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Consultation – summary of responses

Revision of the Mental Health Act 1983 Code of Practice for Wales

Date of issue: **June 2016**

Overview

The Welsh Ministers are required to prepare, publish and, from time to time, review their extant Codes of Practice, by virtue of section 118 of the Mental Health Act 1983 (the Act). In doing so they are required to consult such bodies as appear to them to be concerned.

This consultation was part of that process. It sought responses to some specific questions to help inform the drafting of a revised Mental Health Act 1983 Code of Practice for Wales (the Code).

This document provides a summary of the responses received by Welsh Government to the revision of the Code that was published for consultation on 4 September 2015. The consultation closed on 27 November 2015.

Further Information

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This document can be accessed from the Welsh Government website:
<http://gov.wales/consultations/healthsocialcare/?lang=en>

Copies of this report can also be obtained in accessible formats including Braille, large print, audio or hard copy on request.

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1. Summary of the consultation responses

The Welsh Government received a total of 51 responses to the questions relating to the Revision of the Mental Health Act 1983 Code of Practice for Wales (the Code).

Of these responses 10 (19.6%) were received using the online response template; 21 (41.2%) used the e-mail proforma; two (3.9%) printed the proforma and sent it in as hard copy; and 18 (35.3%) sent their comments as an e-mail without using the proforma. Two thirds of the responses were received in a format designed by Welsh Government.

Overall, there was broad consensus (ranging from 55.9% to 90.6%) that the Code, as drafted, clearly explains the requirements specified in each question. With the addition of those who thought the Code partly explains the requirements this range rose to 88.3% to 100%. Between 0% and 11.7% disagreed that the Code as drafted explains the requirements stated in the questions.

Amendments were made to the Code to incorporate the views of stakeholders where ever possible and in particular further strengthening the role of the Mental Health (Wales) Measure 2010 (the Measure). Two annexes were also added, one concerned with training of staff and the other with the monitoring of the Mental Health Act 1983 (the Act) and implementation of the Code.

An analysis by individual question and chapter is included later in this document.

2. Introduction

Section 118 of the Act requires Welsh Ministers to prepare, publish and periodically review its Codes of Practice.

The draft Code took account of the changes to relevant legislation since the previous Code was written. In particular the:

- requirements in the Measure with regards to care and treatment planning and the expanded provision of independent mental health advocacy, and
- relationship between the Act, the Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards.

Within the draft Code there was strengthened emphasis on:

- the involvement of patients and, where appropriate, their families and carers in all aspects of assessment and treatment
- understanding the principles of the Mental Capacity Act 2005
- the involvement of independent mental health advocates, and
- the use of appropriate transport for patients subject to the Act to ensure their dignity and safety as far as is practicable.

There were 2 other matters of proposed guidance in the draft Code that are not in the existing code, these related to section 136 and when inpatient care and treatment planning should begin.

3. Stakeholder engagement

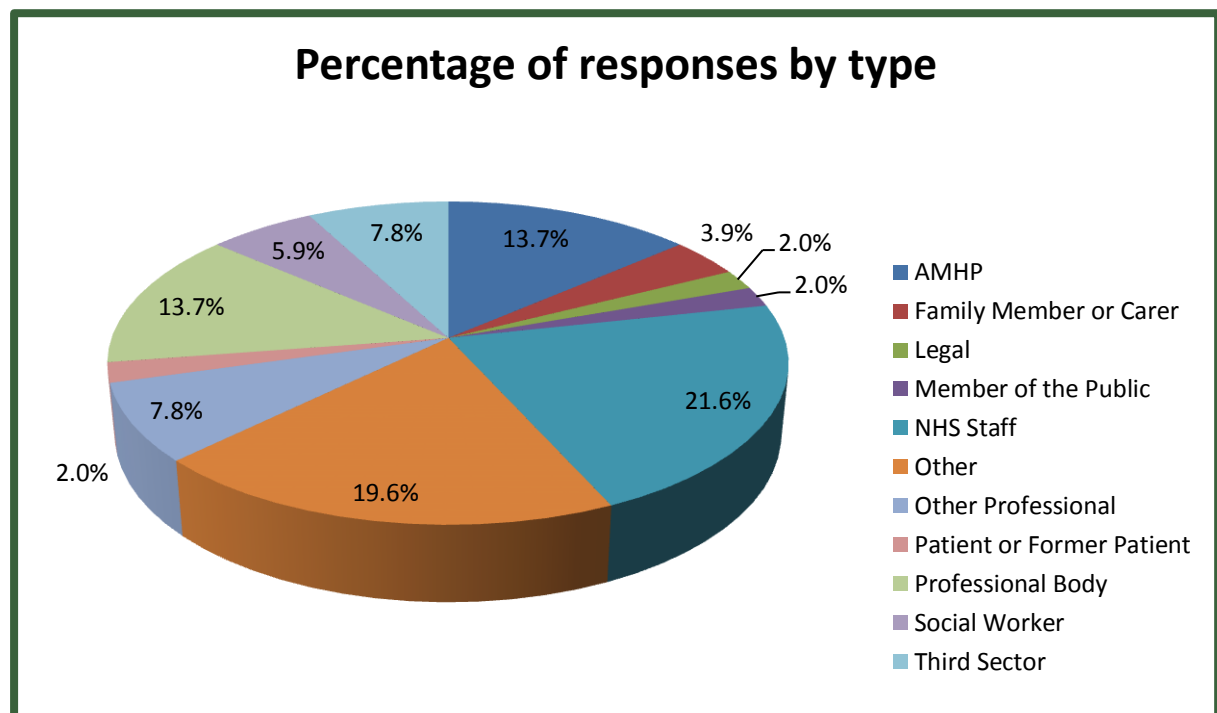
The draft Code was prepared in collaboration with members of the Welsh Government’s Mental Health Act 1983 Code of Practice steering group. The group represented mental health stakeholders in Wales, and included service users, carers, third sector organisations and mental health professionals.

Individual workshops were held with independent mental health advocates, Mental Health Act managers and administrators, approved mental health professionals, other mental health professionals including approved clinicians and mental health nurses. Informal meetings were also held on inpatients wards for; children and young people, adults, older persons, those with a learning disability and forensic patients.

Meetings were also held with the Welsh Language Commissioner and the offices of the Children’s Commissioner and the Older Person’s Commissioner.

A series of facilitated consultation events took place across Wales. Patients and carers were supported to attend by third sectors organisations and a specific event was held with the mental health service users and carer forum. The formal 12 week consultation ended on the 27 November 2015

4. Respondents



| Respondents | No. of Responses |
|-------------------------------------|------------------|
| Approved mental health professional | 7 |
| Family member or carer | 2 |
| Legal | 1 |
| Member of the public | 1 |
| NHS staff | 11 |
| Other | 10 |
| Other professional | 4 |
| Patient or former patient | 1 |
| Professional body | 7 |
| Social worker | 3 |
| Third sector organisation | 4 |

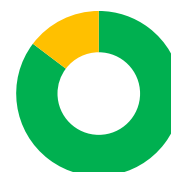
5. Analysis of responses by question

Question 1

Does the Code, as drafted, clearly explain that patients are to be treated with dignity and respect and their views listened to, valued and taken into account?

Of those that replied to the question (34 = 66.6%)

| | Yes | Partly | No |
|-------------------|-------|--------|----|
| Number | 29 | 5 | 0 |
| Percentage | 85.3% | 14.7% | 0% |



■ Yes ■ Partly ■ No

Summary

The majority of respondents agreed the Code clearly explains that patients are to be treated with dignity and respect and their views listened to, valued and taken into account. Several additional suggestions, comments and questions were raised:

- whether it was desirable to include more references to the needs of Welsh speakers to be respected when asking for services in the Welsh language.
- how will staff ensure people are treated with dignity and respect? What training is given to staff to ensure this?
- whether scenarios would be helpful
- the Code does not actually say that patients must be treated with respect and
- views should also be recorded

Government response

The Code has been amended to:

- emphasise patients should be treated with respect,
- state patients views should be recorded
- include a new section on training

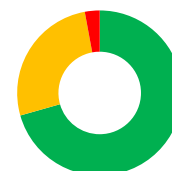
In line with the previous Code scenarios have not been included in the revised Code. It is expected that all organisations and their staff will comply with the Welsh Language Standards and Welsh Language Measure.

