

Submission

Public Consultation on Draft Legislation to Update the Mental Health Act, 2001

Introduction

My name is [REDACTED] and I have been living with Anxiety and Depression for almost three decades. I am keenly aware of the challenges and supports required to maintain my wellbeing and as such, I believe immediate and radical changes need to be made to the Mental Health Act 2001. The changes as outlined below are urgently needed to bring this Act up to date, to meet Ireland's commitment to the UNCRPD and most importantly to put the person and their rights at the center of the legislation.

Headings

1. Definitions

Mental disorder should no longer be defined in mental health legislation but instead the revised Act should include a definition of mental illness.

Replace the definition of 'Treatment' to include

- Ancillary tests when needed
- All service users in approved centre
- A clear explanation of treatment
- Expanded guidelines for mental health teams
- Treatments other than medication
- A statement that refuge is not treatment

2. Criteria for detention

Mental illness alone is not a reason for involuntary detention. Consideration of the following should also be included;

- Immediately needed to protect life or health
- Help the person's condition to a specified minimum level
- Must only be for so long as it's needed
- A service user can say no to treatment and leave

There needs to be balance between 'risk to health' and the right to refuse treatment & leave. Assessment of the 'risk to health' should be made by three mental health professionals.

3. Authorised Officers

This needs to be expanded and be more active role, including:

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

There must be sufficient Authorised Officers appointed to meet the needs.

4. Enhancing safeguards for individuals / Mental health tribunals

Improved safeguards

'Mental Health Review Board'

Within 14 days of admission Report from independent Consultant Psychiatrist

Psychosocial report from multi-disciplinary team member

5. Change of status from voluntary to involuntary

Voluntary patients must be assured they can leave at anytime

They must have that right upheld if they express a wish to leave

They must be fully informed of their rights including, consenting to or refusing treatment and their right to leave at any time

Review boards to review all changes from voluntary to involuntary

Development of guidelines for staff on how to use changes of status

Strengthen and clarify the wording 'given an assurance'

6. Capacity

Formal capacity assessment within 24hrs of admission if the Mental Health Professional forms the view that the service user lacks capacity

Information and support should be given to the service user

The service user can call for a second opinion

Capacity should continue to be monitored

It is presumed that the service user has capacity

Those who lose capacity while admitted to be treated as 'intermediate'

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.

Commence the Assisted Decision-Making Capacity Act, 2015

7. Consent to treatment

Service users with capacity make decisions about their treatment

Informed consent required for all treatment of voluntary and involuntary service users with capacity

8. Information and individual care/recovery planning

Rename 'Care Plan' as 'Recovery Plans'

Discharge plans are part of the recovery plan.

All service users have the right to a recovery plan

Regular reviews, timing based on service user needs

Service users to sign off on recovery plans

Multi-disciplinary team responsible for the clinical content

Each child should have an individual care plan

9. Inspection, regulation and registration of mental health services

Approved centres and community services

Inspect at least every 3 years Register all community mental health teams for inspection

Register all community facilities for inspection Mental Health Commission to make standards for all mental health services

10. Provisions related to children

16 & 17 year olds have capacity to consent/ refuse

Views of under 16s must be heard and given due consideration

Involuntary admission & renewal orders subject to Court Order

Notifications to the Mental Health Commission elevated to primary legislation

Advocacy services made available for children & young people and their families.

Conclusion

Covid19 has had a huge and negative impact to our health, society, and economy. The necessity to lockdown the country for extended periods of time has had the unfortunate side effect of putting huge pressure on people's mental health and this will become even more apparent once the vaccination programme is completed. Our ability to deal with this fall out will be determined to a large degree by the legislation in force, so these changes will be absolutely critical to ensure we can care appropriately for those individuals who may find themselves in distress.