Implementation of the Mental Health Act 2001

Update & Guidance for General Practitioners

MHC
Coimisiún Meabhair-Shláinte
Mental Health Commission

Workshop Format

- Part 1: Presentation
  - Mental Health Commission
  - Mental Health Act, 2001 and the role of the General Practitioner
- Part 2: Case Scenarios
- Part 3: Discussion

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Mental Health Act 2001

- Sections 1 to 5, 7, and 31 to 55 (Part 3) enacted since 5th April 2002.
- Mental Health Commission - 1st Meeting on 16 April 2002.
- 13 members of the Commission.
  - Including 1 General Practitioner (Dr Deirdre Murphy)
- MHC – an independent statutory body.

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Statutory Responsibilities

- To foster and promote high standards of care and best practice in the delivery of mental health services.
- To ensure that the interests of those involuntarily admitted are protected.
- Appointment of the Inspector of Mental Health Services.

Statutory Responsibilities (continued)

- Establishment of independent review system for persons involuntarily admitted.
- Preparation of rules and procedures for specific treatment interventions.
- Preparation, following consultation of codes of practice.

Statutory Responsibilities (continued)

- Establishment of the Register of Approved Centres.

- Advising the Minister on regulations for approved centres.

Principles underpinning the Mental Health Act 2001

- Best interests of the person.
- Quality and best practice.
- Transparency and openness.
- Right to information and representation.
- Second opinion and review systems.

General Practitioner Perspective

Mental Health Act 2001 :

- Involuntary admission process.
  - Application
  - Recommendation
  - Admission Order
- Role of the Garda Síochána.
- Independent review of detention.

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Voluntary admission process

- Mental Health Act 2001 does not impose any obligations or restrictions on persons wishing to be admitted voluntarily to an Approved Centre.
- The Act does not prevent a person remaining as a voluntary patient after he/she has ceased to be detained.

Involuntary admission process

- Criteria S.8
  - Person may be involuntarily admitted to an Approved Centre pursuant to an application under S9 or S12 and detained there on the grounds that he or she is suffering from a mental disorder.

Mental Disorder: Definition (Section 3)

Mental Disorder (MHA 2001) means:

Mental illness, severe dementia or significant intellectual disability

WHERE

A. Because of the illness, dementia or disability: there is a serious likelihood of the person concerned causing immediate & **serious harm to himself or herself or other persons**

OR

B. Because of the illness, dementia or disability:
The **judgement of the person concerned is so impaired** that failure to admit the person to an approved centre would be likely **to lead to a serious deterioration of his or her condition** or **would prevent the administration of appropriate treatment** and reception, detention and treatment of the **person is likely to benefit or alleviate** the condition of that person **to a material extent**.

Mental Disorder: exclusion criteria

- Exclusion criteria
  - Behaviour, conditions or circumstances that cannot on their own be considered mental disorder

S. 8 (2)

  - It is not lawful to detain a person as an involuntary patient in an Approved Centre solely because that person is: -
    a) Suffering from a personality disorder
    b) Socially deviant
    c) Addicted to drugs or intoxicants

Considerations

- The best interests of the person shall be the principal consideration with due regard being given to the interests of persons who may be at risk of serious harm if the decision is not made (S4(1)).

- The person (subject of the proposed admission order) shall so far as is reasonably practicable be notified of the proposal and be entitled to make representations in relation to it and before deciding the matter due consideration shall be given to any representations duly made (S4(2)).

Considerations (continued)

- Due regard shall be given to the need to respect the right of the person to dignity, bodily integrity, privacy and autonomy (S4(3)).

Involuntary Admission Process (Adult)

Stage 1:Application for Recommendation

- Who may apply?
  a) **Spouse or a relative of the person** (does not include a spouse of a person who is living separately and apart from the person or in respect of whom an application or order has been made under the Domestic Violence Act, 1996).
  b) **Authorised Officer** (an officer of the Health Service Executive who is of a prescribed rank (prescribed by the Minister) or grade and who is authorised by the Chief Executive Officer to exercise the powers conferred on Authorised Officers by S9).
  c) A member of the **Garda Síochána.**
  d) **Any other person** – provided they are not a person disqualified by law.

