



Mental Health Reform

Promoting Improved Mental Health Services

Mental Health Reform Submission:

HSE Governance Bill Not Enough to Ensure Accountability for Government's Mental Health Policy

September 2012

KEY MESSAGES

Mental Health Reform welcomes the Government's intention to improve the accountability of the HSE through the HSE Governance Bill. However, the current draft of the Bill does not ensure that a Director for Mental Health who has the competence to drive implementation of the Government's mental health policy will be appointed. **Mental Health Reform is concerned that the Bill limits the recruitment of the new Directors of the HSE to those who already hold the position of National Director within the HSE. Mental Health Reform believes that it is vital to have the opportunity to appoint the best person for the job, whether that person be internal or external to the HSE. The new Director for Mental Health must have a proven track record of leading change in mental health services and competency in the recovery ethos that underpins *A Vision for Change*.**

While a number of the provisions in the Bill have the potential to underpin implementation of *A Vision for Change*, the record to date is that the generic provisions in the Health Act 2004 have done little to ensure accountability for reform of the mental health services. **Mental Health Reform calls on the Minister for Health to use the provisions proposed in the HSE Governance Bill to make specific directions and set priorities and targets for implementing *A Vision for Change*. At the same time, Mental Health Reform strongly recommends that the Steering Group for the Review of the Mental Health Act consider whether specific statutory provision should be made in the Mental Health Act to underpin implementation of mental health policy.**

BACKGROUND

There have been consistent, widespread concerns about the lack of the HSE's accountability for delivery of *A Vision for Change* since shortly after its publication in 2006. The substantial failure to implement the policy has been attributed in large part to the absence of empowered leadership and gaps in structures of accountability to ensure implementation. There has been a persistent lack of transparency, accountability and planning for reform in this area.

A Vision for Change called for the establishment of a National Mental Health Services Directorate. The National Mental Health Services Directorate was to be one of the main drivers in the implementation of the policy. Mental Health Reform has consistently called for the appointment of a Director for mental health with responsibility for implementation and control of the mental health budget and multidisciplinary input to support the Director. Mental Health Reform has not been alone in being concerned about the poor accountability for implementation of *A Vision for Change*. The Mental Health Commission, the independent regulator for the mental health services, analysed the implementation gap and highlighted the need for accountable, effective leadership and the need for an implementation plan.¹ The Independent Monitoring Group for *A Vision for Change* (IMG) has repeatedly criticised the HSE for failing to produce an implementation plan. In 2009, the IMG expressed difficulty in determining whether mental health expenditure was being effectively spent.² More recently, the IMG found that the lack of clarity about structure and the lack of a Directorate were contributing to an absence of corporate leadership on mental health within the HSE.³ Amnesty International Ireland has also been strongly critical of the lack of accountability for *A Vision for Change*, emphasising that accountability is a fundamental principle of human rights. In 2009, AI highlighted the urgent need to establish effective accountability mechanisms that can enable the development of a mental health service in Ireland that fulfils human rights.⁴

¹ Mental Health Commission (2009) *From Vision to Action? An analysis of the implementation of A Vision for Change*, Dublin: MHC.

² *Independent Monitoring Group: A Vision for Change – the Report of the Expert Group on Mental Health Policy: Third Annual Report on implementation 2008*, p.8.

³ *Independent Monitoring Group: A Vision for Change – the Report of the Expert Group on Mental Health Policy: Fifth Annual Report on implementation 2010*, p.31.

⁴ Amnesty International Ireland (2009) *Accountability in Mental Health Services: The Significance of the Indecon Review*, available at www.amnesty.ie/mentalhealth

Evidence of poor accountability for mental health expenditure first came to light in January, 2008 and have continued to date. In 2008 it was discovered that almost half of €51.2 million in government funding that was intended to support *A Vision for Change* had been diverted to meet deficits in other areas of health spending. Since then, reports by two independent economic consultants have also expressed concerns over the lack of information to provide accountability. In 2009, Indecon economic consultants found that:

“...the absence of timely and detailed data/information currently prevents an assessment of progress in terms of both capital investment and current expenditures by service area and on a sub-national/regional or catchment area basis. This includes the absence of data on an intra-year basis which permits the monitoring of funding commitments and expenditures.”⁵

