



Five years after implementation: A review of the Irish Mental Health Act 2001[☆]

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ABSTRACT

Objectives: The *Mental Health Act 2001* (MHA 2001) was implemented in November 2006. Since that time, there has been considerable research into its impact, including the impact on service provision, use of coercive practices and the perceptions by key stakeholders. Our objective is to present a summary of research into the MHA 2001 since its implementation in the Irish state in the context of international standards and practice.

Methods: We reviewed the literature presented on Medline and Google Scholar, directly assessed relevant journals and sought abstract information from the College of Psychiatry of Ireland.

Results: There has been a small decrease in the rate of involuntary admission since implementation but there has been no change in the representativeness of diagnoses of individuals admitted involuntarily. Mental Health Tribunals were held for 57% of those admitted involuntarily and 46% of service users found that the Mental Health Tribunal made the involuntary admission easier to accept. One year after discharge, 60% of service users reflected that their involuntary admission had been necessary. Professional groups have expressed concerns regarding workload, training time for junior doctors and paperwork.

Conclusions: The MHA 2001 has brought the practice of involuntary admission further into line with international standards. However, five years after the implementation of the Act international guidelines and practice have highlighted areas in need of further reform, including capacity legislation and consideration of advance directives and community treatment orders. Further research is also lacking on caregivers' or family members' perceptions of the MHA 2001.

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1. Background

The [Mental Health Act 2001 \(Oireachtas, 2001\)](#) was implemented in Ireland on the 1st of November 2006 and stands as a key moment in the history of Irish psychiatry. This landmark legislation reformed the previous legal framework for psychiatric practice, the [Mental Treatment Act 1945 \(Oireachtas, 1945\)](#). The most significant measures included changes to the process of involuntary detention of persons with mental disorders, including a Mental Health Tribunal, an independent psychiatric assessment and free access to a solicitor (Oireachtas, 2001). The MHA 2001 also led to the establishment of the Mental Health Commission, which is an independent statutory body whose functions are to promote high standards in the delivery of mental health services and to ensure the interests of individuals admitted involuntarily are protected. The MHA 2001 includes provisions for appeal of the result of a tribunal. It also places legal limits around the use of treatment without consent for involuntary patients. An underlying objective of the MHA 2001 was to bring the practice of involuntary admission into line with the European Convention for the Protection of Human Rights and Fundamental Freedoms ([Council of Europe, 1951](#)).

The period leading up to the implementation of the MHA 2001 involved much rich debate on the appropriate shape of the ethical and legal framework for the Irish mental healthcare system. This debate was informed by studies of existing practice in Ireland. For example, Rooney et al. reviewed the practice of involuntary detention in an independent hospital in 1996. They found that patients were often unaware of their rights and details of their involuntary admission and a large proportion were not even aware that they had been admitted involuntarily (Rooney, Murphy, Mulvaney, O'Callaghan, & Larkin, 1996).

The considerable international discussion and guidance on human rights of persons with mental disorders contributed to the context of the formulation and implementation of the MHA 2001. The human rights origins of mental health legislation can be traced to the United Nations (UN) Universal Declaration of Human Rights (UN, 1949) and the European Convention on Human Rights (ECHR) ([Council of Europe, 1951](#)). Over recent years, these principles have been further elaborated, for example in the WHO's 1996 Guidelines for the Promotion of Human Rights of Persons with Mental Disorders (WHO, 1996). These international standards have been accompanied by a rich literature, discussing and comparing international practice (Appelbaum, 1997; Zinkler & Priebe, 2002).

This review aims to provide an overview of research into various aspects of the MHA 2001, since its implementation in 2006. We will

not discuss the functioning of the MHA 2001, as it has been described elsewhere by Kelly (2002). However, there are a few changes that we will specify to facilitate understanding of the articles included in the review. Firstly, under the MHA 2001 individuals with a sole diagnosis of a personality or substance use disorder cannot be admitted involuntarily (Oireachtas, 2001). Secondly, the MHA 2001 led to the provision of authorized officers, who are employees of the health service and are authorized to commence the first stage of the process of having an individual assessed for consideration for an involuntary admission. In this review, we aim to review the implementation of the MHA 2001 under key headings, including the rates of involuntary admission and the use of physical coercion, perceptions of the MHA 2001 by key stakeholders, amendments to the MHA 2001, possible future changes to the MHA 2001 and a comparison of the Irish legislation with international standards and recommendations.

2. Methods

We conducted a literature review, searching Medline and Google Scholar for all articles containing reference to the term "Mental Health Act 2001" since 2001. We excluded papers which did not contain original research into the (Oireachtas, 2001), including discussion papers, government reports and papers which exclusively addressed speciality areas, namely learning disability, child and adolescent and forensic psychiatry. Searches of Google Scholar and Medline took place on 18th May 2012. These yielded 232 results from Google Scholar and 392 from Medline, of which thirteen fulfilled inclusion criteria from the former and four from the latter. All of these papers were included in the thirteen located through Google Scholar. In addition to these resources, we searched a number of other sources. The catalogues of the Irish Journal of Psychological Medicine and the Psychiatrist (previously Psychiatric Bulletin) were manually searched and one further paper was found by this method. Reference lists for papers were examined for any relevant research. We also contacted the College of Psychiatry of Ireland to enquire about any abstracts concerning the MHA 2001 that had been presented at conferences, yielding two poster abstracts. These methods located three further presentations and papers of interest in addition to the thirteen previously located, leading to a total of sixteen research papers, reviewed below. Themes for the review emerged from analysis of these sixteen papers and the international research into mental health legislation. The search method is illustrated in Fig. 1.

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