IS LAW AN EMPOWERING TOOL?

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MENTAL HEALTH ACT 2012 – Chapter 525

- Enacted by Parliament and approved by the President in December 2012
- Half of the articles came into force on the 10th October 2013 (*Legal Notice 276 of 2013*)
- Remaining articles came into force on the 10th October 2014 (*Legal Notice 276 of 2013*)
- Old MHA Chapter 262 was completely repealed

SUMMARY – Main features

- Far more extensive and far-reaching
- Person Focus – lists the 19 rights of persons suffering from mental disorders
- Introduces concept of the responsible carer
- Establishes a Commissioner to safeguard those rights
- Emphasis on multidisciplinary care with outcome-based multidisciplinary care plans
- Significant reduction in maximum lengths of stay of compulsory hospital stays

SUMMARY – Main features ….2

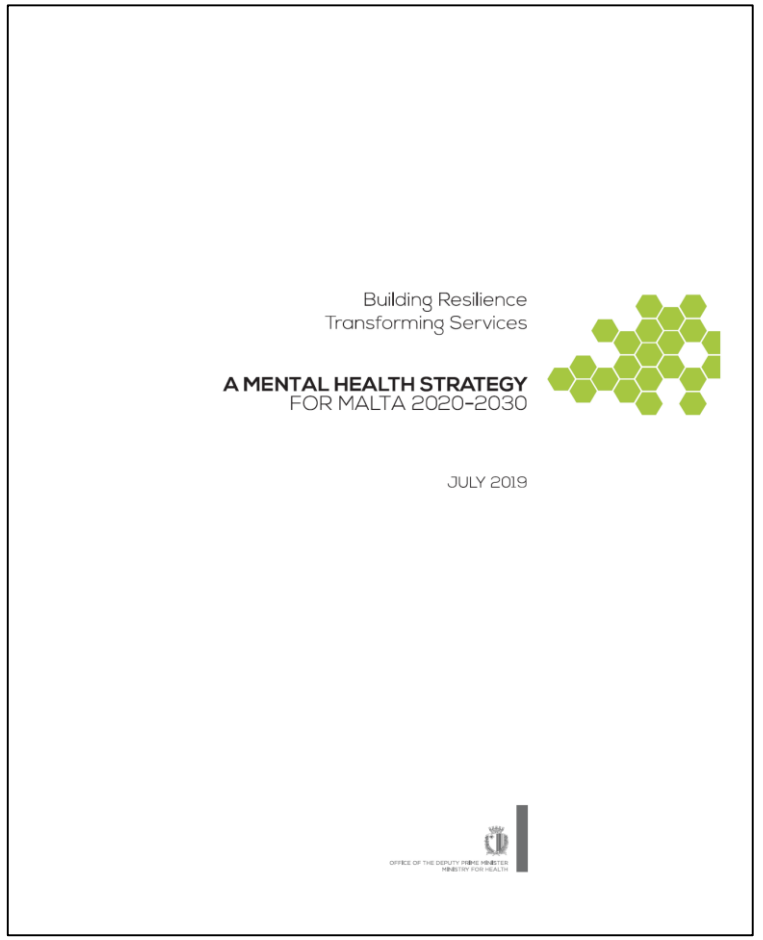
- Introduces concepts of Rehabilitation, Community Treatment Order and Social Inclusion
- Introduces specific sections on mental capacity, minors, & special treatment, restrictive care and clinical trials
- Includes 15 Schedules (various relevant forms) which can be amended easily through legal notice by the Minister as the need arises.

Influencing Policy

- 75 of 94 action points were taken (almost word for word) from the Annual Reports of the CMH
- Recommended reform pillars acknowledged
  - mainstreaming mental health and well-being in all policies and services
  - moving focus of care from institutions to the community
  - moving acute psychiatric care to the acute general hospital setting
  - supporting rehabilitation through specialised units preferably in the community
  - providing long-term care in dignified facilities.

Upcoming challenges 2020 and beyond…

- Translating recommendations into coherent action plans
- Plans must be appropriately funded
- Plans must be accompanied by sound human resource planning
- Bold management decisions must be taken
- Robust and resilient leadership is fundamental to bring about the desired changes.



Article 3 – Rights of users

- 19 self-explanatory rights listed
- Service providers and management have a responsibility to respect these rights
- Includes holistic care by a care team with a care plan, least restrictive care, community care, a responsible carer, informed consent, confidentiality, access to records, care with dignity, privacy, no cruel or inhuman or degrading treatment, a safe and hygienic environment, free and unrestricted communication with the outside
- Information on rights to be provided within 24 hours of hospital admission or start of a CTO

Right to a care team and a care plan

- 5.55% of inpatient files reviewed did not include an identifiable Responsible Specialist – all these four (4) cases involved MCH inpatients.
- 56.94% of inpatient files reviewed did not include a care plan for the current admission
  - 57.37% -MCH
  - 37.5% - MDH
  - 100% - GGH

Right to Responsible Carer

- 44.3% of MCH Inpatient cases reviewed had no appropriately filed and signed Responsible Carer form
- All MDH Inpatient cases reviewed had the duly completed Responsible Carer form
- All GGH Inpatient cases reviewed had the duly completed form.

