



# Mental Health Act

## Reasons for Reform



### The Time is Now!

The [Mental Health Act, 2001](#) (the 'Act'), is legislation that governs the rights of people who are admitted and treated in an in-patient facility for mental health care. A draft of the reformed Act is due to begin moving through the Houses of the Oireachtas in 2023.

This is a once-in-a-generation opportunity for positive change in our mental health legislation. A whole generation of people, some of them not even born yet, will be impacted by this long-awaited reform.

The reform of the Act is a key step in the transition towards person-centred, recovery-focused services, as set out in our national mental health policy, *Sharing the Vision*. We now have an opportunity to be world leaders in the delivery of mental health legislation that adequately protects people's human rights, and respects their will and preferences.

### Reasons for Reform

The current Act is significantly out of step with international human rights standards like the European Convention on Human Rights and the United Nations Convention on the Rights of People with Disabilities (UNCRPD), which Ireland ratified in 2018. The Government has promised to reform the Act for over seven years now, it is a commitment in the [Programme for Government](#) and it is time to hold them accountable.

Join us in calling for:

- **Protecting Children's Rights**
- **Advocacy & Information**
- **Capacity to Consent for 16 & 17 Year-olds**
- **Advanced Healthcare Directives for All**
- **Right to Health at Community Level**
- **Independent Complaints Mechanism**



#### Protecting Children's Rights:

It's essential that we protect the rights of children and ensure they receive age-appropriate care. Admitting children to adult inpatient units is not acceptable and must be addressed in the reformed Act. However, Head 128 of the [Draft Heads of Bill](#) allows for children under 18 years to be admitted to approved adult inpatient facilities. [Concluding observations from UNCRC](#) state that the Committee is seriously concerned about Ireland's practice of admitting children to adult units.

#### Advocacy & Information:

It's crucial that people have access to someone who can help them understand their rights, navigate the mental health system, and help them advocate for their needs. People receiving mental health care on a voluntary basis currently do not have basic rights to information and advocacy. This can leave them feeling unsupported and without a voice in their own care.

#### Capacity to Consent for 16 & 17 Year-olds:

Currently, young people aged 16 and 17 cannot consent to or refuse mental health care, even though they can do so for physical health care. This is a significant gap in their rights and can impact their ability to access appropriate treatment. For more information, please see the [Mental Health \(Capacity To Consent To Treatment\) Bill 2018](#) and [2021](#) and [related debates](#).

### Advanced Healthcare Directives (AHDs) for All:

An Advanced Healthcare Directive is an important tool for individuals to have control over their healthcare decisions. The recently commenced [Assisted Decision-Making \(Capacity\) \(Amendment\) Act 2022](#) enshrines this as a right. However, under this legislation, some people with mental health difficulties who are detained under Section 3(1)(b) of the Mental Health Act, 2001 have been excluded and do not have the right to have their advance wishes about treatment respected. This discriminatory exclusion needs to be addressed in the reform of the Mental Health Act, 2001 as promised by the Government.

### Right to Health at Community Level:

Article 25 of the UNCRPD says that people have a right to care as close to their own community as possible. Sharing the Vision states that our “...mental health system should deliver a range of integrated activities to promote positive mental health in the community” (p. 16). Involuntary detention should be a last resort and alternative support systems should be explored wherever possible.

### Independent Complaints Mechanism:

Individuals with complaints relating to mental health services must have confidence that their complaints be handled fairly and impartially. This needs to be separate from the existing HSE “Your Service, Your Say” complaints mechanism and available for both children and adults. For more information on the need for an independent complaints mechanism, please see the [Human Rights Analysis of the Draft Heads of Bill](#).

## Get Involved

There are a number of ways you can get involved in our campaign to reform the Mental Health Act, 2001:

- [Contact your TD](#) – Email your local elected representatives and ask them to prioritise the reform of the Mental Health Act.
- Subscribe to our [newsletter](#) – Keep up to the date with the campaign by subscribing to our newsletter on our website, [www.mentalhealthreform.ie](http://www.mentalhealthreform.ie)
- Follow us on social media - We are on [LinkedIn](#), [Twitter](#), [Instagram](#) and [Facebook](#)

## Resources

- [MHR Reform the Act Campaign](#)
- [Human Rights Analysis of the Draft Heads of Bill](#)
- [Talk to your TD](#)
- [Briefing note on Mental Health Act \(February 2021\)](#)
- [Submission from Mental Health Reform \(MHR\) and the Children’s Mental Health Coalition \(CMHC\) to the UN Committee on the Rights of the Child \(UNCRC\)](#)
- [Mental Health Act, 2001 Toolkit](#)
- [Let’s Talk About Recovery](#)
- [Pre-Budget Submission 2023](#)
- [Draft Heads of Bill to amend the Mental Health Act 2001 \(July 2021\)](#)

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