

**REPORT TO: COMMUNITY SERVICE COMMITTEE ON 30TH MARCH 2005**

**SUBJECT: MENTAL HEALTH CARE AND TREATMENT (SCOTLAND) ACT 2003**

**BY: HEAD OF COMMUNITY CARE**

**1. Reason for Report**

1.1 To advise the Community Services Committee on progress in developing a Grampian Joint Implementation Plan in respect of the Mental Health Care and Treatment (Scotland) Act 2003 and to invite the Committee to consider proposals in regard to:

- (a) a training programme, which has been developed and is currently being implemented, being rolled out across Moray;
- (b) establishing a 0.5fte clerical assistant post on grade GS1/2 (£6,480-£8,630 pro rata) to support the ongoing training programme;
- (c) utilising the remainder of the budget to support additional requests for funding from the newly established Advocacy Service, given the anticipated increase in demand for this service post Act implementation and to support the establishment of a mental health specific home support service.

1.2 This report is submitted to Committee in terms of Section G (12) and A (32) of the Council's Administrative Scheme relating to exercising the functions of the Council under the Mental Health (Scotland) Act 1984 and staffing within the social work service.

**2. Background**

2.1 The Mental Health Care and Treatment (Scotland) Act 2003 received Royal Assent in April 2003. The presence of mental disorder will remain as the essential criterion for determining whether a person is covered by the provisions of the Mental Health Care and Treatment (Scotland) Act 2003. There will be three categories of mental disorder: mental illness, learning disability and personality disorder.

2.2 The new Act is a milestone in mental health law and should bring real benefits for people with mental health problems in Scotland, and those who care for them. It promises to make a major contribution to achieving the ultimate objective of mental health law. To make sure people with mental health problems can reclaim effective care and treatment in a way, which accords with the Millan Principles as detailed below:

- Non-discrimination
- Equity
- Respect for diversity
- Reciprocity
- Informal care

- Participation
- Respect for carers
- Least restrictive alternative
- Benefit
- Child welfare

2.3 The Mental Health Act has a clear underlying set of principles, which will provide the context for the interpretation of the legislation and any intervention under the Act should take account of the stated principles. Fuller clarification of these principles are outlined in “Reviewing Mental Health Law” (Scottish Executive), a copy which has been made available in the Members’ library.

2.4 The ‘Act’ places a range of duties (and gives a range of powers) to organisations involved in mental health law, including mental health service providers, the Mental Welfare Commission and the new Mental Health Tribunals for Scotland.

- It defines clear procedures for decision-making on compulsory treatment and/or detention of people with mental disorder. It sets criteria, which has to be met before compulsion can be authorised.
- It gives guidance on protecting the rights of informal patients alongside those subject to compulsory care.
- It amends existing criminal justice legislation to give courts more effective ways of assessing and dealing with a person with mental disorder who comes before them, and it defines procedures for the review of orders made by a court in relation to a person with mental disorder.
- It provides new rights for people with mental disorder such as a right of access to advocacy services and it provides safeguards in the use of certain medical treatments.

2.5 It extends powers and duties on local authorities to:

- Provide services for persons with mental disorder, and duties on local authorities and NHS bodies to co-operate with each other and with voluntary organisations in doing so.
- Appoint sufficient Mental Health Officers.
- Inquire into possible cases of ill-treatment or neglect.
- Improve care and support services.

### **3. Development of Joint Implementation Plan**

3.1 The Scottish Executive commissioned a national assessment of existing Mental Health Services in light of the “new Act”. A team led by Dr Sandra Grant undertook this piece of work to assess the implications for services. A Grampian report was published in December 2003, a copy of which has also been made available in the

Members' library. The report sets out key themes from her work, highlighting areas that require further development to ensure that the Act can be delivered effectively. The Scottish Executive (Mental Health Division), having considered Dr Sandra Grant's findings, requested the development of Joint Implementation Plans by the 31<sup>st</sup> March 2004.

- 3.2 These plans set out how NHS Boards and Local Authorities, with other partners, intend jointly to ensure that services will be ready to meet the requirements of the new Act, without detriment to the generality of mental health services. The plan should build upon and adopt the principles set out under the Joint Future initiatives, not least to reflect joint management and joint delivery approaches. The plans should identify priorities for developments in services and set out in clear terms the individual actions proposed which should be costed, time-tabled and show agreement on agency responsibilities for delivery. The plans require to be signed off by both NHS and Local Authority Chief Executives.
- 3.3 To support the implementation of the Act and the development of the Joint Implementation Plans, additional resources have been made available in the form of "Partnership" money allocated to NHS Boards over a three year period only, 2003-2006. A total of £15m across Scotland has been allocated. In addition, NHS Boards will require to invest further in mental health services and this will need to be drawn primarily from planned increases in overall allocations to NHS Boards. Additional resources have been allocated to Local Authorities through Revenue Support Grant. In 2004/2005 The Moray Council approved additional budget of £192k (recurring) to support:
- Improvements in packages of care;
  - Improved day and after care;
  - Additional Mental Health Officers;
  - Local Authority training for MHOs; and
  - New duties to support advocacy.
- 3.4 To develop the plan, a Grampian Steering Group has been established. This group is chaired by the Medical Director for Mental Health Services, NHS Grampian, with representation across the three Local Authority areas. In addition to this Grampian group, Moray has established a local multi-agency group to identify and take forward key local priorities. The Moray Implementation Plan update is attached in **Appendix 1**.
- 3.5 With regard to the workforce, it is anticipated that the new Act will bring significant workload issues for frontline staff working within the field of mental health. Mental Health Officers will have a significantly increased workload, particularly in relation to report writing and attendance at tribunals, but their particular training and expertise will also be relevant to a range of functions under the new Act. In view of these proposed changes, three additional social work posts were approved in April 2004 and personnel to support the Act's implementation are now in place.
- 3.6 The Act makes clear the need to support individuals where possible in the community, free from inpatient care, and to do this effectively, good care planning, monitoring, review and home support arrangements will require to be put in place.