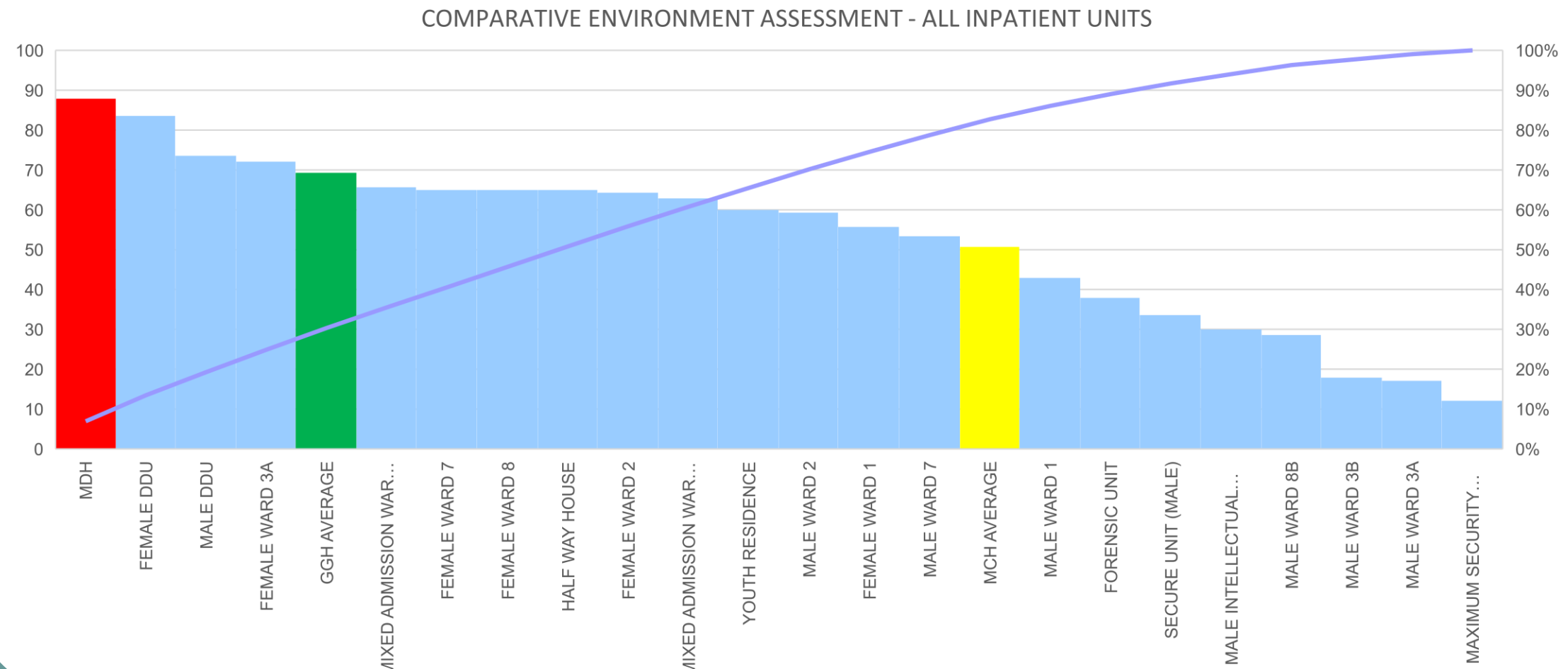
Right to Informed Consent

- In 21.31% of MCH inpatient case notes reviewed, there was no appropriately filled and signed *Treatment Consent Form*.
- All MDH inpatient cases had the completed form.
- All GGH inpatient cases had the completed form.

