About the Mental Health Act, 2001

Information Session, 22 March 2021
Today's Session

What We'll Talk About

1. The Public Consultation
2. The Mental Health Act, 2001
The session will include:

- Presentations
- Questions & Answers
- Irish Sign Language

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Language

**Voluntary**
The person agrees to be admitted or treated

**Involuntary**
The person does not or cannot agree, but they were admitted or treated anyway

**Advocate**
Someone who supports and speaks up for the service user

**Approved Centre**
A place that is registered with the Mental Health Commission

**MHR**
That’s Us! It stands for Mental Health Reform

**Act**
Sets out the law or official rules of the State on a topic

**Make a Submission**
When you send comments in on a consultation

**Public Consultation**
A call for comments from the public

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The Public Consultation

What you need to know

Visit
How to send your comments

Email
- PDF or Word attachment
- mentalhealthactreview@health.gov.ie
- Subject: ‘Mental Health Act review submission’

Post
Mental Health Unit
50 – 58, Block 1, Miesian Plaza
Baggot Street Lower, Dublin 2, D02 XW14
Rules for Submissions

In Writing
300 words per heading

Focus On
Mental Health Act, 2001
Expert Group Report, 2015

Deadline
5.00pm on 31 March 2021
Headings

1. Set out by Department of Health
2. Can be used as a guideline
3. You **do not** have to use them
Definitions
E.g. replacing 'mental disorder' with 'mental illness'

Guiding Principles
Set's the tone of the Act. Human rights focus is recommended

Involuntary Detention Criteria
More safeguards when using involuntary detention

Authorised Officers
Expanded & more active role in applying for involuntary detention
Interdisciplinary Care
Consult & involve professionals from different disciplines

Enhanced Safeguards
More safeguards, for example when using seclusion & restraint

Shorter Timeframes
Renewal orders
Tribunals
Section 26 leave
Medication

Mental Health Tribunals
Rename to 'Review Board', reduce to 14 days after admission
Change of Status
Switching from Voluntary to Involuntary

Capacity
Presumed capacity, provisions for assisted decision-making

Consent to Treatment
Including Advance Healthcare Directives

Information & Recovery Planning
Legal right to recovery & discharge planning
Children & Young People
A section on Children & Young People
Presumed capacity for 16 & 17 year olds

Inspection, Registration & Regulation
Expanding Mental Health Commission to cover community settings

Mental Health Commission
Changes to governance & composition of the Board

Headings (13-15)
The Public Consultation
What you need to know

Visit

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Making Your Submission

1. Keep it Simple
2. Stick to the Guidelines
3. Be on Time
Finally, focus on the...

Mental Health Act, 2001 &
Expert Group Report, 2015
Snap Shot

Mental Health Act, 2001
Mental Health Act, 2001

The main law on inpatient mental health treatment & care in Ireland

1. Involuntary detention
2. Treatment as an inpatient in an approved centre
3. The rights of the person, including right to review detention
4. The rules the mental health team must follow
So, what's the problem?

Why the Act needs to be changed
Our Concerns

1. Not Human Rights Compliant

2. Paternalistic Interpretation Disempowers Service Users

3. Children and Young People Not Provided for Appropriately in the Act

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No Right To

1. Individual care/recovery planning
2. Information for voluntary service users
3. Advocacy for service users
4. Consent to / refuse treatment for 16 & 17 year olds
5. Review for voluntary patients of 16 & 17 years
6. Recognition of Advance Healthcare Directives for involuntary patients

AND

No guiding principles for children
How to Fix the Problem

1. Implement the Expert Group Report
2. Commence the Mental Health (Amendment) Act, 2018
3. Adopt a partnership & human rights approach
Timeline of the Expert Group Report

2006
Act fully implemented

2011
Initial Steering Group Set up
Initial review of the Act, included extensive consultation

2012
Expert Group Appointed
Full review of the Act

2015
Expert Group Report Published
165 suggestions for changes to the 2001 Act
Initial Steering Group Report 2011-2012

Find the report at: http://hdl.handle.net/10147/234554

Process

1. Public Consultation
2. 15 stakeholder meetings
3. Documentary review
4. Report published in April 2012
Topics Identified

