Report of Health Service Executive Service Forum on Child & Adolescent Psychiatric In-Patient Capacity

Report 2 of 2

October 2006

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Section 1 CONTEXT

1.1 Background

The HSE Forum on Child and Adolescent Psychiatric In-Patient Capacity was established in March 2006, with the following Terms of Reference:

- To explore options capable of creating immediate additional capacity for the provision on a regional basis of in-patient facilities for children and adolescents who require involuntary admission under Section 25 of the Mental Health Act 2001.

- To identify the most appropriate, integrated and cost efficient models which can provide HSE with readily accessible quality service settings for the client group

- To make proposals to the Mental Health Directorate of the HSE on options to be pursued to ensure interim arrangements at commencement of the remaining sections of the Mental Health Act 2001.

The Forum published a report on the provision of interim additional in-patient capacity for children and adolescents with mental illness. It also made recommendations that will progress the transition of 16/17 year olds into the care of Child and Adolescent Teams within a tiered implementation process and, in this regard, recommended that the status quo remain in terms of arrangements for the admission of 16/17 year olds until such time as the additional beds/teams are in place:

> *" the continuation of current arrangements as outlined at Section 3.3.1 of this Report must be maintained. These include Public Sector in-patient access (3.3.2), Private Sector in-patient access (3.3.3), Acute Adult Psychiatric in-patient access (3.3.4) and Paediatric and General Ward in-patient access (3.3.5)"* (Report 1 of 2, HSE Forum on Child and Adolescent Psychiatric In-Patient Capacity).

During the course of its work on Report 1 of 2, it became apparent to the Forum that a Second Report was needed to include Operational Guidelines to support the implementation of the Mental Health Act 2001 for Child and Adolescent Psychiatric Services and the interface with Adult Mental Health Services.

The Forum continued to meet under the Chairmanship of Mr. Dave Drohan and completed its work with the publication of the second Report which deals with Operational Guidelines, Report 2 of 2.

1.2 Approach

The First Report of the HSE Forum on Child and Adolescent Psychiatric In-Patient Capacity addressed the task of:

"A *The identification of interim additional in-patient capacity, on a regional basis, which can be developed in the immediate future for children and adolescents who require involuntary admission under Section 25 of the Mental Health Act 2001."*

The second and final report deals with the task of:

"B *The development of detailed Operational Guidelines to ensure the smooth operation of sections of the Mental Health Act 2001, particularly those around involuntary admission of children to in-patient care."* (Report 1 of 2, Section 1.3, Page 5)

The Forum, during the course of its work on Report 2 of 2, consulted with the Mental Health Commission to ensure clarity for service providers in relation to the following documents:

- The Mental Health Act 2001
- Mental Health Commission Reference Guide to Mental Health Act Part 2
- Mental Health Commission Code of Practice Relating to Admission of Children under the Mental Health Act 2001.
- Mental Health Commission Code of Practice on the Use of Physical Restraint in Approved Centres.
- Mental Health Commission Rules Governing the Use of Electro-Convulsive Therapy.
- Mental Health Commission Rules Governing the Use of Seclusion and Mechanical Means of Bodily Restraint.

The Forum's Report 2 of 2 makes reference to these documents to provide clarity for service providers and must be read in conjunction with these documents and with the First Report of the Forum.

Section 2 Operational Guidelines for children detained under Section 184 or 185 of the Mental Treatment Act 1945 at midnight on 31st October 2006

2.1 Transitional Provisions under Mental Health Act 2001 – Mental Health Commission Circular Ref. No. MHC/TRIB/19/10/2006

The Mental Health Commission produced a circular titled *Transitional provisions for persons (Adults and Children) detained under the Mental Treatment Act 1945 on Commencement of the remaining parts of the Mental Health Act 2001 from midnight 31st October 2006.* Paragraph 10 of that Circular makes the transitional provision for detained children as follows:

"Section 2 of the Mental Health Act 2001 defines 'child'' as a person under the age of 18 years other than a person who is or has been married. Section 25 of the Mental Health Act 2001 provides new procedures for the involuntary admission of a child and these must be adhered to by centres from 1st November 2006.

In the case of a child who stood detained under section 184 or 185 of the Mental Treatment Act 1945 (temporary order), at midnight on 31st October 2006, his or her treatment and detention shall be regarded as authorised by virtue of the Mental Health Act 2001 until the expiration of the period during which he or she may be detained pursuant to the said section 184 or 185 as may be appropriate. Centres where a child stands detained under section 184 or 185 of the Mental Treatment Act 1945 (temporary order), at midnight on 31st October 2006 should notify the HSE to commence proceedings under Section 25 of the Mental Health Act 2001 for the involuntary admission of the child from 1st November 2006.

If it is considered that continued detention of the child in question, after expiry of the period for which he or she may be detained pursuant to these transitional provisions, is required, a court order to that effect must be obtained through the procedure outlined in Section 25 of the 2001 Act.

It should be noted that the power under section 28 of the 2001 Act of a Consultant Psychiatrist to discharge a patient where he or she becomes of the opinion that that patient no longer suffers from a mental disorder does not apply to children".

2.2 HSE Child and Adolescent Psychiatric In-Patient Capacity Forum Recommendations to Operationalise Transitional provisions outlined at 2.1

i. The Forum recommends that the Mental Health Act Administrators (Grade V), who are assigned to the Approved Centres, identify children detained under Sections 184 185 of the Mental Treatment Act 1945 where they are currently resident within the Approved Centres.

ii. Subsequently, an assessment (report) by the Clinical Director (or named Psychiatrist) should be submitted to the District Court for judicial decision under Section 25 of the Mental Health Act 2001.

iii. The Mental Health Act Administrators (Grade V) should contact the HSE legal advisers with a view to processing these applications.

iv. (A process exists in the area of Child Protection Services which could be used and built on if necessary. (See Appendix 2)

v. If the Court is satisfied that the child has a mental disorder, it shall make an order for treatment in a specified Approved Centre for a period of up to 21 days.

2.3 Notification Form to Mental Health Commission

- A Notification Form for those detained should be completed and submitted to the Mental Health Commission to comply with their Code of Practice Relating to the Admission of Children under the Mental Health Act 2001 to Approved Centres for Adults.

Section 3 ADMISSION TO APPROVED CENTRE

3.1 Introduction

Issues addressed in this Section 3 relate to those outlined in the Mental Health Commission Code of Practice Relating to Admission of Children under the Mental Health Act 2001 and the Reference Guide, Mental Health Act, 2001.

i. Under the Mental Health Act 2001, a child is defined as a ' person under the age of 18 years other than a person who is or has been married'.

ii. "*unlike applications for an adult, which are made to a registered medical practitioner, applications in relation to a child must be made to a District Court"* The Mental Health Commission Reference Guide, Mental Health Act, 2001, Part Two – Children.

iii. Unlike the situation for adults, where Form 2 - Application (to a Registered Medical Practitioner) by Authorised Officer for a Recommendation for Involuntary Admission of an Adult (to an Approved Centre) - is used, there is no specific application form to be completed for a child.

For a child to be admitted involuntarily, an examination by a Consultant Psychiatrist must be carried out where parental consent exists and an application to the District Court for detention must be made.

Where consent does not exist, the application to the District Court is for an order authorising the examination of a child.