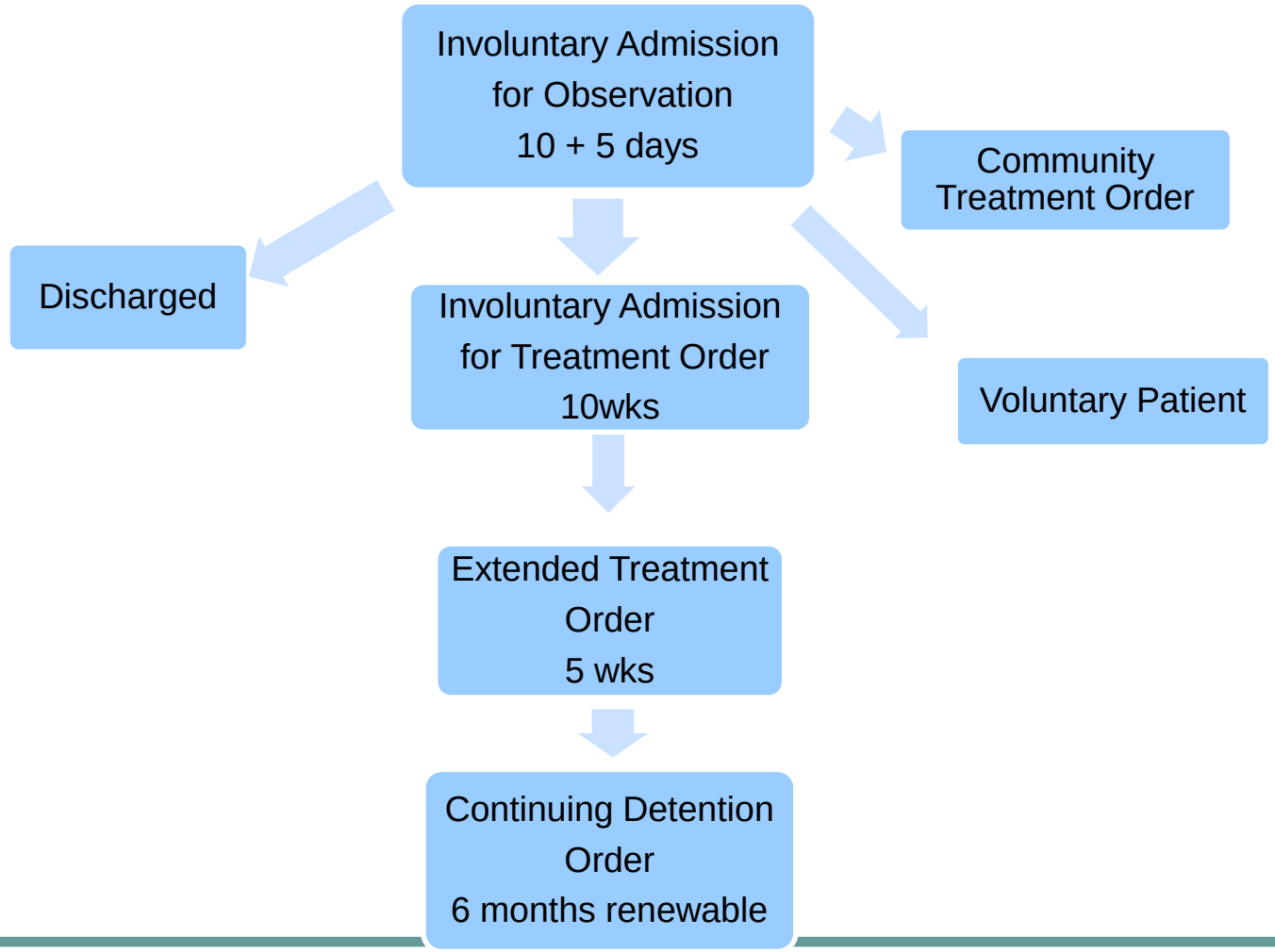
Compliance with the MHA

- Only 27.8% of patients' files reviewed were found to be fully compliant with the requirements of the Mental Health Act
- 24.6% - MCH
- 62.5% - MDH
- 0% - GGH.

Right to a safe and hygienic environment



Articles 11 – 23:
Involuntary Admission Patient Flow



Articles 11 - 23
Reduction in Compulsory Hospital Stays

	Maximum Length of Stay	
	Old Act	**New Act**
Observation "Order"	28 days	15 days*
Treatment Order	1 year	10 weeks
First Extension	1 year	5 weeks
Continuing Detention	2 years renewable	6 months renewable
Community Treatment Order	---	6 months renewable

** By Day 10: pt is discharged, becomes voluntary pt, or application for IATO or CTO together with a MDCP made to Commissioner*

The Involuntary Care System

New cases 10/10/2014 to end 2014	**40**
New cases in 2015	**410**
New cases in 2016	**379**
New cases in 2017	**358**
New cases in 2018	**332**
New cases in 2019	**338**
TOTAL	**1857**

