Mental Health Act Review Submission

IRISH ASSOCIATION OF SPEECH & LANGUAGE THERAPISTS

01/04/2021

Introduction

Speech and Language Therapists work within mental health services to:

- Provide assessment, diagnosis and intervention for a wide range of speech, language, communication and swallowing disorders where these occur within the context of the person's mental health disorder.

- Increase accessibility of mental health services, including e-health, for those with speech, language and communication needs.

- Ensure the voices of those with speech, language, communication, and swallowing needs are represented throughout mental health services, and particularly in peer run/peer led services.

- Support the implementation of a Human Rights approach in mental health services, particularly in relation to decision making supports, in advocacy, and in reducing the risk of seclusion and restraint support for those who access mental health services, their families, carers and supporter (FCS) and the mental health service in general to improve and maintain the safety and physical well-being of those who experience swallowing difficulties within the context of their mental health disorder (IASLT, 2020).

4.1 Definitions

Question: What changes to definitions do you want to see in the new Mental Health Act?

The IASLT endorse the views of the Expert group who recommend changes to the definitions of the Act:

- Replace 'mental disorder' in the Act with 'mental illness'. The Expert Group recommended this to separate the definition of mental illness from the reasons for detention.

- Remove 'significant intellectual disability' and 'severe dementia' from the Act. The Expert Group recommended this so that a person cannot be detained for only having dementia or an intellectual disability.

- Update how treatment is defined in the Act. The Expert Group recommended this so that the definition of treatment includes tests, and that treatment applies to all people in approved centres. The IASLT recommends that treatment includes access to Talking Therapies. Timely consideration of speech, language, communication and swallowing needs and provision of appropriate supports (including practical advice to other mental health practitioners on how interventions/interactions can best be modified or scaffolded to improve communication accessibility) will reduce barriers to engagement and participation in Talking Therapies for those service users who have speech, language and communication needs. Consideration of, identification of and supports for speech, language, communication and swallowing needs would be provided through the unique skill set of a Speech and Language Therapist, as an embedded member of the multidisciplinary mental health team (IASLT, 2020).

- Add a new definition of 'voluntary patient'. The Expert Group recommended that a person who is voluntary should have the capacity to consent or refuse being admitted to an approved centre. The IASLT will comment in more detail about how capacity is assessed (4.10) and issues around consent (4.11).

- Include a new category of patient. The Expert Group recommended that a third category be included in the Act for people who need mental health treatment in an approved centre. These people do not have the capacity to consent to treatment but they do not need to be involuntarily detained.

4.2 Guiding principles

Question: What guiding principles do you want to see in the new Mental Health Act?

- The IASLT endorse the view of the Expert Group which recommends the inclusion of a new set of guiding principles in the Act to replace the principle of 'best interests'. These new principles will empower people to make decisions about their own mental health care and treatment.

- The IASLT also recommend, in line with The Department of Health and the Expert Group report, to consider guiding principles for adults and for children reflecting, principles of the Assisted Decision-Making (Capacity) Act 2015 & Mental Health (Amendment) Act 2018.

- New guidelines for children and young people to consider the developmental abilities of young people, and the prevalence of neuro-developmental conditions and speech, language and communication needs, which affect young people's ability to access mental health assessment and treatment. The prevalence of speech, language and communication needs among those attending mental health services is approximately between 40% to over 90% (IASLT, 2015). A study by Cohen et al (2013) reported that adolescents aged between 12- 18 years referred to mental health services are three times more likely than their peers to present with language disorders. Language difficulties limit a young person's ability to benefit from talk based therapies and complex management plans (Hollo et al, 2014). Success of psychological therapy is heavily reliant on a young person's language and verbal reasoning abilities. Subsequently, speech and language therapists have a role in training the mental health workforce to consider and adapt manage plans for young people presenting with speech, language, communication needs at approved centres, to ensure treatment is accessible and tailored to their needs.

