



Mental Health Commission

Registration Process for Approved Centres

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Key Terms

Act

The “Act” means the Mental Health Act 2001.

Approved Centre

A “centre” means a hospital or other in-patient facility for the care and treatment of persons suffering from mental illness or mental disorder. An “approved centre” is a centre that is registered pursuant to the Act. The Mental Health Commission establishes and maintains the Register of Approved Centres pursuant to the Act.

Building Control Regulations

Regulation 22 (6) of the Mental Health Act Regulations refers to the “Building Regulations 1997” and to “Part M of the Building Regulations 1997”. The Building Control Regulations regulate the issue of commencement notices, fire safety certificates and disability access certificates.

Centre

A “centre” means a hospital or other in-patient facility for the care and treatment of persons suffering from mental illness or mental disorder

Commission

The Mental Health Commission.

Consultant psychiatrist

Consultant psychiatrist means a consultant psychiatrist who is employed by the Health Service Executive or by an approved centre or a person whose name is entered on the division of psychiatry or the division of child and adolescent psychiatry of the Register of Medical Specialists maintained by the Medical Council in Ireland.

Material alteration

Means an alteration (other than a repair or renewal), where the work, or any part of the work carried out by itself would be subject to a requirement of Part A or B of the Second Schedule to the Building Regulations.

Mental disorder

Mental disorder means mental illness, severe dementia or significant intellectual disability where—

(a) because of the illness, disability or dementia, there is a serious likelihood of the person concerned causing immediate and serious harm to himself or herself or to other persons, or

(b) (i) because of the severity of the illness, disability or dementia, the judgment of the person concerned is so impaired that failure to admit the person to an approved centre would be likely to lead to a serious deterioration in his or her condition or would prevent the administration of appropriate treatment that could be given only by such admission, and

(ii) the reception, detention and treatment of the person concerned in an approved centre would be likely to benefit or alleviate the condition of that person to a material extent.

Mental health services

Services which provide care and treatment to persons suffering from a mental illness or a mental disorder under the clinical direction of a consultant psychiatrist.

Mental illness

A state of mind of a person which affects the person's thinking, perceiving, emotion or judgment and which seriously impairs the mental function of the person to the extent that he or she requires care or medical treatment in his or her own interest or in the interest of other person.

Minor works

Means works consisting of the installation, alteration or removal of a fixture or fitting, or works of a decorative nature.

Person

"Person" shall be read as importing a body corporate (whether a corporation aggregate or a corporation sole) and an unincorporated body of persons, as well as an individual, and the subsequent use of any pronoun in place of a further use of "person" shall be read accordingly.

Repair or renewal

Means works of maintenance or restoration of a routine nature relating to—

- (a) the keeping of a building in good condition or working order, or
- (b) the return of the fabric of a building to its original condition.

Resident

A resident is a person receiving care and treatment in a centre.

Registered Proprietor

The person whose name is entered on the Register as the person carrying on the centre.

The Register

The Commission shall establish and maintain a register which shall be known as "the Register of Approved Centres" and is referred to in Section 64(1) of the Act as "the Register".

The 2006 Regulations

Means the Mental Health Act 2001 (Approved Centres) Regulations, 2006.

1. Introduction

1.1 Aim of this Document

This document informs mental health service providers, staff working in approved centres and other mental health services and members of the general public of the registration process for approved centres. It explains the procedures involved in making an application to register a facility as an approved centre and those which apply during the three year period for which an approved centre is registered.

A ‘centre’ means “*a hospital or other in-patient facility for the care and treatment of persons suffering from mental illness or mental disorder*”. An “approved centre” is a centre that is registered pursuant to the Mental Health Act, 2001. The Mental Health Commission establishes and maintains the Register of Approved Centres as provided for by the Act.

