

Social Work and the Changes in Mental Health Legislation in Ireland

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Recent changes to Irish mental health legislation have laid the foundation for a series of improvements in many aspects of the Irish psychiatric services. Psychiatric social workers are among the groups of service providers likely to be affected by certain innovations arising from the legislative changes. However, the potential long-term benefits to social workers and the services they provide remains a matter of conjecture at this point in time.

Social workers have been employed in the Irish Mental Health Services for over thirty years, but their numbers have remained low overall. There are currently between 50 and 60 social workers working within the Mental Health Services in the whole of the Republic of Ireland. A survey conducted by the National Social Work Qualifications Board in 1999 found that 4.1% of all social work posts nationally were designated in the field of Adult Psychiatry (NSWQB, 2000).

A new Mental Health Act passed in 2001 offers the prospect of an increased role for social workers in the area of mental health care. This augurs well for the possibility of an expansion in the number of social work posts broadly involved in this area of work. However, these changes may also affect the nature of social work as it is practiced within this specialism and have far-reaching consequences for the overall development of mental health social work in the Republic of Ireland.

Mental Health legislation in Ireland has an interesting, if somewhat staggered history. During his term of office as Chief Secretary in Ireland from 1812 to 1817, Robert Peel was involved in the introduction of a system of public asylums. At the time, a combination of political, economic and geographical factors converged to create an environment in which the public asylum movement became a policy of central administration. Finnane (1981) describes in great detail the process by which legislation was passed as early as 1817 in Ireland to allow for the provision of public asylums for the entire country.

Similar legislation was not introduced into England until the 1845 Lunatic Asylums Act.

A small number of private asylums were already in existence. An example of these included St. Patrick's Asylum associated with Dean Jonathan Swift, better known as the author of Gulliver's Travels (Robins, 1986). This combination of private and public care laid the foundation for the system of psychiatric services still in existence in Ireland today.

In England, the passing of the Dangerous Lunatics Act of 1800, following the attempted assassination of King George III, put on a legal basis the involuntary incarceration of alleged 'lunatics'. The murder of a wealthy merchant in Dublin, by someone who was understood to be mentally ill, brought about the extension of similar legislation to Ireland in 1838 (Finnane, 1981).

Other legislation and policy initiatives, dealing with the care of the mentally ill, were introduced in Ireland over the course of the following century. Public psychiatric care is now delivered on a sectorial basis. Multidisciplinary teams, headed by a consultant psychiatrist, are responsible for both inpatient and outpatient treatment within geographical sectors designated by population size.

In certain respects, however, by the end of the twentieth century, Irish legislation had become outdated, eventually attracting international criticism. In particular, the level of protection afforded to persons subjected to involuntary detention in psychiatric institutions became a focus of debate. The law currently in place to deal with the involuntary detention of persons in psychiatric facilities dates back to The Mental Treatment Act 1945.

The main concern with the 1945 Act is its failure, in terms of current accepted practice, to afford sufficient protection to the rights of people who are detained compulsorily in psychiatric hospitals or treatment centres. In 1981, the Oireachtas (Irish

Parliament) passed the Health (Mental Services) Act. However, this piece of legislation was never implemented by the Minister of Health of the day, or by any subsequent holder of that office.

The Irish Government recognizes that the 1945 legislation does not fulfil Ireland's commitments under a number of international agreements or codes. A White Paper published by the Department of Health in 1995 acknowledged that the present law was not in keeping with the terms of The European Convention on Human Rights and Fundamental Freedoms, The Council of Europe Recommendation 83(2) for the Legal Protection of Persons Suffering from Mental Disorders Placed as Involuntary Patients (1983) and also the UN Principles on the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (1991).

In the summer of 2001, new legislation, The Mental Health Act 2001, was enacted to deal with, among other issues, the law concerning the involuntary detention of persons in need of psychiatric treatment. At the time of writing, this legislation has not as yet been implemented by the current Minister of Health, but given the level of criticism of the 1945 legislation, its implementation is expected within the coming months and it is unlikely that it will lie dormant on the statute books as happened with the 1981 Act.

