

**REPORT**

To: SOCIAL WORK (OPERATIONS AND SERVICES) SUB COMMITTEE		Subject: THE MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003: ADVANCE STATEMENTS AND NAMED PERSONS	
From: DIRECTOR OF SOCIAL WORK			
Date: 29 JUNE 2005		Ref: ST	

**1. Purpose of Report/Introduction**

To advise committee of progress in implementing arrangements for Advance Statements and Named Persons, which became a requirement of the new Mental Health (Care and Treatment) (Scotland) Act 2003 in October 2004.

**2. Background**

- 2.1. The Mental Health (Care and Treatment) (Scotland) Act 2003 received royal assent on 25 April 2003, and will be implemented in 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.
- 2.2. Advance statements and named persons arrangements were introduced in October 2004 to help promote an individual's right to choice. Mental health officers and medical staff now have to note any advance statement and/or named person when considering interventions under the Mental Health (Scotland) Act 1984. However the nomination of a named person will not have effect until the implementation of the new Act in October 2005.
- 2.3. An advance statement gives an individual the right to make a written statement setting out how they would wish to be treated or not treated in the event of them becoming unable (due to mental disorder) to make their views known when receiving care and treatment at a future date.
- 2.4. The named person will replace the next of kin and has similar rights to the individual to apply for, appear at and be represented at tribunal hearings concerning compulsory treatment orders, and to appeal against short-term detention. The named person is also entitled to be given information concerning compulsory measures which have been taken or are being sought.

**3. Proposals/ Considerations**

- 3.1. As part of the Joint Local Implementation Plan for the new Act, social work and health staff have drafted guidance about advance statements and named persons for staff involved in delivering mental health services.

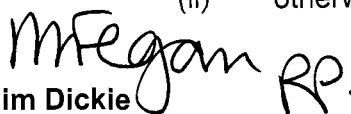
- 3.2. The guidance seeks to clarify the roles and responsibilities of social work and health professionals in dealing with advance statements and named persons in North Lanarkshire.
- 3.2. It is intended that the guidance note should be part of a number of local protocols for the Mental Health (Care and Treatment) (Scotland) Act 2003, which will be developed as the Act is implemented.
- 3.3. Briefing sessions about named persons/advance statements were delivered to social work, health, and voluntary sector organisations at Wishaw General Hospital on 16<sup>th</sup> and 22<sup>nd</sup> September 2004. Information has also been disseminated through the Council's website and the NHS Lanarkshire mental health website.
- 3.4. Mental health officers and medical staff are presently taking into consideration advance statements and/or named persons when considering interventions under the Mental Health (Scotland) Act 1984.
- 3.5. In October 2004, the Scottish Executive issued a guidance leaflet for the public which explained the process of making an advance statement and nominating a named person.
- 3.6. Copies of this leaflet are available in all social work area teams and mental health outreach teams.

#### 4. **Financial/Personnel/Legal/Policy Implications**

- 4.1. There are no financial or personnel implications for the department at this time.
- 4.2. The arrangement being introduced will assist the Council address its obligations under the Act.

#### 5. **Recommendation**

- 5.1. Committee is asked to
  - (i) note the progress in implementing arrangements for Advance Statements and Named Persons, which became a requirement of the New Mental Health (Care and Treatment) (Scotland) Act 2003
  - (ii) otherwise note the contents of the report

  
**Jim Dickie**  
**Director of Social Work**  
**6 June, 2005**

**\* A copy of the draft document is available in the member's library**

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