This document should be read in conjunction with:

- The Mental Health Act 2001, www.mhcirl.ie/File/Mental_Health_Act_2001.pdf
- The Mental Health Act 2001 (Approved Centres) Regulations 2006, www.mhcirl.ie/File/Mental_Health_Act_2001_Approved_Centres_.pdf and
- The Mental Health Commission’s Regulatory Enforcement Policy www.mhcirl.ie/File/Mhc-Regulatory-Enforcement-Policy.pdf

1.2 What is Registration?

Registration refers to the process by which a hospital or other in-patient facility for the care and treatment of persons with mental illness or mental disorder is registered by the Mental Health Commission.

Registration (licensing) is inextricably linked with the quality of mental health service provision. It acts as a safeguard for residents in in-patient mental health facilities. All centres that are registered as approved centres should operate in a proper manner and meet proper standards.

Registration is an ongoing process in which the Commission adopts a responsive regulatory approach. By adopting this approach, the Commission is encouraging and valuing trust and transparency, while also pointing out that there are enforcement options under the legislation that may be used in appropriate circumstances.

2. Legislative Framework

2.1 Part 5 of the Mental Health Act 2001

Registration is addressed under Part 5 of the Mental Health Act 2001. The main sections of the Act relating to registration are Sections 62, 63, 64 and 65.

Under Sections 63 and 64 of the 2001 Act, every in-patient mental health facility in Ireland must be registered by the Commission as an “approved centre” in order to operate. Any person who proposes to carry on a centre must make an application to the Commission. Section 63 states that it is an offence to operate a centre that is not registered, or for a centre to be operated by a person other than the registered proprietor.

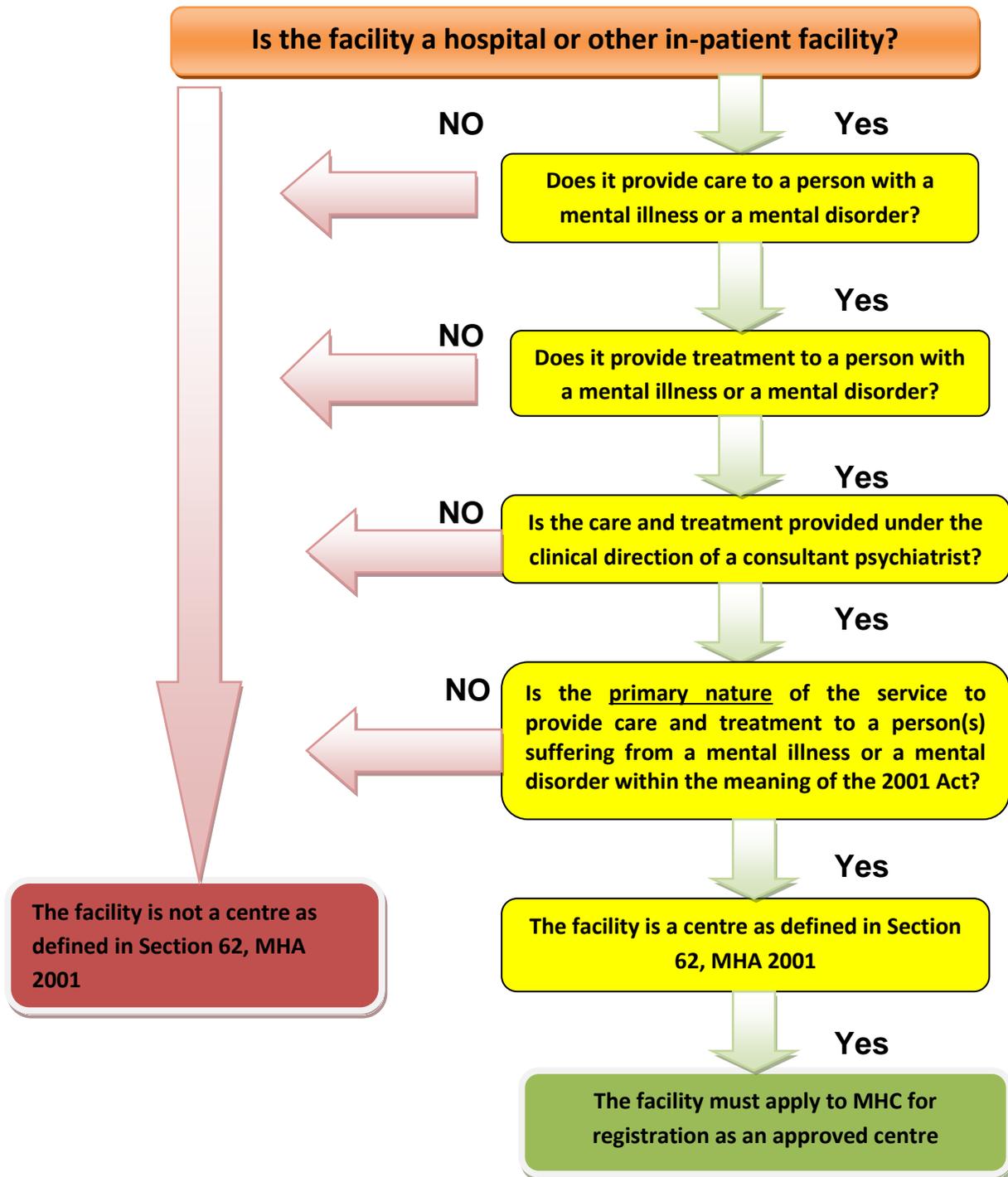
2.2 Determination of a ‘centre’ under the Mental Health Act 2001

