

# **St Patrick's Mental Health Services**

**Submission to the 25<sup>th</sup> Session of the Working Group  
on the Universal Periodic Review of Ireland**

**September 2015**

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# Submission to the 25<sup>th</sup> Session of the Working Group on the Universal Periodic Review of Ireland

1. St Patrick's Mental Health Services is Ireland's largest, independent, not-for-profit mental health service provider.<sup>1</sup> It is committed to the protection of the rights and integrity of those experiencing mental health difficulties.
2. The prevalence of mental health problems in Ireland is well documented. One in seven adults was found to have experienced a mental health difficulty in the past year,<sup>2</sup> and 15.4 per cent of children aged 11- 13 years have experienced a mental health disorder.<sup>3</sup> Ireland has the highest rate of female youth suicide and the second highest rate of male youth suicide in the European Union.<sup>4</sup> Studies suggest that young people in Ireland may have a higher rate of mental health problems than similarly aged young people in other countries.<sup>5</sup>

## A Implementation of Accepted Recommendations from First Universal Periodic Review regarding Mental Health

3. Following the first Universal Periodic Review (UPR) of Ireland in 2011 two recommendations relating to mental health were made. Both of these recommendations were fully accepted by the State.<sup>6</sup>

### Ratification of the UN Convention on the Rights of Persons with a Disability

4. *Ratification of the UN Convention on the Rights of Persons with a Disability:* Following the 2011 UPR review, the State fully accepted Recommendation 106.1 to:

*'Complete the ratification process (Indonesia), consider the ratification (Chile, Ecuador) or the possibility of ratification (Argentina, Peru), ratify the Convention on the Rights of Persons with Disabilities (Austria, Canada, Greece, Iran, Iraq, Spain) already signed in 2007 (Algeria), at the earliest possible time/as soon as possible (France, Hungary).'*<sup>7</sup>

5. Ireland signed the CRPD in 2006 but has yet to ratify it. In addition, Ireland has yet to sign and ratify the Optional Protocol to the CRPD. The State has committed to the ratification of CRPD

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1 Through multi-disciplinary teams of highly-qualified mental health professionals, St. Patrick's Mental Health Service provides in-patient and day care services to over 3,000 people each year and over 12,000 out-patient appointment based interventions. For more information see <https://www.stpatricks.ie/>

2 Mental Health Reform, *Submission for Budget 2016*, [https://www.mentalhealthreform.ie/wp-content/uploads/2015/07/MHR-pre-budget-submission-2016\\_Final.pdf](https://www.mentalhealthreform.ie/wp-content/uploads/2015/07/MHR-pre-budget-submission-2016_Final.pdf) p. 19. See also, Cannon M, Coughlan H, Clarke M, Harley M & Kelleher I (2013) *The Mental Health of Young People in Ireland: a report of the Psychiatric Epidemiology Research across the Lifespan (PERL) Group* Dublin: Royal College of Surgeons in Ireland; Health Service Executive (2007) *Mental Health in Ireland, Awareness and Attitudes*, HSE: <http://www.healthpromotion.ie/hp-files/docs/HSP00612.pdf>.

3 Cannon M. et al. (2013) *The Mental Health of Young People in Ireland: a report of the Psychiatric Epidemiology Research across the Lifespan (PERL) Group*, Dublin: Royal College of Surgeons in Ireland, p. 25.

4 World Health Organisation Europe, *European Detailed Mortality Database*, <http://data.euro.who.int/dmdb/> [accessed 1 May 2015].

5 Mary Cannon and others, *The Mental Health of Young People in Ireland: A report of the Psychiatric Epidemiology Research across the Lifespan (PERL) Group* (RCSI 2013), p. 7.

