



Frequently Asked Questions on Mental Health Bill 2024

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Introduction

Welcome to our 'Frequently Asked Questions' document on the [Mental Health Bill 2024](#). These questions have been compiled from questions Mental Health Reform (MHR) has received from email queries received through our info@ mailbox and during our two webinars on the Mental Health Bill 2024, please see [here](#).

Please note that this is our interpretation of the 2024 Bill, with information correct as of February 2025. For the most accurate wording of the proposed changes, please see the [Mental Health Bill 2024](#). There are also likely to be Government amendments put forward during the Committee Stage debate on the Bill which may alter the proposed provisions, and consequently the accuracy of these FAQ answers.

Mental Health Reform are not legislators and while a vast array of stakeholders has been consulted in the process of reforming this legislation, the final content of the legislation is dictated by the Oireachtas. If you would like to input on amending any aspect of the 2024 Bill please contact your elected representative.

Mental Health Reform (MHR) advocates for the choice of the individual in how they prefer to describe their mental health experience. In our own communications, we use the term 'mental health difficulties' (as per our national mental health policy, [Sharing the Vision](#)) or 'psychosocial disabilities' (as per the United Nations Convention on the Rights of Persons with Disabilities, UNCRPD). Where the term 'mental disorder' is used in these answers this is to reflect the language of the legislation and not language that MHR uses.

General

Where can I find out about Mental Health Reform's campaign?

For more information on Mental Health Reform's campaign to reform the Mental Health Act please see: <https://mentalhealthreform.ie/campaigns/reform-the-mental-health-act/>. This is where we have posted the slidedeck and recording of our webinars on the 2024 Bill which we hosted on September 5th and October 24th 2024.

When will the Mental Health Bill 2024 be enacted?

The important thing to note is that nothing will change overnight. The Bill will still have to go through the whole legislative process in both the Dáil and the Seanad. This gives us time to examine the changes. This is a hugely important piece of law and, while there are amendments needed, it should greatly improve the legal rights of people accessing mental health services and supports across the country, in acute settings and in the community.

At the time of writing, the [Government's Spring Legislative Programme 2025](#) has been published with the Mental Health Bill 2024 set to be re-introduced at Committee Stage. This will require Government Committees to be stood up first.

How can I advocate for the changes I would like to see in the Bill?

We at Mental Health Reform are a coalition of Voluntary and Community Sector organisations. We are not legislators. The content of the legislation is dictated by the Government. Please



see our resource '[Talk to Your TD](#)' if you would like to contact your local elected representative about the Bill. There has been extensive consultation on the Bill over a decade and many of the changes were recommended by an [Expert Review Group in 2015](#).

What analysis has taken place of the resource implications of the proposed legislation?

The analysis of the resource implications of the Bill is the responsibility of the HSE and the Government. As far as we are aware there have been some preliminary costings undertaken on some elements of the reform. For example, more advocacy services may be needed at Review Boards, the number of Authorised Officers may need to be expanded and the regulatory remit of the Mental Health Commission is likely to be expanded. All of these would have cost implications. However, we do not have visibility on what the exact costings are.

Minister Mary Butler, former Minister for Mental Health and Older People (current Minister for Mental Health and Chief Whip), has clarified that “...*some of the planned changes are expected to carry additional costs, such as the enhanced role for Authorised Officers in the involuntary admission process and the expansion of the Mental Health Commission’s regulatory remit to include community residences and services*” and that “*Continued investment in mental health services at all levels, including community and inpatient services, will be needed to ensure the continued efficacy and improvement of services and to continue to uphold the rights of people accessing services*”. [PQ 20936/24]

We have advocated in our Pre-Budget Submissions [2024](#) and [2025](#) for the Government to start allocating these resources now so that services will be adequately resourced to deliver these reforms.

Nothing will change overnight with the reform Bill. However, resourcing the services now is the best way to ensure successful implementation.

What can we all do now to move the 2024 Bill on?