In order to determine whether to apply for registration as an approved centre, it should firstly be established whether the facility meets the definition of a ‘centre’ as defined by Section 62 of the Act. Consideration should therefore be given to the questions as outlined below and in Figure 1.

- a) Is the facility a hospital or other in-patient facility (e.g. unit)?
- b) Does the facility provide care to a person with a mental illness or a mental disorder?
- c) Does the facility provide treatment to a person with a mental illness or a mental disorder?
- d) Is the care and treatment provided under the clinical direction of a consultant psychiatrist?
- e) Is the primary nature of the service to provide care and treatment to a person(s) suffering from a mental illness or a mental disorder within the meaning of the 2001 Act?

If the facility meets all of the above criteria (i.e. the answer to all of the above questions is ‘yes’), an application for registration as an approved centre must be submitted to the Commission.

Figure 1 – Defining a ‘centre’



2.3 Mental Health Act 2001 (Approved Centres) Regulations 2006

Section 66 of the Act obliged the Minister for Health and Children to prescribe regulations for approved centres and these came into effect on 1st November 2006. The regulations set out minimum standards that must be met by approved centres. These standards are necessary to provide quality and safety in the provision of in-patient mental health services and they provide service users with an understanding of the overall quality of care and treatment they can reasonably expect to receive while in an approved centre.

3. Registration Procedures

3.1 How to Register

To register, facilities must submit an Application for Registration as an Approved Centre to the Commission. Registration packs are available to download from the Commission's website: www.mhcirl.ie/Registration/ Alternatively, if you contact the Commission by telephone or by email, we will arrange for a registration pack to be sent to you.

As part of the application process, information about the service provided or intended to be provided is required. Applicants must indicate whether or not the facility meets the definition of a 'centre' and include details about the premises in which in-patient care will be provided.

Details of the person applying to be the registered proprietor or the person with delegated responsibility for the running of the facility must also be included. Where the person applying to be the registered proprietor is a person other than the Health Service Executive, a completed Garda Vetting Form must also be submitted. A checklist of what is required for a complete application is provided in the application form.

Applicants should take note of Section 64(8)(a) of the 2001 Act. It provides that the Commission has the power to request an applicant for registration or the registered proprietor as the case may be, to furnish it with any information which it considers necessary for the purposes of its functions under Part 5 of the Act.

Section 64(8)(b) states that it is an offence to supply false or misleading information unless it can be shown that at the time the information was furnished to the Commission, the person was not aware it was false or misleading in a material particular.

