

John Moloney
Minister of State with Responsibility for Disability, Mental Health and Equality
Department of Health and Children
Hawkins House
Hawkins Street
Dublin 2

23 July 2009

RE: Amending Section 13 of the Criminal Law (Insanity) Act 2006

Dear Minister,

I am writing to you to express my concern at the Government's failure to amend Section 13 of the Criminal Law (Insanity) Act. Despite promises as far back as January 2008 to prioritise the matter, the necessary legislation not yet been introduced.

This Criminal Law (Insanity) Act 2006 deals with, among other things, the detention and release of individuals at the Central Mental Hospital. As the Act does not provide for any conditions to be placed on a resident's discharge, the Board responsible has refused to discharge a number of residents who are well enough to return to the community. A knock-on effect of this issue is that other residents of the Central Mental Hospital are being prevented from moving through its units as their conditions improve. There is also a growing waiting list for new admissions to the Central Mental Hospital.

I am very concerned about the human rights implications of this situation. Continuing to detain a person who is judged to be well enough for conditional discharge is a clear deprivation of that person's right to liberty. Furthermore, this also infringes on that person's right to the treatment in the least restrictive environment. This happens where people have no choice but to be treated in hospital where treatment in their homes and communities would be more appropriate.

This situation is distressing for the individuals concerned and has a negative impact on their recovery. It also means that places are not being freed up for others who require the specialist care provided in the Central Mental Hospital. Their rights are also negatively affected as places are not becoming available and they must remain on waiting lists for the Central Mental Hospital.

Fortunately this situation can be easily rectified by an amendment to Section 13 of the Criminal Law (Insanity) Act. It is simply a matter of the Government making this a priority once the Dáil reconvenes.

I would be grateful for a response to this letter and an indication of the urgent action that you plan to take.

Yours sincerely,