

Section 120 Public Consultation
Legal Services Regulatory Authority
Floor 2
St Stephen's Green House
Earlsfort Terrace
Dublin
D02PH42

1 June 2017

Re: Legal Services Regulatory Authority – Public Consultation Notice on Certain Issues Relating to Barristers (Section 120 of the 2015 Act)

Dear Sir/Madam

The Mental Health Commission (the Commission) welcomes the opportunity to respond to your public consultation invitation in respect of certain issues relating to barristers.

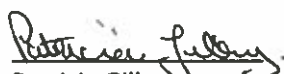
The Commission has considered the matter and wishes to make the comments set out below. The comments are limited and are made in accordance with its overall obligations under the Mental Health Act 2001 (as amended) and related / ancillary legislation, policies, codes and guidelines.

1. Section 120 (1) (b) would appear to be aimed at reducing cost and improving efficiency, therefore the Commission would support its introduction.
2. The Commission sees the benefit to both the “licensed access” and “public access” systems introduced in the UK. The Commission is aware of the direct access system in Ireland. While the Commission now has a Head of Legal Services, prior to that, it would have been beneficial if a member of its Senior Management Team could have, in certain contentious cases due to our specialist knowledge, engaged Counsel without the need for a solicitor. We accept that solicitors are allowed able to deal with contentious cases without the need for Counsel however in practice this is not done and should be encouraged by the legal profession. To date, where possible, this is being done by the Commission.
3. The Commission believes that State Agencies (and others) should have this option but accepts that appropriate controls / procedures need to be put in place to protect all interests.

(Reference - Internal Journal of the Legal Profession Vol 16 No's 2-3 July Nov 2009 “Straight there, no detours: direct access to barristers” and The Bar Review Vol 11 February 2006 “The Regulation of the Legal Professions”).

The Commission does not propose to comment on Section 120 (1) (a) and (c) save that all appropriate controls should be place to protect State monies / client monies.

Yours sincerely



Patricia Gilheaney
Chief Executive