6 Government of Ireland, National Interim Report, Universal Periodic Review February 2014, paras. 106.1 and 107.16. [http://www.upr.ie/Website/UPR/uprweb.nsf/page/DOJL-9HRJXM1526351-en/\\$file/UPR%20NATIONAL%20INTERIM%20REPORT%20final.pdf](http://www.upr.ie/Website/UPR/uprweb.nsf/page/DOJL-9HRJXM1526351-en/$file/UPR%20NATIONAL%20INTERIM%20REPORT%20final.pdf)

7 *Ibid.* para. 106.1.

following the enactment of the Assisted Decision-Making (Capacity) Bill 2013.<sup>8</sup> However, this Bill has been published in various drafts since 2007 and legislation has yet to be enacted.

6. *Recommendation:*

- **The State should ratify the UN Convention on the Rights of Persons with a Disability; and sign and ratify the Convention's Optional Protocol.**<sup>9</sup>

### Human Rights Compliant Legislation

7. Following the 2011 UPR review, the State fully accepted Recommendation 107.16 to:

*'Adopt laws to deal with the situation of persons not enjoying the highest level of physical and mental health with regards to the 2001 Act on Mental Health and bring its provisions in line with the CRPD' (Spain).*<sup>10</sup>

8. Since the first UPR review no amendment has been made to the law on mental health. However, the Government did establish an Expert Group to review the Mental Health Act 2001. This group published its final report in March 2015, which recommended a series of amendments to bring legislation in line with international human rights standards.<sup>11</sup>

9. *Recommendation:*

- **The State should amend the Mental Health Act, as recommended by the Expert Group on the Review of the Mental Health Act 2001, and ensure it is fully compliant with international human rights standards.**

10. In addition, the Government published the Assisted Decision-Making (Capacity) Bill in 2013. It seeks to provide supports and safeguards to those with impaired decision-making capacity. The Bill has yet to be enacted.<sup>12</sup> While the Bill is welcome it needs to be strengthened to ensure it is fully compliant with human rights law.<sup>13</sup>

11. *Recommendation:*

- **The State should strengthen the Assisted Decision Making (Capacity) Bill 2013 to ensure that it is fully compliant with international human rights standards and enact the Bill.**

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8 UN Human Rights Committee, *Fourth Periodic Report of Ireland under the International Covenant on Civil and Political Rights (ICCPR)*, UN Doc CCPR/C/IRL/4 , (25 July 2012), para. 38.

9 The Optional Protocol to the UN CRPD allows for individuals to communicate directly to the Committee on violations of their rights Under the Convention.

10 Government of Ireland, (2014) National Interim Report, Universal Periodic Review February 2014, para. 107.16. [http://www.upr.ie/Website/UPR/uprweb.nsf/page/DOJL-9HRJXM1526351en/\\$file/UPR%20NATIONAL%20INTERIM%20REPORT%20final.pdf](http://www.upr.ie/Website/UPR/uprweb.nsf/page/DOJL-9HRJXM1526351en/$file/UPR%20NATIONAL%20INTERIM%20REPORT%20final.pdf) [accessed 21 September 2015]

11 Department of Health (2015) Report of the Expert Group on the Review of the Mental Health Act 2001, Dublin: Department of Health, p.7 <http://health.gov.ie/blog/publications/report-of-the-expert-group-review-of-the-mental-health-act-2001/>

12 The Bill completed Committee Stage on 17 June 2015. House of the Oireachtas, Bills 1997-2015, *Assisted Decision-Making (Capacity) Bill*, <<http://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/bills/2013/8313/document1.htm>>. (last accessed 19 June 2015).

13 Currently, the Bill makes a person's ability to enter into different support arrangements contingent on the individual's mental capacity. In the Bill's current form, a person will be ineligible to appoint a 'decision making assistant' for a decision if she is seen to lack mental capacity in that area. This requirement goes against international human rights standards which call for a move away from decision-making capacity assessments. See also: National University Ireland Galway, *Equality, Dignity and Human Rights- Does the Assisted Decision Making (Capacity) Bill 2013 fulfill Ireland's human rights obligations under the Convention on the Rights of Persons with Disabilities*. [http://www.nuigalway.ie/cdlp/documents/amendments\\_to\\_bill.pdf](http://www.nuigalway.ie/cdlp/documents/amendments_to_bill.pdf) [last accessed 21 September 2015].

