

Mental Health Bill 2024: A Position Paper

The Irish Hospital Consultants Association (IHCA) welcomes the publication of the proposed draft Mental Health Bill 2024 (the Bill) by Minister for Mental Health Mary Butler. We recognise and commend the overarching objectives of the Bill to update existing mental health legislation, improve the provision of mental health services and ensure that the autonomy of those using our mental health service is respected.

As an Association, we engaged constructively with the previous Joint Committee on Mental Health, providing a detailed submission to the Pre-Legislative Scrutiny of the General Scheme of the Bill. We recognise and welcome that much of the content of our contributions was reflected in the publication of the current draft Mental Health Bill.

The IHCA remains firmly committed to working with the Minister and Department on the development and adoption of a comprehensive, evidence-based legislative framework, which provides for the fundamental human rights of those suffering from mental illness, who are often the most vulnerable in our society and, at times, dependent on the intervention of the state for their care.

We also believe that what is set in legislation now will be vital in ensuring an effective, agile, and sustainable framework in the longer term. The new Act should provide for the legal protection of those suffering from mental illness, whilst simultaneously being workable in practice to facilitate timely and effective access to mental healthcare.

We are keen to address elements within the Bill which we believe will be unworkable in practice in advance, in order to avoid impractical legislation which will create barriers to care and spiralling legal costs. Most importantly, such elements, if implemented, will undermine the person's Right to Treatment in a timely and care-oriented manner.

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IHCA Position Paper, April 2025

Strategic Considerations

Part 3 - Chapter 1

Involuntary admission

- Section 12 (1) (a)- Definition of Mental Disorder is vague - a more comprehensive definition should be included in Section 138 under DEFINITIONS to ensure consistency. It may be beneficial to include the use of the term "Severe Mental Illness" in the Act to differentiate it from other forms of mental distress not comprehended by the Act.
- Section 12 (1) (a)- Risk Criteria should be clear to ensure that a person cannot be deprived of their liberty solely on the basis of ill-defined definition of Risk. The inclusion of Treatment criteria in this Section would be more person centred and consistent with a health and well-being approach to care.
- Section 12 (1) (b)- Definition of "Immediate" is required to ensure consistency.

The implications for the mental health system generally and Approved Centres specifically in attempting to implement Sections 46 to 51 are very onerous and likely to lead to:

- Treatment being delayed for vulnerable patients leading to poorer outcomes
- Distress to patients having to engage in two separate Legal proceedings
- Sub-standard and inconsistent implementation due to confusion over process
- Escalation of legal and associated costs at expense of service delivery
- Parallel legal processes where a Review Board is making decisions on legality of detention and a Circuit Court on treatment
- Consultant Psychiatrists working in Approved Centres will be under further time pressure in dealing with the legal and procedural processes
- Operational requirements will cause additional costs and staff pressure
- Very significant training and continuous professional development resources will be required to ensure compliance given relative turnover of trainees and staff in Approved Centres.

Part 3 - Chapter 3

Consent to treatment

Section 46: This Section would cause significant delays in treating Involuntary Patients due to the requirement to go to Circuit Court for permission to provide treatment where a lack of capacity has been assessed by relevant mental health professionals. The Section may give rise to Consultant Psychiatrists detaining patients and Courts deciding on treatment which does not reflect the expertise of either profession.

Section 51 is likely to cause considerable delays in the provision of treatment for involuntary admitted persons. Potentially overlapping legal processes could lead to additional stress on the service user with clinical and administrative time being diverted away from care provision. There will also be significant extra legal costs involved which may affect a small number of cases but have disproportionate impact on service delivery.

Strategic Considerations

Section 60 Admission and treatment of Children over 16 years of age

The Association acknowledges and supports the principles in the draft Bill in relation to admission of Children to an Approved Centre.

There will, however, be considerable resource implications in Subsection (3) given the relatively small staff numbers in CAMHS. This is also relevant in Section 63 and Section 65 (5a).

Part 7 - Chapter 1

Codes of Practice, electronic signatures and care plans

Section 181: It is the view of the Association that the form, timing and content of Care Plans should not be legally prescribed as these elements need to be negotiated between the clinician and the patient in a co-produced manner.

It does not seem appropriate for Ministerial Regulations to be included as it does not occur in any other area of clinical care.

Other issues

The proposed Regulation of Community Services is welcome but will require a very significant increase in multi-year investment in both mental health capital Infrastructure and also staffing to achieve compliance.

It may be beneficial to include a provision in the Act to enable 4th year Higher Specialist Trainees to manage Mental Health Tribunals similar to other medical disciplines, which would free up Consultant Psychiatrist resources.

Conclusion

The IHCA recognises and concurs that current legislation is outdated and that reform is needed; it is in this spirit that we commend the overarching objectives of the Bill.

However, legislation must empower care and enhance access to treatment for those that need it most, many of whom are among the most vulnerable in our society. Critically, what is legislated for must be workable in practice so that those providing care can do so in a timely manner, thereby ensuring effective access to mental healthcare.

We welcome the opportunity for continued engagement on the Bill so that the provision of services is future proofed and care pathways are improved for all.