#### **4. Proposed Allocation of the Mental Health Act Resource**

- 4.1 In order to support some of these new duties and responsibilities it is proposed to develop a mental health specific, home support service. Staff will be trained in mental health issues and provide a dedicated, flexible service to people living in their own homes to reduce admission to hospital. It is envisaged that from the remaining £54,974 budget, £35,000 will be used to support the development of a core service with additional monies being made available through the Community Mental Health Team care management budget.
- 4.2 As a further key priority within the new Act is training, it is proposed that the training schedule which has been developed, and is currently being implemented, be rolled out across Moray. This will have the affect of providing general information/awareness raising for frontline staff and more detailed, specific training for Mental Health Officers and members of the Community Mental Health Teams across Moray in relation to the Care and Treatment (Scotland) Act 2003 and the Adults with Incapacity (Scotland) Act 2000. At present this programme has no clerical support and there is no scope within the mental health service to administratively support this important activity, hence the proposal to appoint a 0.5fte clerical assistant.
- 4.3 In relation to the overall allocation for 2005/06, approximately £20,000 recurring resource remains available. It is proposed that this be used in part to fund a 0.5fte clerical assistant (grade GS 1/2), retaining the remainder to support additional requests for funding from the newly established Advocacy Service, given the anticipated increase in demand for this service post-Act implementation.

## 5. **Proposal**

- 5.1 It is proposed that the Community Services Committee agree to:-
- (a) note the information in relation to Mental Health Care and Treatment (Scotland) Act 2003 and the progress in developing a Grampian Joint Implementation Plan;
  - (b) approve the proposal to roll out the training programme, which has been developed and is currently being implemented, across Moray;
  - (c) approve the allocation of the remaining Mental Health Act resource as outlined in Section 4.1, 4.2 and 4.3 of this report; and
  - (d) recommend to the Policy and Resources Committee the establishment of the 0.5fte clerical assistant post at Grade GS 1/2.

## 6. **Financial Implications**

- 6.1 The funding to support the Home Support Service proposal, the 0.5fte clerical assistant post, and future training events can be contained within the budget. Costs in relation to the admin post are detailed:

Clerical Assistant 0.5 fte      Grade GS1/2

Salary (inc.20% on costs)	£6,480–£8,630 pro rata
IT start-up costs	£1,500

## **7. Staffing Implications**

- 7.1 The direct staffing implications associated with this report is the establishment of a 0.5fte clerical assistant post at grade GS1/2. The post holder will be based at Pluscarden Clinic, Dr Gray's Hospital.

## **8. Environmental Implications**

- 8.1 There are no environmental implications.

## **9. Sustainable Development Implications**

- 9.1 The proposals set out in the report provide the means for services in Moray to be developed and delivered to begin to meet the requirements of the Mental Health Care and Treatment (Scotland) Act 2003. This funding source is an essential element to support the sustainable, affordable and manageable development of the services outlined in order to bring real benefits for people who suffer from mental health problems, and those who care for them.

## **10. Corporate Plan**

- 10.1 The following principles from the Corporate Plan are reflected in this report:

- Sustainable Services;
- Modern Services;
- Responsive Services.

## **11. Consultation**

- 11.1 The Moray Mental Health Strategy Group, Moray Care and Treatment Implementation Sub-Group, the Head of Children & Families & Criminal Justice, Head of Community Care, Personnel Advisor and Senior Accountant have been consulted and all concur with the contents of this report.

## **12. Recommendations**

- 12.1 **It is recommended that Community Services Committee agree to:-**

- (i) **note the information in relation to Mental Health Care and Treatment (Scotland) Act 2003 and the progress in developing a Grampian Joint Implementation Plan;**

- (ii) approve the proposal to roll out the training programme, which has been developed and is currently being implemented, across Moray;**
- (iii) approve the allocation of the remaining Mental Health Act resource as outlined in Section 4.1, 4.2 and 4.3 of this report; and**
- (iv) recommend to the Policy and Resources Committee the establishment of the 0.5fte clerical assistant post at Grade GS 1/2.**

Author of Report: Margaret Christie, Manager-Integrated Mental Health Services, Moray  
Background Papers: Reviewing Mental Health Law  
Mental Health Care Treatment (Scotland) Act 2003  
Scottish Executive Website  
Milan Report

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