Question 2

Does the Code, as drafted, clearly explain that patients' families and/or carers are to be treated with dignity and respect and their views listened to, valued and taken into account, for example, in the care and treatment plan?

Of those that replied to the question (34 = 66.6%)

| | Yes | Partly | No |
|-------------------|--------------|--------|------|
| Number | 24 | 9 | 1 |
| Percentage | 70.6% | 26.5% | 2.9% |



■ Yes ■ Partly ■ No

Summary

There was a consensus that the need for patients' families and/or carers to be treated with dignity and respect and their views listened to, valued and taken into account was clearly explained throughout the Code. Several additional suggestions were made:

- Code should clearly define who the nearest relative should be, e.g. whether or not 'next of kin'.
- for cases involving children or young people under the age of 18, family members or carers must always be consulted.
- more emphasis needs to be placed on their involvement in the care and treatment planning process.
- need for patient and carer confidentiality is respected.
- views should also be recorded.

Government response

The revised Code has been amended to:

- give increased emphasis on the importance of cares, families and friends being fully involved in the care and treatment planning process and the guidance given in the Code of Practice to Part 2 and 3 of the Mental Health (Wales) Measure 2010
- provide further clarity on matters in relation to confidentiality
- state family/carer views should be recorded
- clarify the distinction between nearest relative and next of kin

There can be no blanket guidance that the family members of children must be consulted, this will depend on the individual circumstance of the child.

Question 3

Does the Code, as drafted, clearly explain that patients are to be treated in a safe and supportive environment, and one that is appropriate for their specific needs?

Of those that replied to the question (34 = 66.6%)

| | Yes | Partly | No |
|------------|-------|--------|----|
| Number | 23 | 11 | 0 |
| Percentage | 67.6% | 32.4% | 0% |



■ Yes ■ Partly ■ No

Summary

There was broad agreement the Code clearly explains patients are to be treated in a safe and supportive environment and one that is appropriate for their specific needs. Three particular issues were raised:

- the current state of the NHS estate, including the consequent use of out of area placements
- staff training
- how restrictive practices can be minimised

Government response:

Whilst the Code is not able to determine how health boards and local authorities provide the services needed to meet the requirements of the Act and this Code; the Code has been amended to include two additional sections to support both the monitoring of its requirements and the training needs of staff.

Question 4

Does the Code, as drafted, clearly explain that patients are to be transported to and from hospital by the safest and most appropriate means to meet their needs?

Of those that replied to the question (34 = 66.6%)

| | Yes | Partly | No |
|------------|-------|--------|------|
| Number | 24 | 8 | 2 |
| Percentage | 70.6% | 23.5% | 5.9% |



■ Yes ■ Partly ■ No

Summary

Most consultees thought the Code clearly explains patients were to be transported to and from hospital by the safest and most appropriate means to meet their needs. However concerns were raised about the robustness of local agreements and that the Code is not statutory guidance for either the police or ambulance services.

Government response

Two new sections have been added to the Code, one in relation to monitoring and the other in relation to training. It is anticipated these will support the appropriate transportation of patients. The Code also makes reference to the Mental Health Crisis Care Concordat which has now been published and the joint commitments made will also support these aims.

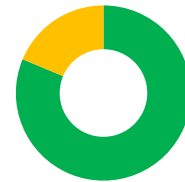
The Code has also been further amended to reflect that whilst it is not statutory guidance for the police and ambulance services, it will be beneficial to those services in carrying out their duties and it is recommended they receive training on the Code to ensure that they are familiar with its requirements.

Question 5

Does the Code, as drafted, clearly explain that patients, their families and carers are to be given the information that meets their needs and are informed of their rights?

Of those that replied to the question (32 = 62.7%)

| | Yes | Partly | No |
|------------|-------|--------|----|
| Number | 26 | 6 | 0 |
| Percentage | 81.3% | 18.7% | 0% |



■ Yes ■ Partly ■ No

Summary

The majority of respondents agreed the Code clearly explains patients, their families and carers are to be given the information that meets their needs and are informed of their rights. Suggestions for improvement were:

- the Code should emphasise this more in the guiding principles, as they will be the introduction which will have the most reference when reading.
- the Code could be further strengthened if it referenced different types and sources of information.

Government response

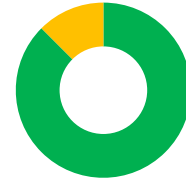
The guiding principles have been strengthened to emphasise this point. References to other sources of information have been included in some sections but in others reference is made to current good practice to ensure sources of information are up to date.

Question 6

Does the Code, as drafted, clearly explain that patients, their families and carers are to be communicated with in a way that best meets their needs?

Of those that replied to the question (32 = 62.7%)

| | Yes | Partly | No |
|------------|-------|--------|----|
| Number | 28 | 4 | 0 |
| Percentage | 87.5% | 12.5% | 0% |



■ Yes ■ Partly ■ No

Summary

The majority of consultees agreed the Code clearly explains that patients, their families and carers are to be communicated with in a way that best meets their needs. Two specific matters were raised:

- It goes some way to meeting this but again families often feel that they are not included if the individual expresses that they should not be involved. However this does not preclude them sharing information, this sometimes assists them in dealing with difficult situations.
- It is unclear what steps must be taken if the family of a patient who lacks capacity disagree with the advocate, or what should be done if the family decline to communicate and the patient lacks mental capacity.

Government response

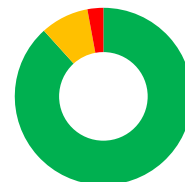
The Code has been amended to make clear what information can be shared with families when patients object and what steps should be taken if there are disagreement between an advocate for those that lack capacity and family members.

Question 7

Does the Code, as drafted, clearly explain that patients are to be treated fairly and equally?

Of those that replied to the question (34 = 66.6%)

| | Yes | Partly | No |
|------------|-------|--------|------|
| Number | 30 | 3 | 1 |
| Percentage | 88.2% | 8.8% | 2.9% |



■ Yes ■ Partly ■ No

Summary

The majority of respondents agreed the Code clearly explains that patients are to be treated fairly and equally. Comments and suggestions for further revisions to the Code included:

- staff need extensive training in Cultural Diversity Awareness amongst other strands of diversity
- also, “I suggest that the phrase “therapeutic alliance” should be “therapeutic relationship” and reference the MHM Code phrase, “working in partnership towards recovery”. The phrase “therapeutic alliance” is open to misinterpretation as an “alliance” only between staff!”
- “yes the code does explain this however it would be helpful if it was stated somewhere that this includes patients who have a history of substance misuse or/and a diagnosis of personality disorder. Although this is mentioned in the Code it could be more explicit.”
- Chapter 21 in the Code of Practice would benefit from substantial revision. A general statement on the need to consider nature and degree with respect to personality disorders would be useful as this may inform clinicians thinking about risk and treatment. We believe that there should be distinct guidance on the use of the Act with personality disordered persons with associated risks to themselves, as opposed to guidance on the use of the Act with personality disordered persons with associated risks to others and who offenders are.

Government response

A new section on training has been added to the Code and this includes diversity. The term therapeutic alliance has been replaced.

The new chapter on personality disorder was designed to promote the equitable treatment of people with a diagnosis of personality disorder and the Code has been amended to reflect, in particular, that it should not be viewed as a diagnosis of exclusion.

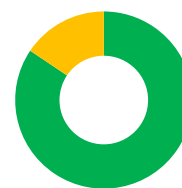
The Code is not intended to replace training on the complexity associated with working with differing types of mental disorder or provide good practice guidance.

Question 8

Does the Code, as drafted, clearly explain that patients in hospital are able to have access to family and friends, can communicate with them in private, and where appropriate, contact the people they choose through various means, without detriment to the privacy, safety and dignity of themselves and others?

Of those that replied to the question (32 = 62.7%)

| | Yes | Partly | No |
|-------------------|--------------|--------------|-----------|
| Number | 27 | 5 | 0 |
| Percentage | 84.4% | 15.6% | 0% |



■ Yes ■ Partly ■ No

Summary

The majority of consultees agreed the Code clearly explains that patients in hospital are able to have access to family and friends, can communicate with them in private, and where appropriate, contact the people they choose through various means, without detriment to the privacy, safety and dignity of themselves and others. Further considerations were in relation to:

- The availability of payphones and their expense
- Facilities for children
- Safeguarding and POVA issues in relation to visitors

Government response

In relation to safeguarding and POVA -the Code states that in addition to facilitating visits patients can, equally, refuse to meet any visitor they deem unwelcome and due consideration must be given to the steps necessary to protect vulnerable adults.