You can contact your local elected representative to ask them to prioritise the progression of the 2024 Bill through the parliamentary processes. See our webpage on the reform of the act for more resources: <https://mentalhealthreform.ie/campaigns/reform-the-mental-health-act/>. For more on speaking to your elected representative about mental health see our resource '[Talk to Your TD](#)'.

What is the timeline of the Bill so far?

The Bill has been through a very lengthy process of consultation. Here is a timeline of the events to date, including some of the organisations consulted with:

2011: Department of Health (DoH)- Internal Departmental Review of the Act

11th October 2011: Many organisations made submissions to DoH on Review of Mental Health Act. Example: [Mental Health Reform](#), [Irish Medical Organisation](#)

December 2014: [REPORT OF THE EXPERT GROUP ON THE REVIEW OF THE MENTAL HEALTH ACT 2001](#) published. Representation from psychiatry, nursing, occupational therapy, psychology, academia, GP, Mental Health Commission, IHREC, HSE, Department of Health, National Service Users Executive.



2019: MHR Publish Timeline Video on the Act **2015 - 2019**, see this video:
<https://www.youtube.com/watch?v=Le15nBW5boA>

October 2020: Previous [Programme for Government](#) published including promise to 'Reform the Mental Health Act 2001.' (p. 78)

July 2021: Draft Heads of Bill to Amend the Mental Health Act 2001 published

2021 – 2022: Mental Health Reform (and many others) before Sub-committee on Mental Health for Pre-Legislative Scrutiny process:

- o 30th **November 2021** - [Transcript](#) + [Video](#)
- o 5th **April 2022** - [Transcript](#) + [Video](#)

October 2021: [MHR Publishes Human Rights Analysis on the Draft Heads of Bill](#) (Dr Charles O'Mahony & Dr Fiona Morrissey)

October 2022: [Pre-legislative Scrutiny Report](#) published - see MHR statement [here](#). See page 9 - 14 of the report for a list of stakeholders engaged with.

March 2023: MHR produces video on the importance of reforming the Act – see [here](#)

May 2023: MHR produces a '[Reasons for Reform](#)' 2-pager

Jan 2024 - Government publishes the legislative programme for Spring 2024 and the Mental Health Amendment Bill has not progressed to Priority Publication - see [MHR Press Statement](#)

July 2024 – Cabinet Approval - [MHR Press release on Cabinet Approval of Mental Health Bill](#)

2022 – 2024: MHR calls for the reform of the Act and resourcing of services in Pre-Budget Submissions [2023](#), [2024](#) & [2025](#).

Second Stage Debate: 18th September 2024-
<https://www.oireachtas.ie/en/debates/debate/dail/2024-09-18/17/>

February 2025: Spring 2025 Government Legislation Programme:
<https://www.gov.ie/en/publication/0e255-spring-2025-government-legislation-programme/>

Where can I find more resources?

- Mental Health Bill 2024:
<https://data.oireachtas.ie/ie/oireachtas/bill/2024/66/eng/initiated/b6624d.pdf>
- Explanatory Memorandum:
<https://data.oireachtas.ie/ie/oireachtas/bill/2024/66/eng/memo/b6624d-memo.pdf>
- Mental Health Reform Plain English Summary: <https://mentalhealthreform.ie/wp-content/uploads/2024/09/13.09.2024-Overview-of-key-changes-in-the-Mental-Health-Bill-2024-NALA-Approved.pdf>
- Mental Health Reform Campaign Page:
<https://mentalhealthreform.ie/campaigns/reform-the-mental-health-act/>
- [Human Rights Analysis on the Draft Heads of Bill](#) (Dr Charles O'Mahony & Dr Fiona Morrissey)



- Second Stage Debate (18th Sept 2024): <https://www.oireachtas.ie/en/debates/debate/dail/2024-09-18/17/>
- MHR Video on Reform of MHA (2023): <https://youtu.be/on2Bgh7XJG8>
- Mental Health Act Toolkit 2001: <https://mentalhealthreform.ie/mental-health-act-2001-toolkit/>
- WHO Guide on MH Legislation: <https://www.who.int/publications/i/item/9789240080737>
- HSE National Consent Policy: <https://www2.healthservice.hse.ie/organisation/national-pppgs/hse-national-consent-policy/>
- Webinar Series - Assisted Decision-Making Capacity Act 2015: <https://www.hse.ie/eng/about/who/national-office-human-rights-equality-policy/assisted-decision-making-capacity-act/webinars/series-2022.html>
- Decision Support Service: <https://decisionsupportservice.ie/>
- The Health Research Board - [Annual Report on Activities of Irish Psychiatric Units and Hospitals 2023](#)

