

Committee Stage of the Mental Health Bill in the Seanad marked an important step in the ongoing reform of Ireland’s mental health legislation. This review of Seanad Committee Stage outlines the key amendments made to the Bill, the commitments made by the Minister of State for Mental Health, Mary Butler during the debates, and the areas where Mental Health Reform believes further progress is essential.

While several of the changes represent meaningful steps forward and reflect the sustained advocacy of Mental Health Reform, our members, supporters, and people with lived experience, we remain convinced that the Bill can and should go further to fully uphold the rights of people with mental health difficulties. Continued political engagement will be crucial as the Bill moves to Report Stage, where there remains a real opportunity to strengthen protections and deliver a more rights-based mental health framework.

MHR welcomes the following amendments to the Mental Health Bill introduced in the Seanad:

Safeguards on “Pharmacological” (Chemical)

Restraint: The introduction of a dedicated section regulating pharmacological restraint is a significant step forward. MHR had strongly advocated for oversight in this area, given the current regulatory gap and the serious concerns it raises around human rights and bodily autonomy.

Prohibition of ECT for Children: We strongly welcome the amendment banning the use of electroconvulsive therapy (ECT) on children.

Enhanced Safeguards Around Involuntary Treatment, including:

- An amendment raising the threshold for involuntary treatment from “likely to benefit” to likely to benefit “materially.” While we maintain that involuntary treatment should only be permitted in urgent cases where delay or absence of intervention could seriously impact a person’s health or safety, this higher threshold represents meaningful progress.

- An amendment now requires applications to the Circuit Court for decision supports to be made “as soon as practicable,” rather than at any point within a 42-day window. While we continue to advocate for a strict timeframe within which these applications must be made (within 72 hours), and alternative supports for these individuals while they await a Court decision on decision support (including access to an independent advocate), this change is a welcome step in the right direction.

Respect for Advance Healthcare Directives and the Decisions of those Deemed to have Capacity:

We are pleased to see the removal of Section 51(5), which had allowed a consultant psychiatrist to override the treatment refusal of a person with capacity and/or a valid advance healthcare directive for up to 72 hours pending a High Court decision. While we continue to advocate that the High Court should not have the authority to override such decisions, this amendment marks a clear improvement in respecting individual autonomy.

Respect for the Rights of Young People Aged 16 and Over to Make Treatment Decisions:

We welcome the proposed removal of the term “due weight” from Section 10, as it provides greater clarity on the right of young people aged 16 and over to consent to admission, care, and treatment in a mental health setting on a similar basis as they can for physical health decisions.

Accessible Information on Rights for Involuntarily Detained Persons:

The Minister accepted an amendment requiring that all information provided to individuals who are involuntarily detained about their rights must be delivered in a form and language that can be reasonably understood by the person. This amendment ensures better alignment with international human rights standards that call for accessible, inclusive communication in mental health care settings.

We also note that the Minister has committed to working with Opposition Senators to progress a number of important amendments for Report Stage, including:

The Provision of Information on Independent Advocacy to Involuntarily Admitted Persons:

The Minister has committed to working with Senators to progress an important Opposition amendment, which proposed to require that individuals who are involuntarily admitted be informed of the availability of independent advocacy services and how to access them. This marks a significant step forward in promoting transparency, upholding rights, and ensuring timely access to support for those subject to involuntary admission.

Requirement for Regular Capacity

Assessments: We welcome the proposed improvements to the regularity and timeliness of capacity assessments already made at Committee Stage in the Seanad. The amendments require that assessments be carried out “as soon as practicable” and “not less than once every 14 days” thereafter. While we continue to advocate that a capacity assessment should generally occur before any involuntary treatment is administered, and that treatment without such an assessment should be limited to rare and absolute emergency situations, we acknowledge this as a step forward. We welcome the Minister’s commitment to look into potentially reducing the maximum window for regular formal capacity assessments below 14 days in advance of Report Stage. Given the inherently fluid nature of capacity, assessments should be required to occur as frequently as possible in cases where a person is being involuntarily treated.

The Minister has also made the following positive commitments in relation to secondary legislation:

Commitment to a Statutory Right to Advocacy in Secondary Legislation:

The Minister has made a clear and repeated commitment on the record of the Seanad to enshrine a statutory right to advocacy for people accessing mental health services through secondary legislation. Access to an independent advocate ensures people can exercise their rights and express their wishes and concerns. We urge the Minister to deliver on this commitment to enshrine a right to independent advocacy services for all people accessing mental health services.

Commitment to Review Existing Complaints Procedure and Address Issues Through

Secondary Legislation: The Minister confirmed that she will undertake a review of the current complaints procedures and will consider making any necessary changes through secondary legislation. Mental Health Reform continues to strongly advocate for the establishment of a direct complaints mechanism that is fully independent of the service provider, ensuring that individuals can raise concerns safely, have their complaints assessed impartially, and receive timely, transparent resolutions.

As the Bill progresses through the Oireachtas, MHR will continue to advocate for the following changes:

Statutory Right to Independent Advocacy:

Minister Butler has made a commitment to introducing a statutory right to advocacy for people accessing mental health services through secondary legislation. Access to an independent advocate is essential to ensuring that people can exercise their rights and communicate their wishes and concerns. Comparable protections already exist in primary legislation in England, Scotland and Wales. We urge the Minister to deliver on this commitment to enshrine a right to independent advocacy services for all people accessing mental health services. This has been consistently identified in our consultations with people with lived experience as a top priority.

Establishment of an Independent Complaints

Mechanism: We recommend that the Mental Health Bill introduces a legal right to an independent complaints process for people accessing mental health services. The independent complaints process must be legally separate from service providers with defined timeframes for investigating complaints, clear investigatory powers and protections for people making the complaint against retaliation.

Prevent the Admission of Children to Adult

Units: The Mental Health Bill should prevent the admission of children to adult inpatient units. While this practice has declined in recent years, the absence of clear safeguards in the Bill creates a risk that such admissions could increase in the future. It is vital that the rights of children experiencing mental health difficulties are protected and that they receive care that is appropriate to their age and developmental needs.

Capacity Assessments: The Mental Health Bill should be amended to require that a formal capacity assessment generally be completed before any involuntary treatment is administered. Administering medication prior to establishing capacity is particularly problematic, given that the medication could

itself impair a person's ability to understand and make decisions, undermining the validity of any later capacity assessment. Involuntary treatment without a prior capacity assessment should therefore occur only in genuinely rare, emergency circumstances and must be subject to external review. Formal capacity assessments should be carried out as frequently as practicable, and we welcome the Minister's commitment to consider reducing the maximum interval between assessments below 14 days at Report Stage.

Removal of the term "Mental Disorder":

We continue to call for the removal of the term "mental disorder" from the Bill and its replacement with more rights based, person centred language. Many individuals with lived experience have highlighted that the current terminology is stigmatising, and updating it would align with the efforts to make the Bill's language more person-centred and rights-based.

Mental Health Reform is Ireland's leading national coalition on mental health.

Our vision is of an Ireland with accessible, effective and inclusive mental health services and supports.

Read our Plain English Guide to the Mental Health Bill Amendments in the Dáil



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