



Mental Health Commission

Consultation on the Code of Practice on the Mental Health Act 2001

March 2010

Please return feedback by post or email (preferably typed) by the **28th April 2010**.
If you would like us to send you a hard copy of this guide, please contact us.

Please return to:

Lisa O' Farrell

Policy Officer
Mental Health Commission
St. Martin's House
Waterloo Road
Dublin 4.
Phone: (01) 6362400
Emails: lisa.ofarrell@mhcirl.ie

The Closing date for Feedback is 28th April 2010

Name: Job Title (where relevant): Organisation (where relevant): Email address (optional):															
Date of your comments (DD/MM/YYYY) / /															
If this is a joint response by a group please specify the number of respondents this submission is made on behalf of <input type="checkbox"/> <input type="checkbox"/>	Please specify the mental health service area, where relevant, that you are principally working in:														
The category of professionals or individuals it represents (e.g. 2 x Consultant Psychiatrists, 1 x Psychologist, 1 x Service User):	Child and Adolescent <input type="checkbox"/>														
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	Forensic <input type="checkbox"/>														
	Later Life <input type="checkbox"/>														
	Intellectual Disability <input type="checkbox"/>														
	Other, please specify below <input type="checkbox"/>														
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1. Introduction

The Mental Health Commission carried out a review on the operation of Part 2 of the Mental Health Act 2001 in 2008. One of the recommendations from this review was for the Commission to develop a code of practice on the 2001 Act to guide people working in mental health services.

A code of practice on the Act would give guidance on the exercise of functions under the 2001 Act. In other words, it would explain how certain parts of the legislation are best put into practice.

The Commission is interested to hear your views on what parts of the Act, if any, further guidance should be provided on. The Commission has already produced some guidance on parts of the Mental Health Act. These include:

- rules on ECT under Sections 59 and rules on seclusion and mechanical restraint under Section 69;
- codes of practice under Section 33 on death notification and incident reporting; ECT; child admissions; physical restraint; admission, transfer and discharge to and from approved centres; and guidance for persons working in mental health services with people with intellectual disabilities; and
- procedural guidance and administrative protocols to Mental Health Tribunals.

The Commission also published a Quality Framework for Mental Health Services in 2007, which included minimum standards under the Mental Health Act 2001 (Approved Centres) Regulations 2006 as well as higher standards for approved centres and other mental health services.

We will be having several stages of consultation and this written consultation is the first. Here we are asking your initial views on the areas that you would welcome guidance on based on your experience. We have invited a number of stakeholders to feedback (appendix 1). If you know of anyone we might be leaving out, please let us know. The next stage of consultation will use other methods of consultation such as focus groups and we will further explore some of the issues raised in this consultation. After this consultation exercise, we will produce a consultation report and use it to develop a draft code of practice, which we will send to you for your views. We will have a third and final consultation stage in 2011.

Our goal is to produce an accessible and user friendly code of practice which makes a practical difference to services, staff and service users and promotes the effective, lawful and appropriate use of powers under the Act and the effective, lawful and appropriate treatment of people who have a mental illness or mental disorder.

2. Some Possible Areas

We started the consultation by asking staff in the Mental Health Commission what areas they thought services might find it useful to have guidance on. Below are some of the suggestions that came back. These may get you thinking about areas you feel it would be useful to have guidance on.

Take a look at them and then answer the questions in the next section.

1. Case law since the Act went live
2. General Practitioner forms
3. Admission
4. Assisted admissions
5. Admission of children
6. Information provided to patients
7. Operation of Mental Health Tribunals
8. Transfer
9. Holding powers
10. Discharge with leave
11. Absence without leave/ patients absent with pending Mental Health Tribunal
12. Discharge
13. Change of Legal Status
14. Issues of consent
15. Registration as an Approved Centre/ Definition and determination of a centre

3. Consultation Questions

Important: We would like to remind you before completing this section that the Mental Health Commission can only produce guidance on areas covered under the Mental Health Act (See appendix 2 for a list of these areas).

1. Do you think it would be **useful to have a code of practice** on the Mental Health Act? If no, please explain why.

2. Are there **areas mentioned** in Section 2 that you think it would be useful to have guidance on?

3. Are there **other areas** under the Mental Health Act 2001 that you would like to see further guidance on which are not included in Section 2?

4. If you answered yes to question 1 or 2, please **explain why** guidance on this area/ areas would be useful so that we understand what **kind of guidance** you are looking for.

5. What **impact**, if any, do you think a Code on the Act would have for staff, mental health services and other relevant organisations/people?

6. We want to develop a code that is user friendly and easy to use. Have you any thoughts on what **format or formats(s)** would be helpful to have the code in? Tick all that apply.

