



**Submission to the Department of Children,
Equality, Disability, Integration and Youth on
the Draft Initial State Report under the United
Nations Convention on the Rights of Persons
with Disabilities**

April 2021



St Patrick's Mental Health Services (SPMHS) is Ireland's largest independent, not-for-profit mental health service provider. St Patrick's Mental Health Services' vision is a society where all citizens are empowered to live mentally healthy lives. SPMHS works to provide the highest quality mental healthcare, to promote mental wellbeing and mental health awareness, and to advocate for the rights of those experiencing mental health difficulties. SPMHS achieves this through a human rights-based approach, through the enhancement of evidence-based knowledge, and by striving to be at the cutting edge of new initiatives and advances in the field. SPMHS is committed to furthering the development of the competencies of those choosing to work in mental health and of the organisations providing mental health care services, and to enhancing partnership with service users. Our strategic plan for 2018-2022 – [‘Changing Minds. Changing Lives’](#), is firmly rooted in these principles and commitments.

SPMHS welcomes the opportunity to contribute to this consultation on the Draft Initial State Report under the UN Convention on the Rights of Persons with Disabilities. This submission will focus on some pertinent issues within the context of mental health under the Convention.

Significance of mental health

The emergent impacts on collective wellbeing and societal mental health over the course of the Covid-19 pandemic, and the interlinked potential for a deepening of inequalities and a frustration of progress towards greater enjoyment of human rights within society continues to be evidenced.^{1, 2, 3} Data from Ireland's Central Statistics Office from February 2021, indicates almost six in ten respondents reported their mental health has been negatively affected by the Covid-19 pandemic, with women and young people (aged 18-34) highlighted as reporting the greatest negative impacts.⁴ While only a minority of these impacts will likely lead to psychosocial disability, as defined under the provisions of the UNCRPD, there may nonetheless be an increase in incidence of psychosocial disability emergent over the coming months and years.⁵ SPMHS would advocate that mental health issues as they pertain to the UNCRPD are given a greater emphasis than currently reflected within the State Report, and it is ensured that the voices and experiences of those with psychosocial disability are sufficiently represented in related UNCRPD consultative processes and forums.

Legislative reform

The review of the Mental Health Act 2001 and the enactment of the Decision-Making (Capacity) Act 2015 are referenced within the Draft Report.



Regarding paragraph 146 and concerning Advance Healthcare Directives, the Expert Group on the Review of the Mental Health Act 2001 recommended that provisions be introduced into the legislation to more completely and comprehensively address the important role of Advance Healthcare Directives in the context of a person's mental health care.⁶ They also recommended their inclusion in recovery plans amongst other actions.⁷ Further, at present people who are involuntarily detained do not have the right to the application of an Advance Healthcare Directive under existing legislation. This exclusion has been highlighted as at odds with the provisions of the UNCRPD.⁸

SPMHS would suggest that this area be expanded to elaborate on actions, via the reform of the Mental Health Act 2001 in particular, which will address and remedy these issues.

Rights of children with psychosocial disability

Regarding paragraphs 45-51, there does not appear to be mention of major policy initiatives that pertain to children with mental health difficulties. SPMHS would suggest this be included, for example outlining actions detailed, and planned budget allocation for development of Child and Adolescent Mental Health Services, under Sharing the Vision.

SPMHS would also suggest that current statistics on admissions of children to adult mental health units are provided with the report, with related information on efforts to ensure the child's right to age-appropriate healthcare services under the Convention is being progressed.

Regarding paragraph 217, on the issue of consent under the Mental Health Act, the position for young people aged 16-18 is not addressed. Children have no legal entitlement to consent to or refuse mental health care, as the age of consent is set at 18 years⁹, while it is possible for young people from age 16 years to consent to or refuse physical health care.¹⁰ SPMHS would suggest this discrepancy be acknowledged and any imminent actions to address and remedy this, via the ongoing reform of the Mental Health Act 2001, outlined.

While the important development of the National Strategy on Children and Young People's Participation in Decision-Making 2015 – 2020 is noted in paragraph 57, a recent report by the Office of the Children's Ombudsman has highlighted that children with disabilities, or their representatives, are not adequately included within UNCRPD consultation and monitoring mechanisms, such as the Disability Participation and Consultation Network.¹¹ SPMHS would suggest that it may be of merit to highlight how the voices of children with disabilities, including mental health difficulties, will be included in implementation of the UNCRPD within Ireland.



Domestic violence and psychosocial disability

Startling increases in the incidence of domestic violence during the pandemic have been reported in Ireland, mirroring international trends, and have elicited welcome proactive responses from An Garda Síochána.¹² Regarding domestic violence, a bidirectional risk in the context of mental health has been indicated by research - not only does domestic violence adversely affect mental health, but existing mental health difficulties increases individual vulnerability to experience of domestic violence and to revictimization.¹³ Mental health services and maternity services are key health sectors to identify and respond meaningfully to domestic violence, however under-identification of domestic abuse within mental health services is commonplace.^{14,15} The increased incidence of domestic violence during the pandemic heightens the need to bolster mental health services response and cross-sectoral responses overall, if the State is to both strengthen policies and programmes to combat domestic violence and progress advancement of the right to health, especially in the context of women's mental health.