## B Developments of the Human Rights Situation regarding Mental Health

### Consent to Electro-Convulsive Therapy (ECT)

12. The practice of administering Electro-Convulsive Therapy (ECT)<sup>14</sup> to a person with capacity against their will is a violation of Article 7<sup>15</sup> and Article 17 of the International Covenant on Civil and Political Rights (ICCPR)<sup>16</sup> and has been criticised by the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>17</sup> In 2014, the UN Human Rights Committee when examining Ireland under ICCPR recommended that the State prohibit the non-consensual use of restrictive and coercive practices in mental health services, including ECT.<sup>18</sup>
13. The administration of ECT to patients in Ireland is subject to legislative regulation<sup>19</sup> and a comprehensive set of rules.<sup>20</sup> However, contrary to international best practice,<sup>21</sup> under Irish law ECT can be administered against the individual's will to a patient who has capacity to make an informed decision.<sup>22</sup> In 2012, 156 ECT treatments were administered without consent, representing 7.2% of all ECT treatments administered.<sup>23</sup>
14. St Patrick's Mental Health Services have adopted a policy that they will not forcibly administer ECT to any patient with capacity to make an informed decision. This position leaves the service open to a judicial challenge by a family member of a patient for breach of its duty of care to that patient, as it is not exhausting all treatment options available to it under Irish law.
15. *Recommendations:*
  - **The State should prohibit the non-consensual use of Electro-Convulsive Therapy (ECT) to a patient who has capacity to make an informed decision.**

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14 'ECT is a medical procedure in which an electric current is passed briefly through the brain via electrodes applied to the scalp to induce generalised seizure activity. The person receiving treatment is placed under general anaesthetic and muscle relaxants are given to prevent body spasms. Its purpose is to treat specific types of major mental illnesses.' Mental Health Commission (2008) *Rules Governing the Use of Electro- Convulsive Therapy*, Dublin: 2008, p 15.

15 Article 7 of the International Covenant on Civil and Political Rights : 'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.'

16 Article 17 of the International Covenant on Civil and Political Rights : '1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks.'

17 Méndez, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (1 February 2013) A/HRC/22/53. The Rapporteur noted that involuntary treatment and other psychiatric interventions in health-care facilities are forms of torture and ill-treatment and has urged States to revise domestic legislation allowing for forced interventions.

18 United Nations Human Rights Committee (2014) *Concluding Observations on the Fourth Periodic Report of Ireland*. CCPR/C/IRL/CO/4 para. 12. The Report of the Expert Group Review of the Mental Health Act, 2001 recommended that the authority to give forcibly administer ECT to unwilling patients be removed from Irish law. Health Service Executive (2014) *Report of the Expert Group on the Review of the Mental Health Act 2001* Dublin, p. 91.

19 Section 59, Mental Health Act 2001.

20 Mental Health Commission (2008) *Rules Governing the Use of Electro- Convulsive Therapy*, Dublin.

21 The World Health Organisation has stated that ECT should only be administered "after obtaining informed consent." World Health Organisation (2005) *Resource Book on Mental Health, Human Rights and Legislation: Stop exclusion, dare to care*, Geneva, p. 64.

22 Such treatment must be approved by a consultant psychiatrist responsible for the care and treatment of the patient and seconded by another consultant psychiatrist Mental Health Act 2001 Section 59 (1) (b).

23 Mental Health Commission (2014) *The Administration of Electro-convulsive Therapy in Approved Centres: Activity Report 2012*, Dublin, p 5.