1274 Schedules received at CMH in 2019

Mental Health Act Schedule Definition	Received	Refused	Approved	Patients
Schedule 1 - RFC (Restriction of Communication)	23	0	23	18
Schedule 2 - IAO (Involuntary Admission for Observation)	525	520 were valid		436
Schedule 3 - IATO (Involuntary Admission for Treatment Order)	187	2	185	171
Schedule 4 - EIATO (Extension of IATO)	39	1	38	37
Schedule 5 - CDO (Continuous Detention Order)	34	2	32	21
Schedule 6 - RTO (Release from Treatment Order)	121	1	120	110
Schedule 7 - CTO (Community Treatment Order)	245	3	242	154
Schedule 8 - GP Care in the Community	0	Not applicable		0
Schedule 10 - RCTO (Release from CTO)	62	0	62	56
Schedule 11 - CLMC (Certification of Lack of Mental Capacity)	17	2	15	15
Schedule 12 - RCLMC (Revocation of CLMC)	1	0	1	1
Schedule 13 - Admission of Minors	20	17 were valid		16
Schedule 14 – IIT (Invasive or Irreversible Treatment)	0	0	0	0

Outcome of 520 acute admissions

CLOSED EPISODES (90.0%) (n=468)		
Involuntary hospital admission lasting 10 days or less	**308**	**59.2%**
Involuntary hospital admission lasting up to 10 weeks or less	**96**	**18.5%**
Involuntary hospital admission lasting up to 17 weeks or less	**9**	**1.7%**
Involuntary detention in hospital lasting more than 17 weeks	**7**	**1.4%**
Involuntary care in the community	**48**	**9.2%**
INCOMPLETE EPISODES (10.0%) (n=52)		
Involuntary Admission Order on 31st December 2019	**13**	**2.5%**
Involuntary Treatment Order on 31st December 2019	**34**	**6.5%**
Extended Treatment Order on 31st December 2019	**5**	**1.0%**
TOTAL	**520**	**100%**

Shifting towards Community Care

Year	CDO (In-patient)	CTO (Community)
31 December 2018	17 (14.5%)	100 (85.5%)
Discharged	-8	-35
Died	-1	0
Transfer to CTO	-1	+1
Transfer to CDO	0	0
New Cases in 2019	+4	+48
31 December 2019	11 (8.8%)	114 (91.2%)

Article 24 – Mental Capacity

- A person suffering from a mental disorder is deemed able and competent to make decisions unless certified by a psychiatrist as lacking mental capacity to do so
- Only a specialist in psychiatry may certify a person as lacking mental capacity due to a mental disorder

- Certification by a GP / Family Medicine Specialist?
- Certification by a geriatrician in cases of dementia?
- Lack of mental capacity due to other medical conditions or refusal of medical treatment or refusal of hospital admissions have been refused - Other legislation provisions may apply.

Article 24 – 3 Scenarios

- Introduces 3 levels of lack of mental capacity:

Transient	< 15 days	Note in clinical file
Transient	< 26 weeks	Approval by Commissioner
Long term (requiring incapacitation or interdiction)	> 26 weeks	Through Courts + / - through the Commissioner

Does not include Guardianship

Article 24 – Certification 1

- Certification of a transient lack of mental capacity for a period not exceeding 14 days shall be a clinical judgement made by the specialist in psychiatry and clearly documented in the patient's case notes

- A useful tool in practice providing temporary protection against possible exploitation and time to observe the evolution of the clinical situation e.g. brain trauma, inflammatory brain conditions, "puplesija", etc.
- Difficult to enforce outside a facility environment.

Article 24 – Certification 2

- Certification of a transient lack of mental capacity expected **to exceed 14 days but less than 26 weeks** shall be referred to the Commissioner
- An **independent specialist** in psychiatry appointed by the Commissioner shall verify such certification
- Approved certificates of transient lack of mental capacity are **registered with the Court of Voluntary Jurisdiction**
- Such certification expires as approved by the Commissioner (max 26 weeks)
- An application for revocation can be done prior to end of approved period

Article 24 – Certification 3

- When lack of mental capacity is expected to be **longer than 26 weeks**, the same certificate of lack of mental capacity by the specialist and approved by the Commissioner after independent verification requires an application for
  - incapacitation or
  - interdiction

  to be valid beyond the period of 26 weeks.
- If procedures have not started, certificate expires after 26 weeks from approval

Has also been used for the issuance of a Guardianship Order *(although the MHA does not specifically include a reference to guardianship)*

Article 24 – Incapacitation or interdiction

- The Court must inform the Commissioner of every decree of interdiction or incapacitation
- The Commissioner may request an assessment of the mental capacity of the person concerned by three specialists. If such an assessment shows that the person concerned does not lack mental capacity, the Commissioner shall inform the Court accordingly
- In 2017, CMH succeeded in revoking an interdiction using this provision. There was an issue on the nomination of the three specialists, although the MHA specifies these specialists have to be nominated by the Commissioner.

THANK YOU