- Similarly, new principles for adults should consider the needs of service users with complex communication needs. Access to evidence-based interventions may in some cases be limited to service users who have the verbal ability to engage. Service users with more complex, enduring mental health needs are often not prioritised for evidence-based psychological supports, given the degree of disability associated with cognitive communication difficulties. There is a need to address this gap to ensure that all service users have an opportunity to avail of evidence-based treatment and care (IASLT, 2020).

- There is strong agreement that it is difficult for people with speech, language and communication needs to become involved in their own care and in services in general (Beyond the Usual Suspects, 2013). For people with both mental health difficulties and SLCNs, there may be extra challenges. There are barriers due to communication needs which are intrinsic to or related to the person and their mental health. This includes cognitive difficulties, mental health symptoms, such as psychosis and anxiety, lack of social connection and support. There are barriers due to a mental health service which fails to take communication support needs into account, e.g. tokenism, culture of exclusion, unable to respond to people with communication needs. Speech and language therapists are key players in the promotion of inclusion of people with mental health difficulties and can make a substantial contribution to the recovery process in mental health services (IASLT, 2020).

4.3 Criteria for detention

Question: Should we change the reasons for involuntary detention?

The IASLT endorses the views of the Expert group who recommend changing the reasons for involuntarily detaining a person to make sure that a person is not involuntarily detained just because they have a mental illness.

The Expert Group recommended that a person should not be involuntarily detained just because the person is at risk of harm to themselves or others. Involuntary detention and treatment has to benefit the person and help them get better. A person should not be involuntarily detained just because they have different views or behaviour from other people.

4.4 Authorised Officers

Question: Should Authorised Officers be the only group allowed to make an application for involuntary detention?

The IASLT endorses the recommendations of the Expert Group that Authorised Officers should be the only people allowed to make an application for involuntary detention. Authorised officers are HSE staff members who can make an application for involuntary detention. When a person is taken into Garda custody, an Authorised Officer should be the person to assess whether the person needs to go into hospital for mental health care.

4.5 Interdisciplinary approach to care and treatment

Question: Should other mental healthcare workers play a bigger role in the mental health care and treatment of people?

The IASLT endorses the recommendations of The Expert Group that mental healthcare workers (other than doctors) should be more involved in the mental health care and treatment of people. For example, a doctor should ask another mental healthcare worker for their opinion before involuntarily detaining someone.

- Communication is central to psychiatry, both in terms of practice and in the manifestation of mental health difficulties. Speech, language and

communication needs increase the risk of mental health disorders. Speech and language therapy is critical in the diagnosis and monitoring of people with mental health problems. Speech, language and communication needs can masquerade as poor motivation or attitude through behaviours, such as monosyllabic responses, poor eye contact and closed body language (Snow, 2011). People may have become expert at keeping their speech, language and communication needs hidden. History of early speech, language and communication needs and/or relevant family history may not be available.

- Speech and Language therapists (SLTs) identify eating, drinking and swallowing difficulties and support people's safety by reducing the risk of swallowing problems which can lead to malnutrition, dehydration, choking or aspiration pneumonia requiring hospital admission and in some cases causing death.

- SLTs support other professionals and staff to recognise and understand how to respond to communication and swallowing needs and how to tailor information to support decision-making and discuss treatment options.

4.6 Changing timeframes

Question: Should we reduce the length of time in any of the cases above?

The IASLT endorses the recommendations of the Expert group that we should reduce the length of time a person is involuntarily detained before being reviewed by a tribunal.

4.7 Enhancing safeguards for individuals

Question: how should we improve safeguards for people receiving mental health care and treatment?

The IASLT endorses the Expert group's changes to enhance and improve safeguards for individuals, including updating the provisions on seclusion and restraint.

- High risk behaviours, and high levels of conflict or crises can distract clinicians and doctors, which can lead unnecessarily to seclusion or restraint.