### Voluntary and Involuntary Detention of Adults

16. In 2011, the UN Committee against Torture expressed concern that the definition of a voluntary patient in Ireland is not sufficient to protect the right to liberty of a person who might be admitted to an approved mental health centre.<sup>24</sup>
17. Under Irish law a voluntary patient is defined as ‘a person receiving care and treatment in an approved centre who is not the subject of an admission order or a renewal order’.<sup>25</sup> The term ‘voluntary’ implies the exercise of free choice, but the definition also includes people who lack capacity to exercise that free choice. Voluntary patients who indicate that they wish to leave the treatment facility may be detained against their will for a period of up to 24 hours, if a doctor or staff nurse is of the opinion that they are suffering from a mental disorder.<sup>26</sup>
18. *Recommendation:*
  - **The State should amend the law to clarify the rights of people who are voluntary patients in mental health services.**

### Mental Health Law relating to Children

19. There is no legal entitlement to health care or mental health care in Ireland for children and young people in Ireland.<sup>27</sup> The provisions of the Mental Health Act 2001 Act which apply to children are unclear. The Expert Group on the Review of the Mental Health Act 2001 recommended that the reformed Act should include a separate section on children under 18 years, with its own set of guiding principles, including the best interests of the child.<sup>28</sup>
20. *Voice of the Child:* The Mental Health Act 2001 does not provide a mechanism for the voice of the child to be heard in relation to treatment or admission procedure.<sup>29</sup> The CRPD creates an obligation to support children to exercise their will and preferences and make decisions. The Expert Group recommended that the child’s right to be heard be included in the guiding principles of the child-specific part of the reformed Mental Health Act and that consultation with the child be required at each and every state of diagnosis and treatment.
21. *Recommendation:*
  - **The State should amend the Mental Health Act 2001 to provide for a stand-alone Part on children incorporating the principles of the best interest of the child, voice of the child and non-discrimination.**

### Consent to Mental Health Treatment by Children

22. The UN Committee on the Rights of the Child has commented that in the context of health care, ‘[b]efore parents give their consent, adolescents need to have a chance to express their views freely and their views should be given due weight [...]. However, if the adolescent is of

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24 UN Committee against Torture, *Concluding Observations of the UN Committee against Torture*, (17 June 2011), UN Doc CAT/C/IRL/CO/1, para 28.

25 Section 2 of the Mental Health Act 2001.

26 Section 23 of the Mental Health Act 2001.

27 This lack of clarity hinders the fulfilment of Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which requires State Parties to ‘recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health’ and of Article 24 of the United Nations Convention on the Rights of the Child (UNCRC) which states that ‘The State shall recognise the rights of a child to the enjoyment of the highest attainable standard of health and the facilities for the treatment and rehabilitation of health, shall strive to ensure that no child is deprived of his/her right of access to such health care services.’

28 Department of Health (2015) *Report of the Expert Group on the Review of the Mental Health Act 2001*, Dublin, p. 73.

29 This is a violation of the child’s right to participation in decision-making under Article 12 of the UNCRC and General Comment 12 on the Right of the Child to be Heard which guarantees a child’s right to express his/her opinions and for such opinions to be taken into account. UN Committee on the Rights of the Child (2009) *General Comment No. 12: The right of the child to be heard*, CRC/C/GC/12, para. 36.

sufficient maturity, informed consent shall be obtained from the adolescent her/himself, while informing the parents if that is in the “best interest of the child”<sup>30</sup>.

23. Children have no legal entitlement to consent to or refuse mental health care, as the age of consent is set at 18 years.<sup>31</sup> The age of consent for physical health care is 16 years.<sup>32</sup> Calls have been made that the same age would apply to both physical and mental health.<sup>33</sup> The Expert Group Review on the Mental Health Act 2001 recommended that the law be amended so that 16 and 17 year olds are presumed to have capacity to consent to or refuse mental health treatment.<sup>34</sup>
24. *Recommendation:*
  - **The State should put in place a comprehensive and coherent legal framework for the child’s right to consent to or refuse mental health treatment, taking into account the child’s capacity to understand the nature and consequences of treatment and addressing issues of confidentiality.**

