



Submission to the Independent Monitoring Group on *A Vision for Change*

19 November 2010

Introduction

Amnesty International Ireland (AI) again welcomes this opportunity to make a submission to the Independent Monitoring Group (IMG) for *A Vision for Change* (AVFC). AI is campaigning for the enjoyment of the right to the highest possible standard of mental health in Ireland.

1. Cross-departmental implementation

AI supports all of the IMG's recommendations in its Fourth Annual Report to strengthen the involvement of Government Departments beyond the Department of Health and Children in implementation of AVFC, including the extension of the remit of the Office for Disability and Mental Health (ODMH) and the development of a more structured and comprehensive process of reporting on implementation by non-health Departments. AI also supports the recommendation to 'mental health proof' all significant memoranda to Government. In Annex 1 below, AI proposes a template for reporting from the non-health Government Departments.

AI draws the IMG's attention to recent findings on the reported experience of discrimination by people with experience of mental health problems. In research conducted by Dublin City University School of Nursing among more than 300 participants, 43 per cent of participants reported having experienced unfair treatment in keeping a job and 36 per cent in finding a job. 26 per cent had experienced unfair treatment in housing, 35 per cent in education and 24 per cent in getting welfare benefits or disability pensions.¹

Recommendation: Government must address direct and indirect discrimination against people with mental health problems by adopting the specific recommendations set out in Annex 2.

AI is particularly concerned about the slow progress on mainstreaming provision for people with mental health problems in the areas of housing and employment. A year after publication of the report on long-stay residential care, there is still no agreement between the HSE and the Department of Environment, Heritage and Local Government on how to provide appropriate, mainstream housing and housing support for people who are inappropriately placed in HSE-funded long-stay accommodation. Neither has agreement been reached between FÁS and the HSE on the provision of longer-term employment support for people with mental health problems.

¹ Dublin City University (2010) Hear my voice: the experience of discrimination of people with mental health problems in Ireland, available at http://www.amnesty.ie/sites/default/files/file/MentalHealth/DCU_REPORT.pdf

Recommendation: Government must agree responsibility for providing supports to people with mental health problems for housing and employment in order that the human rights of people with mental health problems to an adequate income, employment opportunities, housing and the right to live independently in the community are fulfilled.

2. The need for a statutory framework for delivery of comprehensive and community-based services

AI continues to be concerned about the lack of a statutory framework for implementation of AVFC. Law to date has focused on involuntary treatment and detention and has not been used as a means of driving policy and improving accountability for how mental health services are delivered. Since AI's last submission the evidence for progress on developing community-based mental health services has been mostly dissatisfactory. Given the loss of 700 staff from the mental health services in 2009², it is little surprise that the 2009 Inspector of Mental Health Services' report found no improvement in the development of community-based mental health services with the appropriate skill mix. The staffing numbers set out in AVFC were recommended by the Expert Group on the basis of international good practice and national consensus as to what would be required to deliver the services. The Government's announcement of €50 million capital funding for 2010 was welcome, however just €15 million of this funding has been spent so far.³ New acute facilities for children in Galway and Cork are also welcome, but evidence is lacking for progress on the development of fully-staffed Child and Adolescent Community Mental Health Teams (CMHTs) and 120 children and adolescents were admitted to adult units in the first nine months of 2010, including thirteen children under 16 years of age.⁴ The IMG's own finding that in 2009 there was no progress on any of the recommendations of AVFC relating to mental health services for people with intellectual disabilities or a National Eating Disorder Service is also of concern. Under international human rights law vulnerable groups such as people with an intellectual disability should be prioritised.⁵ However, the reverse seems to be happening in the HSE's implementation of AVFC.

There is also an urgent need to strengthen the framework for financial accountability in mental health services and the legislation recommended by AI to underpin implementation of AVFC can play an important role in bringing this about. A report prepared by Indecon International Economic Consultants in 2010 found that inconsistency between published Government and HSE information on mental health expenditure makes it difficult to track expenditure and that the figures presented in the HSE Service Plans for 2009 and 2010 make analysis of budgeted expenditure for mental health services in recent years difficult.⁶

It is clear that the current policy-driven efforts to drive implementation have not been adequate. In the current economic climate, it is even more urgent that the HSE be placed under a statutory obligation to prioritise reconfiguring services towards the community, given the propensity for services to retreat into the hospital setting in times of cost-cutting.