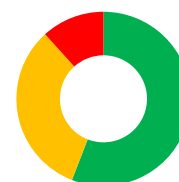
Whilst the Code is not able to determine how health boards and local authorities provide the services needed to met the requirements of the Act and this Code; two additional sections have been included in the Code to support both monitoring of its requirements and the training needs of staff.

Question 9

Does the Code, as drafted, clearly explain that staff are to have the relevant training to undertake their role?

Of those that replied to the question (34 = 66.6%)

| | Yes | Partly | No |
|-------------------|--------------|--------------|--------------|
| Number | 19 | 11 | 4 |
| Percentage | 55.9% | 32.4% | 11.7% |



■ Yes ■ Partly ■ No

Summary

Whilst the majority of consultees thought the Code did clearly explain that staff are to have relevant training to undertake their role, many expressed concern about the availability and uptake of training at all levels of organisations. Comments included:

- it will be important to monitor that this is actually what occurs. Non-compliance will need to carry some sanctions. It can be difficult to get staff to undertake some forms of training, e.g. Mental Capacity Act even after all these years continues to be poorly understood by staff with direct contact with patients.
- the Code, as drafted, does not have a specific chapter in respect of staff having relevant training to undertake their role.
- there needs to be a statement as to proposed levels of training.
- there is sporadic reference to the requirement of staff training within the Code as listed above however, it fails to identify the importance of training as a key factor of ensuring staff are competent to operate within the Code. The level of staff knowledge and skills are vital to ensuring the Code is implemented effectively and that patients receive best practice services therefore, greater importance needs to be placed on the delivery of training in all aspects of the Code from both a clinical skills and legislative knowledge.

Government response

Whilst the Code is not able to determine how health boards and local authorities provide the services needed to met the requirements of the Act and the Code an additional section has been developed focussing on training.

Annex 1 draws together training issues that should be considered by service providers to ensure compliance with existing legal frameworks and specifically the implementation of the Act 1983 and the Code.

The areas are illustrative and not exhaustive and recommendations on the type or level of training are not defined, rather it is recommended that due attention is given to content and that the anticipated learning outcomes are detailed. Any organisational strategy developed to implement consistent training should evaluate the impact of the training. The training strategy should also ensure that evidence based best practice underpins all learning.

Areas for training that are derived from the Code:

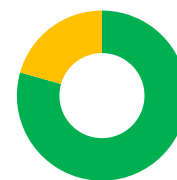
- core elements that all service providers and commissioners should consider as part of their training strategy
- training in relation to specific patient groups
- learning for specific roles
- broader training for managers and commissioners.

Question 10

Does the Code, as drafted, clearly explain that patients are enabled, as far as practicable, to contribute fully to their care and treatment plan, and make as many decisions as possible for themselves?

Of those that replied to the question (34 = 66.6%)

| | Yes | Partly | No |
|------------|-------|--------|----|
| Number | 27 | 7 | 0 |
| Percentage | 79.4% | 20.6% | 0% |



■ Yes ■ Partly ■ No

Summary

The majority of consultees thought the Code clearly explained that patients should be enabled, as far as practicable, to contribute fully to their care and treatment plan, and make as many decisions as possible for themselves. Some commented that there should be more emphasis on the requirements of the Measure.

Government response

The Code has been amended to strengthen and further emphasise the requirements of the Measure.

Question 11

Does the Code, as drafted, clearly explain that patients without capacity to make specific decisions are to be involved, as much as possible, in their care and treatment?

Of those that replied to the question (33 = 64.7%)

| | Yes | Partly | No |
|------------|-------|--------|----|
| Number | 26 | 7 | 0 |
| Percentage | 78.8% | 21.2% | 0% |



■ Yes ■ Partly ■ No

Summary

The majority of respondents agreed the Code clearly explains that patients without capacity to make specific decisions are to be involved, as much as possible, in their care and treatment. The need for staff to be adequately trained and the changing case law in this area were recognised.

Government response

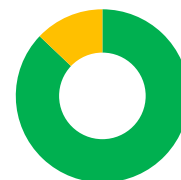
The Code has not sought to provide guidance on the implementation of the Mental Capacity Act or the Deprivation of Liberty Safeguards. It has however highlighted the issues that staff will wish to be cognisant of and this includes changing case law.

Question 12

Does the Code, as drafted, clearly explain that when decisions in the care and treatment plan are contrary to the wishes of the patient or others, the reasons are explained to them and recorded?

Of those that replied to the question (31 = 60.8%)

| | Yes | Partly | No |
|------------|-------|--------|----|
| Number | 27 | 4 | 0 |
| Percentage | 87.1% | 12.9% | 0% |



■ Yes ■ Partly ■ No

Summary

The majority of consultees agreed the Code clearly explains that when decisions in the care and treatment plan are contrary to the wishes of the patient or others, the reasons are explained to them and recorded. There were no suggestions for amendments.

Question 13

Does the Code, as drafted, clearly explain that patients, their families and carers are to be informed of their rights and patients have access to an Independent Mental Health Advocate (IMHA)?

Of those that replied to the question (33 = 64.7%)

| | Yes | Partly | No |
|------------|-------|--------|----|
| Number | 28 | 5 | 0 |
| Percentage | 84.8% | 15.2% | 0% |



■ Yes ■ Partly ■ No

Summary

The majority of respondents agreed that the Code clearly explains that patients, their families and carers are to be informed of their rights and patients have access to an IMHA. Others commented:

- we believe that further guidance is needed for the Local Health Boards to develop assurance that patients, their families and carers are informed of their rights of access to IMHA should be developed. Such assurance is needed, not only to ensure that patients are informed of their rights and of access to IMHA, but they are informed at such a time that they are able to retain information and make capacious decisions on such information. Local health boards (and managing authorities) should be able to demonstrate not only when patients are informed of their rights, but they have done so in a manner which is dignified & respectful.

- whilst there is information about IMHAs present, the actual informing patients of their rights is rather hidden and not in any depth. The Code does not specifically say how and who is to inform the patient of their rights. It also does not specify if this refers to rights under the Mental Health Act, or rights in general. Fair to say lots of service users do not know what their general rights are.

Government response

There is a specific chapter in the Code which details the role of the IMHA, the duty to ensure IMHA services are available and describes who is to inform patients of their right to an IMHA.

It is also a guiding principle:

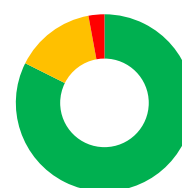
“Patients **must**, and their families and carers should normally, be informed of the support that an independent mental health advocate (IMHA) or an independent mental capacity advocate (IMCA), where relevant, can provide.”

Question 14

Does the Code, as drafted, clearly explain how patients, their families, carers and others are to be kept as safe as possible?

Of those that replied to the question (34 = 66.6%)

| | Yes | Partly | No |
|-------------------|--------------|--------------|-------------|
| Number | 28 | 5 | 1 |
| Percentage | 82.3% | 14.7% | 2.9% |



■ Yes ■ Partly ■ No

Summary

The majority of consultees thought the Code clearly explains how patients, their families, carers and others are to be kept as safe as possible. Other suggestions for inclusion in the Code were:

- reference to PREVENT strategies
- clarity on the importance of reliable risk assessment tools and robust risk assessments

Government response

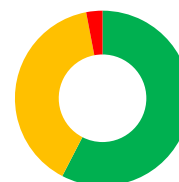
The Code has been amended to include reference to PREVENT and the importance of evidenced based risk assessment.

Question 15

Does the Code, as drafted, clearly explain how people in mental health crisis, in public places, are to be supported and also kept safe in the most appropriate place of safety for the least amount of time needed?