Full Hard copy

Quick Reference Guide hard copy

Web version

Other, please specify:

7. Have you any **other comments or suggestions** you wish to make?

4. Appendices

Appendix 1: Stakeholders to Whom Consultation Invitations Have Been Issued

Amnesty International

An Bord Altranais

An Garda Siochana

Association of Occupational Therapists of Ireland

Bodywhys

College of Psychiatry of Ireland

Department of Health & Children

GROW

Health and Social Care Professionals Council

Health Information and Quality Authority

Health Service Executive

HSE Mental Health Service Providers (including Registered Proprietors, Clinical Directors, Directors of Nursing, Mental Health Act Administrators)

Irish Hospital Consultants Association

Irish Human Rights Commission

Irish Medical Organisation

Irish Nurses Organisation

IMPACT

Independent Mental Health Service Providers (including Registered Proprietors, Clinical Directors, Directors of Nursing, Mental Health Act Administrators)

Irish Advocacy Network

Irish Association of Social Workers

Irish College of General Practitioners

Law Reform Commission

Mental Health Nurse Managers Ireland

National Council for the Professional Development of Nursing and Midwifery

National Disability Authority

National Service User Executive

Office for Disability & Mental Health

Psychiatric Nurses Association

Psychological Society of Ireland

SIPTU

Shine

Simon Communities of Ireland

Steer

The Equality Authority

Appendix 2: Sections of the Mental Health Act 2001

Number 25 of 2001

MENTAL HEALTH ACT, 2001

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY AND GENERAL

1. Short title, collective citation, construction and commencement.
2. Interpretation.
3. “Mental disorder”.
4. Best interests, etc., of person.
5. Regulations.
6. Repeals.
7. Expenses.

PART 2

INVOLUNTARY ADMISSION OF PERSONS TO APPROVED CENTRES

8. Criteria for involuntary admission to approved centres.
9. Persons who may apply for involuntary admission.
10. Making of recommendation for involuntary admission.
11. Disclosure of previous application for involuntary admission.
12. Powers of Garda Síochána to take person believed to be suffering from mental disorder into custody.
13. Removal of persons to approved centres.
14. Admission order.

15. Duration and renewal of admission orders.
16. Provision of information for persons admitted to approved centres.
17. Referral of admission order and renewal order to a tribunal.
18. Review by a tribunal of admission orders and renewal orders.
19. Appeal to Circuit Court.
20. Application for transfer of patient.
21. Transfer of patient.
22. Transfer of patient to hospital.
23. Power to prevent voluntary patient from leaving approved centre.
24. Power to detain voluntary patients.
25. Involuntary admission of children.
26. Absence with leave.
27. Absence without leave.
28. Discharge of patients.
29. Voluntary admission to approved centres.
30. Penalties under *Part 2*.

PART 3

INDEPENDENT REVIEW OF DETENTION

31. Establishment day.
32. Establishment of Mental Health Commission.
33. Functions of Commission.
34. Conferral of additional functions on Commission.
35. Membership of Commission.
36. Terms of office of members of Commission.
37. Chairperson of Commission.

38. Chief Executive of Commission.
39. Staff of Commission.
40. Superannuation of staff of Commission.
41. Borrowing by Commission.
42. Reports and information to Minister.
43. Membership of either House of Oireachtas or European Parliament.
44. Grants to Commission.
45. Gifts.
46. Seal of Commission.
47. Accounts and audits of Commission.
48. Mental Health Tribunals.
49. Powers of tribunals.
50. Inspector of Mental Health Services.
51. Functions of Inspector.
52. Duties of Inspector when making inspection.
53. Penalty for obstruction of Inspector.
54. Assistant Inspectors of Mental Health Services.
55. Inquiries.

PART 4

CONSENT TO TREATMENT

56. Definition (*Part 4*).
57. Treatment not requiring consent.
58. Psycho-surgery.
59. Electro-convulsive therapy.
60. Administration of medicine.

61. Treatment of children in respect of whom an order under *section 25* is in force.

PART 5

APPROVED CENTRES

Section

62. Definitions (*Part 5*).

63. Prohibition of unregistered centres.

64. Registration of approved centres.

65. Appeals.

66. Regulations in relation to approved centres.

67. Restriction on admission of patients.

68. Penalties under *Part 5*.

PART 6

MISCELLANEOUS

69. Bodily restraint and seclusion.

70. Participation in clinical trials.

71. Clinical directors.

72. Transitional provisions.

73. Leave of High Court for certain proceedings.

74. Provisions in relation to offences.

75. Review of operation of Act.

Number 25 of 2009

HEALTH (MISCELLANEOUS PROVISIONS) ACT 2009

ARRANGEMENT OF SECTIONS

PART 1

Preliminary and General

63. Amendment of the Mental Health Act 2001

Thank you for taking the time to take part in this first round of consultation.

Please return feedback by post or email by the **28th April 2010.**

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