

TO: SOCIAL WORK COMMITTEE	Subject: IMPLEMENTATION OF THE MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003
FROM: DIRECTOR OF SOCIAL WORK	
DATE OF COMMITTEE: 12 JANUARY 2006	
REF: EN	

1. PURPOSE OF REPORT/INTRODUCTION REPORT

To advise Committee of how the Council is meeting its new statutory responsibilities under the Mental Health (Care and Treatment) (Scotland) Act 2003.

2. BACKGROUND

- 2.1. The Mental Health (Care and Treatment) (Scotland) Act 2003 received royal assent on 25 April 2003 and was implemented on 5 October 2005. The new Act reflects the development of community based mental health services, the greater involvement of service users and carers in decisions concerning treatment, and a greater awareness of the need to respect human rights. It contains a number of additional responsibilities for local authorities.

3. PROPOSALS/CONSIDERATIONS

- 3.1. The 2003 Act covers a wide range of issues that can be broadly arranged under 4 headings:
- Guiding principles, roles and responsibilities
 - Compulsory powers
 - People with mental disorder within the criminal justice system
 - Rights and safeguards
- 3.2. The Mental Health Tribunal for Scotland replaces the Sheriff Court as the forum for hearing cases. The Tribunal is responsible for making decisions on compulsory detentions, considering care plans and carrying out reviews. The Tribunal consists of three members and operates within formal Rules of Procedures made by Scottish Ministers.
- 3.3. Local authorities are required to appoint a sufficient number of Mental Health Officers (MHOs) for their areas. Each MHO must have the required qualifications and undertaken transitional training on the new Act. Transitional arrangements have been introduced which require all adults subject to Section 18 of the old Mental Health (Scotland) Act 1984 and all adults within the State Hospital to be allocated a Designated MHO.
- 3.4. Pursuing a Short-term Detention Order is the preferred route to compulsory mental health services and is a more prolonged and complex process than was the case in the previous legislation. Section 18 applications have been replaced by Compulsory Treatment Orders, which continue to last for 6 months but can now impose community based support as well as hospital admission.

- 3.5. The new Act places a duty on local authorities and health boards to ensure the provision of independent advocacy for any person with a "mental disorder" including people with a learning disability those with "serious communication difficulties" such as people who are deaf and blind. Local authorities now also have a duty to provide care and support services and design services that promote well being and social development for people who have, or have had, a mental disorder.

4. IMPLICATIONS FOR NORTH LANARKSHIRE COUNCIL

- 4.1. Local authorities and health boards are required, where practical, to provide accommodation where Mental Health Tribunals can be heard. Premises both in hospital and the community have been identified.
- 4.2. North Lanarkshire Council has recruited 5 additional social workers to undertake MHO duties, one within each of the 5 Outreach Teams. Two social workers will require to undertake the West of Scotland MHO Training Course. All existing MHOs in North Lanarkshire have completed their transitional training.
- 4.3. The Act has involved significant additional workloads for MHOs. North Lanarkshire has 71 adults in the community and 10 adults within the State Hospital who are subject to transitional arrangements, all of whom have been allocated a Designated MHO. Furthermore, in the first four weeks of the Act MHOs in North Lanarkshire completed:
- 4 Emergency Detention Certificates
 - 9 Short-term Detention Certificates
 - 6 Compulsory Treatment Orders. (CTO)
- 4.4. Dealing with a Section 18 Order under the 1984 Act took a MHO an average of 8 hours to complete. By contrast one of the first applications in relation to a Community Treatment Order took 19.5 hours to complete.
- 4.5. A tendering exercise is currently underway to improve access to advocacy and is the subject of a separate report to Committee.

5. FINANCIAL/PERSONNEL/LEGAL/POLICY IMPLICATIONS

- 5.1. The Scottish Executive identified additional funding for local authorities to assist with the implementation of the new Act, as set out to Committee Report in January 2005. Ongoing review of the recruitment and retention of MHO's will be required to ensure the Council meets its statutory responsibilities under the Act.

6. CONCLUSIONS

- 6.1. Committee is asked to note the contents of this report



Jim Dickie
Director of Social Work
30 November 2005

For further information on this report please contact Robert Miller, Development Manager, Adults, (Tel: 01698 332069)