Stage 1: Application for Recommendation

- Process
  - The applicant must have observed the person the subject of the application not more than **48 hours** before the date of making the application
  - The applicant completes the relevant form
    - Form 1 : Spouse or Relative
    - Form 2: Authorised Officer
    - Form 3: Garda Síochána
    - Form 4: Any other person

Stage 1: Application for Recommendation

- Where the application is made by any other person (S9(1)(d)) the application shall contain a statement of:
  - The reasons why it is so made
  - The connection of the applicant with the person to whom the application relates
  - The circumstances in which the application is made
- Any person that makes any statement which to his or her knowledge is false or misleading in any material particular shall be guilty of an offence (S9(6)).

Persons disqualified from making applications

- A person under the age of 18 years.
- An authorised officer or a member of the Garda Síochána who is a relative or a spouse of the person.
- A member of the governing body (does not include a member of the HSE), or the staff, or the person in charge of the Approved Centre.
- Any person with an interest in any payment to be made in respect of the admission and detention of the person in the Approved Centre concerned.

Persons disqualified from making applications

- Any registered medical practitioner who provides a regular medical service at the Approved Centre concerned.
- The spouse, parent, grandparent, brother, sister, uncle or aunt of any of the disqualified persons are also deemed to be disqualified. Such relationships may be:
  - Whole blood relationships
  - Half blood relationships **or**
  - Relationships based on affinity (relationships arising by virtue of marriage).

Stage 2: Making of a recommendation for Involuntary Admission (S10)

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Who may make such recommendation?

- A Registered Medical Practitioner (a person whose name is entered in the General Register of Medical Practitioners – Section 2)

Stage 2: Process

- Registered Medical Practitioner receives an application on one of the statutory forms numbered 1 – 4

- **Within 24 hours** of the receipt of the application the Registered Medical Practitioner (RMP):-
  - Examines the person (a personal examination of the process and content of thought, the mood and the behaviour of the person concerned (S.2)
  - Informs the person of the purpose of the examination, unless in her/his view the provision of such information might be prejudicial to the person's mental health, well-being or emotional condition.

Stage 2: Process

- If the RMP is satisfied following the examination of the person that he/she is suffering from a mental disorder:
  - he/she **shall make a recommendation** on Form 5 *(Recommendation (by a registered medical practitioner) for involuntary admission of an Adult to an Approved Centre)* that the person can be involuntarily admitted to an Approved Centre (other than the Central Mental Hospital).

Stage 2: Process

- The RMP sends the recommendation to the Clinical Director of the Approved Centre concerned,
- The RMP gives a copy of the recommendation to the applicant,
- A recommendation is valid for a period of **7 days** from the date of its making after which it expires,
- If the RMP is not satisfied following the examination of the person that he/she is suffering from a mental disorder he/she does not make a recommendation.

Stage 2: Process

- Where following a refusal of an application, any further application is made in respect of the same person, the applicant is obliged by law to inform the RMP of:
  - the facts relating to the previous application in so far as they are aware of them, as well as,
  - the facts relating to any other application and its refusal made previously in relation to that person, as far as they are aware of them.

  Failure to do this is an offence.

Registered Medical Practitioners disqualified from making a recommendation

- A RMP is disqualified from making a recommendation if he or she:-
  - has an interest in the payments (if any) to be made in respect of the care of the person in the Approved Centre concerned,
  - is a member of staff in the Approved Centre concerned,
  - is a spouse or a relative of the person, or,
  - is the applicant.

Powers of the Garda Síochána

Powers of the Garda Síochána

- A member may make an application (Form 3) to a Registered Medical Practitioner (RMP) for a recommendation for involuntary admission of an adult,

- If such application is refused (pursuant to the provisions of S.10) the person the subject of the application shall be released from custody immediately,

- Where a recommendation is made by the RMP a member of the Garda Síochána shall remove the person concerned to the specified Approved Centre.

How is the person brought to the Approved Centre?

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- Applicant is responsible for arranging for the removal of the person the subject of the recommendation to the Approved Centre.

