

28th November 2008

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For the attention of:

HSE Local Health Managers;
Registered Proprietors;
Clinical Directors;
Consultant Psychiatrists;
Directors of Nursing;
Heads of Discipline;
Professional Bodies;
Staff Associations;
Service User/Advocacy Organisations;
Assistant National Director PCCC (x 4)

Re:

Reference Guide Mental Health Act 2001;
e-Learning Website;
'Train the Trainers' resource material.

The Mental Health Commission published the Reference Guide Mental Health Act 2001; e-learning website and resource material for the 'train the trainers' programme in 2006, with the aim of providing a clear and practical understanding of the major objectives and requirements of the Mental Health Act 2001. It was acknowledged that the Reference Guide and e-learning website would be of interest to service users, service user organisations, families, carers, advocates, mental health professionals and service providers and the general public.

The Mental Health Act 2001 is guided by the principle that the interests of all persons with mental disorders who are affected under the Mental Health Act 2001 are paramount. The Reference Guide, 'train the trainers' resource material and the e-learning website set out the requirements under the Mental Health Act 2001 in relation to the rights of mental health service users and the obligations placed on the service providers to ensure that such rights are promoted and upheld.

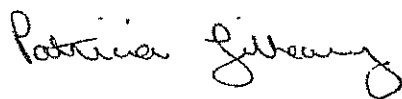
The Commission published the Reference Guide and the e-learning website as a first step in the process of developing a Code of Practice for the 2001 Act. In the absence of an explanatory memorandum at the time of publication of the Mental Health Act 2001, and case law, it was acknowledged at the outset that the emergence of case law over the coming 2-3 years would provide the Mental Health Commission with interpretation of the Act and hence enable the Commission to develop an associated Code of Practice.

In the interim, the evidence informed approach adopted by the Commission was to publish a Reference Guide to the Act and an associated e-learning website and resource material. With the emergence of case law the Commission intends to prepare and publish a Code of Practice to replace the Reference Guide.

Since 1 November 2006 statutory interpretation of the Mental Health Act 2001 has been provided by the Courts. Therefore the Commission reiterates the following:

The Reference Guide to the Mental Health Act 2001, e-learning website and 'train the trainers' resource material should not be relied on as legal interpretation of the Mental Health Act 2001. They are not intended to be a complete or authoritative statement of the law and are not intended as legal advice or advice of any type. They are a Reference Guide, e-learning website and resource material only and must be read in conjunction with the provisions of the Mental Health Acts 2001 and 2008, any regulations made there under and any other relevant legislation and case law.

Yours sincerely



Patricia Gilheaney
Director Standards and Quality Assurance