

24 July 2020



## Updated Memorandum regarding the Rules Governing the Use of Seclusion and COVID-19

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*Further to the memorandum of 30 March 2020, this memorandum provides you with additional information in relation to the Rules Governing the Use of Seclusion and the management of residents and COVID-19. As such, this memorandum supersedes that of 30 March.*

The Mental Health Commission has received a number of queries from Approved Centres regarding the use of seclusion and the management of residents and COVID-19. In particular, the Commission has received queries in relation to the role of seclusion in the detention and isolation of residents for reasons relating to COVID-19. The Commission wishes to clarify that:

- Seclusion, as defined by the Mental Health Act 2001 and the associated Rules, was never intended for use as a method to isolate residents for the purposes of managing a health condition (excluding mental health) or for the purposes of infection prevention and control. For example, seclusion of a resident for the reason that they have or may have COVID-19, rather than because of their mental illness, would be non-compliant with the Rules Governing the Use of Seclusion.
- In addition, in an Approved Centre where there are no seclusion facilities, any seclusion as defined by the Rules, would be non-compliant with the Rules Governing the Use of Seclusion.
- Detention and isolation of residents for reasons relating to COVID-19 are provided for under Section 11 of the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020, which amended Section 38 of the Health Act 1947.
- Where a resident is detained or isolated for reasons relating to the management of COVID-19 this is the legislation that must be adhered to. Where a resident is detained and isolated under this legislation, the Rules Governing the Use of Seclusion do not apply.

The Commission recommends that services continue to seek advice from public health colleagues and obtain legal advice as to detaining and isolating someone who has COVID-19 and refuses to self-isolate.

We understand that this is a difficult time for staff and residents. Please do not hesitate to contact us if you have any further queries, contact details are provided in the Appendix to this Memorandum.

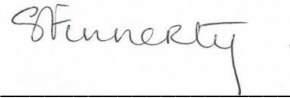
We wish you and all Approved Centre residents and staff well during these challenging times.

Yours sincerely,



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Ms Rosemary Smyth  
Director of Standards and Quality Assurance



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Dr Susan Finnerty  
Inspector of Mental Health Services

Appendix I: Contact Details

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If you have a general query relating to the inspections please email [inspectorateadmin@mhcirl.ie](mailto:inspectorateadmin@mhcirl.ie), for all other general queries please email [compliance@mhcirl.ie](mailto:compliance@mhcirl.ie).