In 2010, Indecon found that “gaps exist in the information required to ensure financial accountability for the allocation of funding to support the delivery of the recommendations of *A Vision for Change*, including in relation to recurrent, capital and development funding.”⁶ A particular gap that continues to prevent adequate accountability for expenditure is that the HSE does not track its expenditure by care group, including by mental health. In other words, the HSE cannot accurately say exactly how much is spent on mental health services and instead, all reporting on mental health expenditure by the HSE is estimated. This gap in particular has led Amnesty to comment that the inability of the HSE to report by care group hampers Ministerial oversight of public spending.⁷

In 2011, researchers at TCD’s Centre for Health Policy & Management commented that “the establishment of a National Mental Health Service Directorate with the authority to control the redistribution of existing resources and the allocation of any new resources is urgently needed to support the effective implementation of *A Vision for Change*.”⁸ They also found that there was no system of performance indicators in place to enable monitoring of progress on the policy, while it was not possible for them to make accurate assessments on the development of community mental health teams (the key to reform of the services) due to inconsistent data.

Ireland’s laws in the area of mental health mainly focus on inpatient care and treatment and do not provide a framework for the delivery of mental health services as envisaged in *A Vision for Change*. In addition, they do not demand the level of detailed planning and accountability

⁵ Indecon International Consultants (2009) *Review of Government Spending on Mental Health and Assessment of Progress on Implementation of A Vision for Change*, Dublin: Amnesty International Ireland, p.3.

⁶ Indecon International Economic Consultants (2010) *Accountability in the Delivery of A Vision for Change – A Performance Assessment Framework for Mental Health Services*, Dublin: Amnesty International Ireland, p.135.

⁷ Amnesty International Ireland (2010) *Legislating for Change: Accountability and Reform of our Mental Health Services: A Discussion Paper*, Dublin: Amnesty International Ireland, p.30.

⁸ Normand, C. & Faedo, G. (2011) ‘Implementation of ‘*A Vision for Change*’ for Mental Health Services’, unpublished report submitted to Amnesty International and Mental Health Reform.

necessary to track progress towards reform. Both the Green Paper on Mental Health (Department of Health June 1992) and the White Paper: A New Mental Health Act (Department of Health July 1995), which preceded the Mental Health Act 2001, called for the new Act to address the obligations of Health Boards (since replaced by the HSE) to provide access to comprehensive community-based services. The terms of reference from the Department of Health's review of the 2001 Mental Health Act includes looking at 'the role legislation could or should play to underpin *A Vision for Change*.' There is therefore a unique opportunity to address the inadequacy of the provision of community services as part of this review and wider health reform.

Implementing the Government's mental health policy also requires a fundamental shift in the culture of mental health service delivery, away from an approach focussed on maintenance and towards an approach that anticipates recovery and works in partnership with users of services. The recovery approach involves incorporating a new set of values into mental health care delivery; it requires 'values-based practice' alongside 'evidence-based practice'. In order to instil the values of hope, respect, empathy, equality and human rights within the mental health services, all service providers need to implement a dedicated programme of cultural change.

The cultural change set out in *A Vision for Change* requires national and local leadership, with those who hold senior positions both modelling the desired attitudes and behaviours and also demanding those attitudes and behaviours from all staff in the organisation. Management also needs to hold staff accountable for demonstrating recovery values. Starting with the recruitment of the National Director for mental health, recruitment of all staff in the mental health services should incorporate the values of hope, respect, empathy, equality and human rights into the person specifications. Recruitment panels should be aware of these values and assess candidates' aptitudes and skills on the basis of these values. On an on-going basis, supervisors should incorporate performance of these values as part of staff supervision. At a national level, performance monitoring needs to reflect achievement of the recovery ethos in key performance indicators.

It is clear that two things are urgently needed to ensure accountability for delivering the Government's mental health policy: an empowered, competent Director for Mental Health and the statutory duty to implement *A Vision for Change*. The following comments on specific sections of the HSE Governance Bill show where changes are needed to achieve these objectives.

SPECIFIC COMMENTS ON THE HSE GOVERNANCE BILL

MHR welcomes many of the provisions of the Governance Bill which have the potential to improve accountability for implementation of *A Vision for Change*, if they are used by the Minister for this purpose. Some of the provisions require strengthening to ensure they fulfil the stated intentions of the Bill to make the HSE more accountable to the Minister for Health.

Section 5(a). This section strengthens the Minister’s control over the HSE’s activities by providing for “general written directions” to the HSE to include direction concerning the “implementation of any policy or objective of the Minister or the Government which relates to a function of the Executive where the Minister is of the opinion that the Executive is not having sufficient regard to such policy or objective in the performance of its functions.”