Of those that replied to the question (33 = 64.7%)

| | Yes | Partly | No |
|-------------------|--------------|---------------|-------------|
| Number | 19 | 13 | 1 |
| Percentage | 57.6% | 39.4% | 3.0% |



■ Yes ■ Partly ■ No

Whilst the majority of respondents agreed the Code did clearly explain how people in mental health crisis, in public places, are to be supported and also kept safe in the most appropriate place of safety for the least amount of time needed, there were a significant number of comments and suggestions, these included.

- still held by police far too long. Needs faster response from NHS
- local policies escalating and reviewing decisions should be outlined in the CoP
- clarification of when persons who are intoxicated should not be barred from health place of safety
- greater clarity needed on decision making processes and the recording of these and including a determined escalation process
- unless the circumstances are wholly exceptional, children and young people should never be detained under section 135 or 136 within a police station. Whenever a child is detained in a police station, exceptionally or otherwise, partners must commit to a review within 7 Days,
- the guidance proposed a 3 hour limit, this is considered acceptable as early assessment is essential, however we have on-going concerns in relation to the geographical variation in the availability of services and practice across Wales
- recommendations that law in relation to 136 and 135 is changed
- the draft Code proposes that assessments of people detained under s136 occurs within 3 hours but there should be consideration of a 4 hour response time for assessment as is consistent with the emergency referral response times outlined in current policy guidance.

Government response

The Code has been amended to reflect the comments made by a number of respondents. In particular, clarification on matters relating to the escalation and the serious and untoward incidence processes.

The target time for people to be seen has been changed from 3 hours to 4 hours so as to align the response time with other emergency guidance, for example assessment by crisis and home treatment teams.

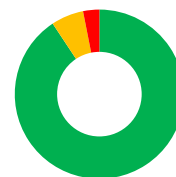
The Code also makes reference to the Mental Health Crisis Care Concordat which has now been published and the joint commitments made will also support the implementation of the Code.

Question 16

Does the Code, as drafted, clearly explain that patients, and if appropriate, their families and carers, are to be given the information they require to ensure they understand why they are in hospital and the treatment they are being offered or must have?

Of those that replied to the question (32 = 62.7%)

| | Yes | Partly | No |
|-------------------|--------------|-------------|-------------|
| Number | 29 | 2 | 1 |
| Percentage | 90.6% | 6.2% | 3.1% |



■ Yes ■ Partly ■ No

Summary

The majority of respondents thought the Code clearly explains that patients, and if appropriate, their families and carers, are to be given the information they require to ensure they understand why they are in hospital and the treatment they are being offered or must have. There was a suggestion that further detail should be given as to the nature of the information to be provided.

Government response

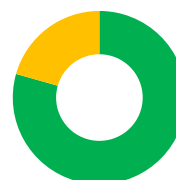
Whilst the Code is not able to determine how health boards and local authorities provide the services needed to meet the requirements of the Act and this Code, information about what to expect when in hospital are being prepared and will be readily available in a number of formats when the Code becomes extant.

Question 17

Does the Code, as drafted, clearly explain that there are to be minimum restrictions on a patient's liberty and that discharge is facilitated as soon as possible?

Of those that replied to the question (34 = 66.6%)

| | Yes | Partly | No |
|-------------------|--------------|--------------|-----------|
| Number | 27 | 7 | 0 |
| Percentage | 79.4% | 20.6% | 0% |



■ Yes ■ Partly ■ No

Summary

The majority of consultees agreed the Code clearly explains that there are to be minimum restrictions on a patient's liberty and that discharge is facilitated as soon as possible. It was suggested there should be greater emphasis on the importance of

planning for discharge as soon as possible and clear links to the Mental Health Wales (Measure) 2010.

Government response

The Code has been amended to reflect the importance of discharge planning at the earliest possible stage and a new section has been introduced with regard to the specific discharge arrangements under the Measure.

Question 18

The Welsh Government would like to know whether the revision to the Code of Practice may have a positive or negative impact on groups with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. We would also welcome your comments on whether the Code of Practice adequately reflects the requirements of the Wales Language Measure (Wales) 2011 and the Children and Families (Wales) Measure 2010.

Summary

21 people (41.1%) responded to this question. And of these 90% thought either the Code would have a positive impact on groups with protective characterises or at a minimum no negative impact. Suggestions for improvement were:

- it lists the protected characteristics as if only a single protected characteristic applies to each individual. We recommend adding the words 'or any combination of them' to explicitly recognise the need to account for all an individual's protected characteristics
- 1.10 to state "If a patient's language is other than English or Welsh, assessments and all communication with patients should be conducted using an appropriate interpreter, who will address issues of both language and cultural interpretation. All information provided to patients, families and carers should be in their first language whenever possible. Treatment should be provided in an individual's first language or using an interpreter whenever possible. This includes the use of British Sign Language."
- "No-one should be considered to be mentally disordered solely because of their political, religious or cultural beliefs, sexual orientation, gender identity, values or opinions, or any other protected or personal characteristic alone."
- "IMHAs should not be used as translators, interpreters, or communication support."
- A clearer reference to Welsh Govt Strategic Framework for Welsh Language in Health, Social Services and Social Care (Mwy Na Geriau)
- the UNCRC should be given more prevalence throughout the document

Government Response

The Code has been amended to reflect the comments made by a number of respondents. In particular, clarification on matters relating to protected characteristics, communication and language needs. Additional references to the Welsh language have not been added to the body of the text as:

Guiding principle 1.9 states:

Welsh speakers must be given the option of assessment, treatment and provision of information in line with the Welsh Language Standards (No. 1) Regulations 2015. The commissioners and providers of services must act in accordance with the Welsh Language Measure (Wales) 2011.

Question 19

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them, or attach further comments:

Summary

30 people (58.8%) responded to this question. Detailed responses are available on request.

Government response

Amendments have been made to the Code to reflect the views of respondents and substantive matters within the remit of the Code are summarised below. A number of suggested changes involved changes to the Mental Health Act itself and these could not be incorporated into the Code.

Other suggestions included a request for more prescriptive and detailed expectations in relation to, for example, levels of training required or how organisations should fulfil their obligations. Extra sections have been included on both training for the Act and Code as well as its monitoring to support organisations develop local and, where appropriate, jointly agreed protocols and policies

There were also a number of suggestions in relation to other legislation and to provide more clinical guidance - we have taken the view that such matters should be dealt with by Codes of Practice and evolving best practice guidance.

Amendments have been made to the Code to:

- reflect its status and the importance of training for those for whom the Code is statutory guidance and those for whom it is non statutory guidance
- add the following to the guiding principles: 'whenever possible, care and treatment should encourage a sense of hope and aspiration'

- where ‘must’ could be used rather than ‘should’ (within the definition of these terms in the introduction¹ to the Code) this has been changed
- clarify responsibilities under the Data Protection Act
- clarification of definition of mental disorder and that those with a dual diagnosis are treated equitably
- a specific section has been added to the monitoring annex on human rights and equality policies
- clarification of the responsibilities of the MHRTW and IMHAs as well as information which should be provided and by whom
- rewriting of the chapter in relation to hospital managers
- clarification in relation to CTO’s and responsibilities
- changes regarding deprivations of liberty and the Safeguards
- clarification about information for SOADs
- amendments to the children’s chapter particularly in relation to parental responsibility and capacity, competence and consent
- changes to reflect current case law

There were three other requests for changes to the Act that have been the subject of further discussion and debate. Firstly whether there should be a chapter for carers. This has been considered in the round and on balance it has been decided not to add a specific chapter, given the centrality of the role throughout, the guiding principles and the body of the Code. For example:

- Patients, families and carers should be respected, listened to and their views positively valued, recorded and taken into account when decisions are made.
- Patients, their families and/or carers and other relevant individuals should, where appropriate, be actively involved in assessing the risks posed to the health and safety of the patient and others. Patients should, wherever practicable, be involved in creating and implementing a risk management plan.

Secondly, greater emphasis on the needs of deaf people who may be subject to the Act. The individual communication and other needs of all those with protected characteristics should always be taken into account and reasonable adjustments made. It is anticipated the inclusion of a stand alone chapter on equality and human rights will drive best practice.

Expanded guidance on care and treatment planning. The Code of Practice for Parts 2 and 3 of the Mental Health (Wales) Measure 2010 is statutory guidance and as such should be adhered to unless there are clear, recorded and justifiable reasons why deviation from that Code is appropriate.

