



# **Mental Health Reform**

Promoting Improved Mental Health Services

## **THE MENTAL HEALTH ACT, 2001 - ISSUES FROM A COALITION PERSPECTIVE**

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Director**

## Youth Mental Health



## Advocacy



## Professional associations



## Ethnic minorities



## Disability



## Voluntary Mental Health Groups



## Homelessness and housing



## Older People



## Social Housing



## Bereavement and suicide



## Independent Mental Health Providers



## Training





Our goal is for an Ireland where people with mental health difficulties can recover their well-being and live a full life in their community.





# Key issues in mental health legislation





# PRINCIPLES

<b>Current legislation</b>	<b>MHR's recommendation</b>
‘Best interests’ as principal consideration, with ‘due regard’ to right to dignity, bodily integrity, privacy and autonomy	Autonomy should be paramount





# AUTONOMY – RIGHT TO MAKE CHOICES

Current gaps	MHR Recommendation
No presumption of capacity	Right to presumption of capacity
No right to support for decision-making	A right to advocacy and support
Psychiatrists determine capacity	Widen scope of professionals involved in assessing capacity
No legal basis for advance decisions	Right to have advance decisions respected





## ‘*DE FACTO* DETAINED’

Current gaps	MHR Recommendation
Voluntary interpreted as including those without capacity to consent. Legislation defines voluntary only in the negative.	Definition of ‘voluntary’ should be limited to those with the capacity to consent to admission and treatment (including with supported decision-making).
No external review of incapacitated patients who are not involuntarily detained under MH Act	Ensure incapacitated patients get protections and review currently afforded to involuntary patients.





# VOLUNTARY 'PATIENTS'

Current gaps	MHR Recommendation
No right to information for voluntary patients	Right to information on treatment, rationale for hospitalisation, duration and advocacy support
No right to an advocate	Statutory basis for supported decision-making and a right to advocacy
Too easy to convert from voluntary to involuntary	Strengthen protections allowing voluntary patients to leave an approved centre







# INVISIBILITY OF FAMILIES/CARERS

<b>Current gaps</b>	<b>MHR Recommendations</b>
Invisibility of carers, except as initiators of involuntary treatment	Include obligations towards family members in the Act
Lack of caring role recognition	Duty to provide general info on mental health
Lack of recognition of mental health needs of carers	Duty to assess support needs of family members, and particularly children under 18





# DIFFICULTY MAKING COMPLAINTS

- Not knowing how to make a complaint
- Not knowing how to access an advocate for assistance in making a complaint
- Lack of clarity about the role of the Mental Health Commission and the Inspector in investigating a complaint
- Being afraid to make a complaint for fear of consequences to their future use of services
- Fear of returning to a service after having made a complaint
- Being discouraged by staff from making a complaint
- A lack of or dissatisfactory follow up when they have made a complaint
- Wanting accountability, enforcement of decisions, acknowledgement or apology





# DIFFICULTY MAKING COMPLAINTS

*“You need a separate and independent complaints procedure; going to the person you have a problem with to make a complaint about them is ludicrous.”*  
(Mental Health Reform Consultation)





# DIFFICULTY MAKING COMPLAINTS

## MHR recommendation:

- A complaints mechanism independent of the service provider
- Mental Health Commission role in receiving, investigating and resolving complaints about mental health service delivery
- Advocacy support to make a complaint
- Proxy decision-makers able to make a complaint on behalf of an incapacitated person





# LACK OF INDIVIDUAL RECOVERY/CARE PLANS

Current gaps	MHR Recommendation
No right to or requirement for an individual care plan in current Mental Health Act, apart from Requirement under Approved Centre Regulations to provide an Individual Care Plan	Put Individual Recovery/Care Plan on a stronger statutory footing, within the Act
Poor, though improving, compliance with regulation, with some persistent non-compliance	
Individual reports of not being included in care planning	





# USE OF SECLUSION/ RESTRAINT

<b>Current gaps</b>	<b>MHR Recommendation</b>
No statutory regulation of chemical restraint	Extend definition of 'restraint' to include chemical restraint
Voluntary patient can be secluded or restrained without question of their status	Ensure assessment of voluntary patient's status where subject to seclusion / restraint
Seclusion & restraint can be used 'for the purposes of treatment'	Narrow circumstances for 'purpose of treatment' to life-saving emergency
No statutory requirement for a programme to reduce seclusion / restraint	Require all services to have a programme to minimise use of seclusion and restraint





The International  
Covenant on  
Civil and Political  
Rights  
(ICCPR)

The International  
Covenant on  
Economic, Social and  
Cultural Rights  
(ICESCR)

**MH Act rights**

**Good quality services**





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