Public Sector Equality and Human Rights Duty

Implementation Plan

Our Vision Equity of access to person-centred mental health services and decision support services that deliver high-quality care and support.

Our Mission Promotion and vindication of human rights in relation to mental health services and decision support services.

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Division (if applicable):	All
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1. Introduction

The Mental Health Commission (the Commission) is an independent statutory body established under the provisions of the Mental Health Acts 2001 -2018 ("the Act"). Section 33 (1) of the Act sets out the principal functions of the Commission, which are to promote, encourage and foster the establishment and maintenance of high standards and good practices in the delivery of mental health services and to take all reasonable steps to protect the interests of persons detained in approved centres under the Act.

The Assisted Decision-Making (Capacity) Act 2015 as amended ("the 2015 Act") expanded this role by providing for the establishment of the Director of the Decision Support Service ("the Director") within the Commission to support decision-making by and for adults with capacity difficulties and to regulate individuals who are providing support to people with capacity difficulties.

All public bodies in Ireland have a responsibility to promote equality of opportunity and treatment of its staff and service users, eliminate discrimination and protect the human rights of their members, staff, and service users. This is a legal obligation, called the Public Sector Equality and Human Rights Duty ("Duty"), and it originated in Section 42 of the Irish Human Rights and Equality Commission Act 2014.

The Commission set up a Public Duty Working Group in 2019 which was re-structured in 2023. The working group is committed to the implementation by the Commission of its Duty in line with its statutory obligations. The working group reports to the Board of the Commission biannually and to the Commission's Human Rights Committee on a quarterly basis. The working group is made up of a representative from each division of the Commission (see section 3 below).

2. Implementing the Duty

The Commission shall:

2.1 Carry out an assessment of the human rights and equality issues relevant to the functions of the Commission ("assessment").

2.2. Agree actions to address these issues, publish these in an Implementation Plan and put in place policies, plans, and actions, as required.

2.3 Bring to the attention of staff, the actions required to address the issues set out in the assessment.

2.4 Arrange to publish in its next strategic plan, the assessment, and any relevant policies, plans and actions in place or proposed to be put in place to address the issues identified in the assessment. The Commissions current Strategic plan 2023-2027 is published on the Commissions website;

2.5 Arrange to publish on the Commissions website, developments, and achievements in its 2024 annual report.

2.6 Deal with matters as they arise in order to meet the objectives in the Commissions Strategic Plan and enhance existing work in human rights;

2.7 Consult with service users and staff where appropriate with regard to the carrying out by the Commission of the Duty such as collecting equality data i.e., disability (staff) and gender balance (board) / gender and age of involuntary admissions (service users).

2.8 Raise awareness for example by making available to all staff the IHREC E-Learning module https://www.ihrec.ie/elearning/;

2.9 Audit the inclusion of the Duty in policies and governance frameworks as set out in the Policy on Policies.

In addition, the Commission intends in the future to:

2.10.1. Increase the level of training on equality and human rights for management; and

2.10.2 Appoint an equality officer.

3. Divisions of the Mental Health Commission

The Commission is made up of the following Divisions:

3.1 Mental Health Tribunals.
3.2 Standards and Quality Assurance.
3.3 Inspectorate.
3.4 Decision Support Service.
3.5 Corporate Operations.

3.1 Mental Health Tribunals.

The Mental Health Tribunals Division is responsible for the administration of mental health tribunals within the statutory deadlines set out in the Act. Under the Act, every adult who is involuntarily detained in an approved centre shall have their detention order referred to an independent tribunal to be reviewed. This is a core requirement in vindicating and upholding a detained person's human rights.

3.2 Standards and Quality Assurance.

This consists of a team of regulatory staff and the standards development team form the Standards and Quality Assurance (SQA) division. The team works closely with the inspectorate.

The SQA team is responsible for registration of approved centres, monitoring notifications daily and addressing non-compliance to ensure that all residents of approved centres are provided with safe care and treatment.