### Voluntary and Involuntary Detention of Children

25. The failure to provide safeguards for ‘voluntary’ child patients in Ireland has been observed by the Council of Europe’s Committee for the Prevention of Torture (CPT).<sup>35</sup>
26. On admission to an in-patient mental health unit, children are categorised as either ‘voluntary’ or ‘involuntary’ patients. The term ‘voluntary’ refers to the fact that the child’s parent or legal guardian has provided consent on their behalf. The majority of admissions to approved adult mental health in-patient units are classified as ‘voluntary’, in that there is parental consent to the placement. As a ‘voluntary’ patient the child has lesser protections and safeguards than a child classified as an ‘involuntary’ patient.
27. In relation to the practice of ‘voluntary’ child admissions, the Law Reform Commission recommended the introduction of a new category of ‘informal admission’ for children admitted under the Mental Health Act 2001 by parental consent.<sup>36</sup> The admission and treatment of this intermediate category of patients would be subject to regular review, in the same manner as involuntary patients.<sup>37</sup>
28. A very small number of ‘involuntary’ admissions take place under Section 25 of the Mental Health Act 2001.<sup>38</sup> ‘Involuntary’ adult patients have a right to have their treatment and detention reviewed by a Mental Health Tribunal, under this system there is an automatic

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30 UN Committee on the Rights of the Child (2003) *General Comment No. 4: Adolescent Health and Development in the Context of the Convention on the Rights of the Child*, CRC/GC/2003/4, para. 32. See also UN Committee on the Rights of the Child (2013) *General Comment No. 15: on the right of the child to the enjoyment of the highest attainable standard of health (Art. 24)*, CRC/C/GC/15, para. 31.

31 Mental Health Act, 2001, s. 2.

32 Non-Fatal Offences Against the Person Act, 1997, s. 23 (1). However, this Act only applies in the context of criminal law as a defence and is very limited in its scope – for example, it does not provide guidance on whether a child under 16 years can provide consent or whether a child aged 16 or 17 years can refuse medical treatment or social care interventions. Also of importance is *Health Service Executive v J.M.* [2013] IEHC. 12 (16 January 2013), in this case the judge was prepared to countenance that the Non-Fatal Offences Against the Person Act, 1997 does in fact apply to psychiatric treatment.

33 The Law Reform Commission and the Mental Health Commission have also called for clarity on the age of consent to mental health services and treatment. Law Reform Commission (2009) *Children and the Law: Medical Treatment*, Dublin: Law Reform Commission, p. 119 at para 3.40. Mental Health Commission (2011) *Submission on the Review of the Mental Health Act 2001*, Dublin: Mental Health Commission, p. 32.

34 Department of Health (2015) *Report of the Expert Group on the Review of the Mental Health Act 2001*, Dublin: Department of Health, p. 71.

35 Council of Europe, ‘Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)’, (10 February 2011) CPT/Inf (2011) 3, 60.

36 Law Reform Commission (2009) *Children and the Law: Medical Treatment*, Dublin: Law Reform Commission.

37 *Ibid.*

38 Approximately 85% of admissions to approved adult mental health in-patient units are 16 and 17 years of age; a third are discharged within two days; and two thirds within one week. Health Service Executive (2014) *National Performance Assurance Report*, p. 12 <http://www.hse.ie/eng/services/publications/corporate/performance-reports/d14par.pdf>.

review of detention by a Mental Health Tribunal every 28 days and the automatic provision of legal representative. However, the detention of 'involuntary' child patients is not reviewed by the Mental Health Tribunal<sup>39</sup> but by the District Court, which does not have specialist expertise in the area of mental health.<sup>40</sup>

29. *Recommendation:*

- **The State should amend the Mental Health Act 2001 to provide for a new category of 'informal admission' so that the same level of protections and safeguards are afforded to all children admitted to in-patient mental health units, and that their detention should be reviewed by the Mental Health Tribunal.**