² Independent Monitoring Group (2010) '*A Vision for Change – the Report of the Expert Group on Mental Health Policy: Fourth Annual Report on implementation 2009*', p.42.

³ Statement in the Seanad by John Moloney, Minister of State for Disability and Mental Health on 10 November 2010.

⁴ Irish Times 11 November 2010 'Inquiry into Children Sent to HSE Adult Units' available at <http://www.irishtimes.com/newspaper/ireland/2010/1108/1224282866136.html>

⁵ Article 2 International Covenant on Economic Social and Cultural Rights and Article 2 International Covenant on Civil and Political Rights.

⁶ Indecon (2010) *Accountability in the Delivery of A Vision for Change – A Performance Assessment Framework for Mental Health Services*. Dublin: Amnesty International Ireland.

Recommendation: Government should publish legislation to underpin implementation of comprehensive and community-based mental health services. This should include a statutory obligation on the HSE to publish an appropriate implementation plan for AVFC and to provide comprehensive and community-based mental health services in line with that plan to the maximum of available resources. Such statutory measures also need to demand greater transparency and accountability from the HSE for expenditure on mental health through detailed annual reporting. AI has produced a discussion paper that makes specific proposals on the content of such legislation (see summary in Annex 3).

Recommendation: The DOHC and HSE together should develop a framework of Key Performance Indicators to facilitate the ongoing monitoring of funding, progress on implementation of *A Vision for Change* and outcomes of mental health service delivery, taking into account the indicators recommended by Indecon.⁷

Recommendation: The Government must commit to funding mental health reform to the maximum of its available resources. The recommended staffing requirements set out in AVFC must be realised progressively.

Conclusion

AI asks the IMG to adopt the above recommendations and thereby support the realization of the right to the highest attainable standard of mental health in Ireland. AI is available at any time to provide further information in relation to these recommendations.

⁷ Indecon, op. cit.

Annex 1: Proposed Cross-Departmental AVFC Reporting Template (excluding DOHC)

Department: **Lead Senior Official for AVFC:**

Outcome Indicators:

[Outcome indicators should be agreed in consultation with stakeholders. The Towards 2016 high-level goals for people with disabilities and the NDA’s work on outcome indicators for the National Disability Strategy are a starting point.]

Example for the Dept. of Social Protection [from the NDA’s draft Outcome Indicators]:

- 18-64 year olds with a mental health problem at work – Principal Economic Status
- 18-64 year olds with a mental health problem not economically active
- Aged 16+ with a mental health problem at risk of poverty
- Aged 16+ with a mental health problem in consistent poverty

AVFC Recommendation: All citizens should be treated equally
Implementation:
<p>Mainstream implementation programmes: [mainstream activities of the Department which may be benefiting people with mental health problems, including nos. of people with mental health problems participating, long-term targets, annual milestones and KPIs for people with mental health problems.]</p> <p>Mental health-specific implementation measures: [The Department should identify indirect discrimination against people with mental health problems that may be occurring as a consequence of the application of laws and policies that fall within the Dept.’s responsibility.]</p> <p>[In addition, the Department should detail mental health-specific programmes, including nos. of people with mental health problems participating, budget, target, timeframe, annual milestones, KPI’s.]</p>
AVFC Recommendation: [recommendations relevant to the Dept. or on which the Dept. will lead]
Implementation:
<p>Mainstream implementation programmes: [mainstream activities of the Department which may be benefiting people with mental health problems, including nos. of people with mental health problems participating, long-term targets, annual milestones and KPIs for people with mental health problems.]</p> <p>Mental health-specific implementation measures: [Detail mental health-specific programmes, including nos. of people with mental health problems participating, budget, target, timeframe, annual milestones, KPI’s.]</p>
AVFC Recommendation:
Implementation:

Annex 2: Specific Cross-Departmental Recommendations

The findings of the DCU study that AI commissioned underscore the need for action to implement the social inclusion recommendations from AVFC across Government departments.