The SQA team produces reports based on data and information from mental health services and on occasion produces or commissions other pieces of research. Examples include the annual Restrictive Practices Activity Report and the Use of Electroconvulsive Therapy in approved centres.

The Standards team produces and updates rules and codes of practice, national standards, and guidance documents for staff working in mental health services.

3.3 Inspectorate.

The Inspectorate Division consists of the Inspector of Mental Health Services and a multi-disciplinary team of Assistant Inspectors. As required by the Act, the Inspector is a Consultant Psychiatrist. The role of assistant inspectors is to assist the Inspector of Mental Health Services in the discharge of their duties. Section 51(1)(a) of the Act states that the principal function of the Inspector shall be to "visit and inspect every approved centre at least once a year in which the commencement of this section falls and to visit and inspect any other premises where mental health services are being provided as he or she thinks appropriate". Each approved centre is assessed against all regulations, rules, codes of practice, and Part 4 of the Act as applicable, at least once on an annual basis.

3.4 Decision Support Service.

The Decision Support Service (DSS) is a public-facing service established under the 2015 Act. The Director of the DSS and the Director's staff are staff of the Commission, with separate functions conferred by the 2015 Act. The 2015 Act repeals the wards of court system, replacing it with a graduated framework of decision supports. All adult wards are to be reviewed by the wardship court and discharged from wardship. The 2015 Act also provides tools for all persons who wish to plan ahead for a time when they might not be able to make their own decisions.

The principal functions of the DSS are to:

a. promote public awareness and confidence in relation to the 2015 Act and related matters.
b. provide information and guidance to individuals, organisations, and bodies.
c. maintain a searchable register of statutory decision support arrangements.
d. supervise the performance of decision support arrangements.
e. receive and investigate complaints about decision support arrangements.
f. establish and maintain panels of suitable persons to assist with certain functions.
g. to act as Central Authority for the purposes of the Hague Convention for the International Protection of Adults.

3.5 Corporate Operations.

The Corporate Operations division provides support to enable the Commission to carry out its statutory responsibilities under legislation. The main components are:

a. Finance
b. HR
c. ICT

d. Procurement
e. Information Governance (including GDPR) and
f. Facilities.

Other initiatives and activities include, Climate Action Plan, Health and Safety, Complaints, Protected Disclosures.

4 Issues assessed and plans to address these issues, relevant to the functions of the Commission per Division

4.1 Mental Health Tribunals.

No	Issues assessed relevant to the functions and purpose of MHC	Short- & Medium-Term plan to address the issues
1	Ensuring Mental Health Tribunals give adequate reasons for their decision under statute and constitutional law (natural justice) in the review of a detention order.	Provision of specific training to Tribunal Chairpersons in regard to F.C. v MHT [2022] IECA 290 and other associated case law to ensure they are fully aware of the implications of these cases. Mandatory training for all tribunal panel members to ensure an understanding of the requirement to give adequate reasons for their decision.
2	Involuntarily detained patients and other residents in mental health facilities may not be aware of their right to vote and how to access that right.	Develop, publish, and distribute literature highlighting the Electoral Rights for those Involuntarily Detained and all other residents in mental health facilities.
3	Ensure Mental Health Tribunal Panel Members are up to date and trained on all relevant legislative, statutory, and procedural matters. They should also have the best possible understanding of mental illness, psychiatry, treatments, and other related matters.	Provide Legal Representatives, Tribunal Chairpersons, Tribunal Lay Members, Independent Consultant Psychiatrists/Tribunal Consultant Psychiatrists with individual panel training to discuss issues, to share knowledge, understanding and address issues in a collaborative setting with the Commission providing information and guidance.
4	Compliance issues related to the completion of Statutory Forms. Key stakeholders should have a common understanding on legislative, statutory, and procedural matters.	Participate in information sessions for Responsible Consultant Psychiatrists and Mental Health Act Administrators (MHAAs) in the HSE and Independent approved centres.

