

# update:

*on CSIP's implementation programme for the Mental Health Act 2007*

## Draft Revised Code of Practice and Secondary Legislation Consultations

On October 25th, the Government launched two formal consultation exercises on the draft revised **Code of Practice** and draft **secondary legislation** in the light of the Mental Health Act 2007. Both relate only to changes that the 2007 Act makes to the Mental Health Act 1983 (the 1983 Act).

The secondary legislation in question mainly gives effect to the changes which are being introduced under the 2007 Act in October 2008 (or, in the case of independent mental health advocacy, as soon as practicable thereafter).

NHS bodies and local social services authorities should be particularly aware of the proposals and **all interested parties are invited to comment** - see the DH website [here](#).

You are invited to say whether the proposals meet your expectations, and if any significant issues have been missed or if anything unnecessary has been included. The consultations will run until 24 January 2008.

In support of the consultation process, CSIP is facilitating a series of workshops around the country to seek comments on, and input into, the draft revised Code of Practice. The workshops will offer an in-depth and focused opportunity to comment on the draft copy. For details, see Forthcoming Events on page 3.

## Commencement and Implementation Plans

The Department of Health has supplied an indicative **Mental Health Act 2007 Commencement Plan** showing the Department's current intentions for the implementation dates for each Section and Schedule, as well as for the required secondary legislation.

Some parts of the Act have already been implemented and others are scheduled for early implementation between now and October 2008. The plan can be downloaded [here](#), but please remember **these dates are liable to change**.

You may also be interested in accessing a list of the various activities and deliverables planned by the CSIP/NIMHE Implementation Programme, with dates for each. This can be downloaded [here](#).

### Welcome to Update 4!

*We aim to keep you updated on the steps you need to take to implement the changes to the Mental Health Act and inform you of sources of help and advice available.*

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## A New Self Assessment Tool for Service Providers

An **Implementation Self Assessment Tool (ISAT)** is being developed to help organisations prepare for the changes introduced by the 2007 Act. It will be useful to Mental Health Trusts, Primary Care Trusts, Foundation Trusts, independent sector hospitals and Local Authorities who provide care and treatment to patients detained under the Mental Health Act. Some of the standards will be of particular interest to service commissioners.

The tool is very practical and focuses on those tasks necessary for a **timely and effective implementation** of the new Act. It details 50 compliance standards covering areas such as leadership, policy and planning, patients and clients, partnership working, human resource management, clinical systems and finance.

Self assessments will be undertaken online and two return dates are planned so that progress can be measured and support appropriately targeted.

This project follows on from the successful self assessment exercise undertaken earlier this year, aimed at helping service providers develop their governance and strategic policies relating to detained patients.

It is intended that the ISAT will go live later this month. It will be linked from the [CSIP Mental Health Act 2007 Implementation website](#). For further information, please contact [Keith Nieland](#).

## Section 26 Date Set

A date has now been set for implementation of section 26 of the Mental Health Act 2007. The section will come into force on **1 December 2007**. A Commencement Order to that effect (which also sets commencement dates for various other parts of the Act) has now been made (see [SI 2007/2798](#)).

The main effect of the change is that **civil partners will automatically become each other's nearest relative** for the purposes of the Mental Health Act. Nearest relatives have various rights, including the right to apply for compulsory admission to hospital (when the application is supported by the necessary medical recommendations) and to discharge patients from hospital (in most cases, and subject to clinical veto).

Like a husband or wife, a civil partner will not be a patient's nearest relative if they are permanently separated, or if they do not live ("ordinarily reside") in the UK (or the Isle of Man or Channel Islands) but the patient does (the detail is in section 26 of the 1983 Act).

Like other nearest relatives, they can also be displaced by a ruling of the County Court under section 29 of the Act.

The short delay in implementation until 1 December is to give hospitals and local authorities a chance to identify the (probably very few) people whose nearest relative will change automatically as a result of the amendment taking effect.