In the following Section (3.2), the Forum has offered additional information to supplement the Mental Health Commission guidelines on the HSE position on specific areas where children are admitted, both voluntarily and involuntarily, to Approved Centres for adults. There is a requirement that service providers use this document in conjunction with those set out on Page 5 of this document (1.2), specifically in this case the relevant Code of Practice relating to children.

The Mental Health Commission Code of Practice Relating to Admission of Children under the Mental Health Act 2001 states:

1.12 (Page 11): "The code must be read taking into account that the best interests of the child shall be the principal and overarching consideration."

3.2 Children admitted to Approved Centres for Adults

In this section, the Mental Health Commission Code of Practice Relating to Admission of Children under the Mental Health Act 2001 is used.

2.5 (Page 12): ***"****If approved centres for adults are used of necessity….",* the Mental Health Commission gives guidelines that should apply (Section 2.5 (a) to (m)). Many of these issues have been identified in Report 1 of 2 of the HSE Forum on Child and Adolescent Psychiatric In-Patient Capacity.

In relation to specific guideline issues, the Forum recommended the following in addition to the Mental Health Commission guideline (set out in italics):

a) "The approved centre should have policies and protocols in place relating to the admission of a child". (Section 2.5)

The Forum also recommends that an information leaflet for family / user on the pertinent issues relating to care, treatment, physical environment and also referring to the Mental Health Act 2001, e.g. Sections 23 and 25, voluntary and involuntary admissions, and the rights of the child and parent under the Act.

e) "Staff should receive training relating to the care of children". (Section 2.5)

The Forum recommended that this training be organised regionally and suggests using the Child Care Services modules, commencing with the existing half-day module for Children First Guidelines.

g) "These children should have access to age-appropriate advocacy services". (Section 2.5)

The Forum sought information from the Ombudsman for Children's Office in relation to any existing modules for groups with a disability which includes children with a mental illness. At present, they are developing a participatory model.

In the transition phase, local services should be mindful of this lack of age appropriate advocacy services and make provision, in the centre's policy and in its information leaflet, to identify how the child will have his/her views heard.

j) "Advice from the Child and Adolescent Mental Health Service should be available, when necessary, to the approved centre". (Section 2.5)

The Forum has set out in its First Report the recommended number of Child and Adolescent Teams to be put in place over the next 5 years. It continues in this

document (Section 5) to outline the operational guidelines these Teams should provide in the transition phase.

m) *"The Commission should be notified of all children admitted to approved centres for adults within 24 hours of admission by using the associated Notification Form (see Forms, p26 (*MHC Code of Practice relating to the Admission of Children *)). Procedures should be in place to identify the person responsible for notifying the Commission"* (Section 2.5)

The Forum notes the requirement to have the Notification Form ADMC 1 Clinical Practice Form completed within 24 hours and returned to the Mental Health Commission. The Forum further recommends that this procedure be processed as part of the admission process by the Mental Health Act Administrator (Grade V).

3.3 Voluntary Admission of a Child

In this section, the Mental Health Commission Code of Practice Relating to Admission of Children under the Mental Health Act 2001 is used.

The HSE is awaiting legal advice on the following:

2.7 (Page 13): "*When in-patient care and treatment is indicated, the majority of children will receive such care and treatment in an approved centre with the consent of their parent(s). The legal status of the child is that of a voluntary patient, as defined in Section 2 of the Act"*

2.8 (Page 13): "…. in order for treatment to be administered to a child who is a voluntary patient, an effective consent must have been obtained on the child's behalf from one or both parents

2.9 (Page 14): "The definition of a child in the Act raises an issue which arises in relation to children aged 16 and 17 years in the context of Section 23 of the Non-Fatal Offences Against the Person Act 1997 (Section 23 NFOAP Act 1997) which provides at Section 23(1) "'the consent of a minor who has attained the age of 16 years to any surgical, medical or dental treatment which, in the absence of consent, would constitute a trespass to his or her person, shall be as effective as if it would be if he or she were of full age; and where a minor has by virtue of this Section given an effective consent to any treatment it shall not be necessary to obtain any consent for it from his or her parent(s) or guardian". Section 23(2) NFOAP Act 1997 provides that treatment includes any diagnostic procedure and any procedure ancillary to that treatment".

2.12 (Page 14): *"The present position, therefore, is that the Commission cannot advise mental health professionals to operate on the assumption that Section 23 NFOAP Act 1997 means that the consent of children aged 16 and 17 is effective to permit treatment under the Act"*.

Staff working in the Mental Health service should be familiar with all sections 2.9 to 2.14, Pages 14 -15 in the Code of Practice Relating to the Admission of Children under the Mental Health Act 2001.

In the situation of a voluntary admission of a child, no specific consent form is recommended by the Mental Health Act 2001. The Forum recommends that a parental consent form should be considered by the HSE when reviewing the implementation of the progress of the Act. Cognisance to be taken of 3.1 – 3.7 as set out in the Mental Health Commission Code of Practice Relating to Admission of Children under the Mental Health Act 2001.

3.4 Voluntary Admission to Involuntary Admission

In this section, the Mental Health Commission Reference Guide, Mental Health Act, 2001, Part Two – Children is used.

As is stated in the First Report of the HSE Forum on Child and Adolescent Psychiatric In-Patient Capacity (Page 24), the numbers of involuntary admissions of children aged 16/17 years are relatively small and in 2004, at 34, working out at just over one a year per Local Health Office (LHO).

Table 2.9 (*HSE Forum on Child and Adolescent Psychiatric In-Patient Capacity Report 1 of 2*): Admissions of children aged under 18 years by legal category. 2002 to 2004. Numbers and percentages

Legal category	**2002**	**%**	**2003**	**%**	**2004**	**%**
Voluntary	401	88.7	356	90.6	318	90.3
Non-voluntary	51	11.3	37	9.4	34	9.7
Total	**452**	**100.0**	**393**	**100.0**	**352**	**100.0**

Source: Health Research Board

The Mental Health Commission Reference Guide, Mental Health Act, 2001, Part Two – Children states:

"The majority of children requiring in-patient treatment for a mental illness or a mental disorder will be admitted at the request of their parent(s)/guardian(s). The Mental Health Commission is of the view that a minority of children will be admitted involuntarily and in such instances the procedures outlined in either section 4.2.2 or 4.2.3 below will apply." (4.2.1)

Section 4.2.2 of the Reference Guide is addressed at 3.4.1 of this document.

Section 4.2.3 of the Reference Guide is addressed at 3.4.2 of this document.

Notwithstanding the small number of cases annually, "*unlike applications for an adult, which are made to a registered medical practitioner, applications in relation to a child must be made to a District Court"* (4.2.3)

3.4.1 Section 23 Guideline - Power to prevent a child being treated as a voluntary patient from leaving an Approved Centre

In this section, the Mental Health Commission Reference Guide, Mental Health Act, 2001, Part Two – Children is used.