5	Information for involuntarily detained persons should be available in multiple formats to enhance accessibility.	Produce a series of information videos for detained persons and their family/friends on involuntary admission and MHTs, informing them of their rights as an inpatient in hospital, with the most up to date information.
6	Information for involuntarily detained persons regarding their rights as an inpatient in hospital should be available in a range of languages and formats.	Review the provision of information for involuntarily detained patients in other languages. This information is already available in twelve languages. This provision will be reviewed and extended to make information available in in additional, relevant languages. Audio recordings of the tribunals patient information documents will be made available on the Commission website alongside the translated documents.
7	There is no method for individuals discharged from in-patient mental health services (including individuals who were detained) to express their views and provide feedback on a national basis.	Participation in the National Patient Experience Survey of Mental Health Services. This survey will provide people using services, including involuntarily detained patients, with the means to express their views and to provide the Commission and mental health services with valuable input and feedback, enabling the Commission to consider appropriate actions to improve Commissions processes and procedures as well as informing improvements to mental health services.
8	Improve the accessibility of mental health tribunal decisions to involuntarily detained persons.	Provide involuntarily detained patients, with a typed, digitally signed decision of the mental health tribunal immediately after the conclusion of the tribunal hearing. Digitise the Statutory Form 8,9 and Record of Tribunal Proceedings and provide equipment to allow the application of digital signatures to the forms to allow direct upload and immediate availability of the forms to the patient.
9	Ensure there is an independent audit of the legal representatives' files to ensure quality legal representation at tribunals for involuntary detained patient for the duration of their admission.	Instruct independent auditors from September 2024 to carry out an independent review of each legal representatives file every 3 years. Revision of Quality Assurance Directions in August 2024 to guide Legal Representatives in the standards required.

10	The panel of legal representatives has reduced in number from 105 in 2010 to 72 in 2024.	To ensure adequate and appropriate legal representation at tribunals for involuntary detained patient for the duration of their admission it is necessary to increase the number of legal representatives on the panel. A recruitment process commenced in June 2024 to increase the number on this panel by twenty-five to ensure adequate representation nationwide.
11	Detained persons must have access to a right to appeal the decision of the tribunal.	The Commission provides legal aid to legal representatives on the Commissions panel and guidance and training to all Legal Representatives.
12	The Tribunals team (and other staff of the Commission) deal with a diverse population and should have a good understanding of how to interact with different cultures.	Cultural awareness and diversity training (internal) training delivered.

4.2 Standards and Quality Assurance.

No	Issues assessed relevant to the functions and purpose of MHC	Short- & Medium-Term plan to address the issues
1	Ensure guidance that is circulated to approved centres is up to date, person centred.	Revision and Publication of the 2024 Judgement Support Framework in conjunction with the Inspectorate division.
2	Ensure implementation of a human rights-based approach to the regulation of restrictive practices – seclusion and physical restraint.	The MHC's new rules and code of practice on restrictive practices came into force on 1 Jan 2023. The new regulatory framework requires service providers to adopt a human rights approach to the reduction and elimination of restrictive practices in Irish Mental Health Services. Additionally, the new framework requires every incidence of restrictive practice to be notified to the MHC within three days. The new regulatory framework has resulted in a significant reduction in the use of seclusion and restraint in Irish mental health services. In 2023 the use of some restrictive practices decreased by over 25%. Please see www.mhcirl.ie for the MHC's annual reports which detail the decreasing use of restrictive practices in Irish Mental Health Services.