Language

Could we acknowledge the language in the Bill is discriminatory and breaches the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes, MHR have raised concerns over the use of the term ‘disorder’ and have suggested the terms ‘psychosocial disability’ (in line with UNCRPD) or ‘mental health difficulties’ (in line with Sharing the Vision, our national mental health policy). The Sub-Committee on Mental Health also suggested these terms in their Pre-Legislative Scrutiny Report.

For more on the UNCRPD and mental health, please see MHR’s webpage: <https://mentalhealthreform.ie/campaigns/uncrpd/>.

The utilisation of ‘mental disorder’ in the 2024 Bill was questioned by many elected representatives during the [Second Stage debate](#) in September 2024.

Consent

Are there significant changes around consent in the Bill?

There is already a [HSE Consent Policy](#) which must be followed by HSE services.

There is already an Assisted Decision-Making (Capacity) Act 2015, rights to supported decision making, and a presumption of capacity. This law has been operating since April 2023. You, or your loved one, might be entitled to a decision support arrangement. Contact the Decision Support Service for more information: www.decisionsupportservice.ie.

16 & 17yr olds can already consent to medical and dental treatment. The proposed change in this Bill will add ‘mental’. It will not change a parent’s/guardian’s opportunities to support their child. In fact, this Bill will strengthen their right, with their loved one’s consent, to information.



Advanced Healthcare Directives (AHDs) - Does an AHD made at a time when a person has capacity hold under the 2024 Bill?

Under the Assisted Decision Making (Capacity) Act [ADMCA], if someone is detained under 3(1)(b) of the Mental Health Act 2001 (often referred to as the 'treatment' category) then the ADMCA allows for their Advanced Healthcare Directive (AHD) to be legally binding now that it is enacted.

In terms of the Mental Health Bill 2024, yes the Bill does provide for legally binding AHDs for nearly all circumstances. However, there are some exceptions.

The proposed involuntary detention categories under the 2024 Bill are 12(1)(a) (the 'risk' category) and 12(1)(b) (the 'treatment' category). The wording of these categories has changed from the 2001 Act. So for example, there has to be an **immediate** risk or **immediate** need for treatment, the word 'immediate' was not in the 2001 Act.

There are two sections in the 2024 Bill relating to 'treatment refusal' (one for 12(1)(a) and one for 12(1)(b)).

For 12(1)(a) - Chapter 3, Section 51 - Application to High Court for treatment order in certain circumstances

If all treatment is refused in the AHD, there is an avenue for application to the High Court to issue treatment without consent and it states that the treatment concerned needs to be:

"(I) immediately necessary for the protection of life of another person or persons, or (II) necessary for protection from an immediate and serious threat to the health of another person or persons; AND (ii) the involuntarily admitted person requires the treatment concerned AND (iii) there is no alternative safe and effective treatment available AND (iv) it is likely that the condition of the involuntarily admitted person will benefit from such treatment."

In essence what this means, according to the current iteration of the Mental Health Bill 2024, is that the only avenue for overriding a valid AHD is through the Courts and within the parameters set out in [Chapter 3, Section 51](#). The full Bill is [here](#) and that is all detailed on page 62.

Mental Health Reform have created a Plain English version of the Bill [here](#).

It also might be helpful to know that From 26 April to 31 December 2023 the following was noted in the Mental Health Commission's Annual Report 2023:

- 5% of orders were made indicating detention on the basis of section 3(1)(a),
- 71% of orders were made indicating section (3) (1)(b), and
- 24% of orders were made indicating sections (3) (1)(a) and (3)(1)(b).