The Diagram as set out in 4.2.2 of the Reference Guide (Appendix 6) describes the procedure to be followed when the parents of a child who is being treated in an Approved Centre as a voluntary patient, or either of them, or a person acting in *loco parentis* indicates that he or she wishes to remove the child from the Approved Centre

3.4.1.(1) Court Assessment / Report

i. Under Section 23 of the Mental Health Act 2001, the child may be detained in the Approved Centre if, in the opinion of a Consultant Psychiatrist, registered medical practitioner or registered nurse on staff of the Approved Centre, he/she is suffering from a mental disorder.

ii. The treating Consultant Psychiatrist must complete an assessment and determine whether the child should be returned to the care of his parents or proceed to make an application under Section 25 at the next sitting of the District Court held in the same district court district or, in the event that the next such sitting is not due to be held within 3 days of the date on which the child is placed in the custody of the HSE, at a sitting of the District Court, which has been specially arranged, held within the said 3 days, and the HSE shall retain custody of the child pending the hearing of that application.

iii. A report of the assessment by the Consultant Psychiatrist must be made available in order to proceed with the application to the District Court.

The Forum has set out a Draft Template at Appendix 8 which may be helpful in completing this report.

3.4.1.(2) Application Process

i. The application to the District Court must be made within 3 days of the child being detained in the Approved Centre following removal of parental consent for admission

ii. The process to support this structure operationally revolves around the Mental Health Act Administrator (Grade V) liaising with the HSE legal adviser.

In the event that child protection / welfare concerns are identified during the preparation of the court report, a nominated member of the mental health team should process this through the Child Protection and Welfare Services of the HSE. The Social Worker in psychiatry is the most appropriate person but, in the absence of this grade on the team, an agreed person should be nominated.

The Forum recommends that this process / relationship be reviewed with more involvement of the multidisciplinary team members and their role is supporting the 'best interest of the child' concept. The implementation of the Mental Health Act 2001, Part 2, requires a whole team approach with consultation and additional training where identified.

3.4.1.(3) District Court Powers

i. Having considered the report of the Consultant Psychiatrist, the Court being satisfied that the child is suffering from a mental disorder, shall make an order under Section 25 of the Mental Health Act 2001 that the child be admitted and detained for treatment in a specified Approved Centre for a period not exceeding 21 days.

ii. If the Justice is satisfied that the urgency of the matter so requires, an ex parte (without informing any other interested party, e.g. parents) application may be made and heard and an order made in relation to the matter other than at a public sitting of the District Court.

iii. If there is a gap between making of an application for an order under Section 25 of the Mental Health Act 2001 and its determination (i.e. receiving a report from the Consultant Psychiatrist), the court, of its own motion or on the application of any person, may give such directions as it sees fit as to the care and custody of the child (Child Care Act 1991**)** who is the subject of the application pending such determination, and any such direction shall cease to have effect on the determination of the application.

3.4.1.(4) Notification to Mental Health Commission

If the power to detain a voluntary patient (child) in an Approved Centre is used (Section 23(2) / 23(3)), then the Mental Health Commission Code of Practice Relating to Admission of Children under the Mental Health Act 2001 requires a Clinical Practice Form (See Appendix 4) to be completed and kept on the file of the child (detained person).

The Mental Health Commission Code of Practice Relating to Admission of Children under the Mental Health Act 2001 provides guidance at 2.17 (Pages 15 and 16) in relation to detention under Section 23(2) of the Act. This guidance should be followed as set out at 2.17, namely:

(i) *"The best interests of the child shall be the principal consideration with due regard being given to the interests of other persons who may be at risk of serious harm if a decision under the Act is not made. In making a decision in accordance with Section 23(2) due regard shall be given to the need to respect the right of the child to dignity, bodily integrity, privacy and autonomy. The principle to be adhered to is that the degree of intervention used should be the minimum necessary to preserve safety for all concerned".*

(ii) *"Risk should be assessed and appropriate risk management strategies should be in place to reduce the likelihood of harm and deterioration in the voluntary child's well-being".*

(iii) *"Before preventing the voluntarily admitted child from leaving the approved centre best efforts should be made to encourage the child and the parent(s) to agree to the child remaining voluntarily at the approved centre for care and treatment".*

(iv) "*There is no right under the Act to give any treatment to the child without consent. In the absence of consent treatment can only be given under the common law doctrine of necessity, or with a Court Order authorising same".*

3.4.2 Section 25 Guidelines - Involuntary Admission of a Child

In this section, the Mental Health Commission Reference Guide, Mental Health Act, 2001, Part Two – Children is used.

The Diagram set out in 4.2.3 of the Reference Guide (Appendix 7) describes two scenarios in which an application for involuntary admission might arise:

3.4.2 (a)

In the first situation, the parents/person acting in loco parentis consent to a psychiatric examination that confirms the presence of a mental disorder but do not consent to the recommended treatment in an Approved Centre. Following on from this the psychiatric service activates its procedures to apply to the District Court with the written report of the Consultant Psychiatrist, under Section 25 to seek an order authorising the detention of the child in an Approved Centre

3.4.2 (b)

i. In the second situation, the parents/person acting in loco parentis cannot be found or refuse to consent to the examination of the child by a Consultant Psychiatrist. The agent of the HSE who has identified this child as possibly having a mental disorder, in consultation with the relevant psychiatric service, processes an application through the HSE legal advisor under Section 25 to seek an order for the examination of the

child by a Consultant Psychiatrist and that a report of the results of the examination be furnished to the court within such time as may be specified by the court. In the intervening period the court has the power to place the child in an Approved Centre if appropriate.

ii. In the event of the District Court not being accessible, e.g. when this scenario arises out of hours, it is the Forum's considered view that, as already stated throughout this report, the best interests of the child are paramount and that any decision made should be made on this basis.

iii. The Forum has sought legal advice on this matter and this will be made available to the system when it is received.

3.5 Involuntary Admissions Applications – HSE can be the only applicant for children

In this section, the Mental Health Commission Code of Practice Relating to Admission of Children under the Mental Health Act 2001 is referenced

The Commission in its Code of Practice Relating to Admission of Children under the Mental Health Act 2001 have advised at 2.22 (Page 17):

2.22 "An application for an involuntary admission of a child can only be made by the HSE [Section 25(1)]".

The Forum recommends that each Local Health Office identify non-HSE agencies commissioned by the HSE to provide services. Examples of these are St. Vincent's Hospital, Fairview, Mater Child Guidance Service, Lucena Services, St. John of God Hospital. Also included are paediatric hospitals: Temple Street, Crumlin and AMiNCH, Tallaght, and some of the large Voluntary Teaching Hospitals in Dublin. Services in other parts of the country also have significant Child and Adolescent Community Services provision by Voluntary Agencies. In the HSE Southern area, the Brothers of Charity provide services in Waterford, South Lee, West Cork and Kerry.

Such agencies are significant providers of care and interface directly in many crisis situations, e.g. A&E Departments. Agencies need to be given clear contact details locally of appropriate HSE staff in the event that they need to initiate an involuntary detention of a child through the District Court system under the Mental Health Act 2001.

The Forum recommends that:

i. These Voluntary Agencies complete court assessments and reports for children in their care, as the need arises.

ii. They then proceed to contact the appropriate Mental Health Act Administrator (Grade V)

iii. The agreed local arrangements should be clearly documented and HSE contact details made available to the non-HSE Agencies in their area.

iv. In these circumstances, the nominated HSE person then proceeds to contact the HSE solicitor to make the application to the District Court.

v. While the Voluntary Agency will have completed the assessment report indicating to the District Court Justice that the person is suffering from a mental disorder and requires involuntary admission to an Approved Centre, the Justice may require that expert opinion to be available in his/her courtroom.

Section 4 Scenarios – Primary and Secondary Care Applications to the District Court

As a follow-on to Section 3 of this report, this section (Section 4) provides illustrated scenarios drawn up by the Forum which may offer some additional operational guidelines to clarify the process.