		Development and Publication of 2023 Activity Report: *The Administration of Electroconvulsive Therapy in Approved Centres.*
		Development and Publication of 2023 Activity Report: *The Use of Restrictive Practices in Approved Centres: Seclusion, Mechanical Restraint, and Physical Restraint.*
3	Implementation of a human rights-based approach is essential for improving standards of care in the delivery of mental health services.	On going development in consultation with Munster Technological University of a Human Rights guide and associated training materials for people who work in Mental Health Services.
4	Reviewing patient safety incidents to ensure they are conducted in a transparent way, which enhances the future quality and safety of patient care.	Development of guides to support health and social care services to meet, and exceed, regulatory requirements.
5	Capture the voices of service users, enabling the Commission to consider actions based on their feedback which might bolster the delivery of services in Irish mental health services.	Participation in the National Patient Experience Survey of Mental Health Services.
6	Provide service users under 18 years regarding their rights as an inpatient in hospital, with the most up to date information.	Production and Publication of MHC Headspace Toolkit to support and empower young people who are inpatients of Mental Health Services.
7	Ensure standards which set out what outcomes a child should expect and what a service provider needs to do to achieve these outcomes. By providing a common framework for all health and social care services working with children, the overarching standards aim to promote clarity, consistency, and continuity. That there is a consistent and coordinated response to their needs and that services will work in an integrated way to improve the experience and outcomes of children using these services.	Development of a resource for children to support them to understand the MHC/HIQA Overarching National Standards for the Care and Support of Children using Health and Social Care Services.

8	Ensure compliance with the Patient Safety (Notifiable Incidents) Act 2019 which was enacted in 2023. The purpose of which was to put in place new structures to enhance regulation of health services. It also seeks to support a culture of patient safety, quality and learning in the delivery of health services, as well as openness, transparency, and compassion.	The MHC has a process to ensure that all notifiable incidents, as defined by the 2023 Act, in approved centres are communicated to the Commission for further action.
9	Review of the Mental Health Act 2001 and Approved Centre Regulations.	The MHC has sent various submissions to the Department of Health in support of an updated regulatory framework for Mental Health Services. The MHC continues to advocate for a human rights approach to be emphasised as the Mental Health Bill makes its way through committee stages of the Oireachtas.
10	Amendment to the Act, to support the improvement of Mental Health Services.	The MHC is developing Standards for Community Mental Health Residences and the Rehabilitation Teams to enable them to meet regulatory requirements.
		The MHC is developing guidance for mental health service providers on the care and treatment of LGBTQIA+ service users.
		The MHC is developing guidance for providers of mental health services to persons with intellectual disabilities.

4.3 Inspectorate.

No	Issues assessed relevant to the functions and purpose of MHC	Short- & Medium-Term plan to address the issues
1	Ensure the provision of information regarding practices within Approved Centres is accessible to the public with regard to the right to a system of health protection that provides equality of opportunity for people to enjoy the highest attainable standard of health through inspection and reporting.	Visit and inspect all approved centres in 2024 report on findings against compliance of Regulations under the Act, rules on Seclusion, Mechanical Restraint, ECT and the Code of Practice on Physical Restraint, Admission, Transfer and Discharge, ECT and Child Admissions to Adult Units. Annual inspection reports of Approved Centres are developed and published to inform the public on practices within the approved centre underpinned by the rights prescribed to individuals who are admitted to approved centres under the Mental Health Act Regulations, 2006.

