Mental Health Act Review Submission

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I write to you as the Chair of the Social Workers in Adult Mental Health (SWAMH). SWAMH is a Special Interest Group (SIG) within the Irish Association of Social Workers (IASW). The Irish Association of Social Workers is the professional body representing social workers in the Republic of Ireland. There are over 4,800 registered social workers in Ireland. This includes staff working in the Health & Social Care sector, in education and training, in the voluntary sector and several independent practitioners.

SWAMH and the IASW welcome the opportunity to contribute to the public consultation on draft legislation to update the Mental Health Act, 2001. Social Work is a CORU registered profession. CORU registered social workers abide by the CORU Social Workers Registration Board Code of Professional Conduct and Ethics. The recommendations of this submission are influenced by our clinical experience and our duty to act in the best interests of service users and, where appropriate, to advocate on their behalf.

This submission is also guided by the 165 recommendations of the 2015 report of the expert group on the review of the Mental Health Act 2001.

•Changes to definitions in the Act

SWAMH (IASW) welcome plans to implement the following recommendations:

- The removal of the definition of '*mental disorder*' and replacing it with a definition of *'mental illness'*, which is separate from criteria for detention.
- The removal of any reference to *'significant intellectual disability'* and *'severe dementia'* from the Act.

SWAMH (IASW) concur with the expert group's recommendations (7-11). In relation to the definition of treatment, we recommend the term '*medical*' be replaced by the term *'clinical'* to encompass all aspects of care provision within a multidisciplinary team as opposed to a solely medical lens.

• **Inclusion of guiding principles**

From a social work perspective, a human rights' based approach is the foundation of our clinical practice. The new act should reflect the expert review group's recommendation 2 a-e at a minimum.

Autonomy, self-determination and bodily integrity are some of the principles outlined. SWAMH (IASW) recommend that Electro Convulsive Therapy (ECT) be administered to a person only when they or their chosen representative (where capacity is an issue) has given informed consent. Clear rules and guidance would be most helpful in relation to the administration of ECT.

• **Changes to the criteria for detention**

SWAMH (IASW) concur with recommendations 12-16 of the expert review group report 2015.

Point 13 (b) (Detention) *it is immediately necessary for the protection of life of the person, for protection from a serious and imminent threat to the health of the person, or for the protection of other persons that he or she should receive such treatment and it cannot be provided unless he or she is detained in an approved centre under the Act.*

In the instance that a person is detained to ensure safety of others, access to a forensic assessment needs to be made available.

• **Enhanced role for Authorised Officers**

SWAMH (IASW) welcome the enhanced role for authorised officers. It is noteworthy that a commitment has been made to ensure appropriate support and funding is in place to ensure nationwide access. This access should be available to all approved centres, both public and private.

A section should be added to involuntary admission paperwork requesting the professional opinion of the Authorised Officer on the following:

- Is there are any supports, services and/or specialist or community resources unavailable to the individual:

- That may have provided an alternative to deprivation of liberty at this point had they been available *or*
- Had these supports, services and/or specialist community resources been available in the last 12 months may have prevented the situation from deteriorating to the extent that the individual required an involuntary admission

Data from this additional section could highlight resource gaps that need to be addressed. Resource gaps such as stable housing, assertive outreach, crisis house, specialist rehabilitation, social care supports, access to disability supports, etc.

The new act should give legislative footing to Authorised officer recommendations on support packages which could be an alternative to deprivation of liberty. For example, these supports could include but are not limited to the need for community social care supports, housing, and access to disability or neurology supports, etc.

Recommendation 35 of the expert review group calls for the Authorised Officer to consult with family/carers. Recommendation 39 notes that family members can request a second opinion from another authorised officer. SWAMH (IASW) are concerned that this recommendation could be interpreted in a variety of ways. Can the family request one-second opinion? Or can all family members and carers request a second opinion from several different Authorised Officers? It assumes that the family/carers involved will share the same perspective.

• Interdisciplinary approach to care and treatment

SWAMH (IASW) welcomes a shift towards a more interdisciplinary approach to care and treatment as outlined in recommendations 61-63 of the expert review group. This is in line with the recommendations of the revised sharing the Vision Policy 2020. The new act and more recent mental health policies should align in terms of principles and practice recommendations.

SWAMH (IASW) recommend that every involuntarily detained person have a right to a psychosocial assessment by a CORU registered mental health social worker.

• **Changes to time limits**

SWAMH (IASW) endorses the expert review group's recommendation to shorten several timeframes, for example, shortening tribunal hearings from 21 days to 14 days after the making of an admission order.

• **Enhancing safeguards for individuals (including seclusion and restraint)**

SWAMH (IASW) concur with recommendation 89 of the expert review group and call for appropriate guidelines to be developed by the Mental Health Commission regarding seclusion and restraint. These guidelines should address all methods of seclusion and restraint: physical, mechanical and chemical.

The new act should be informed by the guiding principles of trauma informed care in relation to manual or other forms of seclusion and restraints. SWAMH (IASW) recommend the development of regulations, rules and a code of ethics relating to each restrictive practice in line with the principles of TIC.

• **Mental health tribunals**

SWAMH (IASW) endorse recommendation 50 to rename '*mental health tribunals'* to *'mental health review boards'*.

In relation to recommendation 63, that a psychosocial assessment be completed by a member of the MDT. SWAMH (IASW) recommend that mental health tribunals should **require the psychosocial assessment be completed specifically by a CORU registered mental health social worker.**

SWAMH (IASW) also recommend the involvement of Health and Social Care Professionals on the Multidisciplinary Team.

• **Change of status from voluntary to involuntary**

SWAMH (IASW) is in agreement with recommendations 73-81 of the expert review group.

• **Capacity and advance healthcare directives**

The new act needs to ensure that Advanced Healthcare Directives be legally valid for all mental health service users, including those who are involuntary detained who are currently excluded.

• **Consent to treatment**

SWAMH (IASW) recommend that the new act should state that all service users both voluntary and involuntary should have the right to refuse treatment.

• **Information and individual care/recovery planning**

Capacity Act of 2015 should apply. It is imperative that the new act ensures access to mental health supports and services for people with intellectual disabilities.

• **Inspection, regulation and registration of mental health services**

SWAMH (IASW) concurs with the recommendations of the expert review group

• **Provisions related to children**

SWAMH (IASW) welcome the expert review group recommendations (111-123) regarding children and the mental health act. This is a positive foundation.

SWAMH (IASW) recommend that further exploration and development regarding the transition of young adults (16-18) from CAMHS to AMHS needs to be prioritised. It is essential that the needs of older children are recognised as being different to the younger population. Sharing the Vision also indicates that in order to ensure continuity of service, CAMHS remit may need to be extended to the 18-25-year-old group. Transitions of care should be as smooth as possible to ensure our young peoples' mental health needs are being adequately met.

• **Provisions related to the Mental Health Commission**
SWAMH (IASW) recommend the following;

- The Mental Health Commission's regulation remit should be extended to regulate and inspect low, medium and high support HSE Hostels.
- Approved Centres should be legally required to provide a dedicated family meeting room to respect the Right to Family Life and is furnished to a high standard.

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