



ICGP response to consultation on review of the Mental Health Act

The ICGP welcomes the opportunity to make a submission to the public consultation on review of the Mental Health Act (2001).

The Irish College of General Practitioners (ICGP) is the professional body for general practice in Ireland. The College's primary aim is to serve the patient and the general practitioner by encouraging and maintaining the highest standards of general medical practice. It is the representative organisation for over 3,000 general practitioners in Ireland on education, training, research and standards in general practice.

The ICGP is a Post Graduate Medical Training Body, recognised in accordance with Section 89(3) of the Medical Practitioners Act 2007, and is the representative body for the specialty of general practice on training, education, research, standards and guidelines in Ireland.

Introduction

There are around 3,500 GPs in Ireland who, with their practice nurses, manage approximately 29 million consultations annually¹. About one fifth of these consultations directly relate to a mental health symptom. As trained specialists in mental health, knowing patients over time, GPs are expert at listening, counselling, diagnosing, risk assessing and managing mental health.

The Mental Health Act (2001) sets out the care and treatment of people with mental health difficulties who need mental health inpatient care, with particular focus on procedures for involuntary detention. General practitioners have a key role in the implementation of this act including patient advocacy, offering support and information to patients and their families, collaborating with mental health teams, an Garda Síochána and authorised officers and assisting patients through their recovery.

Definitions

Question: what changes to definitions do you want to see in the new Mental Health Act?

The definition of mental illness should be: 'mental illness means a complex and changeable condition where the state of mind of a person affects the person's thinking, perceiving, emotion or judgment and seriously impairs the mental function of the person to the extent that he or she requires treatment.' The ICGP agrees with this definition and with the removal of patients with "significant intellectual disability" and "severe dementia" from the act.

Guiding principles

Question: what guiding principles do you want to see in the new Mental Health Act?

The ICGP would agree that a rights based approach should be adopted as one of the guiding principles of the new Mental Health Act. The ICGP further agrees that the following list of Guiding Principles of equal importance should be specified in the new law:

- a. The enjoyment of the highest attainable standard of mental health, with the person's own understanding of their mental health being given due respect
- b. Autonomy and self determination
- c. Dignity (with a presumption that the patient is the person best placed to determine what promotes/compromises their own dignity)
- d. Bodily integrity
- e. Least restrictive care

The ICGP has given consideration to the removal of the term "best interests" and while acknowledging that this could be used in an overly paternalistic way that it may still have merit as one of the guiding principles.

Criteria for detention

Question: should we change the reasons for involuntary detention?

Involuntary detention should benefit the person and assist with recovery and a person should not be detained just because they have different views or behaviour from other people.

Authorised Officers

Question: should Authorised Officers be the only group allowed to make an application for involuntary detention?

At present an application for a recommendation that a person be admitted may be made to a registered medical practitioner by any of the following:

- a) The spouse or a relative of the person
- b) An authorised officer
- c) A member of the Garda Síochána or
- d) Subject to the provisions of subsection (2), any other person

The ICGP agrees that there should be an increase in the availability and accessibility of authorised officers with an expanded and active role. The number of authorised officers nationally is

inadequate. The expert group states, “significant issues such as having enough people trained, delegated and geographically placed must be considered in addition to the necessary on call arrangements and 24 hour cover of staff. A system would need to be put in place where a second person would always be on call in the event that the first named Authorised Officer is unavailable. All of this requires investment.”

The ICGP has concerns that in the absence of appropriate investment and planning, which traditionally has been slow to occur, there could be potential barriers to timely application to a registered medical practitioner for a recommendation that a person be admitted to an approved centre. This could have a serious detrimental impact on patient care. It is important that a KPI in relation to rapid response times would be included for Authorised Officers. With this in mind and until all significant resource issues have been addressed, a spouse or relative of the person or a member of the Garda Síochána should continue in their current role of making an application.

Interdisciplinary approach to care and treatment

Question: should other mental healthcare workers play a bigger role in the mental health care and treatment of people?

Treatment should not be viewed as simply the administration of medication in a safe setting; it should include a range of psychological treatments and ensure that the person is treated in an holistic manner.

Enhancing safeguards for individuals

Question: how should we improve safeguards for people receiving mental health care and treatment?

On admission all voluntary patients should be fully informed of their rights as voluntary patients including an explanation of their rights regarding consent to, or refusal of, treatment and their right to leave the approved centre at any time. On admission to an approved centre, every patient should have a right to information including their rights as a voluntary or involuntary patient, their rights regarding consent to or refusal of treatment and the range of services available in the approved centre.

Manual or other forms of seclusion and restraint should be used as a last resort and only where no alternative is available.

While advance healthcare directives were originally developed to allow decisions regarding end-of-life care, the inclusion of such directives in mental health settings, which is a more recent

development, is positive and will allow persons with mental illness to participate in future treatment decisions over the course of their lives.

Capacity

Question: how should we introduce capacity to the Mental Health Act?

All persons being admitted should be given information in relation to capacity, how it is assessed and their right of appeal against a decision on their capacity. If it is deemed that a person lacks capacity on admission, it is appropriate that formal capacity assessment should take place within 24 hours of admission. Capacity should be monitored on an ongoing basis by the treating clinicians.

Consent to Treatment

Question: what changes to consent to treatment should we make?

The right of a voluntary patient to refuse treatment should be explicitly stated. All patients should be supported to make informed decisions regarding their treatment and consent.

Information and individual care/recovery planning

Question: what do we need to include on care plans and access to information for people receiving treatment in approved centres?

Care planning function should be strengthened and extended to all persons in receipt of mental health services and provide a seamless recovery based approach towards discharge and support in the community. Discharge plans must form part of a person's individual recovery plan. The person's GP should receive timely communication with regard to care plans as they will be providing ongoing care to the person and assisting in their recovery.

Inspection, regulation and registration of mental health services

Question: what do we need to include on registering and inspecting community and residential mental health services?

"The new Act should give the Mental Health Commission specific powers to make standards in respect of all mental health services and to inspect against those standards. The Standards should be made by way of regulations and the regulations should be underpinned by way of primary legislation."

The ICGP agrees with a standards based approach to ensure that all care facilities are managed appropriately.

Provisions related to children

Question: what do we need to provide for in a new Part of the Act on children?

Every child should have access to health services that aim to deliver the highest attainable standard of child mental health. There should be consultation with the child and their parents at every stage of the diagnosis and treatment; treatment should be in the child's best interests.

Provisions related to the Mental Health Commission

Question: what changes should we make to the governance of the Mental Health Commission?

Good governance is essential for the provision of mental health care and should be representative of all relevant stakeholders.

Reference

1. Collins, C., Homeniuk, R. How many general practice consultations occur in Ireland annually? Cross-sectional data from a survey of general practices. *BMC Fam Pract* **22**, 40 (2021). <https://doi.org/10.1186/s12875-021-01377-0>

*Author: Dr Brian Osborne
8th April 2021*