		In 2024 *inspection* of quality practices, emphasised a rights-based and inclusive approach recommenced for 10 Regulations; Regulation 11: Visits, Regulation 14: Care of the Dying, Regulation 15: Individual Care Planning, Regulation 19: General Health, Regulation 20: Provision of Information, Regulation 21: Privacy, Regulation 26: Staffing, Regulation 29: Operating Policies and Procedures, Regulation 31: Complaints and Regulation 32: Risk Management Procedures under the new Judgement Support Framework 2024.
		The Inspector of Mental health services completion of the "Use of Restrictive Practices in Approved Mental Health Centres in Ireland: Consideration of 5-year data reported to the Mental health Commission from 2018 to 2022" has been published.
		A new information leaflet detailing the inspection process and roles of the Inspectorate was developed and has been distributed to all Approved Centres during inspections. This information promotes understanding of the Commission and the Inspectorate's role and function towards the rights to safe healthcare for individuals admitted to in-patient mental health services.
		Two additional Assistant Inspector posts were agreed to support resourcing and inspections.
2	Capturing the voice of residents, carers, and family - Seeking the views of individuals experience whilst using approved centres.	The experience questionnaire was redeveloped in collaboration with stakeholders. The questionnaire is available for residents/carers/advocates/family to complete during inspection. Interviews are conducted with residents/patients during inspections. Feedback received is included in the approved centre's annual inspection report.
		The Peer Advocacy in Mental Health Network is contacted during inspection. Feedback received is included in the approved centre inspection report.

3	Ensure the health, wellbeing, or safety of a person in receipt of mental health services is safeguarded.	Whilst the Commission does not have the statutory function to investigate complaints. Issues of concerns relating to human rights and equality are received by the commission via several platforms including by not limited to telephone, emails, and letters. The Regulatory team has an established Submitted Issues of Concern (SIC) committee which review these concerns at least once every two weeks. Each concern is considered and reviewed under the Commission's mandate relating to the health, wellbeing, or safety of a person in receipt of mental health services. If the concern does not fall within the remit of the Commissions mandate, recipients are signposted and/or provided directions on how best to get the support, advice or information required.

4.4 Decision Support Service.

No	Issues assessed relevant to the functions and purpose of MHC	Short- & Medium-Term plan to address the issues
1	Accessibility of the DSS service to persons with a disability, other condition or additional supports needed.	Accessibility policy implemented July 2024 – Easy read version available. DSS website and online portal MyDSS designed to accessibility standards. Stakeholder forum – consultation and feedback used to improve design and develop service. Dedicated information services team in place to manage accessibility issues. Engagement with the MHC Access Officer as required to ensure the DSS service is accessible to all.
2	Provision of suitable and accessible information to persons with a range of needs and capacity challenges.	Information Services Team. Easy read information and accessible website developed. 'My Choices' booklet printed for distribution to service users, videos, step-by-step guides, FAQs, development of plain English versions of DSS procedures., materials tested with stakeholder forum for accessibility.

3	Costs as a barrier to DSS supports and services, all persons should have an equal opportunity to access DSS services.	Fee waiver process in place. Free Phoneline in place for all callers since 27 August 2024. Dedicated EPA Helpdesk for callers and temporary team to process manual (paper) applications
4	Upholding the rights of persons to decision-making autonomy.	Members of the public can have legally recognised decision support arrangements. Arrangements can be verified through a public register to ensure statutory decision-making supports are recognised by third parties.
5	As an intervener all actions taken by the DSS in respect of a relevant person must comply with the guiding principles of the 2015 Act. This means due regard must be had to the need to respect the right of the relevant person to dignity, bodily integrity, privacy, autonomy, and control over his or her financial affairs and property and minimise restriction of the relevant person's rights and freedom of action.	DSS implements statutory processes to help safeguard the relevant person from instances of a decision supporter acting outside of scope or inappropriately handling funds/property and instances of fraud, coercion, undue influence. These include processes for review of objections by notice parties, supervision processes to monitor compliance by decision supporters, and procedures for the investigation of complaints, which include visits to the relevant person to hear their views regarding the complaint.
6	Persons do not have a suitable decision supporter	DSS maintains a panel of professional decision-making representatives (DMRs) A panel member may be an appointed by the court when no suitable DMR is available to the relevant person. A DMR appointed by the court in default of lower-tier co-decision-maker is required to take decisions jointly with the relevant person as far as possible, supervised by the DSS. Training for panel DMRs is continuous to keep members updated on their obligations. The panel is kept under review to help ensure that there are sufficient numbers and diverse expertise.
7	DSS has a statutory function to provide information on accessing the supports in the 2015 Act.	Information website – this is kept under review to ensure that the information is current. Stakeholder engagement – this is intensive and diverse. The DSS prioritises delivering information sessions to service users and their families, usually in person, to help them understand the 2015 Act. Public awareness campaign – the next focus is on planning ahead and the importance of making Enduring Powers of Attorney and Advance Healthcare Directives.