For more on the Assisted Decision-Making (Capacity) Act (2015), please see the webinar series on this topic on www.HSE.ie.

Are there capacity assessments in the new Bill?

Yes, the new Bill outlines the process for capacity assessments (Section 45). It shall be assumed that everyone has capacity unless proven otherwise. For more on the Assisted



Decision-Making (Capacity) Act (2015), please see the webinar series on this topic on www.HSE.ie.

Involuntary Detention

What was the rationale for removing the Gardaí as a group that can make an application for involuntary detention?

The report of the [Expert Review Group](#) made this recommendation in 2015 (see recommendation 36). Many groups, including the [Gardaí](#) themselves, have raised concerns about their involvement in the admissions process for involuntary detention. There is a concern that having the Gardaí involved can be stigmatising and can escalate a situation where someone needs healthcare support. There is a pilot underway in Limerick called the [CAST programme](#) which is a partnership between An Garda Síochána and Mental Health Services HSE Mid-West. The CAST team will aim to reduce future presentations and interactions with Gardaí or other blue light emergency services, through community follow-ups and the case management of complex cases.

Will the new Bill make admission even more difficult?

As stated by former Minister for Mental Health and Older Persons, Mary Butler (PQ [35144/24](#)): *“Over 90% of mental health services are provided in the community, and of those that are provided in inpatient settings, a significant majority of these are provided on a voluntary basis.*

Involuntary admission and detention for mental health treatment is a serious infringement on the rights of a person, both under the Constitution and under the European Convention on Human Rights.”

The 2024 Bill proposes to update and modernise the process for involuntary detention, rather than completely overhaul it. There is already a [HSE Consent Policy](#) which must be followed by HSE services. There is already an Assisted Decision-Making (Capacity) Act 2015, rights to supported decision making, and a presumption of capacity. This law has been operating since April 2023 and applies to those with mental health difficulties as well.

The 2024 Bill improves the human rights protections for admissions, both voluntary and involuntary. The majority of admissions are, and should be, voluntary admissions. There are certainly vast gaps in community service provision that need to be rectified. This is why we, at MHR, advocate for increased funding across the board for mental health services, particularly in early intervention and prevention (see our Budget 2025 webpage: <https://mentalhealthreform.ie/budget-2025/>).

However, we know that involuntary admission should only ever be used as a last resort given how distressing it can be for the person and the professionals involved and the 2024 Bill more closely reflects this. The majority of treatment can and does occur voluntarily, either at community or inpatient level.

Does someone involuntarily admitted have a right to consent?

Yes. This is not new and is already the case under [HSE Consent Policy](#) which must be followed by HSE services. There is already an Assisted Decision-Making (Capacity) Act 2015,



rights to supported decision making, and a presumption of capacity. This law has been operating since April 2023 and applies to those with mental health difficulties as well. However, there are provisions for overriding consent in the Mental Health Acts 2001-2018. The 2024 Bill strengthens the person's right to consent in a number of ways including expanding the right to consent to 16 & 17 year olds, and providing closer alignment between the mental health legislation and the assisted decision making legislation.

For more on the Assisted Decision-Making (Capacity) Act (2015), please see the webinar series on this topic on www.HSE.ie.

Will there be enough Authorised Officers to implement the proposed Bill?

An "Authorised Officer" (AO) means an officer of the HSE who is of a prescribed rank or grade authorised by the chief executive officer to exercise the powers conferred by Section 9 of the Mental Health Act 2001 to act as an applicant for involuntary admissions to a mental health approved centre. (PQ 20612/23)

As of September 2024, there were 218 trained Authorised Officers in Ireland (PQ Number: 34056/24). The target number of Authorised Officers is 4 per 100,000 of population (from a HSE capacity review conducted in 2021). The European Commission places Ireland's current population at around 5.3million (July 2024). The population is also expected to continue to grow ([ESRI July 2024](#)). So the current target probably is around 212 for 2024, and 224 by 2030. However, the target may need to be raised, given that in the 2024 Bill An Garda Síochána will no longer be able to make applications for involuntary admission. An Garda Síochána are currently responsible for 32% of all involuntary admission applications (according to the [Mental Health Commission's Annual Report 2023](#)).