In Ireland there is no clear evidence of overt discrimination by the State. Of equal concern however is the hidden, indirect discrimination where people with mental health problems experience social exclusion and prejudice in accessing rights such as employment, education, social welfare and justice. In order for Ireland to ratify the United Nations Convention on the Rights of Persons with Disabilities it must ensure policies are in compliance with Article 31 that outlines the prohibition of discrimination. Article 31 requires States Parties to “collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention”; and to ensure that this information is “disaggregated, as appropriate, and used to help assess the implementation of States Parties’ obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights”. This highlights the need for better collection and analysis by all departments of information on the potentially discriminatory effects of their laws and policies. States must appropriately deal with indirect discrimination, even if it is happening unintentionally.

1. Ireland should ratify and implement Protocol 12 to the European Convention on Human Rights, on the general prohibition of discrimination.
2. Ireland should ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol without further delay. It should establish mechanisms to ensure that people with disabilities, including mental health problems, have the opportunity to participate in developing, implementing and monitoring anti-discrimination measures and monitoring Ireland’s compliance with its obligations under the treaty.
3. Each relevant Government Department should set out specific commitments and develop plans of action to implement the social inclusion recommendations in *A Vision for Change* which are relevant to their work.
4. Government Departments should identify indirect discrimination against people with mental health problems that may be occurring as a consequence of the application of laws and policies that fall within their responsibility and monitor the impact of measures to address discrimination.
5. Government Departments should develop and implement specialised education programmes targeted at key state agencies under their authority to improve attitudes and conduct of officials.
6. The Equality Authority should collect, analyse and disseminate information on the prevalence and nature of discrimination against people with mental health problems. It should advise state agencies that all data-gathering and monitoring on discrimination against people with disabilities should be further disaggregated on the basis of mental health status or disability.
7. The Equality Authority should identify and eliminate the barriers experienced by people with mental health problems in achieving equality and equal opportunity, and exercising their rights under Irish equality legislation to challenge discrimination and seek redress.
8. The Department of Community, Equality and Gaeltacht Affairs should support and resource the Equality Authority in the implementation of the above recommendation.
9. The Office for Mental Health and Disability should adopt immediate, effective and appropriate measures to combat prejudice and raise awareness of the impact of discrimination. To this end it should:
 - Commit to prolonged participation in and funding for the See Change campaign, while also adopting a long-term public education strategy with appropriate

- resources, targets and indicators for improving attitudes and behaviours;
 - In partnership with the Department of Education and Skills, provide education and awareness raising on mental health, including issues of prejudice and discrimination, to young people, including within school settings;
 - Ensure that people with mental health problems are involved in the design, delivery and monitoring of anti-discrimination measures; and
 - Conduct continual regular research within civil society and state agencies into attitudes towards people with mental health problems. Research cycles should be designed so that attitudinal change over time can be measured and programmes to reduce prejudice and improve attitudes can be evaluated for their effectiveness.
10. The Department of Environment, Heritage and Local Government should ensure that the housing strategy mental health actions are implemented with timelines and ensure that people with mental health-related housing needs can avail of the housing allocated under Local Authority housing schemes without discrimination and in accordance with their needs.
11. The Department of Education and Skills should take steps to ensure schools and early years settings engage in mental health promotion and provide early supportive intervention by:⁸
- Extending the existing Social Personal Health Education (SPHE) Support Service. The service should have a specific role in supporting teachers by providing training on mental health and how to appropriately respond to students who are presenting difficulties, including making appropriate supportive interventions. This extended service should develop recommendations for schools on effective mental health promotion in consultation with stakeholders, including children and young people.
 - Ensuring that SPHE has a dedicated and mainstreamed focus on mental health and well-being for students in every school year. This should be delivered to all students in every school year. Some schools are delivering this but the focus on 'emotional well-being' needs to be strengthened to have a dedicated mental health promotion focus.
 - Developing guidelines for schools on mental health. The guidelines should provide clear procedures on how teachers can raise concerns about individual students' mental health difficulties, along the lines of the *Children First* guidelines. A designated member of staff should have responsibility, based upon reasonable judgement, for raising such concerns to the appropriate agency, parent or family member. Training should be provided for this designated liaison person.
 - Using the National Educational Psychological Service (NEPS) more effectively. NEPS is a key cross departmental initiative, and so it is essential that the Government addresses ambiguities about appropriate referral to, and the role of, NEPS, including as a point of referral to children's mental health services.
12. The Department of Enterprise, Trade and Innovation and the Department of Health and Children should ensure that the Comprehensive Employment Strategy for People with disabilities has a specific strand on mental health.

