

# Reforming Mental Health Law

Scottish Executive Newsletter 4 – July 2004

**Welcome** to the fourth edition of the Scottish Executive's newsletter, 'Reforming Mental Health Law'.

There are now less than 9 months to the implementation of the Act in April 2005 and 3 months to the introduction of the provisions allowing people to appoint a Named Person and draw up an Advance Statement.

This newsletter tells you about the work which the Scottish Executive is undertaking to implement the Act and to establish the new Mental Health Tribunal. It also includes an update on the development of the Joint Local Implementation Plans.

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## News in Brief

- The consultation on Volume 1 of the draft code of practice ended at the start of July with over 70 responses. These were from a wide range of groups and we would like to offer our thanks to all for their constructive input.
- The consultation on Volumes 2 and 3 of the code of practice is now underway, more details inside. We look forward to your continued support in the development of the code. If you would like to take part in this consultation exercise please e-mail or telephone the Mental Health Law team, contact details on the back page.
- The appointment process for the Tribunal President is now underway with the first advertisement appearing in the Sunday press on 27th June. We hope that the successful candidate will take up the position in early 2005.
- The announcement on the location of the headquarters of the Mental Health Tribunal was made on 26th March. The headquarters are to be sited in South Lanarkshire.
- There was a successful event at Tynecastle Stadium on 27th May on the Joint Local Implementation Plans, attended by the Minister for Health and Community Care Malcolm Chisholm. This provided a valuable opportunity to share progress to date as well as challenges.

## Implementing the new Act

### **Communications**

In addition to continuing these newsletters, the Scottish Executive is working with the Mental Welfare Commission (MWC), Scottish Association for Mental Health (SAMH), and others to develop further communications on the Act. This will include guides to particular topics – such as Named Person, Advance Statement – as well as ensuring that information is in an accessible format for those whom English is not their first language or who would prefer the information in another format, for instance, on a tape. Materials are also being developed to help people who will be required to attend Tribunal hearings to understand the process and how the Tribunal hearing will proceed on the day.

### **The Code of Practice**

The first volume of the Code of Practice which covered the civil compulsion procedures was issued for consultation early in April. Responses to this consultation were required to be with the Executive by 2nd July. Volume 2 of the Code of Practice will cover the remaining civil provisions and Volume 3 of the Code, which will cover criminal procedures and offenders in the mental health system, will both be published in early July.

Two months will be allowed for consultation with responses to be returned to the Executive by the end of August. We will be consulting on the Regulations which relate to each part of the Code at the same time, as with the first part of the Code. Our plan is still to have a final draft version of the Code available for training purposes in the autumn. The Code itself must be laid before the Scottish Parliament after which it can be published in its final form. We will be looking to see how we can help make the final Code as easy to navigate as possible.

Future work of the team includes looking at the transition of orders under the 1984 Act to orders under the 2003 Act.

### **Training on the Act**

#### **MHOs**

Directions to be made under section 32 of the Act will specify the registration, education and training experience and competencies which are required of someone appointed as a Mental Health Officer (MHO) to carry out functions under this Act and the Adults with Incapacity (Scotland) 2000 Act. We will shortly be consulting on the content of these directions.

Early in 2004 the Scottish Executive commissioned The Robert Gordon University to produce material for a 5-day training course for mental health officers. The development of these training materials is almost complete and in early June The Robert Gordon University and the Scottish Executive hosted a 2-day pilot walk through of the training materials with potential training providers and MHOs. The material will be revised as a result of this work.

#### **AMPs**

Under section 22 of the Act directions will also be made specifying the qualifications, experience and training required by Approved Medical Practitioners (AMPs) before they can be included on a Health Board's list of AMPs. We are currently consulting on the content of these. With the support of the Royal College of Psychiatrists, Dr Mark Taylor and Dr Judith Halford are being seconded to the Scottish Executive on a part-time basis. They will work with colleagues in NHS Education Scotland (NES) to develop training material for a 2-day course for AMPs. At present it seems likely that this will consist of one day self-directed reading and a one day on-site training course.