The Mental Health Act 2001 covers a number of issues and deals comprehensively with the issue of compulsory and involuntary detention of adults in psychiatric treatment centres. While not universally welcomed, there is a broad consensus that this Act clarifies the rights of persons involuntarily detained in treatment centres, to a better extent at least than previously existed. The Act introduces the role of 'authorized officer' who can make an *application* for a *recommendation* by a medical practitioner that a person be admitted involuntarily, in certain circumstances, to an approved treatment centre.

The authorized officer will act to initiate such an application where a relative is unavailable, unsuitable or unwilling to commence such proceedings.

In the 1995 White Paper, a discussion document on the future of legislation in this area, the Government identified nurses, psychologists and social workers as suitable professional groups from

which the Health Boards could appoint 'authorized officers'. If this becomes reality, it will involve social workers with new duties and responsibilities in the care and management of people with mental health problems.

Indeed, the introduction of the new Act has implications for all aspects of the adult mental health services, including staffing levels, resources, monitoring, and so on. For social workers, there is an added dimension.

Until now, social workers in mental health in Ireland have retained a generic ethos in the range of services provided to service users, their families and the broader community. Although small in numbers, social workers in the field of adult mental health have managed to provide an impressive range of services, from individual work to group therapy, preventive programmes to crisis intervention, family work, and so on. While the low level of resources devoted to psychiatric social work services is deserving of criticism, it is important to acknowledge that the contribution and creativity of those in social work posts have far outweighed their small numbers.

In their present role within the psychiatric services, social workers have no statutory powers in relation to involuntary detention orders as the profession is not assigned any duties under the 1945 legislation.

By taking on such duties under the incoming legislation, it will introduce a new dimension to the nature of social work as it is carried out in relation to adults with mental health problems. This will mark a new departure for the social work profession in Ireland.

Predictably, this will have an impact on the public perception of psychiatric social workers and the nature of the job they perform. The duties that may attach to social workers acting as authorized officers steer social work more in the direction of social control than of social care. Expanding the role of social work in this way thrusts social work further into the arena of managing perceived risk and danger on behalf of society.

Social workers employed in other fields, such as Child Welfare and Protection or Probation and Welfare services, already know the potential difficulties which such duties can attract. The demands on workers, whose jobs confer statutory

duties upon them, come in many forms and manifest themselves at both a professional and a personal level. Balancing client self-determination with the protection of society in general is never simple or straightforward and brings with it added issues and tensions into the social work task.

In addition, Ireland is currently experiencing a shortage of professionally qualified social workers. Perhaps not surprisingly the most acute shortages arise in the Child Welfare and Protection services followed by the Probation and Welfare Services (NSWQB, 2000), namely those services that already carry statutory duties and responsibilities.

The pressures on individual workers, in exercising the statutory duties with which they are endowed, cannot be ruled out, at this point, as a contributing factor to this pattern of poor staff retention in those fields. To date, statutory duties and powers have not been part of the psychiatric social work role. It remains to be seen if taking on such responsibilities will constrain the flexibility and generic nature of service delivery associated with psychiatric social work in Ireland or have any impact on staff retention.

For some, there is a hope that the introduction of this new legislation will bring with it the possibility of increased resources for the broad range of mental health services, psychiatric social work included. However, it is also possible that the allocation of any new resources will mainly concentrate on developing services required only for the effective implementation of the new legislation.

In that event, it is most likely that any allocation of resources to social work services will be focused on making the appointment of authorized officers possible and resourcing them in terms of the new duties that they will perform. If it is decided that social workers are needed to act as authorized

officers, then the already existing shortage of social workers is likely to be a factor in the decision about where and how resources ought to be targeted.

However, the shortage of professionally qualified social workers is likely to continue for quite some time to come. This may result in those working in the adult mental health services being stretched to maintain the existing high standards of service while at the same time attempting to take on new duties.

Hence the note of caution in terms of linking the development of social work in the field of Adult Mental Health with legislation of the kind recently enacted. If social work in this field is to maintain the diversity and flexibility with which it has long been associated, it is necessary that its development is not solely reliant on legislative changes but is grounded in a broader vision of a comprehensive mental health service.

References

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