- Verbal and non-verbal communication skills are a key component of effective de-escalation techniques in approved centres. Speech and Language Therapists can ensure that the work force adapt communication techniques

to take into account the needs of service users with complex communication needs.

4.8 Mental health tribunals

Question: What changes should we make to mental health tribunals?

The IASLT endorses the Expert Group's recommendations that mental health tribunals should be renamed as mental health review boards. It recommended that membership of review boards should be five years instead of three years. It recommended that a review board should happen within 14 days of a person being detained for mental health treatment. It is recommended that a 'psychosocial' report be completed by a mental healthcare worker. This report should include how well a person is able to look after themselves and what kind of supports they need after discharge.

4.10 Capacity

Question: How should we introduce capacity to the Mental Health Act?

The IASLT endorses the Expert Group's recommendations that a person's capacity to make their own decisions should be included in the Mental Health Act. A capacity assessment should be carried out if a mental healthcare worker thinks a person might lack capacity to make decisions by the multi- disciplinary team, including speech and language therapists. This is in line with the principles of the Assisted Decision-Making (Capacity) Act 2015 and includes providing supports to people so that they can make their own decisions.

- Speech and Language therapists (SLTs) have a role in capacity assessment of adults with known or suspected communication disorders and have the necessary skills to be able to participate in capacity assessor training.

- SLTs play a key role in supporting people with communication disabilities in maximising their decision-making ability, building their capacity and supporting capacity assessments when required.

- All professionals involved in capacity assessments including advocates, should receive mandatory training from a speech and language therapist to ensure that they are aware of how best to support communication access in their interactions.

- The Assisted Decision-Making (Capacity) Act (ADMA, 2015) outlines that capacity for decision-making is defined as the ability to understand, at the time the decision is being made, the nature and consequences of the decision in the context of the available choices at that time (ADMA, 2015, s 3 (1)). This means that a person has a right to make decisions (including unwise ones) on their own behalf and is assumed to have decision making capacity to do this, unless proven otherwise. This approach recognises that decisions are complex, and cognitive deficits are only relevant if they actually impact on decision making. The legislation supports the premise that all people be assisted and supported to take part in decision making processes that affect them. The Act also outlines the supports which will be made available to people when the Office of Decision Support Service is established within the Mental Health Commission (IASLT, 2017).

- Capacity is considered on a continuum: a person may have the capacity to make some decisions and not others. Also, a person may have capacity for decision-making at one point in time, and not another (IASLT, 2017).

- Communication skills are integral for quality of life and key for decision making. SLT's are uniquely qualified to assess and support a person with communication difficulties to understand and then communicate that understanding for the purposes of establishing their capacity for decision making. This is an essential component of the work of SLTs in order to ensure that individuals continue to exercise choice and control in their daily lives (RCSLT, 2014 cited in IASLT, 2016).

- The person being assessed also has the right to communicate their decision by talking, writing, using sign language, assistive technology, or any other means. Individuals with communication impairment may have difficulties in expressing thoughts, asking questions, and demonstrating that they understand the information presented to them. These difficulties can be subtle, complex and sometimes undetermined – requiring specialist SLT assessment, and specialist skills to be in a position to support individuals (IASLT, 2017).

4.11 Consent to treatment

Question: What changes to consent to treatment should we make?

The IASLT endorses the Expert Group's recommendations that:

- All people receiving voluntary treatment should be allowed to refuse treatment at any time.

- All people receiving involuntary treatment who have capacity to make decisions should be able to refuse treatment, taking into account how capacity is assessed. Consent for treatment is required from all individuals who have capacity to make decisions, If a person lacks capacity, they should be given supports to make decisions (4.10).

- Treatment refusal can only be overridden in cases where the treating doctor thinks treatment is necessary to protect the person's life or health, or for the protection of other people.

- People should be allowed to make advance healthcare directives, defined in the Assisted Decision-Making (Capacity) Act 2015.

4.12 Information and individual care/recovery planning

Question: What do we need to include on care plans and access to information for people receiving treatment in approved centres?

