and the cost and accessibility of public transport is an option, or where children

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and young people are reliant on an adult being available to bring them to appointments. One service offered a choice of face to face, online or a combination of both. They found that the majority of young people that they supported requested a face-to-face session. This highlights the need for choice and not assuming which option a young person would prefer.

A practitioner shared that:

*“What we found to be useful was to offer face to face contact to begin with as this was vital to developing a relationship.”*

This is an important consideration when developing the right tool for assessment within this Bill. Trusted relationships are key to ensuring young people feel adequately supported and any assessment process should consider this. However, the same practitioner shared that ‘..with a hybrid offer less sessions were missed.’

In addition, for young people living in rural Wales, wi-fi connection can be a barrier to any online support. On the other hand, offering the opportunity for remote assessments may be of real benefit to some users including those facing digital exclusion. However, we would raise the query of how appropriate solely virtual assessment would be for an assessment in every case.

It is important to recognise concerns around the safety and privacy for the child or young person, when conducting an assessment online. It would be difficult to understand who is in the room, whether there is a safe and confidential place for this assessment to take place. With face to face, practitioners have more control of the space including limiting distractions, however when sessions are virtual, it is not possible to ensure a safe space for sessions. In our own service, practitioners have found that when hosting online sessions, it is difficult to pick up on nonverbal cues as some young people have their camera off. In an assessment this could be a significant problem and have the potential for young people to have the wrong outcomes.

We would welcome further clarification as to how these proposals would seek to mitigate against the clear issues with no face-to-face contact, such as, safety, concealment of issues and an inability for a medical professional to have eyes on the child or young person. A hybrid model may be more appropriate.

It is our view that remote assessment can be a welcome addition, when it is offered as one of a number of options for patients which allows for a choice between remote assessment, in-person, and the opportunity for there to be a mixture of both over the course of a period of treatment. In considering a hybrid

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model, we should also consider where face-to-face appointments should take place. It has been our experience that offering appointments in the community has real benefits for children, young people and their families. Clinical environments can often be intimidating and seen as cold and unfriendly for young people, as well as being difficult to access logistically. Meeting in community spaces that are close to young people, familiar, warm and welcoming, can be an important part of ensuring that assessment and treatment is successful and child centred.

A whole-family approach to wellbeing should also be incorporated where appropriate. Barnardo's Cardiff Family Wellbeing Service provides emotional and therapeutic support for families and children to improve their wellbeing, mental health and relationships. The service is non-diagnostic and utilises a holistic family approach to wellbeing. The objective of the service to improve family functioning and wellbeing, delivering targeted, appropriate, evidence-based interventions for families, and individuals within families, who need support in relation to their emotional and mental health and wellbeing.

Aimed at early intervention, and prevention, the service supports the reduction in risk of developing enduring wellbeing related issues and thereby the numbers of families who may need statutory interventions. This is a crucial element of promoting good mental health across Wales. The support offered is person centred and bespoke to the family, framed through systemic, cognitive behavioural and solution focused therapy approaches. Depending on the presenting issue the interventions can be individual, or group sessions. Our work with families in Wales has shown us that improving young people's mental health often requires an understanding of their whole family dynamic to bring about sustained change. Working in this way ensures that the network around the child or young person also embraces change, making families more resilient in the long term.

It is important that the limitations of a virtual assessment, as outlined above, are weighed against the increased accessibility that they bring. We would welcome clarity on this proposed provision to ensure that the best interests of children and young people and that they are at the heart of the development of this Bill and all future legislation.

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## **D. Amendments to the Mental Health (Wales) Measure 2010**

**Question 7: Do you agree or disagree with the proposal to amend the Measure to ensure that there is no age limit upon those who can request a re-assessment of their mental health?**

**Can you provide reasons for your answer.**

Yes, this would give more autonomy to young people and ensure that their voice is heard within these decisions about them. Autonomy is important for children and young people to express their views and be listened to in relation to decisions made for and about them. It is vital that children and young people are supported to understand their rights under the UNCRC.

By ensuring there is no age limit to request a re-assessment of their mental health this would be reflective of children's rights under Article 25 (review of treatment in care) and Article 12 (respect for the views of the child). However, we would welcome further clarity on how a young person would be supported to make and understand this choice and the outcomes. They would need support to access this right and to ensure they understand how it may, or may not, affect their treatment.

It would also be important to understand to the extent to which young people understand their rights currently and how this new right would be communicated to young people. If this proposal is enacting, it should be made clear to the child or young person what this means for them.

**Question 8: Do you agree or disagree with the proposal to amend the Measure to extend the ability to request a re-assessment to people specified by the patient?**

**Can you provide reasons for your answer.**

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## **General Views**

**Question 9: Do you have any views about how the impact the proposals would have across different population groups?**

Our focus is in supporting children, young people and their families. We recognise the spirit of the proposals to create some level of parity between children and adults care whilst recognising that it should be distinct from adult provision.

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Despite this we must ensure that children and young people are also not treated as one homogenous group and their different needs and challenges are incorporated into any proposed legislation. We would draw attention to the need to consider, those who are either residing in care, care experienced and the difference this can make to their experiences of statutory services and in particular their selection of a nominated person.

Additionally, it is important that disability and neurodiversity is considered. There should be provisions for those with additional learning needs and recognition of the interaction with neurodiversity, even when this is not formally diagnosed but instead suspected.

It would be worth considering how this legislation will be made fully accessible by all population groups. In addition, how will young people access the rights that this new legislation would bring forward for them?

**Question 10: Do you have any views about the impact the proposals would have on children's rights?**

We are pleased that this proposal has clearly considered the inclusion of children's rights. Despite this it is not yet clear how this new legislation, including this proposal will be shared with children and young people. We would recommend a children's version of the proposed legislation, and as this Bill seeks to progress through the relevant mechanisms, we would like to see further children's versions of consultations, scoping work including outcomes and amendments to the proposed legislation.

In light of the UNCRC, this Bill may support the spirit of article 12 (respect for the views of the child), which states that 'Every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously. This right applies at all times, for example during immigration proceedings, housing decisions or the child's day-to-day home life.' It is also vital that young people's views are heard in the creation of this Bill and throughout the legislative pathway that it will take. We would expect there to be engagement with children and young people on the proposals and with the professionals who support them. We believe that this could support the development of the Bill to make it something that truly takes into account children's rights.

We would urge there to be consideration of how the voice of children and young people can run throughout the Bill, and how consultation can be framed in a way that is child friendly.

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Whilst we welcome the addition of reduced age limits and near-parity for children and young people to have a voice in their care, request reassessment and choose a nominated person, we also recognise that these rights come with challenges. We would like to further understand how the responsibilities of these decisions would be shared with young people and how they would be supported to make decisions in their best interests, whilst respecting their rights.

**Question 11: Do you have any general views on the proposal, not covered by any of the previous questions contained in the consultation?**

Barnardo's Cymru supports children right across Wales and mental health and wellbeing challenges are present with many of those we support. We recognise this proposed legislation as a positive step in updating mental health legislation, particularly in support of children and young people.

We would welcome more detail as outlined above. Whilst many of these proposals are positive, there are significant areas which warrant further discussion, exploration and expertise. In addition, we believe it is vital to include children, young people and their families in the development of the legislation. Their voices should be central to changes that effect their lives. We would welcome child friendly consultation documentation and legislative explanation papers.

Through our work across Wales with children and young people we would be open to supporting engagement with children and young people. Their voices should be heard in developing this legislation and it is right that they should be supported to share their views and experiences.

We would welcome further discussion and engagement on the Bill as it continues through its legislative pathway.

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