8	Requirement for Complaints & Investigations Team (C & I) to apply fair procedures, including giving adequate reasons for their decisions in the review and investigation of a complaint.	Complaints Procedures are kept under review. Training is delivered for the C & I Team members to ensure that they are aware of the importance of following fair procedures.
9	Requirement for Complaints and Investigations to complete an investigation within the statutory 9-month timeframe.	Investigation training has been provided to the team to ensure that statutory timelines are met.
10	Complaint forms revised to make it easier for a person to complain.	Individual complaint forms for each arrangement are being developed.
11	Facilitating access to appropriate supports in cross-border situations involving another state party to the Hague Convention on the International Protection of Adults	The DSS carries out the functions of the Central Authority, principally as an information hub for the purposes of the Hague Convention.

4.5 Corporate Operations.

No	Issues assessed relevant to the functions and purpose of MHC	Short- & Medium-Term plan to address the issues
1	Ensuring dignity at work.	A HR Strategy has been developed. HR identified to deal with Dignity at Work concerns. Nominated Persons identified and training planned.
2	Recognising Equality, Diversity, and Inclusion.	An Equality, Diversity and Inclusion policy is being prepared for Senior Leadership Team approval.
3	Dealing with difficult telephone communications.	Training for staff to ensure that calls are dealt with appropriately.
4	Climate Action Plan.	Climate Action roadmap updated and approved by the Board.
5	Disability Awareness and Equality Training.	It is planned to identify and roll out appropriate training.
6	Staff Wellbeing.	Cardiac screening offered free of charge to all staff.
7	Access to employment in MHC for disabled people.	Engage with WAM to arrange work experience for graduate with a disability. It was identified that the office space does not have a hearing aid device to support individuals with hearing difficulties. This has been communicated with the Access Officer for further consideration.

8	Minimum Statutory Target (Employees with Disabilities) currently 3% rising to 6%.	Ensure reasonable accommodations are in place. Access officer is in place.
9	Health and Safety of employees.	Continue to hold quarterly meetings with reps from all Division so that H&S concerns can be raised and actioned. Safety statement review.
10	Recognising Irish language.	Work towards 2030 targets (staff and services).
11	Open Data Directive.	The purpose of this directive is to increase the amount of public sector data available for re-use and enhancing cross-border innovation based on data. Work is ongoing on implementing the directive through the Information Governance Unit.
12	Information Governance.	Hold a cross-divisional IG Group and conduct training to ensure data privacy rights are upheld.
13	Recognising the seriousness of Period Poverty.	Avail of framework agreement that allows the public sector to easily purchase period products.

5 Reporting

The Commission reports as follows:

1. In its Strategic Plan (Supporting Change Strategic Plan 2023-2027), the Commission addresses its section 42 obligations and sets out its vision, mission, and values, including the value of human rights, its strategic priorities as they relate to equality and human rights and its oversight, governance, and internal practices.
2. In its annual report the Commission reports on the developments and achievements relating to the issues which are assessed making reference to the Implementation Plan.
3. The Board of the Commission monitor business plan compliance which is informed by the requirement to consider the Duty in setting out objectives.
4. The Commission's Public Sector Duty Working Group reports to the Irish Human Rights and Equality Commission through a monitoring portal for public bodies setting out how the Duty is implemented.

6 Revision History

This is the heading for the table		
Date	Description	Approved by
2021	Duty Plan	SLT
15 March 2022	Duty Plan	SLT
1 November 2024	Implementation Plan for Public Sector Equality and Human Rights Duty	SLT