FAO all members of Seanad Éireann

Seanad Committee Stage, Mental Health Bill 2024

Children Only

Dear Senators,

You will have already received an email from the College on amendments to the Mental Health Bill 2024 relating to the treatment of adults. This document relates to the delivery of child and adolescent mental health services only.

- Many aspects of the Mental Health Bill are very welcome, including the provision of a separate section applying to children.
- However, as clinicians actively working with children who are involuntarily detained for treatment under Mental Health Act 2001, we are concerned that important issues raised in relation to the admission of children under the Mental Health Bill 2024 have not been addressed in amendments to the proposed legislation.
- The proposed legislation will have a negative impact by introducing unnecessary and cumbersome provisions that will complicate the admission and treatment process leading to delays in the delivery of treatment detrimental to the best interests of the young person.
- In addition to delays to the provision of care, it will cause unnecessary additional distress to children and parents, and take up significantly more inpatient consultant clinical time to produce no actual benefit to the young person.
- Two areas of particular concern are sections 61 and 80.

61. Assessment of Capacity

- To confirm the absence of capacity requires not only an assessment by the treating consultant or other health care professional but also the assessment of another consultant who is not nor will not be involved in the young person's care or treatment.
- In practical terms, this will prove to be onerous as other consultants will be providing on call service to the inpatient facility where the young person will be admitted and so will be involved in their care and treatment.
- This provision will potentially delay the provision of care, given the need to identify a clinician from completely outside the service to carry out the assessment.
- There is no rationale for the need to have two consultants involved in the process while an application for involuntary admission requires just one consultant.

80. Child's Consent to Treatment

- When a young person who is involuntarily admitted refuses treatment then the treating consultant must make an application to the High Court for a treatment order.
- Almost all young people admitted involuntarily will refuse treatment, particularly children with eating disorders. If they were not refusing treatment, admission would not have been indicated.
- Therefore, most cases will require an application to the High Court.
- The cases will now be before two courts and judges at the same time, this is not in the best interests of the young person.
- Currently under the 2001 Mental Health Act specific treatment orders are included as part of the involuntary detention order made by the District Court.
- The proposal is that in cases of children involuntarily detained who are under 16 yrs. or 16/17 yrs. who are assessed as lacking capacity (where parental consent applies), the application is made for a treatment order in the District Court. This will lead to a duplication of legal processes and does not address the fundamental issue.
- The District Court should be able to address both issues in one order rather than requiring two separate applications.