¹ See xiv of the Code

Annex 1

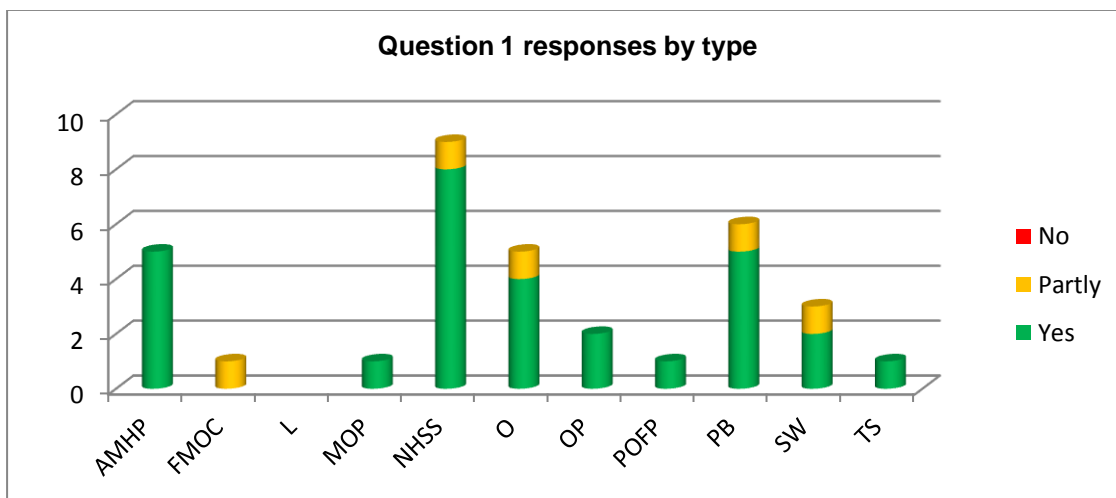
Of those that specifically answered the questions in the consultation, the number of responses by type is detailed in the graphs below.

The x axis key for all graphs is:

| | |
|------|-------------------------------------|
| AMHP | Approved Mental Health Professional |
| FMOC | Family Member or Carer |
| L | Legal |
| MOP | Member of the Public |
| NHSS | NHS Staff |
| O | Other |
| POFP | Patient or Former Patient |
| PB | Professional Body |
| SW | Social Worker |
| TS | Third Sector |

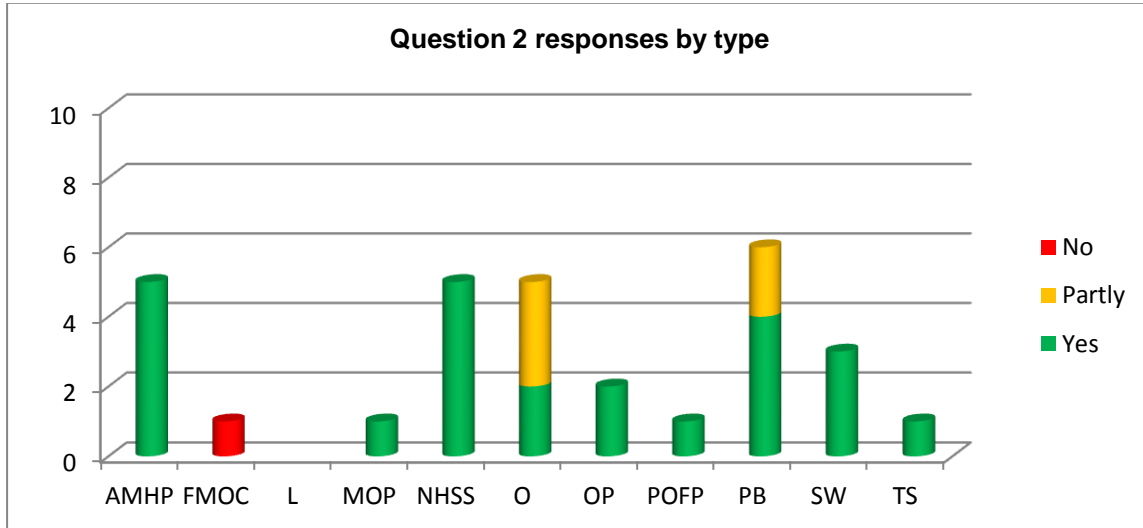
Question 1

| | Yes | Partly | No | Not Answered |
|-------------------|-------|--------|----|--------------|
| Number | 29 | 5 | 0 | 17 |
| Percentage | 56.9% | 9.8% | 0% | 33.3% |



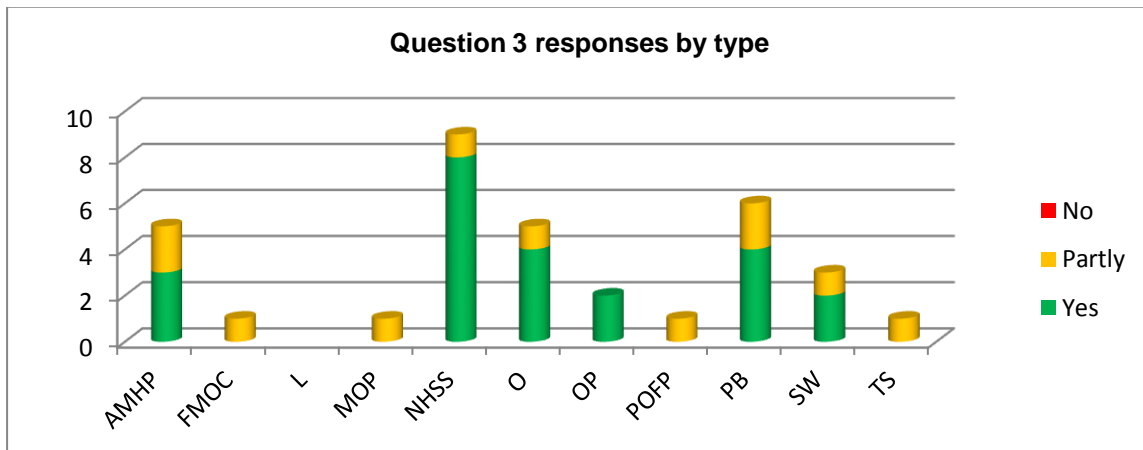
Question 2

| | Yes | Partly | No | Not Answered |
|-------------------|-------|--------|----|--------------|
| Number | 24 | 9 | 1 | 17 |
| Percentage | 47.1% | 17.6% | 2% | 33.3% |



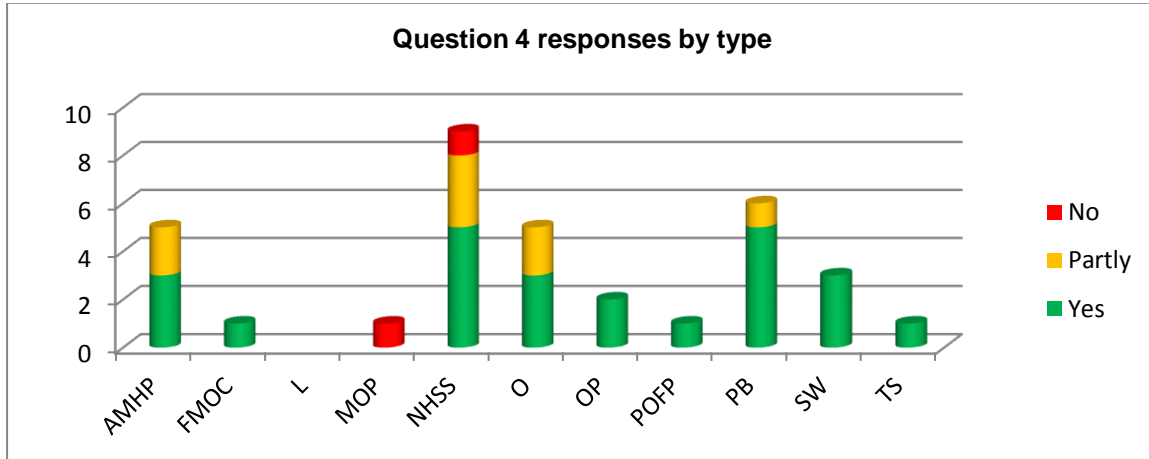
Question 3

| | Yes | Partly | No | Not Answered |
|-------------------|-------|--------|----|--------------|
| Number | 23 | 11 | 0 | 17 |
| Percentage | 45.1% | 21.6% | 0% | 33.3% |



