

## **Guidance for Submissions**

### **Background**

Part 2 of the Mental Health Act 2001 is entitled “**INVOLUNTARY ADMISSION OF PERSONS TO APPROVED CENTRES**”. The Mental Health Commission (MHC) invites members of the general public and organisations, individuals or groups with an interest in mental health issues to make submissions on the operation of Part 2 of the Mental Health Act 2001. Part 2 concerns the involuntary admission of adults and children to approved centres. A number of related sections in other Parts of the Act were essential to the commencement of Part 2 and these may need to be referred to, for example sections 3, 4, 33(a)(b)(c), 48, 49, or section 72(1)(2)(3)(4)(5).

### **Information about Respondents**

#### **The Following Information Must Accompany Your Submission**

Title: Mr. First Name: Fergal

Surname: Hickey

I am submitting this response as a representative of an Association.

Name of your Association;  
Irish Association for Emergency Medicine

Postal Address: Royal College of Ireland, 123 St. Stephen's Green, Dublin 2.  
Address for Correspondence: Consultant in Emergency Medicine, Emergency Department, Sligo General Hospital, The Mall, Sligo.

In order to help capture the different views of the various interested parties, it would assist us if you would indicate if this submission is from:

- A person who is using or has used a mental health service
- A carer or family member
- Persons involved in delivering mental health services
- Other (please specify): Persons involved in delivering Emergency Medical Services

What has been your involvement with the operation of Part 2 of the Mental Health Act 2001?

Patients with mental illness are brought to Emergency Departments (EDs), some of whom will require involuntary admission. My colleagues and I have clinical responsibility for Irish EDs.

## **Your Submission**

**The categories below numbered 1 to 6 indicate the format for a written submission. Your submission may relate to one, some or all of these categories. Please also complete and return with your submission the summary response scales below.**

1. In your view has the operation of Part 2 of the Mental Health Act, 2001, resulted in improved or weakened safeguards for people with mental health problems?

The portions of the Mental Health Act, 2001, Part 2 (Involuntary admission of persons to approved centres) of relevance to EDs are Sections 8 – 13 and section 25 (Children). Sections 2, 3 and 4 of Part 1 are also relevant for definition purposes.

In general terms the Act brings increased transparency to the indications and process of involuntary admission. The rights of the patient are more protected than formerly.

The relevant forms are clear and the explanatory notes helpful.

2. The operation of Part 2 of the Mental Health Act, 2001, provides human rights protections concerning involuntary admission/treatment of patients. In your view does the operation of Part 2 support these protections?

Two different staff members in the same ED can “apply” (Section 9d – any other person) and “recommend” (registered medical practitioner) (Section 10). While of potential benefit in managing a disturbed patient in the ED without a relative or Garda present it does pose a *potential* threat to the patient’s rights.

3. In your view has the operation of Part 2 of the Mental Health Act, 2001, had any unintended consequences, positive or negative?

No

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4. In your experience of the operation of Part 2 of the Mental Health Act, 2001, are the procedures for involuntary admission of patients being correctly applied?

Section 13 (1) states that following a "recommendation", the patient is brought "to the approved centre specified in the recommendation". Patients coming from the community, often with Garda assistance, are still being brought to EDs rather than the approved centre (the psychiatric department or hospital). The ED is not an "approved centre".

Are Gardai thus in breach of the Act by bringing such patients to a non-approved centre?

In these circumstances patient detention in ED is under common law, despite relevant documentation being completed. Does common law apply to people for whom application and recommendation is already in place?

Delays in management are high risk for the patient and the service. Responsibility for adverse events in such circumstances would presumably lie with the approved centre if it were impeding access for a patient who was already approved and recommended.

Section 13(2) states that if there is difficulty removing the person to the approved centre the staff of the approved centre will arrange such removal at the request of the recommending doctor. This help is not the common experience of EDs.

5. In your view are those who have a specific role in the operation of Part 2 of the Mental Health Act, 2001, fulfilling their role appropriately?

There are not HSE "authorised officers" appointed or operational

6. Have you any other views on the operation of any sections of Part 2 of the Mental Health Act, 2001? Please specify the sections.

Services for children remain unsatisfactory:

- 16-18 year olds come under adult remit although this is variable
- because a court order is otherwise needed, Gardai use Section 12 of the Child Care Act initially to bring a child to a place of safety, often an ED.
- there is poor availability of child psychiatry beds

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## Response Scales

Please indicate on the following scales your views on the following statements:

A. *The information that has generally been provided on the operation of Part 2 of the Mental Health Act 2001 has been **sufficient**:*

Strongly Disagree	Disagree	Don't Know	Agree	Strongly Agree
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

(Tick one box)

\*We have had concerns expressed from Paediatric EDs that the information provided has been insufficient.

B. *The information that has generally been provided on the operation of Part 2 of the Mental Health Act 2001 has been **accessible**:*

Strongly Disagree	Disagree	Don't Know	Agree	Strongly Agree
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

(Tick one box)

C. *The information that has generally been provided on the operation of Part 2 of the Mental Health Act 2001 has been **easy to use**:*

Strongly Disagree	Disagree	Don't Know	Agree	Strongly Agree
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

(Tick one box)

D. *In general the impact of the operation of Part 2 of the Mental Health Act, 2001 on mental health services has to date been **beneficial**:*

Strongly Disagree	Disagree	Don't Know	Agree	Strongly Agree
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

(Tick one box)

E. *In general has the operation of Part 2 of the Mental Health Act, 2001 improved the quality of care given to **involuntary patients**:*

Strongly Disagree	Disagree	Don't Know	Agree	Strongly Agree
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

(Tick one box)

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**Review of the Operation of Part 2 of the Mental Health Act 2001**

## **THANK YOU FOR YOUR SUBMISSION**

Please forward your submission to be received before 5pm on Wednesday  
27<sup>th</sup> February 2008

Post to: Mr Simon Horne  
Consultation  
Mental Health Commission  
St Martins House  
Waterloo Road  
Dublin 4

or

Email to [consultation@mhcirl.ie](mailto:consultation@mhcirl.ie)

or

Fax: Mr Simon Horne 016362440

Submissions are requested on the operation of part 2 of the Mental Health Act 2001 and will form part of the Commission's review. The Freedom of Information Acts apply to the Commission, and this legislation contains provisions relating to the right to privacy which the Commission must adhere to. The Commission handles all confidential and personal information in a professional way and will not release or disclose this information unless it is necessary to fulfill our legal and professional requirements, *Mental Health Commission Customer Charter*, please refer to our website "About Us" section, [www.mhcirl.ie](http://www.mhcirl.ie)

**Confidentiality:** *We will handle all confidential and personal information in a professional way and will not release or disclose this information unless it is necessary to fulfill our legal and professional requirements.*