

Tomas Adell
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Department of Health
Room D4.26
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Dear Tomas

Thank you for the opportunity to respond to the consultation on the modifications to the Mental Health (Northern Ireland) Order 1986 and the Mental Capacity Act (Northern Ireland) 2016 resulting from the UK Government's emergency legislation in response to the coronavirus pandemic.

Given the existing shortage of Approved Social Workers (ASW) across the Health and Social Care Trusts and the anticipated impacts on the social work workforce during the COVID-19 crisis, the British Association of Social Workers Northern Ireland (BASW NI) accepts as necessary, the proposed changes to both pieces of legislation to enable *relevant social workers* to fulfil the functions currently performed by ASWs. We would however urge that every possible action is taken to avoid relinquishing the ASW role.

In terms of emergency workforce planning we would support the recruitment of independent social workers who were previously ASWs or those whose ASW status has recently lapsed. BASW NI has many members who are qualified ASWs but have left frontline practice and with updated training could be available for work. Social workers who have the additional role of ASW currently work on a rota basis for their ASW role—has consideration been given to them being released from their substantive roles during this crisis to focus exclusively on ASW work?

BASW NI understands the Health and Social Care Trusts are currently undertaking work to identify social workers who fall within the relevant social worker category. We request urgent clarification of what the criteria will be—i.e. will it be limited to Social Workers who have 5 years' experience in the last 10 working with people who lack capacity?

BASW NI highlights that the right to liberty and self-determination is a fundamental human right. Even in times of acute civic emergency these rights must be protected and safeguarded, it is therefore vital that any professionals engaging in this work have

suitable training. We already know that newly qualified ASWs need considerable guidance and support after completing 18 months training. As such it is vital that social workers managing the most complex of tasks are provided with robust training and crystal-clear guidance. BASW NI would welcome details in terms of the proposed implementation plan.

The right of professionals to hold someone against their will under mental health legislation must only ever be for the shortest time possible and BASW NI is concerned by the extension of doctors holding powers from 12 hours to 120 hours—this could leave people subject to significant breaches of their human rights without scrutiny or review for an unacceptably long time.

In terms of the duration of emergency measures BASW accept that time scales for review will inevitably have to change and welcome that this will only be the case for the shortest period of time possible. We would ask that ideally a 3-month limit (maximum 6 month) is set for review of such measures, and included in the amendments, rather than the open-ended time scale that is proposed.

Significant responsibility is conferred on ASWs and individuals in these posts undergo extensive training. BASW NI is of the view that further information is required concerning what training the Department of Health (the Department) intends to provide to social workers who meet the relevant social worker criteria. The following points must be considered by the Department before the new roles commence:

- Given the large number of social workers who will fall within this category, will training be provided to all relevant social workers?
- How will delivery of training be facilitated during the current health crisis?
- If training is delivered on a phased approach, will only those relevant social workers who have received training be able to provide consultation in relation to authorisation of short-term detentions?
- Will additional training be provided for relevant medical practitioners operating under the modified Mental Health (Northern Ireland) Order 1986?
- All practitioners must be provided an updated copy of the legislation and Codes of Practice.
- BASW has previously called for guidance for all Social Workers to supplement the Codes and as this new and complex legislation is now being amended, detailed guidance is now more necessary than ever.

BASW NI also believes a simplified process would be helpful in cases where there is no identified nominated person for individuals subject to detention under the Mental Capacity Act (Northern Ireland) 2016. As it stands, these cases can be delayed as a result of the current method of nomination via the review tribunal.

Currently in cross-boundary detentions regional policy indicates that an ASW from the home HSC Trust travels to complete the assessment. It would be unwise to insist on continuing this practice in the current situation and there is a need for a regional agreement to relax the existing policy. BASW NI suggests a strategic-level decision should be taken that enables ASWs to work across all HSC Trusts. Individual approval by each HSC Trust should not be required, but a regional agreement which gives that authority and will also permit trusts to share resources if need be.

One current issue for ASWs in practice is that they are facing resistance at the point of admission. ASW's are experiencing high levels of professional disrespect in the process of doing their job from colleagues working in other professions. ASWs report having their decisions challenged even though they are made jointly with a medical practitioner. While it is no surprise that pressure created as a result of a limited supply of beds can have a negative impact on everyone involved, not least the patient, attitudes toward ASWs have at times been hostile. This is not acceptable.

BASW NI recommends that all professionals working across the HSC are directed to work to the following guidance <https://www.gov.uk/government/publications/covid-19-ethical-framework-for-adult-social-care/responding-to-covid-19-the-ethical-framework-for-adult-social-care>

Regionally, social workers who are paid at the Agenda for Change (AFC) band 6 pay scale are automatically upgraded to AFC band 7 when taking on the increased responsibilities of the ASW role. It is expected that many of the relevant social workers who will be identified by the scoping exercises currently being conducted by the HSC Trusts are employed on the AFC band 6 pay scale. BASW NI believes consideration must be given to ensure AFC Band 6 relevant social workers who step into the new role are appropriately remunerated for the work undertaken.

Personal Protective Equipment (PPE) must be made available to social workers. BASW NI has been informed by members that social workers are being expected to work in situations where they do not have access to PPE when all other professionals do. This is objectionable and places social workers at unacceptable levels of risk. Social workers must be treated with the same priority as other health professionals.

BASW NI is committed to working in partnership with the Department to ensure the interests of all individuals receiving health and social care services are upheld throughout the unfolding COVID-19 pandemic.

Yours sincerely



CAROLYN EWART
National Director, BASW NI