Recommendation: Mental Health Reform is concerned about the limitation that the Minister can only give a direction on policy implementation where “the Minister is of the opinion that the Executive is not having sufficient regard to such policy or objective in the performance of its functions.” This implies that the Minister must wait until the HSE has failed to perform on a policy before giving a direction. This section should be revised to enable the Minister to give a direction on policy implementation at any time, without limitation.

Section 5(c). This section increases the HSE’s accountability to the Minister for implementation, compared with the current situation by requiring that the HSE report to the Minister on its compliance with any Ministerial direction.

Recommendation: This section should be amended to ensure that reports by the HSE to the Minister concerning its compliance with a Ministerial Direction are published.

Section 6 (New Section 10A(1)(a)). This section appears to be intended to strengthen accountability of the HSE to the Minister for service delivery. It provides for the HSE to “have regard” to priorities set by the Minister in its annual service plan and could enable the Minister to set a priority to provide community-based mental health services.

Recommendation: The phrase ‘have regard to’ may not be strong enough to ensure that the HSE abides by priorities set by the Minister. This section 10A(1)(a) should state that the annual service plan must be prepared “in accordance with” the priorities set by the Minister.

Section 6 (New Section 10A(1)(b)). This section enables the Minister to specify ‘performance targets’ for the HSE in respect of priorities set by the Minister for the HSE’s service plan. Mental Health Reform welcomes this section in so far as it could enable the Minister to set Key Performance Indicators aligned to *A Vision for Change* for the HSE.

Section 6 (New Section 10A(4)). This section requires that the Minister ‘shall have regard to’ the following when setting priorities for the HSE:

- Best practice
- Outcomes for patients and recipients of services
- The effect that specifying a priority or target would be likely to have on other services of the HSE.

Mental Health Reform welcomes the emphasis on best practice and outcomes for patients and recipients of services set out in this section.

Section 7 (New Section 16A(1)). This section establishes a Directorate that consists of a Director General and a number of Directors. The section will be welcome if it leads to the appointment of a National Director for Mental Health.

Section 7 (New Section 16A(2)). This section specifies that only those individuals who are currently a ‘national director’ in the HSE can be appointed as Directors.

Recommendation: There is a significant risk that the best person for the job will not be appointed as Director for Mental Health since the candidates are being drawn from a narrow pool. Mental Health Reform strongly urges an amendment be made in this section to ensure that the post of Director for Mental Health is publicly advertised and that the person specification requires a proven track record of leading change of mental health services and competency in the recovery ethos that is a principle of *A Vision for Change*.

Section 7 (New Section 16M). This section provides that the Directorate can establish committees and could facilitate multidisciplinary input into the MH Directorate.

Section 12 (New Section 31). This section concerns the HSE’s annual Service Plan. It provides that the HSE’s service plan shall be “consistent with” (Section 31(4)(f) any directions issued by the Minister and shall “have regard to” (Section 31(5) any direction issued by the Minister and any priorities and performance targets specified by the Minister.

Recommendation: Mental Health Reform is concerned that the phrases ‘consistent with’ and ‘have regard to’ are not strong enough to ensure that the HSE follows the Minister’s directions, priorities and performance targets in its annual service plan. These provisions should be strengthened so that the HSE’s service plan must comply with any Ministerial direction, must agree with any priorities set by the Minister and must contain any performance targets set by the Minister.

OMISSION FROM THE HSE GOVERNANCE BILL

The current Bill does not specify the functions of any of the Directors. It is important that the law empower the Director to plan, budget for and report on implementation of mental health policy. This could be accomplished by providing either in the Bill or in an amendment to the Mental Health Act, 2001 that the Director for Mental Health:

- Produce a multi-annual plan to implement the Government's mental health policy
- Consult with users of mental health services, their families/significant others and other stakeholders in relation to a mental health services reform implementation plan
- Produce annual service plans
- Approve mental health service area budgets
- Report regularly against performance indicators agreed with the Minister for Health
- Ensure equity of resources between Mental Health Catchment Area

ABOUT MENTAL HEALTH REFORM

Mental Health Reform is the national coalition of organisations working to improve mental health services and achieve implementation of the Government's mental health policy *A Vision for Change* in Ireland. Mental Health Reform works with its members through education, information, support and training to help bring about structural and cultural changes in mental health matters.

Mental Health Reform is available to discuss the above recommendations. Please contact Dr. Shari McDaid, Policy Officer at 01 612 1422 or via e-mail at smcdaid@mentalhealthreform.ie.