Applications for registration may be made in hard copy format or submitted by email. Completed forms, including supporting documentation, should be returned to the Standards and Quality Assurance Division which has responsibility for managing the registration process. Forms can be emailed to registration@mhcirl.ie or posted to **Standards and Quality Assurance Division, Mental Health Commission, St Martin's House, Waterloo Road, Dublin 4.**

Where an application has been submitted by e-mail, a hard copy of Section 7 of the application, with the original signature of the person applying to be the registered proprietor or the person with delegated responsibility for the running of the facility, must be submitted to the Commission.

Applications to register facilities as approved centres will either be made in respect of:

- Facilities not currently registered, or
- Existing Approved Centres.

There are some differences between the registration procedures applying to these application categories which we outline below.

3.1.1 Facilities Not Currently Registered

An application must be submitted in respect of all facilities that meet the definition of centre but which are not currently entered on the Register of Approved Centres. It is the responsibility of the person intending to be the registered proprietor, or the person with delegated responsibility for the running of the facility to ensure that a complete application is submitted including supporting documentation. Supporting documentation required for registration so as to confirm compliance with building regulations includes a commencement notice, planning permission, a disability access certificate and a fire safety certificate. A detailed self-assessment of compliance with the Mental Health Act 2001 (Approved Centres) Regulations 2006 must also be carried out as part of the application process.

3.1.2 Applications from Existing Approved Centres

Applications for registration from existing approved centres must be submitted in respect of approved centres whose three year period of registration is due to expire and in respect of approved centres that are no longer carried on by the named registered proprietor.

i. Approved Centres whose Registration is due to Expire

Where the registered proprietor or the person with delegated responsibility for the running of the centre intends to carry on the centre after the expiry of its three year period of registration, a new registration application must be made not later than two months before the date of expiry of the current period of registration.

ii. Approved Centres no longer carried on by the named Registered Proprietor

Where the approved centre is no longer carried on by the named registered proprietor or he or she will shortly cease to be the registered proprietor, a new registration application must be made. The person now carrying on the centre or who intends to carry on the centre when it is no longer carried on by the named registered proprietor should submit such an application not later than 4 weeks after the centre is no longer carried on by the named registered proprietor.

On occasion, an application for registration from an existing approved centre will need to be submitted as a result of the refurbishment of an existing approved centre and in all cases where the refurbishment requires the temporary accommodation of residents in a facility other than an existing approved centre (See Section 3.12 for further details on refurbishment).

3.2 Receipt and Review of an Application for Registration

All information received by the Commission, which includes the completed application form and supporting documentation, is checked for completeness. Where an incomplete application has been received, the applicant will be notified of same and will be asked to submit all required information as specified in the application. Incomplete applications are not processed until such time as all the required information is received by the Commission.

A copy of the completed application, associated documentation and the most recent Inspector's Report where the application is in respect of an existing approved centre is reviewed in detail by staff within the Standards and Quality Assurance Division.

3.3 Pre- Registration Site Visit

The Director of the Standards and Quality Assurance Division and the Inspector of Mental Health Services and/or Assistant Inspectors of Mental Health Services may visit facilities that are applying for registration for the first time. The purpose of the visit is to focus on how the service intends to comply with the requirements of the regulations,

whether or not the premises to which the application relates are likely to meet the requirements of the regulations and to discuss any issues arising from the facility's registration application.

The site visit will be scheduled when the registered proprietor notifies the Commission of its proposed operational date. It will usually not take place until at least two months following receipt of a complete application. On the day of the site visit or subsequently, the Director of Standards and Quality Assurance may request further information or make recommendations to the members of the management team regarding meeting the requirements of the regulations.

3.4 Registration Decisions

After a complete review of all applications for registration, the Director of Standards and Quality Assurance and the Standards and Quality Review Team will either make a decision to:

- Register the centre (with no conditions), or
- Make a proposal to register the centre with a condition(s), or
- Make a proposal to refuse to register the centre, or
- Make a proposal to remove the centre from the register, or
- Cease the application process.

