

**To Stephen O'Brien  
Mental health Unit (Room 5.13)  
Department of Health,  
Hawkins House,  
Dublin 2**

**Re: Review of the Mental Health Act 2001**

Submission from Special Interest Group of the Irish Association of Social Workers (IASW): Social Workers in Adult Mental Health

Dear Mr O'Brien,

**Introduction**

On behalf of our organisation I would like to thank you for the opportunity of making the following submission. The IASW welcomed the introduction of the 2001 Act as a vast improvement on the outdated 1945 Act and in particular both the right of involuntary patients to have a review of their detention by a Tribunal and the creation of the role of "authorised officer".

In relation to this submission the views were sought from IASW members working in the area of mental health, in addition IASW has had the benefit of the input of members who have participated in the "HSE mental health Act implementation group" and in Amnesty International round table discussions regarding the review of the Act. While this submission overlaps to some degree with the proposed submissions of these groups, our main emphasis is on the need to amend the Act regarding the enhanced contribution that the role of authorised officer could make.

**Background**

At the time of enactment of the Mental Health Act 2001, the professional background of those persons taking on the role of the authorised officer had not been decided, as a consequence the Act does not elaborate on the role other than describing the Authorised Officer as one of four potential applicants (Sec 9). The report by the Mental Health Commission working group, *Advice to the Minister for Health and Children on the Regulations for Authorised officers 2006*, recommended that the authorised officer be a suitably trained mental health professional with local knowledge of mental health services to undertake the role, and to be the applicant that seeks the least restrictive alternative to involuntary admission.

The HSE developed a policy document regarding the authorised officer service in 2009, as response to the Mental Health Commission's report, which required all potential authorised officers to complete a five day training programme. While there have been difficulties that have resulted in a piecemeal authorised officer service nationally, due to industrial relations difficulties which have hindered the availability of the authorised officer service from the discipline of nursing, and reported confusion among some consultants regarding the role of authorised officer in undertaking an assessment regarding the making of an application as opposed to the option of merely making an application as requested by the consultant or family member, none the less there is evidence to date as to the benefits of the service in terms of avoiding unnecessary involuntary admissions and also in offering families an alternative to them having to make the application and so avoiding the potential conflict in their relationship with their relative.

IASW would like to advise you that while there are approximately 130 adult mental health social workers, they make up approximately 25% of the current HSE Authorised Officers under Sec 9 of the Mental Health Act 2001. The role of Authorised Officer as stated is a more expanded role than that originally foreseen at the time of enactment. The Authorised Officer is a mental health professional who has undertaken additional training and is the only applicant who seeks the least restrictive alternative to involuntary admission. IASW has evidence from members who are authorised officers that there is a significant benefit of having this service, from initial research completed IASW is aware that a significant number of involuntary admissions have been avoided when the Authorised Officer has made an assessment regarding application and particularly when it is conducted in a co-ordinated interview with the patient's GP. See below:

Statistical information from the Dublin West South Mental Health Service for the period July 2007 to January 2010, which reviewed 30 assessments, 40 per cent of assessments for involuntary admission by authorised officers did not result in an involuntary admission, with either a voluntary admission or community care option achieved. Also when the authorised officer coordinated the assessment with the patient's GP, the rate for involuntary admission in that service was reduced further, (only 2 of the 12 assessments undertaken with the GP resulted in an involuntary admission).

## **Recommendations**

IASW recommends that the review of the Act take into consideration the following:

### **Re Authorised Officer;**

1. As the majority of HSE authorised officers are trained mental health professionals, as advised by the Authorised Officer Report of the Mental Health Commission 2006, the Act should be amended to allow for the authorised officer to take a lead role in organising the assessment for involuntary admission, by having the same authority

as the registered medical practitioner (Sec 13:2) for contacting the clinical director to request the assistance of the staff of the approved centre. On occasion to prevent the unnecessary delay in conveying the person subject to involuntary admission the Act should be amended to give the authorised officer the option of requesting Garda assistance directly if assessed as required and not placing any person at risk, bypassing the requirement in the Act to request members of staff of the approved centre to intervene avoiding the potential subsequent delay in conveying the person to hospital.