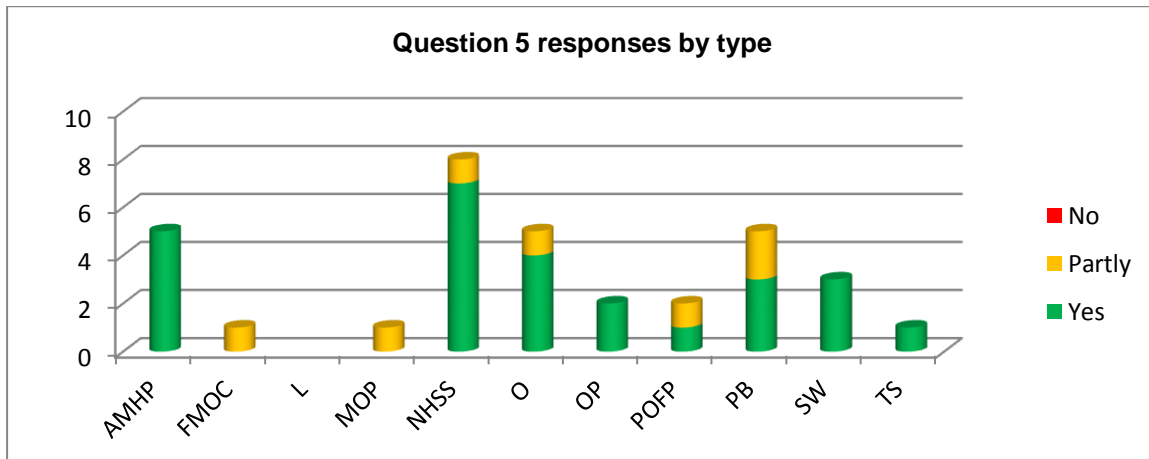
Question 4

| | Yes | Partly | No | Not Answered |
|-------------------|--------------|--------------|-------------|--------------|
| Number | 24 | 8 | 2 | 17 |
| Percentage | 47.1% | 15.7% | 3.9% | 33.3% |



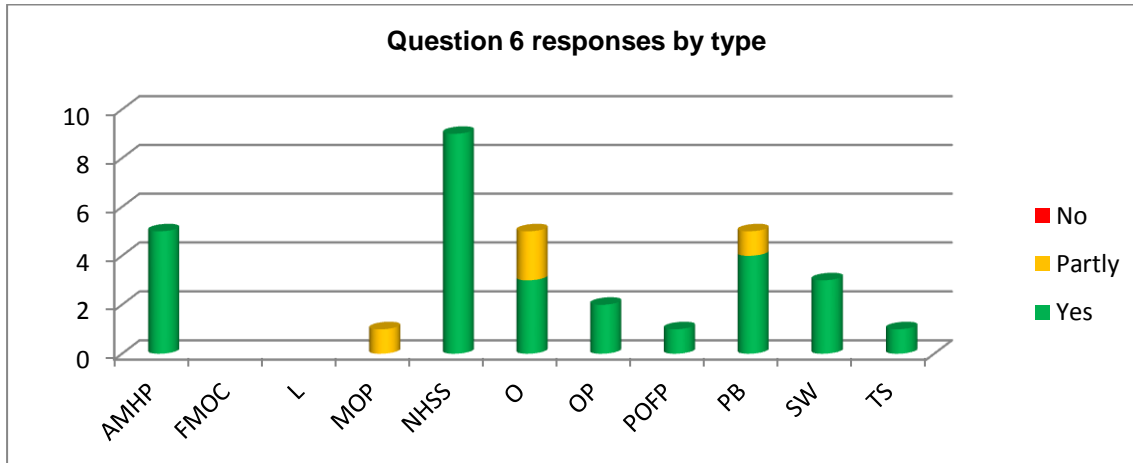
Question 5

| | Yes | Partly | No | Not Answered |
|-------------------|------------|--------------|-----------|--------------|
| Number | 26 | 6 | 0 | 19 |
| Percentage | 51% | 11.7% | 0% | 37.3% |



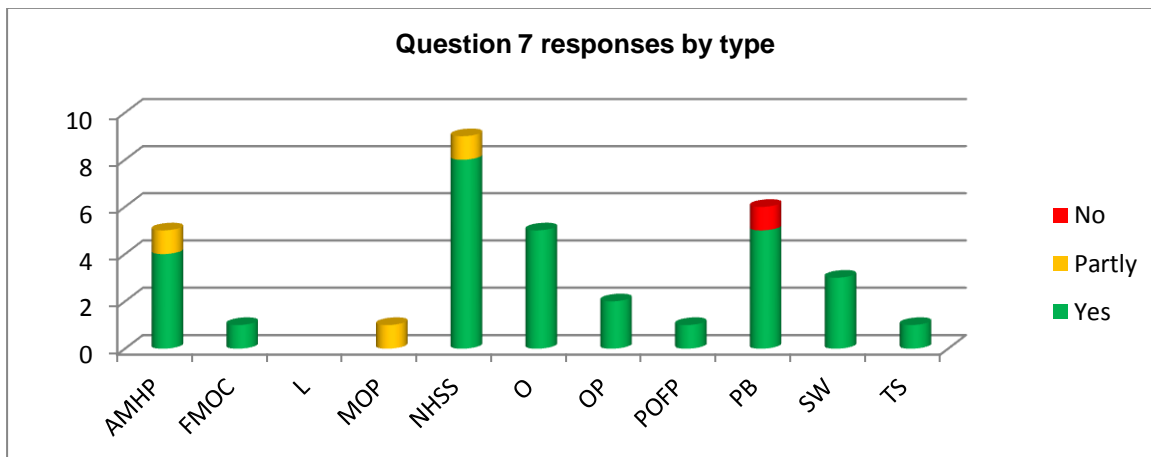
Question 6

| | Yes | Partly | No | Not Answered |
|-------------------|--------------|-------------|-----------|--------------|
| Number | 28 | 4 | 0 | 19 |
| Percentage | 54.9% | 7.8% | 0% | 37.3% |



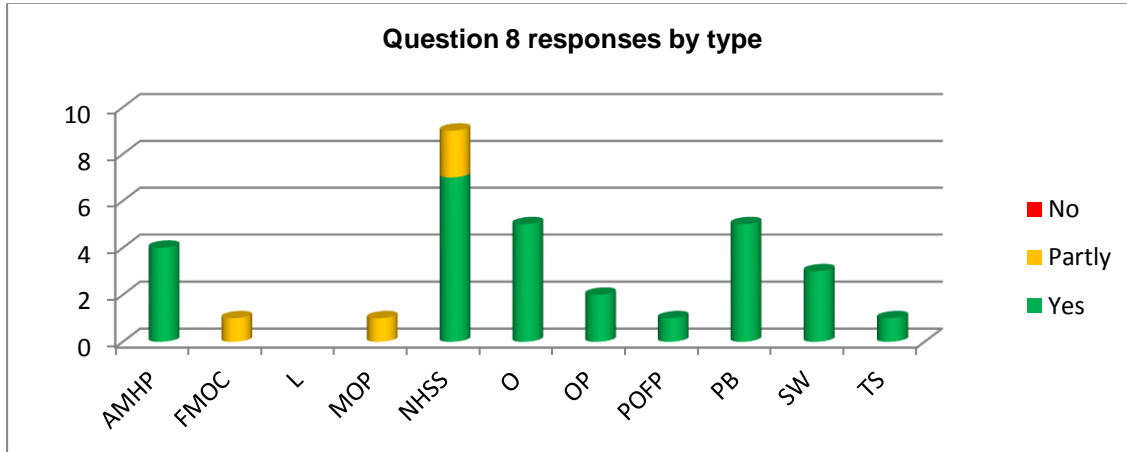
Question 7

| | Yes | Partly | No | Not Answered |
|-------------------|--------------|-------------|-----------|--------------|
| Number | 30 | 3 | 1 | 17 |
| Percentage | 58.8% | 5.9% | 2% | 33.3% |