3.5 Conditions

Under Section 64(6) of the Act, the Mental Health Commission may attach conditions to registration "*in relation to the carrying on of the centre concerned and such other matters as it considers appropriate having regard to its functions under this Part*". Such conditions may be attached at the time of registration or subsequent to registration. The purpose of attaching conditions is to ensure that the safety and quality of care and treatment provided to the resident are maintained at all times.

Without prejudice to the generality of the conditions that may be attached, such conditions may relate to:

- the carrying out of essential maintenance or refurbishment of a centre or of specified areas within a centre,
- the closure, temporarily or permanently, of a specified area or areas within a centre,
- the specification of the maximum number of residents which may be accommodated in a centre, or in a specified area or areas within a centre,

- the specification of the minimum number of staff required to be employed in a centre,
- the introduction or review, as the case may be, of specified policies, protocols and procedures relating to the care and welfare of patients and residents,
- the introduction or review, as the case may be, of specified policies, protocols and procedures relating to the ordering, prescribing, storing and administration of medicines,
- the specification of measures to be taken to ensure that patients and residents are informed of their rights under the Act.

The Commission may additionally attach appropriate timeframes for the achievement of such conditions. Such conditions may also be amended or revoked by the Mental Health Commission.

Section 64(5) states that the Commission can remove a centre from the register or refuse to register a centre if *“the registered proprietor has, not more than one year before the date from which the registration or removal from the register would take effect, contravened a condition”* under section 64(6).

Section 64(13) of the Act also states that where there is a contravention of a condition of registration the registered proprietor shall be guilty of an offence.

3.6 Refusal to Register a Centre or Removal of a Centre from the Register

The Mental Health Commission also has the power to refuse to register a centre or it may subsequently remove a centre from the register pursuant to Section 64(5) of the Act if it determines that:

- the premises to which the application or, as the case may be, the registration relates do not comply with the regulations or
- the carrying on of the centre will not be or is not in compliance with the regulations or
- the registered proprietor has been convicted of an offence under Part 5 of the Act, or
- the registered proprietor has failed or refused to furnish the Commission with information requested by it pursuant to Section 64(8), or has furnished the Commission with information that is false or misleading in a material particular, or
- the registered proprietor has, not more than one year before the date from which the registration or removal from the register would take effect, contravened a condition imposed under Section 64(6).

3.7 Notification of Outcome

The Director of Standards and Quality Assurance informs the registered proprietor, the person intending to be registered proprietor, or the person with delegated responsibility for the running of the facility, in writing, of the relevant registration decision and the reasons for it. Where the notification of a registration decision is in relation to a proposal to attach conditions to registration, a proposal to refuse to register a centre or a proposal to remove a centre from the register, the person concerned is also informed of his/her right to make representations in writing to the Chief Executive of the Commission in relation to the proposal within 21 days of receipt of such notification.

The Chief Executive shall before deciding the matter, take into consideration any representations duly made to the Commission in relation to its proposal. Thereafter the Commission shall make its decision and notify the applicant or the registered proprietor in writing of the decision. Centres that are approved for registration by the Commission are furnished with a registration certificate, which must be publicly displayed in a prominent place in the approved centre.

3.8 Register of Approved Centres

Once a centre is approved for registration, it is entered in the Register of Approved Centres. The physical “*Register of Approved Centres*” is available for inspection free of charge by members of the public at all reasonable times. Requests to inspect the Register are notified to the Director of Standards & Quality Assurance or a person acting on his/her behalf. A list of approved centres is also available on the Mental Health Commission website www.mhcirl.ie and this list is updated as required.