Scenarios and Suggested Steps to be taken

Scenario A **Primary Care Settings**

1. **Parents are acutely concerned that their child might have a mental disorder. They contact their General Practitioner. The child is unwilling to attend for assessment and a domiciliary visit is not feasible.**

i. The General Practitioner attends the family home given the urgency of the situation to perform an assessment.
ii. The General Practitioner recommends that an immediate psychiatric assessment and/or admission to an approved centre take place.
iii. The child's parents give consent but the child refuses to cooperate with the assessment/treatment plan.
iv. The General Practitioner contacts the relevant Consultant Psychiatrist to advise where a psychiatric assessment can take place.
v. Where necessary, the Garda Síochána have the power under Section 12 of The Child Care Act 1991 when **there is an immediate and serious risk to the health or welfare of a child** to remove the child to safety.

2. **The General Practitioner or other healthcare professional is made aware of concerns about a child who may be suffering from a mental disorder and that his/her parents are not seeking appropriate assessment or treatment.**

i. The General Practitioner or other healthcare professional should contact Community Care Child Protection and Welfare Service, as there are child protection issues involved.
ii. Following an assessment by the Child Protection and Welfare Social Worker a decision is made as whether a care order should be sought under the Child Care Act 1991.

Scenario (a) – Child Care Service Route

i. A decision is made to seek a Care Order.
ii. When a Care Order is in place the Child Protection and Welfare Social Worker can give consent to examination by a Consultant Psychiatrist and admission to an approved centre if indicated.

Scenario (b) – Mental Health Service Route

i. A decision is made **not** to seek a Care Order
ii. The Child Protection and Welfare Social Worker contacts the general practitioner to arrange a medical assessment with parental consent.
iii. If the General Practitioner recommends a psychiatric assessment but one or both parent refuse permission.
iv. The General Practitioner makes contact with the Consultant Psychiatrist on the CMHT.
v. The Consultant Psychiatrist informs the Social Worker on the CMHT, who with the support of the MH Act Administrator (Grade V) proceeds to make an application to the District Court under Section 25 (4) of the Mental Health Act 2001 for the examination of the child by a Consultant Psychiatrist and that a report of the results of the examination be furnished to the court within such time as may be specified by the court.
vi. The court may give such directions as it sees fit as to the care and custody of the child who is the subject of the application pending such determination, and any such direction shall cease to have effect on the determination of the application.

Primary Care Settings (continued)

3. The child attends the General Practitioner with parental consent for medical assessment. Either one or both parents refuse to give consent for an assessment by a Consultant Psychiatrist and/or admission to an Approved Centre when recommended by the General Practitioner.

i. The General Practitioner discusses the case with the relevant Consultant Psychiatrist
ii. The Consultant Psychiatrist agrees that a psychiatric assessment is necessary
iii. The Social Worker on the CMHT is informed of the situation by the Consultant Psychiatrist.
iv. The Social Worker on the CMHT (with the support of the MH Act Administrator (Grade V)) then makes an application to the District Court under Section 25 (4) of the Mental Health Act 2001 for the examination of the child by a Consultant Psychiatrist and that a report of the results of the examination be furnished to the court within such time as may be specified by the court
v. The court may give such directions as it sees fit as to the care and custody of the child who is the subject of the application pending such determination, and any such direction shall cease to have effect on the determination of the application.
vi. Notification of Community Child Protection and Welfare Services may be indicated if child protection concerns exist.

Scenario B A&E Department of a Hospital

1. **A child attends the A&E Department and concerns arise on medical assessment that he/she may be suffering from a mental disorder. The parents of this young person cannot be contacted or located**.

i. Efforts are made to contact a person who may act in loco parentis. (In practice such a person is almost invariably a close adult relative).
ii. If no such person is available and it is the opinion of the Registered Medical Practitioner that a psychiatric assessment and/or admission is indicated.
iii. The Registered Medical Practitioner contacts the relevant Consultant Psychiatrist (depending on local on call arrangements).
iv. The Consultant Psychiatrist agrees that a psychiatric assessment is necessary.
v. The Social Worker on the CMHT is advised of the situation and with the support of the MH Act Administrator (Grade V) makes an application to the District Court under Section 25 (4) of the Mental Health Act 2001 for the examination of the child by a Consultant Psychiatrist and that a report of the results of the examination be furnished to the court within such time as may be specified by the court.
vi. The court may give such directions as it sees fit as to the care and custody of the child who is the subject of the application pending such determination, and any such direction shall cease to have effect on the determination of the application.
vii. Notification of Community Child Protection and Welfare Services may be indicated if child protection concerns exist.

2. **In circumstances when this scenario arises out of hours:**

i. The HSE legal team will have to be made aware of the situation and then make contact with a Justice to make an application under Section 25 (4) of the Mental Health Act 2001.
ii. In the event of the District Court not being accessible, in an urgent situation, it is the Forum's considered view that, as already stated, the best interests of the child are paramount and that decisions on how to proceed, should be made on this basis (see below).
iii. **The Forum has sought legal advice on this matter and this will be made available to Mental Health Services when it is received**.

a) Mental Health Act 2001 (Section 4)
4.—(1) *In making a decision under this Act concerning the care or treatment of a person (including a decision to make an admission order in relation to a person), the best interests of the person shall be the principal consideration with due regard being given to the interests of other persons who may be at risk of serious harm if the decision is not made.*

b) Child Care Act 1991 (Section 24)
24.—*In any proceedings before a court under this Act in relation to the care and protection of a child, the court, having regard to the rights and duties of parents, whether under the Constitution or otherwise, shall—*

(a) regard the welfare of the child as the first and paramount consideration, and

(b) in so far as is practicable, give due consideration, having regard to his age and understanding, to the wishes of the child.

Scenario C Community Mental Health Team

1. **The child attends the CMHT for assessment and/or treatment. The Consultant Psychiatrist recommends admission to an Approved Centre. Either one or both parents refuse consent for admission**.

i. The Consultant Psychiatrist makes contact with the Clinical Director of the Approved Centre who agrees to accept admission under the Mental Health Act 2001.

ii. The Consultant Psychiatrist informs the Social Worker on the CMHT, who with the support of the MH Act Administrator (Grade V), proceeds to make an application to the District Court under Section 25 (1) of the Mental Health Act 2001 authorising the detention of the child in an Approved Centre.

2. As many parents are separated and often only one parent is available to give consent, it is best practice to make reasonable efforts to make contact with the other parent to seek his/her consent.

Consideration must be given to the following issues:

a. Guardianship – If the father's name does not appear on the birth certificate. It may be necessary for the father go to court to assert his parental rights.

b. Custody – As a result of parental separation or divorce proceedings, one parent may be granted sole custody. In such a scenario consent of the custodial parent should be sufficient.

c. Loss of contact – If an absent parent has had no contact for a number of years with the child, his/her parental rights may lapse.

In such circumstances it is recommended to seek legal advice from the HSE legal team.

Other Considerations

Other legal options may be considered more appropriate in certain situations, such as seeking to make the child a Ward of Court.

Scenario D Approved Inpatient Centre

1. **"Where the parents of a child who is being treated in an approved centre as a voluntary patient, or either of them, or a person acting in loco parentis indicates that he or she wishes to remove the child from the Approved Centre and a Consultant Psychiatrist, Registered Medical Practitioner or Registered Nurse on the staff of the Approved Centre is of opinion that the child is suffering from a mental disorder, the child may be detained and placed in the custody of the HSE for the area in which he or she is for the time being"**. Section 23(2), Mental Health Act 2001.