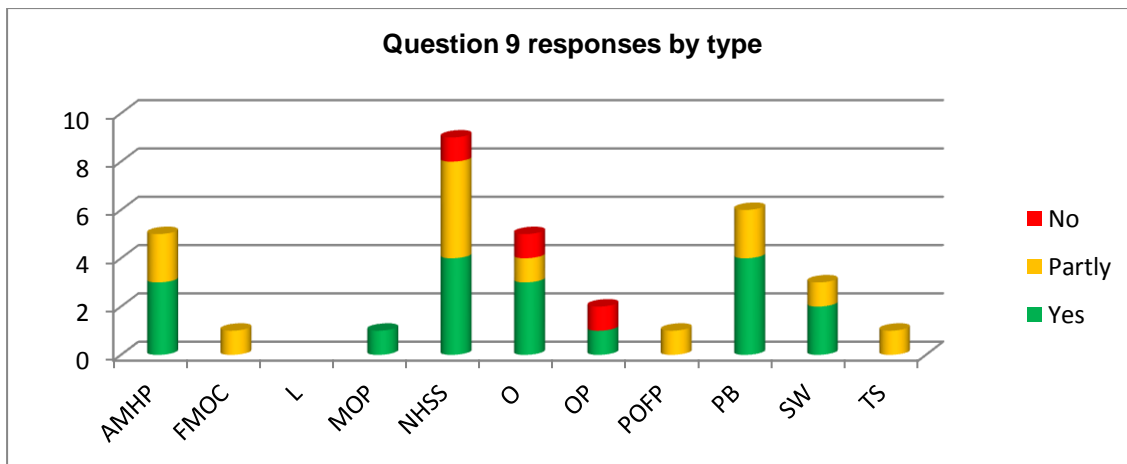
Question 8

| | Yes | Partly | No | Not Answered |
|-------------------|--------------|-------------|-----------|--------------|
| Number | 27 | 5 | 0 | 19 |
| Percentage | 52.9% | 9.8% | 0% | 37.3% |



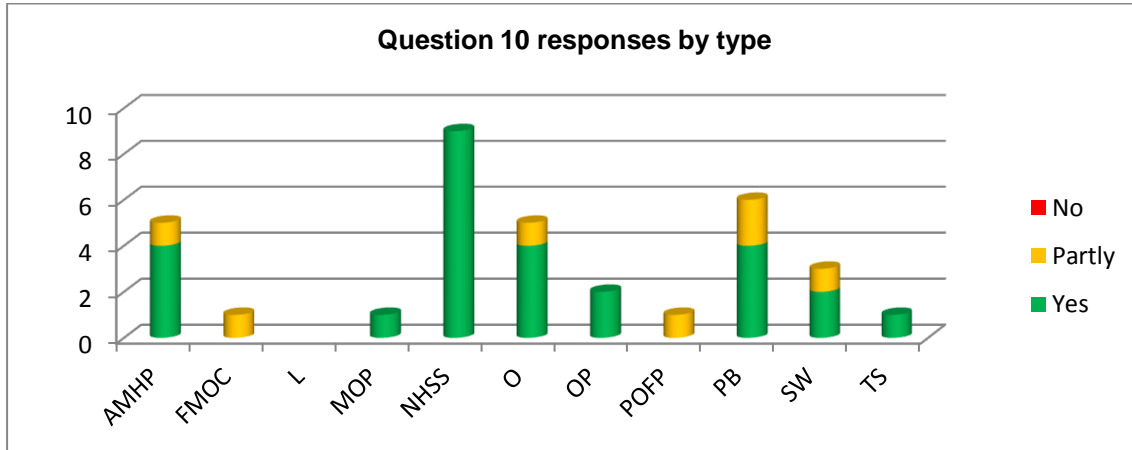
Question 9

| | Yes | Partly | No | Not Answered |
|-------------------|--------------|--------------|-------------|--------------|
| Number | 19 | 11 | 4 | 17 |
| Percentage | 37.3% | 21.6% | 7.8% | 33.3% |



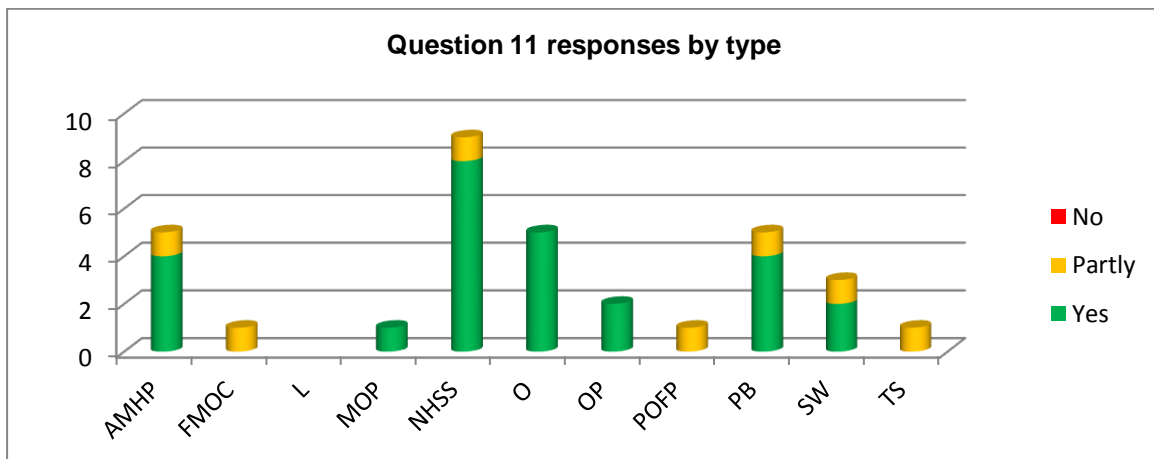
Question 10

| | Yes | Partly | No | Not Answered |
|-------------------|--------------|--------------|-----------|--------------|
| Number | 27 | 7 | 0 | 17 |
| Percentage | 52.9% | 13.7% | 0% | 33.3% |



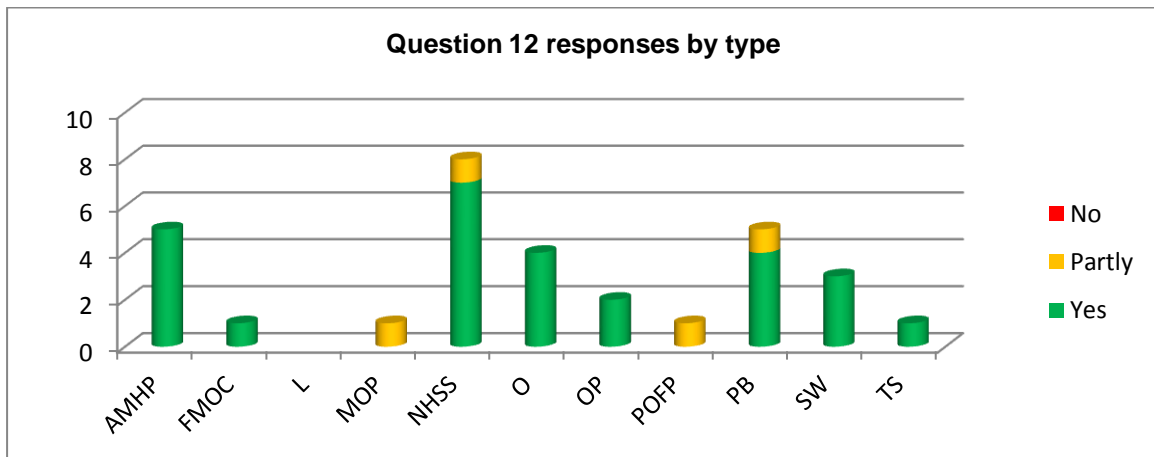
Question 11

| | Yes | Partly | No | Not Answered |
|-------------------|------------|--------------|-----------|--------------|
| Number | 26 | 7 | 0 | 18 |
| Percentage | 51% | 13.7% | 0% | 35.3% |