2. To reflect the enhanced role of the authorised officer in taking a lead in the assessment process the Act should be amended, from the current wording of the authorised officer making an application for a recommendation to the registered medical practitioner, to the authorised officer making an application for involuntary admission founded on the recommendation of the registered practitioner. (9:1). This reflects the proposed model of collaboration between authorised officer and registered medical practitioner during the assessment process so as to achieve the least restrictive alternative based on thorough assessment of mental illness, risk to self or others and the potential supports available within the person's social environment. The ability to co-ordinate the interview with the registered medical practitioner will have the benefit of avoiding the undue delays currently occurring in completing the application and recommendation stages. As the authorised officer would be present following the making of the recommendation for involuntary admission by the registered medical practitioner, he or she would then be available to put in place the next step in the process of conveying the patient to hospital.
3. As a means to promote the use of the authorised officer service and so achieve the best outcomes for persons subject to assessment for involuntary admission, IASW suggests that the Act should be amended to include a hierarchy in terms of applicants who should make an application for involuntary admission, preference being given to seeking to have the assessment for an application made by the authorised officer when possible, followed by a spouse, relative or partner (any other person) and then Garda Síochána (ref Sec (9)
  - a. IASW is informed by social workers who are authorised officers that there are many instances where, the relative of the patient is only advised of the availability of the HSE Authorised Officer, when they refuse to make an application. IASW is most concerned by this fact because IASW is aware of the potential damage to a relationship when a relative makes an application and also the fact that an involuntary admission

might be avoided if the authorised officer was involved seeking the least restrictive alternative.

### **Re “A Vision for Change”/ Discharge Care Plans**

4. There should be a requirement under the Act for all involuntarily detained patients to have a multidisciplinary discharge care plan in place prior to discharge from the approved centre. IASW is most concerned that vulnerable patients who were detained under the Act continue to be discharged with no agreed patient centred care plan in place and specifically no allocated key worker to be a point of contact and support for patients, their carers and other relevant services.

### **Re Tribunals**

5. The Tribunal should have access to a social circumstances report prior to making any decision, which would include information regarding: (ref 3) p 76
  - a. Family and social relationships (attitude of carers)
  - b. History of mental disorder
  - c. Access to community resources
  - d. Financial situation
  - e. Employment history
  - f. Accommodation (contact with housing authorities)

### **Re Criminal Law Insanity Act 2006**

6. The Criminal Law Insanity Act should be incorporated into the revised Mental Health Act, so as to ensure the same standards of care apply to all patients.

Finally while not directly relevant to the review of the Mental Health Act, IASW are encouraged that the Minister and her government are prioritising the introduction of capacity legislation in the coming year, IASW remain concerned regarding the rights of voluntary patients who may lack capacity to agree to treatment. IASW would also welcome the introduction of legislation regarding the rights of persons to access community based services. The current situation where access to some services is significantly related to one’s geographical area and not assessed need is not equitable.

IASW would like to wish the Department well in its review of the Act and would be willing to assist further as required.

Yours sincerely,  
Frank Browne

Chairperson of the special interest group in adult mental health (SWAMH)  
The Irish Association of Social Workers.

## References

1. Health Service Executive (2009) *Policy, Procedure and Guideline Manual, Department Mental Health, Title of Policy Authorised Officer.*
2. Mental Health Commission (2006) *Advice to the Minister for Health and Children on the Regulations for Authorised Officers relating to Section 9(8) Part 2 of the Mental Health Act 2001, Dublin.*
3. Jones Richard (5<sup>th</sup> Ed.) 1997 *Mental Health Act Manual*, Sweet and Maxwell, London.