### Children Placed in Adult In-Patient Facilities

30. The UN Committee on the Rights of the Child says that, where placement in a psychiatric unit is necessary, adolescents should be separated from adults, where appropriate; and any decision on their care should be made in accordance with their best interests.<sup>41</sup>
31. Annual inspections of in-patient facilities for children carried out by the Mental Health Commission have repeatedly indicated serious failures in providing appropriate standards of care.<sup>42</sup> Failings include facilities being deemed unsuitable environments for children and young people<sup>43</sup> and the continued lack of availability of beds in child units,<sup>44</sup> resulting in children being placed inappropriately in adult settings.<sup>45</sup>
32. The Mental Health Act 2001 does not require that children be admitted to age appropriate mental health facilities nor does it prohibit the admission of children to adult in-patient facilities. The Mental Health Commission's *Code of Practice Relating to the Admission of Children under the Mental Health Act 2001* sought to end the placement of children in inappropriate settings, including adult units, by 2011, except in exceptional circumstances.<sup>46</sup>
33. Despite criticisms, children in Ireland continue to be detained inappropriately in adult in-patient mental health facilities. In 2014, 31% of child and adolescent in-patient admissions (89 admissions) were to in-patient adult facilities.<sup>47</sup> This practice may also expose the child to situations which pose a risk to their physical and psychological wellbeing and thus contravenes the child's right to protection from abuse and neglect under Article 19 of the UNCRC.<sup>48</sup>

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39 Mental Health Act 2001, s. 25. Mental Health Tribunals are established by the Mental Health Commission. Their role is to affirm or revoke an order an admission or renewal order to a mental health facility. For more information visit [http://www.mhcirl.ie/for\\_H\\_Prof/Mental\\_Health\\_Tribunals/](http://www.mhcirl.ie/for_H_Prof/Mental_Health_Tribunals/) [accessed 1 April 2015].

40 The District Court is a court of local and summary jurisdiction. It deals with criminal, civil, family law and licensing.

41 UN Committee on the Rights of the Child (2003) *General Comment No. 4: Adolescent Health*, CRC/GC/2003/4, para 29.

42 The Mental Health Commission is an independent body, established under the Mental Health Act 2001. For more information, see: <http://www.mhcirl.ie/#sthash.JsmtV3N3.dpuf>.

43 Mental Health Commission, *Report of the Inspector of Mental Health Services 2013, Merlin Park*, 26 February 2013, [http://www.mhcirl.ie/File/IRs/CAMHS\\_Merlin\\_IR\\_2013.pdf](http://www.mhcirl.ie/File/IRs/CAMHS_Merlin_IR_2013.pdf) [accessed 2 December 2013].

44 Health Service Executive (2014) *Performance Assurance Report*, September.

45 Mental Health Commission, *2014 Summary of Inspection Reports*, 9 October 2014.

[http://www.mhcirl.ie/Inspectorate\\_of\\_Mental\\_Health\\_Services/Summary\\_of\\_Inspection\\_Reports/](http://www.mhcirl.ie/Inspectorate_of_Mental_Health_Services/Summary_of_Inspection_Reports/) [accessed 13 January 2015].

46 Mental Health Commission (2006) *Code of Practice Relating to the Admission of Children under the Mental Health Act 2001*.

[http://www.mhcirl.ie/File/IRs/COP\\_Admission\\_2006.pdf](http://www.mhcirl.ie/File/IRs/COP_Admission_2006.pdf). and a 2009 Addendum

[http://www.mhcirl.ie/File/Addendum\\_to\\_child\\_COP\\_Dec\\_2011.pdf](http://www.mhcirl.ie/File/Addendum_to_child_COP_Dec_2011.pdf).

47 Inspections carried out by the Mental Health Commission in 2014 highlighted issues with in-patient units around the country. The 2014 inspection of the Department of Psychiatry in Connolly Hospital (an adult unit), Dublin found that the centre had been obliged to admit acutely ill children on numerous occasions because no bed was available in a child and adolescent approved centre. It was found that the department was not a suitable environment for a child nor could it 'deliver optimal care and treatment' Mental Health Commission, *Inspector of Mental Health Services 2014 Reports*, 9 October 2014 [http://www.mhcirl.ie/Inspectorate\\_of\\_Mental\\_Health\\_Services/Summary\\_of\\_Inspection\\_Reports/](http://www.mhcirl.ie/Inspectorate_of_Mental_Health_Services/Summary_of_Inspection_Reports/).