In practice, the only people likely to be affected by the change are people who are in civil partnerships but who have not been living with each other for at least 6 months. In those cases, the effect of the amendment will be to displace whoever is currently the nearest relative of each partner and replace them with the other partner.



## Service Users and Carers

Earlier this year, the national implementation programme was joined by a team of service users and carers. The aim of the Mental Health Legislation **Service User and Carer Sub-Group** (SUCS Group) is to support and advise on the work of the programme. The purpose of the group is to:

- **inform** those involved in mental health care (including service providers in the voluntary and statutory sector, users of services and their carers) of the proposed changes and the impact they may have
- **work with, and support** the mental health communities in understanding the new legislation, supporting implementation and sign posting sources of information
- provide an opportunity to **influence national policy**
- **identify** from a service user and carer perspective the impact, opportunities and issues created by the new legislation and **make recommendations** as to how guidance can support implementation
- **consider the service user and carer viewpoint** regarding the impact of changing legislation on the service users journey, considering the whole system from primary care into secondary services and back out to the community.

The SUCS Group seeks to act as inclusively as possible by considering evidence from a wide range of opinions, including stakeholders within and outside the NHS. The group recognises that the views of individual group members may on occasion be at variance to other group members or the wider implementation team, but these differences of opinion are valued and used to inform discussion.

The group are working closely with the national Implementation Team, and is represented in meetings of the Team. Updates on the work of the SUCS Group can be found on the implementation website at <http://mhact.csip.org.uk/sucs>.

## Section 117 Services and SCT - a Correction

Apologies for an error in the [previous edition](#) of Update (and thanks to readers who have pointed this out).

Section 117 aftercare entitlements apply only to those who have been detained under the treatment provisions of the Mental Health Act (mainly sections 3 and 37).

## Forthcoming Events

In late December/ early January, CSIP/NIMHE will be facilitating a series of workshops around England as part of the **consultation on the draft revised Code of Practice** in light of the Mental Health Act 2007.

Dates are as follows:

- 14th December, Taunton
- 17th December, Nottingham
- 18th December, London
- 20th December, Birmingham
- 21st December, Cambridge
- 16th January, Newcastle
- 18th January, Manchester

For details of the event nearest to you and to book your place, please contact your [regional lead](#).



## Planning and Commissioning Training

In order to achieve timely Act implementation readiness, service providers are required to have wide ranging training provisions in place - both in advance of and beyond October 2008.

**Training Issues for Organisations in Respect of Implementing the Mental Health Act 2007** sets out all the recommended training requirements relating to the successful implementation of the Act, with a view to informing the commissioning of appropriate training resources and materials.

The report is intended to provide a structure to organisations to assist them with the planning and commissioning of training in readiness for the implementation of the Act.

This document will help organisations plan their training needs for the implementation of the Mental Health Act. It gives clear information about timescales and resources needs. Download it [here](#).

## Your regional CSIP contact and Local Implementation Plan

[North East, Yorkshire and Humber \(LIP\)](#)

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[Keith Nieland](#) - 07711 980057

CSIP's Executive Lead for the programme is [Dean Repper](#)

The Programme Leads are [Jim Symington](#) and [Bernie O'Hare](#)

## Key Resources

- [Implementing the Amended Mental Health Act](#) The CSIP/NIMHE Implementation Programme's own website with a range of useful information and resources.
- [Mental Health Act 2007](#) in full from the Office of Public Sector Information
- [Delivering Race Equality in Mental Health Care](#)
- [Reforming Mental Health Legislation Self-Assessment Tool](#)
- [Good Advocacy Practice](#) website
- [Commencement Orders, Regulations, and Other Secondary Legislation](#) DH
- [Report of the Mental Health Review Tribunal Improvement Pilot](#) CSIP report
- [Briefing sheets on key policy areas](#) DH
- [International Experiences of Using Community Treatment Orders](#) DH
- [Previous issues of Update](#)

We'd like to know what you would like to see in <sup>u</sup>date, please email your thoughts and ideas to [Mark Drury](#).