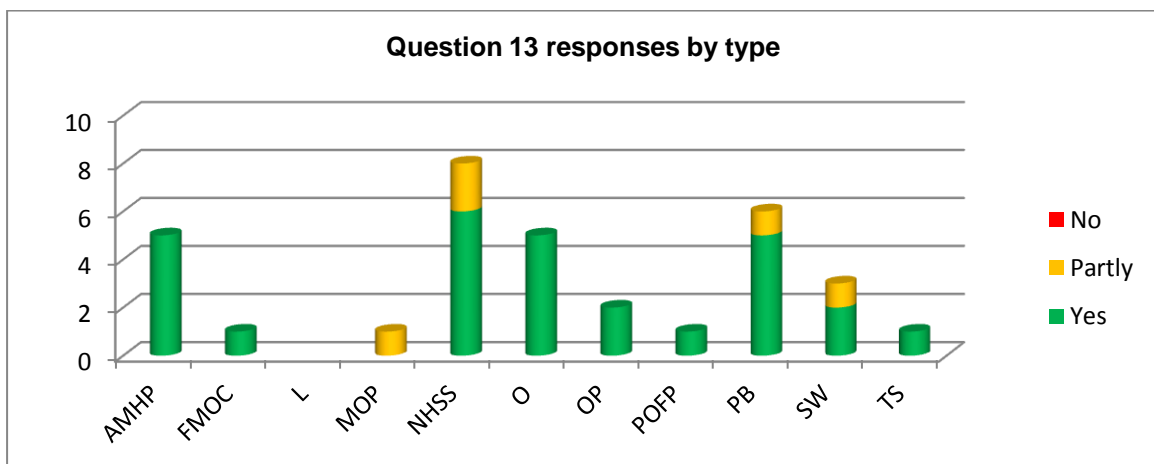
Question 12

| | Yes | Partly | No | Not Answered |
|-------------------|--------------|-------------|-----------|--------------|
| Number | 27 | 4 | 0 | 20 |
| Percentage | 52.9% | 7.8% | 0% | 39.2% |



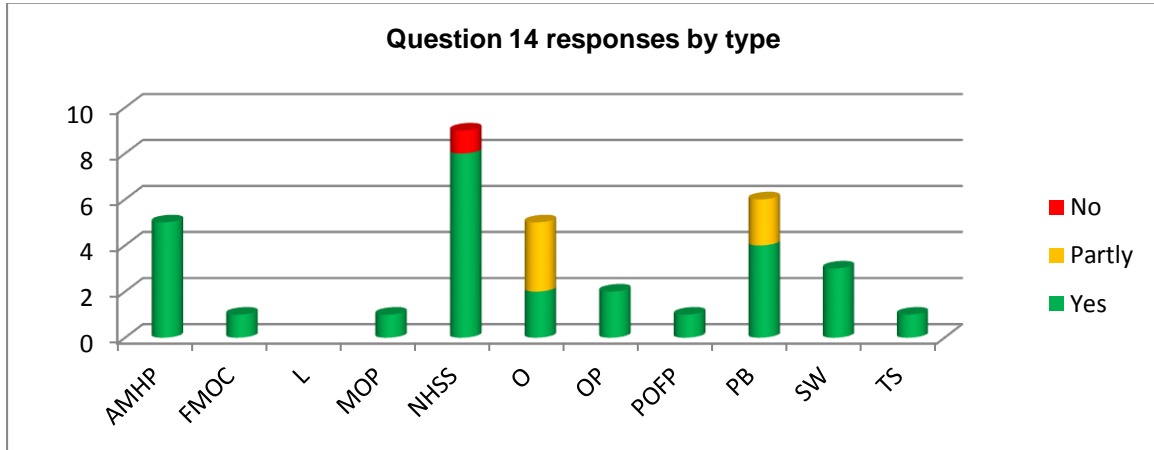
Question 13

| | Yes | Partly | No | Not Answered |
|-------------------|--------------|-------------|-----------|--------------|
| Number | 28 | 5 | 0 | 18 |
| Percentage | 54.9% | 9.8% | 0% | 35.3% |



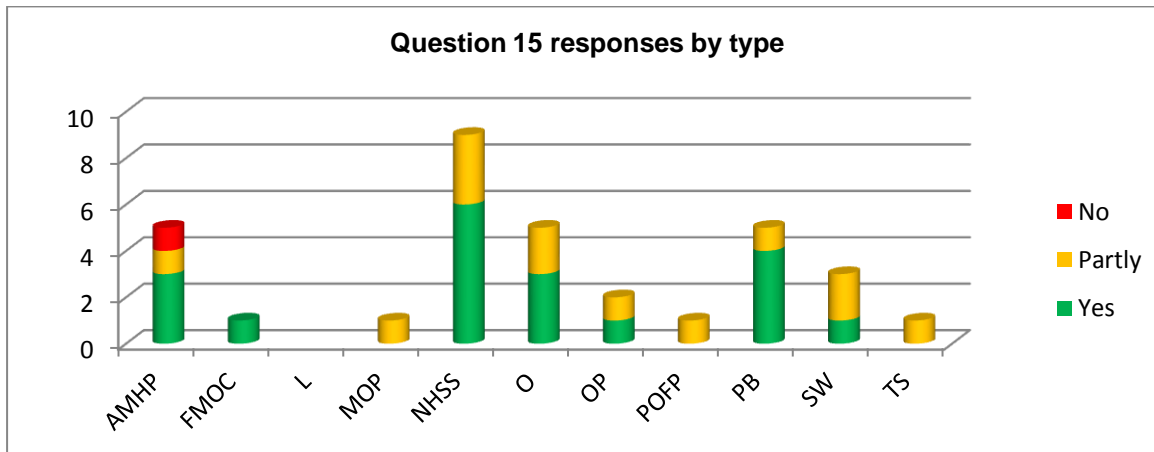
Question 14

| | Yes | Partly | No | Not Answered |
|-------------------|--------------|-------------|-----------|--------------|
| Number | 28 | 5 | 1 | 17 |
| Percentage | 54.9% | 9.8% | 2% | 33.3% |



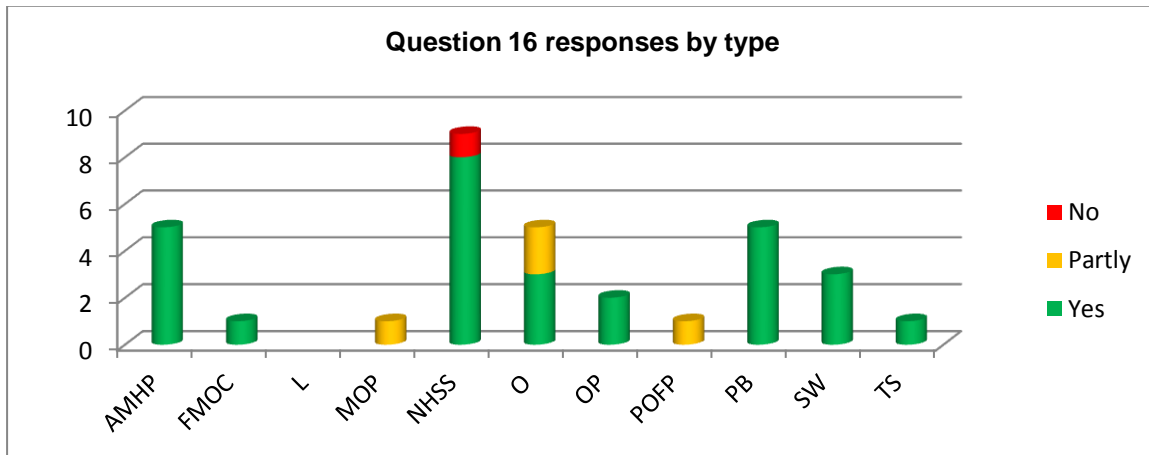
Question 15

| | Yes | Partly | No | Not Answered |
|-------------------|--------------|--------------|-----------|--------------|
| Number | 19 | 13 | 1 | 18 |
| Percentage | 37.2% | 25.5% | 2% | 35.3% |



Question 16

| | Yes | Partly | No | Not Answered |
|-------------------|--------------|-------------|-----------|--------------|
| Number | 29 | 2 | 1 | 19 |
| Percentage | 56.9% | 3.9% | 2% | 37.2% |



Question 17

| | Yes | Partly | No | Not Answered |
|-------------------|--------------|--------------|-----------|--------------|
| Number | 27 | 7 | 0 | 17 |
| Percentage | 52.9% | 13.7% | 0% | 33.3% |