⁸ The Department of Education and Skills recommendations are supported by the 42 organizations that make up the Children's Mental Health Coalition.

13. The Department of Social Protection should ensure that when it introduces partial capacity benefit, it respects and fulfils the rights of people with partial employment capacity due to a mental health concern.
14. The Department of Justice and Law Reform should identify and train a Senior Garda in each Garda division to act as a resource and liaison mental health officer.
15. The Department of Arts, Sport and Tourism should ensure that people with experience of a mental health problem are encouraged to participate in their programmes.

Annex 3: Law as a means of driving policy and improving accountability for how mental health services are delivered

AI is of the view that the reform programme envisaged by AVFC can be underpinned and accountability for mental health services and expenditure can be improved:

- by placing a statutory obligation on the HSE (by way of an amendment to the Health Act 2004 and the adoption of statutory regulations):
 - to prepare and publish a detailed, time-bound implementation plan for the closure of unsuitable facilities *and* the development and ongoing provision of comprehensive and community-based mental health services in line with *A Vision for Change*. ;
 - to provide comprehensive and community-based mental health services including the specialist services identified in *A Vision for Change* in line with the detailed plan and to the maximum of available resources; and
 - to report annually by catchment area and service area to the Oireachtas and the Independent Monitoring Group on progress towards the implementation of its plan and expenditure of allocated funding and to publish this report;

Accompanying statutory regulations should stipulate the level of detail required to be included in the implementation plan and annual report to avoid adoption of an inadequate plan and inadequate reporting.

- by providing for consistency between the mental health reform programme and the HSE annual service plan (by way of an amendment to section 31(3) of the Health Act 2004);
- by providing for a breakdown of the estimate of income and expenditure within the annual service plan by care programme (including mental health) (by way of an amendment to section 31(12) of the Health Act 2004);⁹
- by enshrining principles in statutory regulations to guide the planning and delivery of mental health services. These include:

⁹ A significant problem highlighted by the two reports by Indecon International Economic Consultants (commissioned by AI and published in Sept 2009 and May 2010) the inconsistencies in reported expenditure on mental health as between the HSE National Service Plans for 2009 and 2010 and the Revised Estimates 2010. In 2008, the Report of the Working Group on the study of certain accounting issues related to the Health Service Executive (the Considine Report) concluded that “there is a need for the Estimated Statement of Income and Expenditure, required under Section 31(12) of the Health Act, 2004, submitted to the Minister for Health and Children with the annual service plan to relate the total gross Vote to the key outputs included in the plan specified by care programme” (page 14). The Considine Report recommended *inter alia* that “the form of the estimated Income and expenditure statement required by Section 31 (12) of the Health Act, 2004...should be specified by the Minister for Health and Children under Section 10 of the Health Act, 2004”. However, it is not clear whether the Minister issued such specific directions to the HSE and there continues to be a lack of consistency between the HSE Service Plan and the Vote vis-à-vis expenditure on individual care programmes (the National Service Plan for 2010 showed a budget for 2010 of €734 million whereas the Vote as per the Revised Estimates 2010 gives a figure of €976.964 million for 2010 estimated expenditure on mental health). This proposed amendment demands greater transparency and consistency for funding as between different care programmes within the HSE budget as between the National Service Plan and the Vote.

- the principle that services and supports should be designed in such a way as to enable people to enjoy their right to live in the community and participate in community life and to prevent social exclusion and isolation;
- that persons be able to access the appropriate range of treatments and supports suited to their needs in the least restrictive environment appropriate;
- that the mental health services be designed in a way that promotes and underpins the recovery ethos; and
- that service user participation be a core element of service planning and delivery. This is covered to some extent in Part 4 of the Health Act 2004. Moreover, the establishment of the National Service User Executive (NSUE) is a welcome step in ensuring the involvement of service users in service planning and delivery;
- by extending the scope of Part 5 of the Mental Health Act 2001 so that the system of registration and approval of mental health services by the Mental Health Commission also applies to community-based services; and
- by requiring the periodic inspection of community-based mental health services (in addition to in-patient services) by amending section 51 of the 2001 Act (functions of the Inspector).

For more details please see AI's discussion paper, which is available at: <http://amnesty.ie/reports/legislating-change-accountability-and-reform-our-mental-health-services>