

Issue Brief: Mental Health Act Consultation Results

3 May 2018

CONTEXT

A Consultation paper was produced and published 07 February 2018 for proposed amendments to the Mental Health Act. This paper was the result of a Working Group of stakeholders, under the guidance of a Steering Committee to address the deficiencies of the legislation. The Mental Health Act was last amended almost 20 years ago and requires a complete review. However due to the amount of time this would require a phased approach was decided upon to ensure more immediate solutions to pressing challenges. The amendments proposed address:

1. Role of the Nearest Relative for patient admission
2. Establishment of Community Treatment Orders
3. Ensuring Consent to Treatment is obtained
4. Requirements to define and determine Mental Capacity

Consultation Process & Results

The Consultation period ran for 3 weeks closing on 28th February 2018. Outreach targeted key stakeholders as well as general press coverage to ensure awareness and obtain feedback on the proposals.

Submissions were received from :

- Bermuda Health Council;
- Disability Advisory Council;
- Bermuda Psychologists Registration Council
- One member of the general public.

Overall there were no objections to the proposed amendments. The feedback provided important considerations for implementation and recommendations beyond the scope of Phase 1 (see Summary of Responses).

NEXT STEPS

- Pursue legislative amendments.
- Establish Code of Practice for nearest relative.

Summary of Responses:

1. Nearest Relative

- Human rights and the best interest of patients must be at the forefront.
- Deprivation of liberty safeguards and formal advocates should be considered.
- Education of professionals and families on the role of the Nearest Relative is required.

2. Community Treatment Orders

- A comprehensive community support system is required for success.
- Safeguards must ensure extensions are not abused.

3. Consent to Treatment

- Independent second opinions may result in treatment delays if limited access to resources
- Legislation should address consent from minors.
- A mental capacity and consent framework is required with standardized decision-making assessment tools.

4. Mental Capacity

- Define who will be qualified to (a) conduct capacity assessments (b) make decisions on behalf of those who lack capacity.
- Set time parameters for mental capacity assessments.
- Mental Capacity proposal should be expanded beyond Mental Health.

Other Recommendations:

- Include mental health service users in policy development.
- Enable Clinical and/or Forensic Psychologists to assist with managing the implementation of the proposed amendments in relation to the Nearest Relative, Community Treatment Orders and Mental Capacity.