3.9 Appeals to the District Court

Where the Commission makes a decision to refuse to register a centre, to remove a centre from the register, or to attach a condition to, or amend or revoke a condition attached to a registration, the applicant or the registered proprietor, as the case may be, is also informed that he or she has the right under Section 65(1) of the Act to make an appeal to the District Court against a decision of the Commission. Such an appeal must be brought within 21 days of the receipt by the person of the notification of the decision. The District Court sits in the district in which the centre is situated and “*a decision of the District Court on question of fact shall be final.*”

3.10 Regulatory Compliance

The status of approved centres is reviewed on an ongoing basis. Following inspection, the Inspector forwards a copy of the Inspector's Report to the Director of Standards and Quality Assurance. Where the Inspector's Report indicates a breach in compliance with the 2006 Regulations, rules or codes of practice, the Director of Standards and Quality Assurance writes to the registered proprietor or the person with delegated responsibility for the running of the approved centre, and requests a regulatory compliance report to detail the action(s) that will be undertaken to address the breach in compliance and the timeframe(s) for completion. Full details of this process are set out in the Commission's Regulatory Enforcement Policy.

www.mhcirl.ie/File/Mhc-Regulatory-Enforcement-Policy.pdf

3.11 Changes to an Approved Centre's Registration

Once a facility has been entered on the Register of Approved Centres, there are developments that the Mental Health Commission must be informed of which affect its registration. They are as follows:

- Any intention to refurbish the approved centre or part of the approved centre which involves a material alteration to the approved centre's premises or that involves disruptions to the residents of the approved centre;
- Any change in the purpose/function of the centre such that it may no longer meet the definition of a centre;
- Any intention that the centre will no longer be carried on by the current named registered proprietor (see Section 3.1.2);
- Immediate notification once the centre is no longer carried out by the current registered proprietor (see Section 3.1.2);
- Any intention to change the number of beds that the approved centre is registered to operate;
- Any change in the Clinical Director of the approved centre; and
- Any change to the person with delegated responsibility for the running of the centre.

3.12 Refurbishment of an Approved Centre

Where the registered proprietor intends to refurbish the approved centre or part of the approved centre such that it involves a material alteration (see glossary) to the centre's premises, a refurbishment plan must be submitted to the Commission not later than six weeks before the refurbishment works are scheduled to commence. If the refurbishment involves minor works (see glossary) or repair or renewal (see glossary) but entails

significant disruption to the residents of the approved centre, a refurbishment plan must also be submitted.

Where the refurbishment involves a material alteration to the approved centre's premises, additional supporting documentation related to compliance with building regulations is also required. Where it is intended to accommodate residents temporarily in facilities other than an existing approved centre, an application to include these temporarily facilities as part of an approved centre's registration must be made.

3.13 Closure of an Approved Centre

Where a registered proprietor intends to cease providing in-patient services within an approved centre, all provisions of Article 36 of the Mental Health Act 2001 (Approved Centres) Regulations 2006 – Closure of an Approved Centre - must be complied with. These require the Commission to be provided with three months written notice of the intention to close the approved centre. Adequate arrangements must be put in place that provide for the transfer of residents to appropriate service in accordance with their assessed needs and the Commission must be satisfied that these arrangements are appropriate.

Article 36 of the Mental Health Act 2001 (Approved Centres) Regulations 2006 may also apply when we are informed by the Inspector of Mental Health Services that an approved centre no longer meets the definition of a 'centre'.

Before we agree to remove a centre from the Register, we will have particular regard to the safety and welfare of all residents, particularly in light of any determinations that a centre was not compliant with any statutory requirements during its most recent inspection.

3.14 Expiration of Registration

Before the 3 year registration period expires, it is necessary for the registered proprietor of an approved centre to apply for registration using a new application for registration as provided for in Section 3.1.1 of this document.

4. Confidentiality

The Commission respects the confidentiality of the information it has been given and maintains all documentation regarding application for registration as an approved centre in a secure manner. All required steps are taken not to release or disclose information outside the course of that necessary to fulfil the Commission's legal and professional requirements. Data Protection and Freedom of Information legislation applies.

5. Further Information

For further information, please contact Brian O'Sullivan, Divisional Support Officer, Standards and Quality Assurance Division, (01) 6362401 or brian.osullivan@mhcirl.ie.

To obtain a registration pack, along with a copy of the Mental Health Act 2001 and a copy of the Mental Health Act (Approved Centres) Regulations 2006 please visit our website at www.mhcirl.ie/Registration or send an email to registration@mhcirl.ie

Summary flowchart of Registration Process for Approved Centres