The significance of the State's obligations under the Istanbul Convention are noted in paragraph 39, pertaining to Article 6 - Women with Disabilities. SPMHS would advocate that current and future steps to tackle domestic violence be expanded upon, given evidence of increased risk of experiencing domestic violence amongst women with disabilities, including psychosocial disability.¹⁶

Submission Ends

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References

- ¹ Mental Health Reform and the Covid-19 Psychological Research Consortium (2020) *Responding to the Mental Health Impact of Covid-19: Public views on the Government's response and insights from lived experience*. Available at: <https://www.mentalhealthreform.ie/wp-content/uploads/2020/06/Responding-to-the-Mental-Health-Impact-of-COVID-19-Report-July-2020.pdf>
- ² United Nations (2020), Policy Brief: Covid-19 and the Need for Action on Mental Health. 13 May, 2020. Available at: <https://unsdg.un.org/resources/policy-brief-covid-19-and-need-action-mental-health>
- ³ UN Economic and Social Council, Statement on the Coronavirus (Covid-19) disease pandemic and economic, social and cultural rights, 17 April 2020, E/ C.12/ 2020/1. Available at: <https://undocs.org/en/E/C.12/2020/1>
- ⁴ Central Statistics Office (2021) Social Impact of Covid-19 Survey February 2021: Wellbeing. Available at: <https://cso.ie/en/releasesandpublications/ep/p-sic19wbg/socialimpactofcovid-19surveyfebruary2021well-being/resultsandanalysis/>
- ⁵ O'Connor et al (2020) Mental health impacts of COVID-19 in Ireland and the need for a secondary care mental health service response. *Irish Journal of Psychological Medicine* May (27) pp. 1–9
doi: [10.1017/ipm.2020.64](https://doi.org/10.1017/ipm.2020.64)
- ⁶ Department of Health (2015) *Report of the Expert Group on the Review of the Mental Health Act 2001*. Available at: <https://assets.gov.ie/15986/af32aee7c6ce4747aef4962b11d716d8.pdf>
- ⁷ *ibid*
- ⁸ Mental Health Reform (2021) Briefing Note: Reform of the Mental Health Act, 2001. Available at: <https://www.mentalhealthreform.ie/wp->
- ⁹ Mental Health Act, 2001, s. 2. Available at: <http://www.irishstatutebook.ie/eli/ResultsTitle.html?q=mental+health+act+2001>
- ¹⁰ Non-Fatal Offences Against the Person Act, 1997, s. 23 (1). Available at: <http://www.irishstatutebook.ie/eli/ResultsTitle.html?q=non-fatal+offences+against+the+person+act>
- ¹¹ Moloney et al. (2021) *Mind the Gap - Barriers to the realisation of the rights of children with disabilities in Ireland*. Available at: [file:///S:/Advocacy/Submissions/Submission%20Resources/National%20reports%20and%20resources/Youth%20mental%20health/MindTheGap_OCO_NUIG_Disability_Report%20\(1\).pdf](file:///S:/Advocacy/Submissions/Submission%20Resources/National%20reports%20and%20resources/Youth%20mental%20health/MindTheGap_OCO_NUIG_Disability_Report%20(1).pdf)
- ¹² Lally, C. (2021) Domestic violence: New Garda approach may outlast pandemic. *The Irish Times*, 27th June, 2021. Available at: <https://www.irishtimes.com/news/crime-and-law/domestic-violence-new-garda-approach-may-outlast-pandemic-1.4468507> (Accessed: 25th March)
- ¹³ Howard, L., Trevillion, K., Agnew-Davies, R. (2010) Domestic violence and mental health. *International Review of Psychiatry* 22: 5, 525-534, DOI: [10.3109/09540261.2010.512283](https://doi.org/10.3109/09540261.2010.512283)
- ¹⁴ World Health Organisation (2013) *Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence*. Geneva: WHO Press. Available at: https://apps.who.int/iris/bitstream/handle/10665/85239/9789241564625_eng.pdf?sequence=1
- ¹⁵ Howard, L., Trevillion, K., Agnew-Davies, R. (2010) Domestic violence and mental health. *International Review of Psychiatry* 22: 5, 525-534, DOI: [10.3109/09540261.2010.512283](https://doi.org/10.3109/09540261.2010.512283)
- ¹⁶ Fundamental Rights Agency (2014) Violence against women survey, EU Fundamental Rights Survey Available at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-vaw-survey-main-results-apr14_en.pdf