48 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989). See also Council of Europe, (2000) White Paper on the protection of human rights and dignity of people suffering from a mental disorder, especially those placed as voluntary patients in a psychiatric establishment' DIR/JUR, para 8.4 and UN Committee on the Rights of the Child, 'General comment No. 4: Adolescent Health and Development in the Context of the Convention on the Rights of the Child' (1 July 2003) CRC/GC/2003/4, p. 29.



34. Given the continued placement of children in adult in-patient wards, it is clear that the non-legally binding Code has not been successful.<sup>49</sup> At a policy level the HSE set as key priorities for 2015 the elimination of all under 16s and reductions in the numbers of under 17s to adult units.<sup>50</sup> While this is welcome, the continued placement of children in adult units, as a consequence of the shortage of age-appropriate mental health facilities, remains a children's rights violation and requires an urgent remedy.<sup>51</sup> Two independent adolescent units hold an additional 26 beds but have unfilled capacity on an annual basis, while children are still inappropriately being placed in adult units.<sup>52</sup>
35. *Recommendation:*
- **The State should end the placement children in inappropriate placements, including by enacting legislation to prohibit the practice of placing a child in an adult mental health facility, save in exceptional circumstances where it would be in his or her best interests to do so.**

### Community Mental Health Services for Children

36. Access to mental health care is severely undermined by an entrenched two-tier health system.<sup>53</sup> Gaps exist in mental health promotion and awareness-raising as well as targeted interventions for children at risk.<sup>54</sup> Vulnerable children such as children in the care and youth justice systems, as well as homeless children may experience increased difficulties in accessing mental health supports.<sup>55</sup> Of concern is the mental health of lesbian, gay, bisexual and transgender (LGBT) young people. A study of LGBT young people under the age of 25 years found that 27 per cent of those interviewed had self-harmed; 50 per cent had seriously thought of ending their lives; and 20 per cent had attempted suicide.<sup>56</sup>
37. In Ireland primary care for children's mental health is delivered through the Child and Adolescent Mental Health Services (CAMHS).<sup>57</sup> The service is underdeveloped. Of the recommended 127 specialist teams needed for CAMHS to operate effectively,<sup>58</sup> only 63 CAMHS teams are currently in operation.<sup>59</sup> There are significant staff shortages within CAMHS as well as delays in filling allocated posts and a lack of adequate training and development of staff.<sup>60</sup> There is no national standards guiding the operation of CAMHS and there is also no national policy to guide the process of transition from child to adult mental health services for those who reach 18 years.<sup>61</sup>

49 Health Service Executive (2013) *Health Service Data Management Report September 2013*, Dublin: Health Service Executive, p.76.

50 Health Service Executive (2014) *HSE Mental Health Division Operational Plan for 2015*, Dublin: Health Service Executive p.21.

51 Fiona Gartland, 'High Court may call head of mental health services to explain lack of bed for teenager', The Irish Times Online, 2 September 2014 <http://www.irishtimes.com/news/crime-and-law/courts/high-court-may-call-head-of-mental-health-services-to-explain-lack-of-bed-for-teenager-1.1914560> [accessed 11 February 2015].

52 Twelve beds exist at St John of God's, Dublin and fourteen at St Patrick's University Hospital, Dublin.

53 Under this two-tier system, children face long waiting lists to access public health care while others can access a faster service through purchasing private health care. See B. Harvey, (2007) *Evolution of Health Services and Health Policy in Ireland*, Dublin: Combat Poverty Agency, p. 12. Given this situation it is likely to be the most vulnerable children, those living in poverty, from minority groups and those in the care and youth justice systems who will be forced to wait to access services.

54 Children Mental Health Coalition (2015) *Meeting the mental health support needs of children and adolescents*, Dublin: CMHC  
 55 Children's Mental Health Coalition (2013) *Someone To Care*. Dublin: Children's Mental Health Coalition.

56 P. Mayock et al. (2009) *Supporting LGBT Lives: A Study of the Mental Health and Well-Being of Lesbian, Gay, Bisexual and Transgender People*. Dublin: Gay and Lesbian Equality Network (GLEN) and BeLonG To, p. 19.

