



IRISH MEDICAL
ORGANISATION
Ceardchumann Dochtúirí na hÉireann

IMO Submission to the Department Of Health

Review of the Mental Health Act 2001

October 2011

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In 2007 the full provisions of the Mental Health Act 2001 came into effect which aims to secure the rights of mentally ill patients who are involuntarily detained, in line with the European Convention on the Protection of Human Rights and Fundamental Freedoms. The Mental Health Commission and Inspectorate of Mental Health Services was established under the Act to determine and maintain standards in the delivery of service and to protect the rights of those involuntarily detained.

The Irish Medical Organisation (IMO) welcomes the review of the Mental Health Act 2001 and would like to raise the following issues:

Time Period for Review of Admission and Renewal of Admission

The IMO are concerned about the appropriateness of the time periods laid out for holding reviews of admission orders and renewal orders. Under the Section 17 of the Mental Health Act 2001, a patient can be detained for 21 days following the issue of an admission order. Before the end of that 21 day period a review of the admission must take place before a mental health tribunal. In the seven days before the admission order ends, the patient must be examined again by a consultant psychiatrist where he or she may issue a renewal order for a period of three months. The renewal order must also be reviewed before a mental health tribunal within a further 21 days. What often transpires is that the review of admission takes place at the end of the 21 day period and the review of the renewal takes place about 7 days later. Although a small percentage (8% in 2010, MHC) of admission orders are revoked before review, the 21 day delay is not in the best interest of upholding the civil rights of patients.

- The IMO believe that in order to protect the rights of patients who are involuntarily admitted under the Mental Health Act, review of the Admission Order before a Mental Health Tribunal should be held as soon as possible [e.g. 72 hours] following the issue of an Admission Order. This Tribunal might sit with the intention of looking at the events leading to the involuntary detention and determining that the Order is procedurally correct. Once the Admission Order is affirmed, the Tribunal to examine the Renewal Order might delay for a longer period e.g. 28 days.
- The IMO is also seeking that Approved Social Workers [the Act provides for this but roll out has been very slow] become involved in all situations of involuntary detention and thus spare patient's families the emotional turmoil and potential for irrevocably damaging family relationships arising as a consequence of being an Applicant.

Admission of Children

Section 25 of the Mental Health Act 2001 provides for the involuntary admission of children under 18 years of age. The majority of children are admitted to mental health services with the initiation and consent of their parents or guardians. In the absence of a parent or guardian or in the absence of their

consent the HSE may make an application to the District Court for an order to admit and detain a child for treatment in an approved centre. The IMO believe that children should be afforded the same protection as afforded to adults under the Mental Health Act.

The IMO welcome the report of the Law Reform Commission¹ in relation to the treatment of children under the Mental Health Act.

In particular the IMO recommend that:

- Legislation is urgently required to clarify the rights of “mature minors” to make decisions in respect of their own health care including the right to consent to and refuse treatment for mental illness.
- The Mental Health Act should be adjusted accordingly with a separate section for people under the age of 18.
- Children and adolescents who are involuntarily admitted and detained should have their orders reviewed by a Mental Health Tribunal with an age appropriate focus rather than by the District Court.
- A third category of patient is required for children and adolescents who are admitted by parental consent. This third category of patient should be entitled to regular review of their admission and treatment in the same way as involuntary patients.
- Children and young people should have the right to clear information about their admission, treatment and rights and should have access to an independent advocate.
- All children and adolescents admitted to the mental health services should be treated in an environment appropriate to their age.

Admission to Approved Centres Appropriate to the Needs of Patients

Many patients whether admitted involuntarily or voluntarily are admitted to centres that are inappropriate to their needs.

While there was an increase in the number of admissions to children’s units, 155 children were admitted to adult units in 2010. (13 of these were made under section 25 of the Mental Health Act).²

Just one centre exists for the treatment of patients with intellectual disability. 55 patients with intellectual disability are placed outside the state due to lack of appropriate facilities in Ireland.³

In March 2010, 1,200 patients still resided in Victorian Institutions some of which were described as unfit for human habitation, although some progress is being made towards their closure alternative services are not yet in place.

¹ Law Reform Commission Children and the Law: Medical Treatment. July 2011

² Mental Health Commission Annual Report 2010

³ Independent Monitoring Group, 2010 Fifth Annual Report on the Implementation of A Vision for Change, June 2011

Significant regions of the country are without specialist old age psychiatry services including Wicklow Kildare , Roscommon and parts of Cork and Kerry. Older patients therefore have no alternative but to be admitted to general adult mental health services or general hospital services. ⁴ A National Review of Services for Older People⁵ by the Mental Health Commission found “the lack of designated acute beds for those aged 65 years of age and over in approved centres made it difficult to provide appropriate care” and there were general difficulties in placing those with dementia some areas had no access to long-term care.

- All patients admitted voluntarily or involuntarily to Mental Health Services should be treated in Centres that are appropriate to their needs. Urgent funding (capital and operational) as well as the recruitment of whole time equivalent staff are required for the Implementation of A Vision for Change.

Summary of Recommendations:

Time Period for Review of Admission and Renewal of Admission

- The IMO believe than in order to protect the rights of patients who are involuntarily admitted under the Mental Health Act, review of the Admission Order before a Mental Health Tribunal should be held as soon as possible [e.g. 72 hours] following the issue of an Admission Order. This Tribunal might sit with the intention of looking at the events leading to the involuntary detention and determining that the Order is procedurally correct. Once the Admission Order is affirmed, the Tribunal to examine the Renewal Order might delay for a longer period e.g. 28 days.
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⁴ Independent Monitoring Group, 2010 Fifth Annual Report on the Implementation of A Vision for Change, June 2011

⁵ Mental Health Commission Mental Health Services for Older People National Overview of Services 2010

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