



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

Ceannasaí Náisiúnta Oibríochtaí Meabhairshláinte
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Deputy Róisín Shortall.
Dail Eireann,
Dublin 2.

06th May 2022

PQ Number: 20442/22

PQ Question: To ask the Minister for Health further to Parliamentary Question No. 429 of 3 February 2022, the status of discussions at Department level in relation to the legal mechanism or statutory power that will be used for future placements of persons in specialist eating disorder units outside the State when the Assisted Decision-Making (Capacity) Act 2015 is fully commenced and the adult wardship jurisdiction has been abolished; and if he will make a statement on the matter - Róisín Shortall

Dear Deputy Shortall,

The Health Service Executive has been requested to reply directly to you in the context of the above Parliamentary Question, which you submitted to the Minister for Health for response. I have examined the matter and the following outlines the position.

The Assisted Decision-Making (Capacity) Act 2015 is reforming, human rights compliant law which relates to persons who require or may require assistance in exercising their decision-making capacity, whether immediately or in the future.

The HSE is undertaking a programme of work to enable compliance with this reforming Act and to ensure the rights of people enshrined by the new law will be protected and respected.

The Assisted Decision-Making (Capacity) Act 2015 will replace the existing wardship jurisdiction with a system which moves away from a blanket approach to decision making capacity to one which recognises the fluctuating nature of capacity through the provision of a tiered system of decision-making supports.

The HSE will work within the new mechanisms determined by the Decision Support Service, the new body established to oversee the Assisted Decision Making (Capacity) Act 2015, the provisions of the Assisted Decision-Making (Capacity) (Amendment) Bill which is being progressed by the Department of Children, Equality, Disability, Integration and Youth, and the determinations of the Court wherein they relate to future placements of persons in specialist eating disorder units outside of the State. At present, almost everybody who requires treatment for an eating disorder is accommodated in this jurisdiction.

In addition, the model of care for eating disorder services will expand access to specialist community services to reduce the need for inpatient care, expand the number of designated eating disorder beds in cases where in-patient care is required, with the overall aim being to reduce the requirement to send people abroad for treatment.



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The Department of Health's General Scheme to amend the Mental Health Act 2001 includes provisions for administration of treatment besides medication, such as lifesaving nasogastric feeding for persons with acute mental health conditions. Pre-legislative scrutiny by the Oireachtas Sub-Committee on Mental Health concluded on in April and the Sub-Committee's report is expected in the coming months. A final Bill expected to be completed and introduced to Oireachtas in the Autumn session.

Separately, work on progressing legislative provisions for protection of liberty safeguards is ongoing in the Department of Health. A number of complex legal and policy issues which had arisen during the drafting process remain to be resolved, but are being given active consideration. The HSE will input as necessary to the Department's work on this matter.

I trust this information is of assistance to you. Please do not hesitate to contact me if you have any further queries.

Yours sincerely,

A handwritten signature in black ink that reads "Jim Ryan".

Jim Ryan
Assistant National Director - Head of Operations
National Mental Health Services