57 This service is located within the Health Service Executive.

58 Department of Health (2006) *A Vision for Change*, Dublin: Stationery Office (revised as per Census 2011).Health Service Executive (2012), *Fourth Annual Child and Adolescent Mental Health Service Report 2011–2012*, Dublin: Health Service Executive, p. 9.

59 Minister of State for Disability, Equality, Mental Health and Older People, Kathleen Lynch TD, Parliamentary Questions: Written Answers, Mental Health Services [14649/15] 15 April 2015.

60 Retirements in the Children and Adolescent Mental Health Services has left a gap in knowledge and experience within services. HSE Performance Assurance Report September 2014; CAMHS Annual Report Sept 2013, p. 83.

61 Children Mental Health Coalition (2015) *Meeting the mental health support needs of children and adolescents*, Dublin: CMHC.

38. The demand for CAMHS is rising: referrals to its service increased by 49% in one year.<sup>62</sup> The service has been unable to meet this demand and significant waiting lists have developed. In May 2015, 3,110 children were waiting to receive a CAMHS appointment, 1,729 were waiting for longer than three months, and 383 were waiting for more than a year.<sup>63</sup> In some areas non-acute cases have waited for up to two years.<sup>64</sup> There is no agency addressing the mental health needs of children on waiting lists.<sup>65</sup> It is likely that the mental health of some of those on the waiting list will deteriorate in the absence of care and treatment, and indeed the child's health or life may be placed in danger. A new policy initiative was identified to improve the CAMHS service and address its waiting lists in 2015.<sup>66</sup>

39. *Recommendation:*

- **The State should take all necessary measures to ensure all children under 18 years have equitable and timely access to age-appropriate mental health treatment and services that are adequately staffed; and develop quality standards and guidelines for Child and Adolescent Mental Health Services (CAMHS).**

#### Advocacy and Information Services for Children

40. An independent advocacy and information service exists for adults with mental health difficulties,<sup>67</sup> but there is no equivalent national, independent service for those under 18 years.<sup>68</sup> This is a violation of the child's right to access information,<sup>69</sup> to be heard in decision-making,<sup>70</sup> and to participate fully as service users in mental health service provision.<sup>71</sup>

41. *Recommendation:*

- **The State should establish a national specialist independent, advocacy service for all children under 18 years who are engaging with mental health services.**

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62 Health Service Executive, *Performance Assurance Report May 2015*, p. 91.  
<http://www.hse.ie/eng/services/publications/corporate/performance/may15pr.pdf>

63 *Ibid.*

64 Children's Mental Health Coalition, *Meeting the mental health support needs of children and adolescents: a Children's Mental Health Coalition view*, p 10. [https://www.iasw.ie/attachments/Childrens-Mental-Health-Coalition-support\\_needs\\_children\\_&\\_Adolescents.pdf](https://www.iasw.ie/attachments/Childrens-Mental-Health-Coalition-support_needs_children_&_Adolescents.pdf)

65 *Ibid.*

66 Health Service Executive (2014) *National Service Plan 2015*, Dublin: Health Service Executive, p. 49. The Child and Adolescent Mental Health Services (CAMHS) has been identified as a Key Service Improvement Project for the Health Service Executive and a key priority for 2015. The aim is to address inconsistencies across services, specifically in the areas of waiting times, referral to treatment times, scope of treatment options available, clarity of information available to families and the interface with other agencies both internal and external to the HSE.

67 Irish Advocacy Network <http://irishadvocacynetwork.com/wp/>

68 Such a service is needed to support a child experiencing mental health difficulties to know how to get the help they need and to ensure they are aware of their rights and entitlements. St Patricks' Mental Health Service established the Youth Empowerment Service to provide an advocacy service, independently staffed, to children who are accessing its in-patient care.

69 Article 17 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989).

70 Article 12 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989).

71 UN Committee on the Rights of the Child (2009) General Comment No. 12: The right of the child to be heard, CRC/C/GC/12, para. 36.