2. Within 3 days the HSE must make a determination whether to return the child to their parents or proceed to make an application under Section 25(1).

   i. The treating Consultant Psychiatrist who is responsible for the child's psychiatric care must make this determination.
   ii. If the treating Consultant Psychiatrist does not agree to return the child to the care of their parents, the Social Worker on the Multidisciplinary Team (MDT) in the Approved Centre, on the advice of the Consultant Psychiatrist, with the support of the MH Act Administrator (Grade V), proceeds to make an application to the District Court under Section 25 (1) of the Mental Health Act 2001 authorising the detention of the child in an Approved Centre.
   iii. Immediate notification of Child Protection and Welfare Service should take place.

Section 5 The working relationships of the proposed new Child and Adolescent Teams (First Report) for 16/17 year olds

5.1 Interim Arrangements for the Care of 16 and 17 Year Olds

Arrangements currently in place for the acute psychiatric care of 16/17 year olds vary throughout the country. It is acknowledged that the treatment of this group is best provided within Child and Adolescent Psychiatry. The crossover from Adult Psychiatry to Child and Adolescent Psychiatry must be carried out on a phased basis. Flexibility will be required during the crossover period and this will require regular liaison between Adult and Child and Adolescent Teams at local level during the interim period.

Until such time as new Consultant Child and Adolescent Psychiatrists and Teams are appointed, the current arrangements for 16/17 year olds remain (Report 1 of 2).

The Forum recommends a staged 5 year process beginning with the immediate appointment of 8 Consultant Teams and a further 8 each year with a target of 40 in 2011.

In conjunction with this, the interim beds recommended in Report 1 of 2 and the new 20-bedded units, along with the dedicated Consultant Teams, must be initiated at this stage.

5.2 5-Stage Plan:

As the stages progress, the Consultant Child and Adolescent Psychiatrists and Teams with responsibility for the interim beds will become an integral part of Child and Adolescent Community Mental Health Teams (CMHTs). The new in-patient units (5 recommended nationally) will be staffed separately

Stage 1:

The Forum recommends 8 new Child and Adolescent Teams.

i. One new Child and Adolescent Psychiatric team per 500,000 total population, (2 per each of the 4 administrative areas - 8 Teams nationally)

ii. The Forum recommends that 3-4 interim beds in Approved Centres should be designated for this population (6-8 beds per each of the 4 administrative areas).

iii. The new Child and Adolescent Consultants and Teams will provide out-patient daytime service for new referrals of 16/17 year olds and

consultation to the in-patient service. It will only be possible to provide a daytime service during this stage.

iv. 16 and 17 year olds who are attending Child and Adolescent Psychiatric Services will remain the remit of the team who are currently providing treatment, with access to the above in-patient beds (voluntary and involuntary care).

v. Similarly, 16/17 year olds who are currently being treated by Adult Psychiatrists and Teams will remain under their care.

vi. Consultation, where appropriate, should be available through the newly appointed Child and Adolescent Teams.

vii. Emergency Out of Hours cover will need to continue being provided by the current arrangement, i.e. the NCHD and Consultants on the Adult rota.

viii. The provision of locum cover for leave (holiday, sickness, etc.) of new Consultant Child and Adolescent Psychiatrists should be given priority.

ix. Out-Patient cross cover arrangements will be provided by the child's catchment area Consultant Child and Adolescent Psychiatrist for the new team.

x. Children who are already in-patients or who require admission will be treated by the Adult Consultant on call at the hospital (Approved Centre). Consultation to the Adult Consultant can be provided by the child's catchment area CMHT if required.

xi. Local arrangements need to be put in place to provide Out of Hours cover where such cover is not currently available.

Stage 2:

The Forum recommends an additional 8 new Child and Adolescent Psychiatric Teams, bringing to 16 the number of new Teams by end of Stage 2.

i. These new Consultants and Teams will provide a catchment area service for 16/17 year olds (1 team per 250,000 total population).

ii. They will develop more locally based clinics and provide cross cover for the interim in-patient beds.

iii. Emergency cover Out of Hours will be provided by Child and Adolescent Psychiatric Teams where there is a critical mass of Consultants within a reasonable geographical distance.

iv. Holidays and continuing sick leave will be cross-covered by the second new Child and Adolescent psychiatrist where it is impossible to provide locum cover

Stage 3:

The Forum recommends an additional 8 new Child and Adolescent Psychiatric Teams, bringing to 24 the number of new Teams by end of Stage 3.

i. All the new Consultant Child and Adolescent Psychiatrists will provide increasingly local Community / Out-Patient services, not only to 16/17 year olds, but also 0 -16 years, in conjunction with the local Community Mental Health Teams.

ii. Emergency cover Out of Hours will be provided by Child and Adolescent Psychiatric Teams where there is a critical mass of Consultants within a reasonable geographical distance.

iii. New units should now be up and running with their own dedicated Consultants and Teams.

Stage 4:

The Forum recommends an additional 8 new Child and Adolescent Psychiatric Teams, bringing to 32 the number of new Teams by end of Stage 4.

i. At this stage, more locally based Community / Out-Patient services, and greater integration with the local CMHTs should prevail.

ii. Emergency Out of Hours cover will be provided by CMHTs for 0-18 years, where there is a critical mass of Consultants within a reasonable geographical distance.

Stage 5:

The Forum recommends an additional 8 new Child and Adolescent Psychiatric Teams, bringing to 40 the number of new Teams by end of Stage 5.

One Consultant Community Mental Health Team for 0-18 year olds per total population of 50,000 9based on 2006 Census. Dedicated in-patient units for 0-18 year olds will have their own dedicated Consultants and Teams with emergency Out of Hours being provided by Child and Adolescent Psychiatrists and Non Consultant Hospital Doctors on the general training schemes.

5.3 Ideal Service

- Consultation with Primary Care Services / National Educational Psychological Services and Local Authorities and Voluntary Agencies where appropriate.

- Agreed protocols for consultation, referrals and assessment with interfacing services, e.g. General Practice and A&E Services and Liaison Child Psychiatric Teams working together for a systemic or joined up solution.

- A comprehensive assessment plan, where appropriate, without a prolonged wait.

- Fully staffed multidisciplinary Teams

- Home Care and other treatment modules, based on evidence of effectiveness.

- Day hospital services

- Designated in-patient beds for children in a setting appropriate to age and clinical need.

- Out of Hours cover safely available to meet need.

- A system of governance that identifies barriers to the implementation of the Ideal Service and has a problem solving approach that is accountable within the HSE identified structure.

