



HM GOVERNMENT OF GIBRALTAR

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Mental Health Bill Command Paper

The Government has published the Mental Health Bill as a Command Paper. The Bill is for an Act to replace the 1968 Act (commenced in 1972), which is outdated and no longer represents best practice.

The Act is concerned with the circumstances in which a person with a mental disorder can be detained for treatment for that disorder without his/her consent. It sets out the processes which must be followed and the safeguards for patients to ensure that they are not inappropriately detained or treated without their consent. The main purpose is to ensure that people with serious mental disorders which threaten their health or safety or the safety of the public can be treated irrespective of their consent where it is necessary to prevent them from harming themselves or others.

The current Mental Health Act is based on the UK's Mental Health Act 1959. That Act has since been repealed and the new UK legislation on Mental Health has introduced new processes and provisions since then. There has been a need for a long time to update and review our Act not least because of our requirements under the European Convention of Human Rights.

This new Act makes many changes to the current regime which significantly improves the rights and remedies available to patients.

These are some of the main changes-

1. Definition of mental disorder: it changes the way the current Act defines mental disorder, so that a single definition applies throughout the Act and abolishes references to categories of disorder.
2. Criterion for detention: this has also been reviewed and updated and now the test includes the need to justify that the treatment cannot be provided unless the person is detained under the relevant section and also an 'appropriate medical treatment' test which will apply to all the longer-term powers of detention.
3. Duration of detention periods: the initial period for which a patient can be detained in hospital has been reduced from one year to 6 months. The period of

renewal has also been reduced from one year to 6 months and then with respect to the further period of renewal from two years to one year.

4. Professional roles: it broadens the group of practitioners who can take on the functions currently performed by the responsible medical officer.

5. Community Treatment Orders: it introduces community treatment orders for patients following a period of detention in hospital. It is expected that this will allow a small number of patients with a mental disorder to live in the community whilst subject to certain conditions to ensure they continue with the medical treatment that they need.

6. Mental Health Review Tribunal; it overhauls the current system of applications to the Tribunal by giving greater access to the patient. The patient now has a right to legal representation before the Tribunal; the Tribunal now has greater powers to review the case of a patient and to order his discharge where appropriate; and there is also an obligation of the managers of the hospital to refer the case of a patient to the Tribunal.

7. Consent to Treatment: it introduces a new part which regulates the treatment for mental disorder that can be imposed on a patient by dividing it mainly into three parts, treatment which requires consent and a second opinion, treatment which requires consent or a second opinion and other forms of treatment. It introduces significant safeguards for the patient to ensure consent is of upmost importance.

8. Mental Health Board: it introduces a new independent Mental Health Board whose function is primarily to review and monitor treatment of patients and generally to represent the interests of the patient and where necessary to report back to the Minister.

There will now be a two week period for comments which will then be considered before publication as a Bill.

Speaking about the new Act, Minister for Health, Dr John Cortes, stated, "This has been long overdue. Mental patients were being treated following outdated rules. The Mental Health professionals have been advocating this for years, and I am very pleased to have chaired the multi-disciplinary working group that has arrived at this document. Nurses, psychiatrists, psychologists and mental welfare officers have all contributed to the process, and I am really grateful for their hard work. Coming within two weeks of the opening of Ocean Views and the demise of KGV, I think it shows the commitment of the Government and the GHA to transform mental health issues in Gibraltar."

The Command Paper can be accessed on the Gibraltar Laws website:
<http://www.gibraltarlaws.gov.gi/commandpapers.php>