

Press Statement

20th October 2005



Mental Health Commission decides on next step for Establishing Mental Health Tribunals.

The Mental Health Commission, an independent statutory body, was established in April 2002 under the provisions of the Mental Health Act 2001. For the last three years, the Commission has been steadily progressing all of the necessary components to implement in full the Mental Health Act 2001 including training, documentation, facilities for mental health tribunals and quality/audit systems.

The mental health tribunals which review each involuntary admission consist of three members, a chairperson who must be a lawyer, a consultant psychiatrist and a lay member. The Act also provides for an independent examination of the patient by a consultant psychiatrist and the appointment of a legal representative.

In September 2004 when the Mental Health Commission advertised the panels for the mental health tribunals and the independent consultant psychiatrists, the Irish Hospital Consultants Association advised their members not to apply, thereby, placing an embargo on such applications. The Irish Medical Organisation, although not specifically placing an embargo on such applications indicated reservations.

The Mental Health Commission (and subsequently, the Health Service Executive, Health Service Employers Agency and Department of Health and Children) has been in discussion with the two medical representative organisations since November 2004, in relation to the implementation of the Mental Health Act 2001.

The progress on, and status of, a number of initiatives by the Mental Health Commission were clarified and discussed with the Irish Hospital Consultants Association and the Irish Medical Organisation. (See Editor's Note)

From these meetings, a further number of issues were raised by both organisations to which the Mental Health Commission responded. The most critical of these was an agreement that working groups, including representatives from the two medical organisations, would be established by the Mental Health Commission to prepare further operational guidelines on a number of issues:

- accessing a second opinion for involuntary patients where consent is not forthcoming for the administration of ECT (Electro Convulsive Therapy) or the use of medication after three months,
- accessing a second opinion for the re-designation of a patient from voluntary to involuntary status
- the involuntary admission procedures for children and adolescents and for people with an intellectual disability.

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A series of further meetings requested by the Irish Hospital Consultants Association and the Irish Medical Organisation's focussed on their view that additional consultant posts are required to implement the Act.

The Department of Health and Children agreed to provide funding for an additional 13 consultant psychiatrist posts in 2006 over and above the 10 consultant psychiatrist posts already approved in 2005, in acknowledgement of the need to increase capacity within the mental health services generally and so enable the implementation of the Mental Health Act 2001. This funding was contingent on the agreement of the Irish Hospital Consultants Association and the Irish Medical Organisation to participate in the implementation of the Mental Health Act 2001.

After prolonged discussions, the Irish Hospital Consultants Association indicated to the Health Service Executive – Employers Agency on Tuesday 18 October, that this offer of 13 additional consultant posts is not acceptable and that the embargo on applying for the mental health tribunal panels remains. The Irish Medical Organisation, in a letter dated 17th October, 2005, has indicated that they cannot give final agreement pending further discussions.

These discussions have now been continuing for almost one year. It is the view of the Mental Health Commission that these have now become a barrier to the implementation of the Mental Health Act 2001, which is unacceptable. The Commission believes that the protection of the basic human rights of those patients who have been involuntarily admitted must be the key priority.

The Mental Health Commission, in discussions, has consistently reiterated the urgency of commencing Part 2 of the Mental Health Act 2001. The engagement of the consultant psychiatrists is necessary to complete this preparatory work for implementation of the Act. The Mental Health Commission very much regrets that this co-operation has not been forthcoming.

The Commission recognises its ultimate responsibility is to the patient, their families and carers – it is they who are the deserved beneficiaries of the Mental Health Act 2001. The Commission cannot allow the rights of patients to be continually frustrated and undermined.

Consequently, the Commission intends to re-advertise for consultant psychiatrists to the mental health tribunals and to complete the independent examinations. We will be advertising within Ireland and internationally and will be providing applicants with the opportunity of full-time/part-time appointments and engagement on a sessional and case by case basis.

It is now time for all those who have expressed support for the implementation of the Mental Health Act to make a commitment and decision to ensure the implementation of the Act in the very near future.

ENDS

Editor's Note

a) Mental Health Act 2001

The Mental Health Act 2001 introduces significant changes to mental health legislation in Ireland. The Act provides for an automatic independent review by a mental health tribunal following an involuntary admission of an adult to a psychiatric hospital/unit. The Mental Health Act 2001 introduces fundamental human rights protections for patients whose liberty is restricted following an involuntary admission, thereby, giving expression to the European Convention on Human Rights. In 2000, the Irish Government was found to be in contravention of the European Convention. The Government gave a commitment that this would be remedied through the implementation of the Mental Health Act 2001.

b) Initiatives begun by Mental Health Commission that were clarified for IHCA and IMO

Training Programmes

The Mental Health Commission prepared and is implementing a comprehensive training programme. This includes a four day programme to train mental health professionals, specific training for mental health tribunal members, second examining consultant psychiatrists and also a two day course for all consultant psychiatrists with the Irish College of Psychiatrists. An e-learning programme will also be available in November 2005. In addition €2.2m has been made available by the Mental Health Commission to the Health Service Executive to facilitate the roll out of the training programme within the services.

Reference Guide

The Reference Guide, Part One (Adult) and Part Two (Child and Adolescent) was published some months ago. This was prepared to explain the Mental Health Act 2001 in detail for those who will be using it. This is the first such publication in Ireland and has been circulated widely within the mental health services.

New procedures documentation

The Commission recognises that there are new procedures arising from Part 2 of the Act. New documentation has been piloted in four areas and feedback received. Consultant psychiatrists have welcomed this opportunity to pilot the forms and both representative organisations recognise this.

Mental Health Tribunal Facilities

In preparing for enactment of Part 2, the Commission has reviewed the proposed arrangements for accommodating mental health tribunals at each centre throughout the country. The Commission already allocated €500,000 in 2004; further monies amounting to €480,000 has been allocated for 2005.

Monitoring Committee

The Mental Health Commission also proposed the establishment of a monitoring committee with representatives from the Irish Medical Organisation, Irish Hospital Consultants Association, Mental Health Commission, Health Service Executive, Health Service Executive – Employers Agency whose remit will be to monitor the implementation of Part 2, Mental Health Act 200, and to issue a report within one year of commencement of Part 2.