Appendix 1

Members of Forum

Name	Position	Location	Nominating Organisation
Dr Mandy Burke	Consultant Child & Adolescent Psychiatrist	University College Hospital, Galway	ICP
Ms Phil Canny	Asst Dir of Nursing	Child & Adolescent MH Services, Limerick	HSE
Dr Ian Daly	Clinical Director, Consultant Adult Psychiatrist	Dublin West/South West Mental Health Services	HSE
Dr Brendan Doody	A/Clinical Director, Child & Adolescent Psychiatrist	Warrenstown Child & Adolescent Inpatient Unit, Blanchardstown, Dublin 15	HSE
Mr Dave Drohan	LHO Manager	North Lee, Cork	HSE - **Chair**
Dr Bob Fitzsimons	Consultant Paediatrician	Kerry General Hospital, Tralee, Co. Kerry	HSE
Dr Kate Ganter	Consultant Child & Adolescent Psychiatrist	Lucena Clinic, Rathgar, Dublin 6	IMO
Dr Colette Halpin	Consultant Child Psychiatrist	Midlands Regional Hospital, Portlaoise, Co. Laoise	IHCA
Dr Keith Holmes	Consultant Child Psychiatrist	Lucena Clinic, Rathgar, Dublin 6	ICP (Substitute for Mandy Burke)
Ms Breda Lawless	Service Planner	HSE, Mill Lane, Palmerstown, Dublin 20	HSE
Dr Joan Michael	Consultant Child & Adolescent Psychiatrist	Lucena Clinic, Rathgar, Dublin 6	IMO (Substitute for Kate Ganter)
Mr Barry Murray	Childcare Manager	Floor 2, Abbeycourt House, Georges Quay, Cork	HSE
Mr Martin Rogan	National Care Group Manager for Mental Health	Millennium Park, Naas, Co. Kildare	HSE
Dr Noel Sheppard	Consultant Adult Psychiatrist	Waterford Regional Hospital	ICP

Appendix 2

Social Work Procedure/Process Involved Leading To An Application To Court For A Care Order On A Child

Step 1. Referral

Referral can be from any source, teacher, public health nurse, GP, neighbour etc.

Social worker takes details, usually over the phone and transcribes the information onto a specific referral form.

Step 2.

Depending on how the social work team is structured, a duty or intake social worker will undertake some initial enquiries seeking further information or substantiation of the information received, e.g. check with an Garda Siochana. Checking with a GP or school authorities may require permission from the child's parents, however in an emergency situation those enquiries may proceed without obtaining parental permission.

Step 3.

Having taken the referral and obtained any supportive or confirmatory information, a social worker will visit the family home and put the allegations made to the parents and seek to establish the risk, if any, that the child is in.

Step 4.

An initial assessment may provide information that warrants a more comprehensive assessment of the family and the risk to the child.

Every effort will be made to provide support to the family and child to try and resolve the risk factors and to maintain the cohesion of the family.

Step 5.

If however the risk is such that the social work opinion is that the child needs to come into care, this opinion is communicated to the family and the social worker instructs the HSE solicitor to make the necessary application to the court. Legal notification will issue to the child's family regarding the impending court hearing to allow the family to engage their own legal representation and prepare for the case.

The social worker under the Childcare Act 1991 can apply for four orders.

- An *emergency order* under Section 13 which will last for eight days.
- An *interim care order* under Section 17, lasting eight days also but which can be extended by application to the court.
- A *care order* under Section 18 which can be for any time up to the child's 18th birthday.
- A *supervision order* under Section 19 which can be for a period up to 12 months and which allows the child to remain in the family home under such conditions as the court directs having considered the HSE application and the attendant social worker's report.

In all of the above the assessment by the social worker leading to an opinion that the child's welfare and needs can only be met by removing the child from their biological family is the prerequisite to contacting the local HSE legal team to institute proceedings seeking the court to grant one of the care orders outlined above.

How long any order will actually last for is dependent on the social worker's assessment as to whether sufficient progress has been made in reducing or removing the risk factors that gave rise to the original concerns.

Appendix 3

Notification to the Mental Health Commission of the admission of a child to an approved centre for adults.

Clinical Practice Form **ADMC1**

Instructions

The following form is to be used:

where a child (*a person under the age of 18 years other than a person who is or has been married S.2 Mental Health Act 2001*) is admitted to an approved centre.

Please write clearly in the boxes in **BLOCK CAPITALS** in **BLACK** or **BLUE** ink

Patient Details		
Surname		
First Name(s)		
PPSN	☐☐☐☐☐☐☐☐☐.☐☐	
DOB:	☐☐/☐☐/☐☐☐☐ (dd/mm/yyyy)	
Gender (tick √ as appropriate):	☐ Male	☐ Female
Home Address		
Line 1		
Line 2		
Town		
County		

Notification completed by	
Surname	
First Name	
Date:	☐☐/☐☐/☐☐☐☐ (dd/mm/yyyy)

I confirm that the above mentioned child was admitted to:

Approved Centre	
Ward/Unit	
On the following date	☐☐/☐☐/☐☐☐☐ (dd/mm/yyyy)
Signed	
Job Title	
Date	☐☐/☐☐/☐☐☐☐ (dd/mm/yyyy)

Consultant Psychiatrist responsible for the care and treatment of the child
Name:

Notification to the Mental Health Commission of the admission of a child to an approved centre for adults.

Clinical Practice Form **ADMC1**

Please provide the following information regarding the child's admission:

Does the ward/unit have:	
Policies and protocols in place relating to the admission of a child	Yes ☐ No ☐
Age appropriate facilities and a programme of activities appropriate to age and ability	Yes ☐ No ☐
Provisions to ensure the safety of the child	Yes ☐ No ☐
Provisions to respond to the child's special needs as a young person in an adult setting	Yes ☐ No ☐
Provisions to ensure the right of the child to have his/her views heard	Yes ☐ No ☐
Have staff having contact with the child undergone Garda Síochana /police vetting?	Yes ☐ No ☐
Are copies of the Child Care Act 1991, Children Act 2001 and Children First Guidelines available to relevant staff?	Yes ☐ No ☐
Does the child have appropriate accommodation which includes segregated sleeping and bathroom areas?	Yes ☐ No ☐
Do observation arrangements acknowledge gender sensitivity?	Yes ☐ No ☐
Have staff received training relating to the care of children?	Yes ☐ No ☐
Does the child have access to appropriated education provision?	Yes ☐ No ☐
Does the child have access to an age appropriate advocacy service?	Yes ☐ No ☐
Does the child have his/her rights explained and did the clinical file record his/her understanding of the explanation given?	Yes ☐ No ☐
Was the child individually risk assessed?	Yes ☐ No ☐
Is there a Child and Adolescent Psychiatrist available?	Yes ☐ No ☐
Was the child admitted to a ward with seclusion or intensive care facilities?	Yes ☐ No ☐
Are there appropriate visiting arrangements for families available?	Yes ☐ No ☐
Has information been given to the child on his/her rights, the ward / unit and facilities in a form and language he/she could understand?	Yes ☐ No ☐
Are there policy and procedures in place with regard to family liaison, parental consent and confidentiality	Yes ☐ No ☐

This Form should be completed within 24 hours of admission and sent to

Mental Health Commission
St Martin's House
Waterloo Road
Dublin 4

Tel: 00353 1 6362400

CLINICAL PRACTICE FORM

MENTAL HEALTH ACT SECTION 23(2) and 23(3)

POWER TO DETAIN VOLUNTARY PATIENT (CHILD) IN AN APPROVED CENTRE

MHC

Before completing this form please read the notes overleaf

PLEASE COMPLETE IN BLOCK CAPITALS AND FILE IN THE CHILD'S CLINICAL FILE

PART A Section 23(2)

1) Full Name and Address of Child detained:

2) Date of Birth & Gender: ☐☐/☐☐/☐☐☐☐ (dd/mm/yyyy) M☐ F☐

3) Personal Public Service Number (PPSN): ☐☐☐☐☐☐☐☐☐☐

4) Approved Centre Name and Address:

