

Background note on section 13 of the Criminal Law (Insanity) Act 2006

Section 13 of the Criminal Law (Insanity) Act deals with the discharge of certain persons detained under that Act. It provides that the Mental Health (Criminal Law) Review Board (the Board) may impose conditions for out-patient treatment and/or supervision on such discharge. However, the Act does not give the Board the power to recall any patient who breaches his or her condition(s) of discharge. Thus the Board does not have any power to enforce such conditions.

As a result of concerns expressed by the Board and on foot of legal advice received by the Board, the Board has refused to discharge a number of patients who it believes to be fit for conditional discharge. This has led to a situation whereby patients detained at the Central Mental Hospital (CMH) (because they were found not guilty by reason of insanity or because they were found to be unfit to be tried on grounds of mental health problems) are not progressing through its units and moving on to rehabilitation in the community as their conditions improve. A further knock-on effect is a growing backlog of patients on the waiting list to be admitted to the Central Mental Hospital.

The individuals affected are not able to properly move on with their lives while this situation persists. Their continued detention may be in breach of their right to liberty and is clearly contrary to their right to be treated in the least restrictive environment. Most importantly this situation is likely to have a detrimental affect on their mental health and impede their recovery and full rehabilitation back into society.

We are aware that the Government has drafted legislation to deal with this issue but there has been a huge delay finalising and publishing this legislation. This month's lobby action seeks to put pressure on the Government to prioritise publication of this legislation when the Dáil reconvenes in the Autumn.