

Mental Health Commission: proposed changes to Mental Health Act will require careful consideration

Regulator welcomes opportunity to study and contribute to Heads of Bill

The Chairperson of the Mental Health Commission has stated that the Commission will require six months to study, comment on and provide a high-quality review of the Heads of Bill to amend and update the Mental Health Act 2001.

Both the Minister for Mental Health and relevant officials in the Department have indicated in their communications with the Commission, that it has provided six months to complete the expert review. The six month period does not include the new Part of the Act that shall be dedicated to children, which the Department of Health are still drafting.

The Mental Health Commission has already established a working group that will be tasked with reviewing the Heads of Bill and providing feedback on each section. The group includes senior staff from the Commission, whom have extensive experience of the 2001 Act, relevant case law, various international conventions and best practices.

“The Mental Health Commission welcomes the opportunity to provide input into the Heads of Bill to amend and update the Mental Health Act 2001,” said Mental Health Commission Chairperson, John Saunders. “As noted by Minister for Mental Health, Jim Daly, on 27 June, the Heads of Bill are being provided to the Mental Health Commission as the state body with the statutory remit to operate the 2001 Act.

There are a number of factors that the Mental Health Commission will need time to consider. These include the recommendations of the report of the Expert Group (which is now over four years old); that the Mental Health Act is consistent with the principles and standards of the Assisted Decision Making (Capacity) Act 2015; the extensive case law; and key issues that have arisen from the day to day operations of the legislation that may or will affect the delivery of the 2001 Act.

Having taken some time to consider the time and resources that we are in a position to allocate to this critical piece of work, and bearing in mind that the Mental Health Commission already faces an extremely busy second half of 2019, we envisage that a minimum of six months is required to produce a high-quality review of the Heads of Bill.

The Commission must also ensure that any recommendations in the Heads of Bill will be compatible with international law and requirements as set out in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), which the Irish Government ratified just last year.

The Commission will also require time to consider and understand the potential impacts of the recommendations on key stakeholders, particularly people who use mental health services and any affected organisations.

“The updating of the 2001 Act is an extremely important piece of work which, when passed and signed into legislation, will ensure that the rights of mental health service users are further enhanced, supported and vindicated,” noted Head of Legal Service for the Mental Health Commission, Orla Keane.

John Saunders added: “Our ultimate objective is to contribute positively to updating current legislation to reflect modern mental health services and ensure that those in receipt of mental

health services receive a safe, high-quality service that is compatible with international law, conventions and best practice.”

Assuming that no unavoidable delays or issues emerge, the Mental Health Commission is aiming to issue their feedback to the Department of Health during January, 2020 (excluding the new section relating to children).

Ends

Notes to the Editor

Amending the Mental Health Act 2001

The Mental Health Act 2001 is the law that must be followed when giving care and treatment to people with mental illness. The Act established the Mental Health Commission.

In August 2012, an Expert Group was set up by the Government to examine and recommend updates to the Act. The Expert Group published its report in December 2014, which contained 165 recommendations in relation to the amendment of the Act.

In April 2018, it was announced that the Government had commenced the process of reviewing the Act and preparing heads of Bill to amend the Act. The heads of Bill were initially due to be sent to the Mental Health Commission in Q4 2018 and again in March/April 2019. The Mental Health Commission received the heads of Bill on July 2nd, 2019.

About the Mental Health Commission

The Mental Health Commission is an independent statutory body. The primary functions of the Mental Health Commission are to foster and promote high standards of care and good practice in the delivery of mental health services and to ensure that the interests of those involuntarily admitted are protected, pursuant to the Mental Health Act 2001. The Mental Health Commission also has statutory responsibility for the Decision Support Service under the Assisted Decision-Making (Capacity) Act 2015.

To operate an in-patient mental health service in Ireland, the service must be registered as an ‘approved centre’ with the Mental Health Commission. Upon registration, the service must comply with regulations and rules made under the Mental Health Act 2001. Failure to comply with regulations and rules may result in enforcement action including: corrective and preventative action plans, an immediate action notice, a regulatory compliance meeting, registration conditions, removal from the register (closure) and prosecution.