- Where the applicant is unable to make such arrangements the Clinical Director of the Approved Centre (or a consultant psychiatrist acting on his/her behalf) **at the request** of the RMP shall arrange for removal of the person to the Approved Centre by members of staff of the Approved Centre.

How is the person brought to the Approved Centre?

- Where the Clinical Director (or consultant psychiatrist acting on his/her behalf)

  And

- The RMP who made the recommendation, are of the opinion that there is a serious likelihood of the person concerned causing:
  - Immediate and serious harm to himself or herself, or to other persons

  The Clinical Director may request the Garda Síochána to assist the members of staff in the removal by the staff of the person to that centre and the Garda Síochána shall comply with any such request.

Involuntary Admission Process
Step 3: Admission Order

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- Clinical Director of Approved Centre receives a recommendation,

- A consultant psychiatrist (on the staff of the approved centre) examines the person as soon as practicable, and in any event within **24 hours.**

Involuntary Admission Process
Step 3: Admission Order

- Consultant psychiatrist must examine
  - Process and content of thought, and
  - Mood and behaviour of the person concerned

AND

- If consultant psychiatrist is satisfied that the person has a mental disorder he/she makes an admission order by completing Form 6.

Involuntary Admission Process
Step 3: Admission Order

- Within **24 hours** of making the order the Consultant psychiatrist must:
  - Send a copy of the order to the Mental Health Commission,
  - Give the patient notice in writing that the admission order has been made.

Admission order : notification to Patient

Such notice shall state that:

- He/she is being detained pursuant an admission order or a renewal order,
- He/she is entitled to legal representation,
- He/she will be given a general description of the proposed treatment to be administered during the period of detention,
- He/she is entitled to communicate with the Inspector.

Admission order : notification to Patient (cont:)

- He/she will have his/her detention reviewed by a Mental Health Tribunal,
- He/she is entitled to appeal to the Circuit Court against a decision of a tribunal,
- He/she may be admitted as a voluntary patient if he or she indicates such a wish.

- Admission order authorises reception, detention and treatment of the patient for a period of **21 days** from the date of the making of the order.

Independent Review of Detention

- Mental Health Tribunals
  - **3 members**
  - (a) Chairperson (barrister/solicitor 7 years plus experience)
  - (b) Consultant psychiatrist
  - (c) Person other than (a) and (b) or a
    - Registered Medical Practitioner
    - Registered Nurse

Mental Health Tribunals: Review

- Admission Orders
- Re-grading
- Renewal Orders
- Persons detained under the 1945 Act
- Proposed Transfers-Central Mental Hospital
- Proposed Psychosurgery

Mental Health Tribunals: Procedures

- **HELD IN PRIVATE 49(9)**
- **BEST INTEREST PRINCIPLES**
- ***…FAILURE TO COMPLY…. DOES NOT AFFECT THE SUBSTANCE OF THE ORDER…..NOT CAUSE AN INJUSTICE,*** **…S.18(1)(a)**
- **COMMISSION WILL PROVIDE PROCEDURAL GUIDANCE**
- **NON- ADVERSARIAL**

Mental Health Tribunals: issues

- How long will each tribunal take?
- Will GP physical attendance be required?
- Will GP report submission be required?
- Is patient consent required for report?
- Will GP’s be notified of patients discharged by tribunals?
- Readmission of discharged patients?

Sources of Information

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- Reference Guide: Mental Health Act 2001
  - 2 parts
    - Part 1 – Adults
    - Part 2 – Children
  - A4 Ring-binder folder
  - Distributed to General Practitioners
- E – Learning programme
  - Accessed from Mental Health Commission website
  - **www.mhcirl.ie**
  - Available end of October

Case Scenarios

Considerations:

- From examination is there a presence of a mental disorder?
- Is there a likelihood of risk to self or others?
- Will admission to an approved centre provide appropriate treatment that will be of benefit to the person concerned?
- Has a least restrictive option been considered, ie voluntary admsission?
- What other options are available other than involuntary admission to an approved centre?
- Transporting the person to the approved centre

Discussion

- Questions

Thank you