5) Date & Time Child is detained at Approved Centre ☐☐/☐☐/☐☐☐☐ (d d / m m / y y y y) ☐☐:☐☐ (24 hr clock e.g. 2.21pm as 14:21)

6) Designation of staff member detaining Child at Approved Centre

- Consultant Psychiatrist ☐
- Registered Medical Practitioner ☐
- Registered Nurse ☐

7) Name of staff member detaining Child

8) Was Risk Assessment used? ☐ YES (If yes, please provide details below) ☐ NO

Signed: _____

Date: ☐☐/☐☐/☐☐☐☐ (dd/mm/yyyy) Time: ☐☐:☐☐ (24 hr clock e.g. 2.21pm as 14:21)

PART B Section 23(3)

9) Was the above named child returned to his or her parents or either of them or a person acting in loco parentis? ☐ YES ☐ NO

10) Was an application made under Section 25 at the next sitting of the District Court? ☐ YES ☐ NO

11) Was the child placed in the custody of the Health Service Executive? ☐ YES ☐ NO

12) If applicable, who made the application to the District Court? _____

Signed: _____

Date: ☐☐/☐☐/☐☐☐☐ (dd/mm/yyyy) Time: ☐☐:☐☐ (24 hr clock e.g. 2.21pm as 14:21)

PAGE 1 of 2

NOTES

Care should be taken when completing this form. When completed, it is to be filed in the person's clinical file at the Approved Centre. This form may be inspected by the Inspector of Mental Health Services, requested by a Mental Health Tribunal or by the Mental Health Commission.

SECTIONS OF THE MENTAL HEALTH ACT (2001)

Section 23 (2) and Section 23 (3) of the Mental Health Act (2001) state:

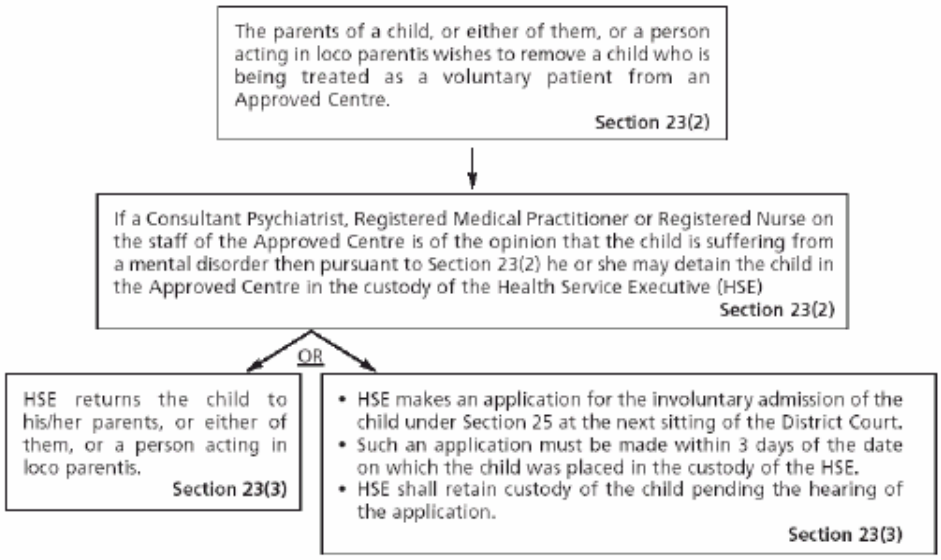
23. —(2) Where the parents of a child who is being treated in an approved centre as a voluntary patient, or either of them, or a person acting in *loco parentis* indicates that he or she wishes to remove the child from the approved centre and a consultant psychiatrist, registered medical practitioner or registered nurse on the staff of the approved centre is of opinion that the child is suffering from a mental disorder, the child may be detained and placed in the custody of the Health Service Executive.

23. —(3) Where a child is detained in accordance with this section, the Health Service Executive shall, unless it returns the child to his or her parents, or either of them, or a person acting in *loco parentis*, make an application under *section 25* at the next sitting of the District Court held in the same district court district or, in the event that the next such sitting is not due to be held within 3 days of the date on which the child is placed in the care of the health board, at a sitting of the District Court, which has been specially arranged, held within the said 3 days, and the Health Service Executive shall retain custody of the child pending the hearing of that application.

Definition of a Child:
"child" means a person under the age of 18 years other than a person who is or has been married; (Section 2 Mental Health Act 2001)

FLOWCHART

POWER TO PREVENT A CHILD BEING TREATED AS A VOLUNTARY PATIENT FROM LEAVING AN APPROVED CENTRE



Appendix 5

To Each AND
LHM
Martin Rogan
Clinical Directors
Directors of Nursing

Interim Arrangements

Re: Children and Adolescents and Intellectual Disability – Introduction of Mental Health Act 2001

I refer to the introduction of the Mental Health Act 2001 with effect from 1st November 2006.

In relation to provisions for children and adolescents the HSE Forum recommended the continuation of present arrangements on an interim basis as follows:
The Forum considers the continuation of present arrangements needs to be maintained for a certain period of time. Arrangements currently in place for the acute psychiatric care of the under 18 age group vary throughout the country and include admission to both public and private child and adult psychiatric units, paediatric units and general medical wards. A clear timeframe is required for the transition from the current interim arrangements to the ideal arrangements to be set out by the *Vision for Change* Implementation Team.

Considering arrangements for involuntary admission of persons with an Intellectual Disability who meet the criteria for involuntary admission the HSE Forum proposed the following:
Each Local Health Manager (LHM) to identify the interim arrangements whereby the client group can access acute beds for their area in consultation with the main stakeholders i.e. mental health services and intellectual disability services. The inpatient beds to be clearly identified with their staffing resource and accompanying operational policies. In consultation with the same stakeholders each LHM to identify the long term plan for development of acute capacity in line with the model suggested and provide the costings and timeframe for this development.