## **General Training**

Earlier this year NES, with the help of Carol Dobson, carried out a scoping study to inform the production of training materials for health professionals and others. These materials are currently being developed by NES. It is planned that they will be available on the NES website and in other formats. These materials will be freely available for health and other organisations to use in training their staff and will be designed to be used in self-directed learning. NES are currently recruiting a new training co-ordinator to promote these materials and to support local areas (through the JLIP Team) in delivering training and awareness on the new Act.

## **Tribunal Service**

Since the last newsletter update a lot of work has been going on behind the scenes to put the necessary processes, people and facilities in place to enable the new Tribunal to work effectively from day 1 of operation.

The Minister for Health and Community Care has announced that the Tribunal Headquarters will be in South Lanarkshire and we are in the final stages of selecting suitable office accommodation. The President and about 35 staff of the administration arm of the Tribunal will be based at the new office which should be ready by December. In addition to the staff based at the central HQ, we will be recruiting around 15 staff to be based across Scotland providing local support to participants at the hearings venues provided by Health Boards and Local Authorities.

We are sizing the new organisation on an estimate of 3,500-5,000 cases per year, and have taken account of the effort that will be needed in the first year to support the volume of cases moving over from the 1984 Act.

Regulations on the President's and Legal members' minimum qualifications have been laid before the Scottish Parliament. The process for appointing the first President of the MHTS started with the advertisement appearing in major newspapers at the end of June. The President's commitment in the early years of the Tribunal's establishment is essential, and we are therefore seeking someone who can accept the appointment on a full-time basis. The implementation date for the Tribunal is April 2005 and we hope the new President will be able to take on duties, at least on a limited part-time basis, very soon after the appointment is confirmed – ideally no later than January 2005.

Advertising for Legal members is scheduled for later in the summer. We are currently consulting on the Medical and General members regulations and plan to have these laid after the Parliament's summer recess, allowing us to advertise for these member groups later in September. We need to recruit around 300 members in total. As with the President, members will be public appointments. Tribunal members will need to be available for hearings work at least 2 days a month and be flexible as to where they may have to travel. In some areas we may require higher number of days commitment, depending on the response to our advertising campaign.

If you are interested in finding out more about the new Mental Health Tribunal for Scotland watch out for the new website due to be launched later in the summer. In the meantime we can be contacted by email: [mhts@scotland.gsi.gov.uk](mailto:mhts@scotland.gsi.gov.uk)

## **Mental Health Law Research Programme**

The analysis of the responses to the consultation exercise on the Mental Health Research Programme was published in hard copy and on the Scottish Executive website in February 2004. The analysis of responses has helped to identify the priorities for research and the action matrix, which was included in the document, allows stakeholders to see how the Scottish Executive intends to address their broader concerns and requests for information. Building on this momentum the pre-enactment research programme is already underway, gathering reliable information on how current mental health law is working. With this evidence, it will be easier to measure whether and how the changes brought by the new Act are benefiting all stakeholder groups.

- A Research Literature Review is gathering together what is already known about the workings of mental health law in Scotland, the rest of the UK and internationally on important relevant issues. This builds on and updates earlier reviews.
- A second project will analyse the views of stakeholders on the draft Code of Practice (and the accompanying Regulations) invited through the consultation exercise presently underway. This piece of research will allow the Scottish Executive to fine-tune the Code of Practice before enactment in April 2005.

Future work will focus on a deeper analysis of monitoring figures routinely collected. Bringing together information presently held in different databases to allow a more complete picture of the usage of mental health law across Scotland, and trends over time. Work will also focus on the experiences of all stakeholder groups and their expectations of the new Act.

Coming months will also see the publication of the *Mental Health Law Research Programme Strategy* which will provide information about all research planned both pre- and post-enactment of the new Act (although the programme will remain flexible to allow changing priorities to be addressed). A research programme advisory board (including representatives of all stakeholder groups) will be set-up to provide guidance and advice to the research programme as it develops. We welcome any comments or queries on the research programme and if you would like to get involved in any aspect of research please e-mail [rosemary.rushmer@scotland.gsi.gov.uk](mailto:rosemary.rushmer@scotland.gsi.gov.uk)

## **Keeping in Touch**

To comment on this newsletter or any aspect of implementing the new Act, to send us a new question for our question and answer page, or even to offer an article for the next newsletter, please contact:

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