1. Human Rights and Paternalism
2. A Vision for Change
3. Children
4. Voluntary, Involuntary Patients & Capacity
5. Consent to Treatment
6. Detention
7. Authorised Officers
Expert Group

Purpose

1. Follow-up on the Initial Steering Group's work
2. Consider other suggestions from the Department of Health
3. Any other work assigned by the Minister
4. Finish it's work and report by March 2013
In Short

1. Completed in December 2014
2. Accepted & published by Government in March 2015
3. New Act to be based on recommendations
4. Includes 165 recommendations
Guiding Principles
Replace 'best interests' with human rights-led principles

1. Self-determination
2. Autonomy
3. Dignity
4. Bodily Integrity
5. Least restrictive care
6. Best attainable mental health

What We Say
We Agree.
But, the phrase 'Insofar as practicable' should not be included.
## Expert Group Report, 2015
### Definitions

<table>
<thead>
<tr>
<th>Term</th>
<th>Recommendation</th>
<th>What We Say</th>
</tr>
</thead>
<tbody>
<tr>
<td>'Mental Disorder'</td>
<td>Replace 'disorder' with 'illness' &amp; make other changes</td>
<td>We Agree. But use a non-medical term instead of 'illness'.</td>
</tr>
<tr>
<td>'Voluntary Patient'</td>
<td>Replace the definition of 'voluntary patient'</td>
<td>We Agree.</td>
</tr>
<tr>
<td>'Intermediate Patient'</td>
<td>This is a new category of patient</td>
<td>We Agree.</td>
</tr>
</tbody>
</table>
'Treatment'

Replace the definition of 'Treatment' to include

1. Ancillary tests when needed
2. All service users in approved centre
3. A clear explanation of treatment
4. Expanded guidelines for mental health teams
5. Treatments other than medication
6. A statement that refuge is not treatment

What We Say
We Agree.
Criteria for Detention
Mental illness alone is not a reason

1. Immediately needed to protect life or health
2. Help the person's condition 'to a material extent'
3. A service user can say no to treatment and leave
4. Must only be for so long as it's needed

What We Say
We Agree. Plus we call for...

1. How to balance ‘risk to health' with right to refuse treatment & leave
2. We want 3 mental health professionals to assess the ‘risk to health’
3. Replace with ‘serious risk to health'
4. What does 'material extent' mean exactly?
Expert Group Report, 2015
Involuntary Detention

Authorised Officers
Expanded & more active role

1. Must sign all applications for involuntary detention
2. Family/carer can ask for a 2nd opinion
3. Independent of registered medical professional

What We Say
We Agree.
Plus we want enough Authorised Officers appointed
Exclusions
A person cannot be detained just because they have an 'intellectual disability'

Medication
Giving medication to involuntary patients

What We Say
We Agree.

What We Say
We Agree.
Expert Group Report, 2015
Involuntary Detention

**Tribunals**
- Improved safeguards
  1. 'Mental Health Review Board'
  2. Within 14 days of admission
  3. Report from independent Consultant Psychiatrist
  4. Psychosocial report from multidisciplinary team member

**Renewal Orders**
- Reducing maximum renewal period
  - Maximum limit of 6 months for renewal orders

**What We Say**
We Agree.

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Expert Group Report, 2015
Involuntary Detention

Change of Status
From voluntary to involuntary status

1. Voluntary patients must be assured they can leave at any time
2. They must have that right upheld if they express a wish to leave
3. They must be fully informed of their rights including, consenting to or refusing treatment and their right to leave at any time

What We Say
We Agree. Plus we call for...
1. Review boards to review all changes from voluntary to involuntary
2. Development of guidelines for staff on how to use changes of status
3. Strengthen and clarify the wording ‘given an assurance’
Capacity
Replace the definition of 'Treatment' to include

1. Formal capacity assessment within 24hrs of admission if the Mental Health Professional forms the view that the service user lacks capacity
2. Information and support should be given to the service user
3. The service user can call for a second opinion
4. Capacity should continue to be monitored
5. It is presumed that the service user has capacity

What We Say
We Agree. Plus we call for...