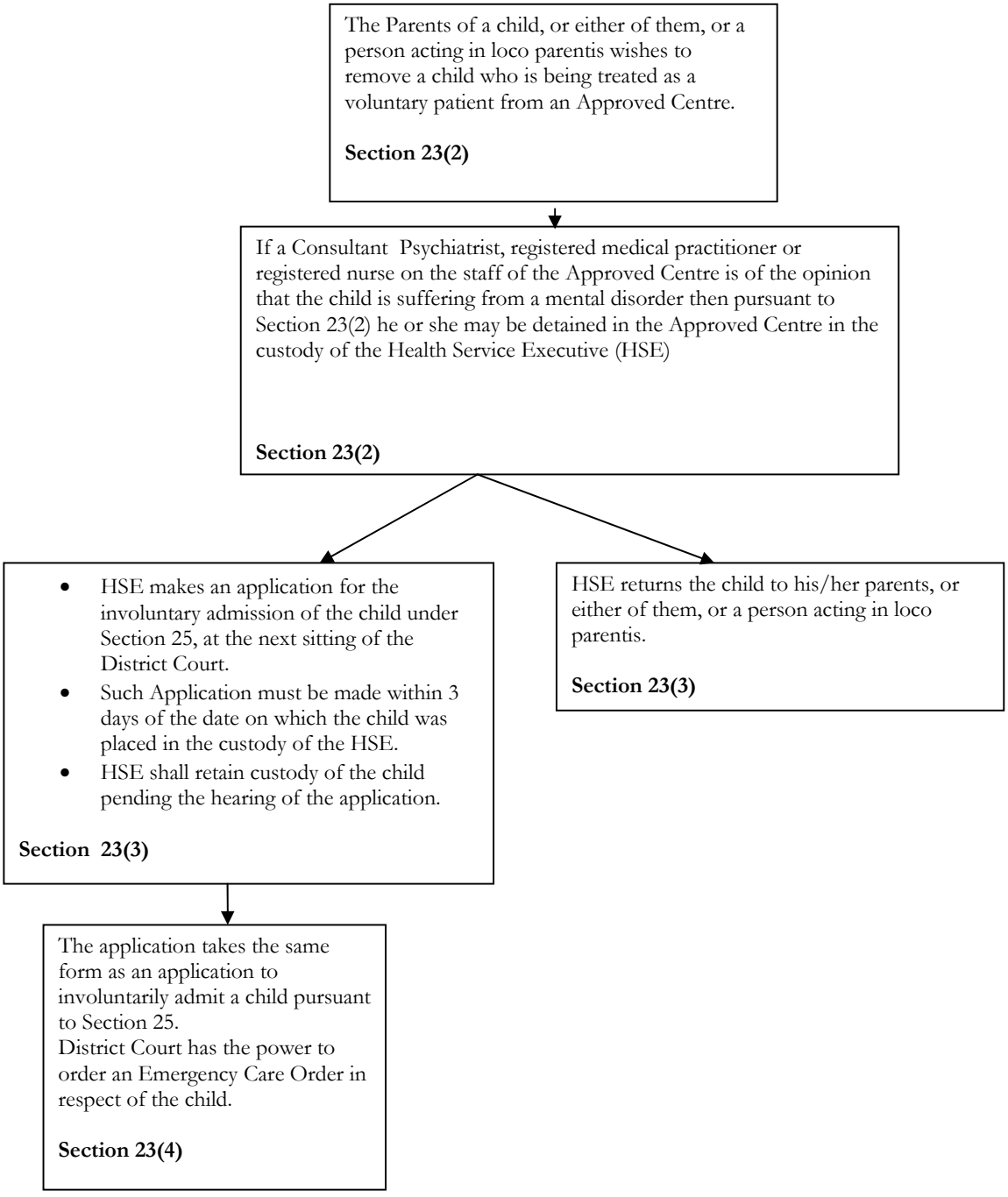
Yours sincerely

_____

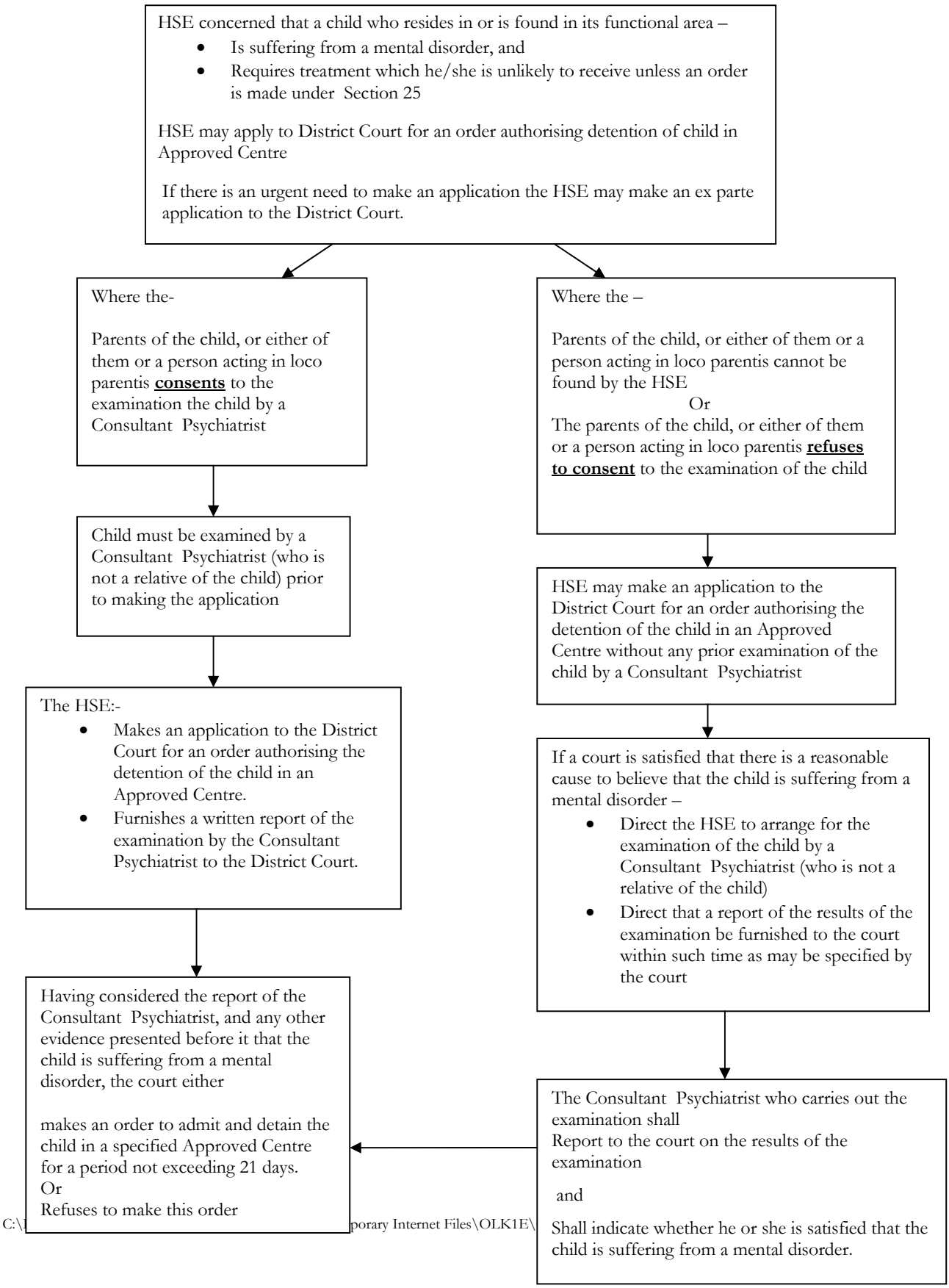
Aidan Brown

Appendix 6 (Ref. Section 3.4.1)

Power to prevent a child being treated as a voluntary patient from leaving an Approved Centre



Appendix 7 (Ref. Section 3.4.2)



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Draft Template

Consultant Psychiatrist Report for Court

Application for Assessment of a Child under Section 25 of the Mental Health Act, 2001.

Name of Child:	
Age / Date of Birth:	
Address:	
Context:	
Requested / Referred by:	
Reason for Referral:	
Parent(s)' Wishes:	
Child's Wishes:	
Family Circumstances:	
Child's Circumstances:	
Clinical History:	
Recent History:	
Past History:	
Personal Development:	
Family:	
Current Mental Status:	
Treatment History to date:	
Proposed Assessment:	
Summary:	
Diagnosis / Symptoms Indicated:	
Reason why child needs to be assessed:	

In my clinical opinion, it is in the best interest of the above named child that a psychiatric assessment be conducted.

Signed: _____ **Date:** _____