The IASLT endorses The Expert Group's recommendations to include individual care plans in the Mental Health Act and that we include a legal right to information for all people receiving mental health treatment. Discharge plans must form part of a person's individual recovery plan.

- Individual care plans should take into account the person's individual communication support needs and should be developed in the format most meaningful for them, for example through use of Plain English, Easy Read, using Social Stories etc. The Plan should be written from the individual's point of view, including goals which are meaningful to them.

- Mental health clinicians rely heavily on the interpretation of individual's verbal and non- verbal communication for assessment, care planning and treatment, with most psychological interventions using language as the primary medium for change. Verbally mediated interventions often require the comprehension and interpretation of abstract information, meta cognitive, meta social, and meta linguistic skills (thinking/talking about their own thinking, communication, and social skills), narrative skills, using language to solve problems, social cognition, and expressive language (IASLT, 2020).

- All teams providing mental health interventions need to be aware of the barriers to participation in verbally mediated interventions, including care plans, experienced by those with communication difficulties and should work collaboratively with the speech and language therapist to ensure that care plans and mental health interventions are modified and scaffolded to meet specific needs of the individual (Speech Pathology Australia, 2018).

- Visual templates can help individuals understand triggers, and environmental factors which facilitate or hinders social participation and mental health.

4.13 Inspection, regulation and registration of mental health services

Question: What do we need to include on registering and inspecting community and residential mental health services?

The IASLT endorses The Expert Group's recommendations that the Mental Health Commission should inspect and register residential and community mental health services. It recommended that registration and inspection of approved centres should happen every three years instead of every year. The Commission should be allowed to request a report from approved centres on how well they comply with mental health rules and regulations.

4.14 Provisions related to children

Question: What do we need to provide for in a new Part of the Act on children?

The IASLT endorses the Expert Group's recommendations in relation to children:

- A new standalone part of the Act for children.
- We should define a child as a person under 18 years of age.
- We should include a set of guiding principles for children.
- We should allow children aged 16 and 17 years of age to refuse or consent to their admission and treatment, depending on their developmental abilities and capacity.
- We should update the process of admission for children.
- Children and their families should have access to advocacy services.

4.15 Provisions related to the Mental Health Commission

Question: What changes should we make to the governance of the Mental Health Commission?

The IASLT endorses the Expert Group's recommended that we make some changes to how the Mental Health Commission works. The Expert Group recommended that we allow the Commission to make standards for mental health services.

References:

1. Beresford, P (2013). Beyond the usual suspects. Towards inclusive user involvement. Shaping Our Lives.

2. Cohen, N.J., Farnia, F. & Im-Bolter, N (2013). Higher order language competence and adolescent mental health. *Journal of* Child Psychology and Psychiatry, *54(7), p.733-744.*

3. Hollo, A; Wehby,J., Oliver, R. (2014) Unidentified deficits in children with emotional and behavioural disorders: A meta- analysis council for exceptional children. 80(2), p.169-186.

4. IASLT (2020). IASLT response to: Appraisal of evidence for the effectiveness of Talking Therapies: Position Paper on Collaborative Layered Care Delivery Model for Talking Therapies. Operational Guidelines for Talking Therapies delivered by General Adult CMHTs.

5. IASLT (2020). IASLT response to Sharing The Vision- A Mental Health Policy for everyone.

6. IASLT (2017). IASLT Position Statement on The Role of The Speech and Language Therapist in Assessing Capacity and Facilitating Understanding to Support Decision Making for Adults with Communication Disabilities.

7. IASLT (2015). Speech and Language Therapy in Mental Health Services: A Guidance Document.

8. Snow, P. (2013). Language competence: a hidden disability in antisocial behaviour. InPsych, June 2013. https://www.psychology.org.au/publications/inpsych/2013/june/snow

9. Speech Pathology Australia (2018). Speech Pathology in Mental Health Clinical Guideline. Melbourne. Speech Pathology Australia.

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