Regulation

Will the Mental Health Commission be regulating adult community mental health teams?

Yes, the new Bill proposes that the regulatory remit of the Mental Health Commission should be expanded to all community mental health teams.

Will there be a new complaints method that would work better than what there is currently?

No, at present the 2024 Bill does not contain provisions for an independent complaints mechanism. MHR have been advocating for there to be an independent complaints mechanism as many people have concerns about raising complaints to the service they are currently receiving support from. See Mental Health Reform's My Voice Matters research for more on the lived experience perspective on this. You can also see our campaign page: <https://mentalhealthreform.ie/campaigns/reform-the-mental-health-act/>



How will compliance with Individual Care Plans be ensured under the 2024 Bill?

There are more detailed provisions regarding care plans in the 2024 Bill, when compared to the 2001 Act. These include:

- Time-limit on when a care plan needs to be written - *“no later than 14 days after that person’s admission to the centre.”*
- That they need to be focused on working towards recovery
- The care plan needing to be accessible to the person

The Mental Health Commission is tasked with regulation and ensuring compliance for both inpatient and community services under the 2024 Bill.

Will there be changes in discharge policy from community mental health services?

No, the 2024 Bill does not make any stipulations about discharge within community settings. The Bill does make provisions for discharge planning for those admitted to registered acute mental health centres.

Questions About Specific Circumstances

Are personality disorders still an exemption in the 2024 Bill?

The Mental Health Act 2001 and regulations made thereunder contain the legislative provisions governing admission to and treatment for mental health difficulties in approved centres.

Nothing in the current 2001 Act prevents a person from being admitted voluntarily to an approved centre for treatment, including people who have personality disorders.

For a person to be admitted as an involuntary patient, there is a three-stage process involving an initial application, a recommendation from a General Practitioner and an assessment by a Consultant Psychiatrist that the person under examination experiences “a mental disorder” (language of the Act) and meets the conditions for involuntary admission as set out in Section 3 of the 2001 Act.

Individuals with a personality disorder may be admitted as involuntary patients, but only if they are also deemed to be ‘suffering from a mental disorder’ (language under 2001 Act) and provided that they meet the conditions for involuntary admission as set out in Section 3 of the 2001 Act. This remains the same in the new Bill, but the admission criteria wording has been altered in the 2024 Bill. (see PQ 34429/24: <https://www.oireachtas.ie/en/debates/question/2024-09-09/1718>).

As is currently the case, having a personality disorder is not a criterion for involuntary detention on its own. The person would have to meet the other criteria as set out in Section 12 of the 2024 Bill. A person may be involuntarily admitted if they meet the criteria specified in one of two categories.



Category 1: The person has a 'mental disorder' (language of the legislation), and their life, or the life of another person, is at risk, or their health (or the health of others) is at risk of serious harm. Admission and detention in the centre is likely to: reduce the risk posed to themselves or others, provide necessary care and treatment that cannot be given outside the centre, and benefit the person's condition.

Category 2: The person has a 'mental disorder' (language of the legislation), and immediate care and treatment is required, care cannot be provided outside the mental health centre etc.

Can a person with both intellectual disability/autism and a 'mental disorder' be admitted involuntarily to an approved centre?

Having an intellectual disability or autism is not a criterion for involuntary detention on its own in the 2024 Bill. The person will have to meet the other criteria as set out in Section 12 of the 2024 Bill. A person may be involuntarily admitted if they meet the criteria specified in one of two categories.

Category 1: The person has a 'mental disorder' (language of the legislation), and their life, or the life of another person, is at risk, or their health (or the health of others) is at risk of serious harm. Admission and detention in the centre is likely to: reduce the risk posed to themselves or others, provide necessary care and treatment that cannot be given outside the centre, and benefit the person's condition.

Category 2: The person has a 'mental disorder' (language of the legislation), and immediate care and treatment is required, care cannot be provided outside the mental health centre etc.