1. Those who lose capacity while admitted to be treated as ‘intermediate’
2. Capacity assessments to include an assistive or supportive decision-maker and at least 1 allied mental health professional. Formal capacity assessments should involve the input of multi-disciplinary staff.
Consent to Treatment

Clarifying consent

1. Service users with capacity make decisions about their treatment
2. Informed consent required for all treatment of voluntary and involuntary service users with capacity

What We Say
We Agree.
Expert Group Report, 2015
Partnership Approach

Care Plans and Discharge Planning
Expanded & more active role

1. Rename 'Care Plan' as 'Recovery Plans'
2. Discharge plans are part of the recovery plan.
3. All service users have the right to a recovery plan
4. Regular reviews, timing based on service user needs
5. Service users to sign off on recovery plans
6. Multi-disciplinary team responsible for the clinical content
7. Each child should have an individual care plan

What We Say
We Agree.
Advance Healthcare Directives
Mental health to be put on an equal basis to physical health

1. No specifics on how this will apply to inpatients
2. Should state clearly the treatments & situations it applies to
3. Should be recorded in the person’s recovery plan
4. If overridden, the Inspector of Mental Health Services should be notified within 3 days and include it in their report
5. Health Information and Quality (HIQA) and the Mental Health Commission should produce guidelines

What We Say
We Agree. Plus we call for...
Advance directives to apply to people who are involuntarily detained
Children & Young People

A new section dedicated to children & young people, including

1. 16 & 17 year olds have capacity to consent / refuse
2. Views of under 16s must be heard and given due consideration
3. Involuntary admission & renewal orders subject to Court Order
4. Notifications to the Mental Health Commission elevated to primary legislation
5. Advocacy services made available for children & young people and their families

What We Say
We Agree.
Expert Group Report, 2015
Additional Safeguards

Inspections
Approved centres and community services
1. Inspect at least every 3 years
2. Register all community mental health teams for inspection
3. Register all community facilities for inspection
4. Mental Health Commission to make standards for all mental health services

Section 73
It is recommended this section be removed, it says that
1. A person must have the permission of the High Court to institute civil proceedings under the Act.

What We Say
We Agree.

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Expert Group Report, 2015
Additional Safeguards

Advocacy & Supported Decision-making

1. An advocate can attend a tribunal
2. Support to make informed decisions
3. Discharge planning meetings must involve family members, carers or chosen advocate (with the consent of person)
4. A person subject to detention can nominate someone to support them with the review of their detention

What We Say
We Agree. Plus we call for...

1. Legislation on the right to advocacy support
2. Adequate funding for a range of advocacy services
Gaps in the Expert Group Report

1. MHR is also calling for other changes to the law
2. These were not in the Expert Group Report
3. We will be including them in our submission
Seclusion & Restraint

1. Must only be used in life saving, emergency situations

2. When used on a voluntary patient that voluntary status should be reviewed
Role of the Family

1. Family members should have a right to general information about the person's health (with their consent)

2. The health service should be required to assess & provide for the support needs of the family

3. This includes assessing and meeting the needs of children and young people in the person's family

4. The Clinical Director should involve the family in discharge planning where the service user is being discharged to a family member's home
Independent Complaints Mechanism

An independent body should be established to review, investigate and resolve complaints about mental health service delivery.
Protection from Abuse

1. It used to be a criminal offence to neglect or mistreat a patient in a psychiatric institution.
2. This offence was not included in the 2001 Act.
3. We do not see any reason for this.
4. We are calling for this vital safeguard to be brought back through the new Act.
Use Your Voice

Key Message:
Implement the Expert Group Report!

Deadline 5.00pm on 31 March 2021
How to send your comments

Email
- PDF or Word attachment
- mentalhealthactreview@health.gov.ie
- Subject: ‘Mental Health Act review submission’

Post
Mental Health Unit
50 – 58, Block 1, Miesian Plaza
Baggot Street Lower, Dublin 2, D02 XW14

Deadline
5.00pm on 31 March 2021
Learn more at

Details of the Consultation

Our Work on the Mental Health Act, 2001
https://www.mentalhealthreform.ie/campaigns/reform-the-mental-health-act/