



Oifig an Cheannaire Oibríochtaí,
Na Seirbhísí Míchumais/An Rannán Cúram Sóisialta,
31-33 Sráid Chaitríona, Luimneach.

Office of the Head of Operations,
Disability Services/Social Care Division,
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20th July 2022

Deputy Richard Bruton,
Dail Eireann,
Leinster House,
Kildare Street,
Dublin 2.
Email: richard.bruton@oireachtas.ie

Dear Deputy Bruton,

The Health Service Executive has been requested to reply directly to you in the context of the following parliamentary question, which was submitted to this department for response.

PQ: 37521/22

To ask the Minister for Health the way that the court decision striking down the preliminary assessment of children with special needs will affect the children who have been assessed and listed for therapeutic services; and the additional resource implications for the HSE to act upon the ruling.

HSE Response

Further to the High Court judgement in the case of CTM & JA v HSE there is a requirement to provide diagnostic assessments where appropriate as part of the Assessment of Need process. The HSE will utilise a range of approaches to address the requirement to provide additional assessments for children who received a Preliminary Team Assessment. This will include supporting CDNTs to provide additional assessments and also procuring additional assessments as part of a waiting list initiative.

The HSE's National Clinical Programme for People with Disability (NCPD) has led the process of developing Interim Clinical Guidance to replace the element of the Standard Operating Procedure which was found to be non-compliant with the Disability Act (2005) – the Preliminary Team Assessment.

Within the HSE, National Clinical Programmes have the responsibility to develop clinical guidance for practitioners to follow. To develop the Interim Clinical Guidance, 80 participants - which included Forsa, additional service users with lived experience, Legal Counsel, Assessment & Liaison Officers - and relevant professional bodies on the DAG, engaged in a day-long workshop, along with representatives from HSE's Operations and HSE Change Planning & Delivery; the CEO of the HSE and the Minister for Disability. The Clinical Programme presented a possible approach and received feedback both during the workshop and in a 10-day period following it. Feedback was incorporated into a new version of the Interim Clinical Guidance and this was then presented successively, to the DAG, the group of Disability Operations Leads for each Community Health Organisation (CHO) and to the Clinical Forum (the highest level clinical decision-making forum in the HSE). This new Interim Clinical Guidance has now been clinically approved and legal advice is awaited to confirm its compliance with the Disability Act (2005). The approach to assessment has to be designed in a manner which is clinically appropriate, prior to legal advice being sought.

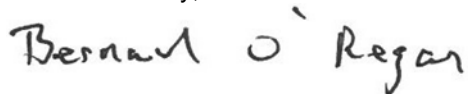


The National Clinical Programme for People with Disability (NCPD) has also committed to establishing a Task Group on Assessment of Need to address other issues related to the Assessment of Need process that are not addressed in the Interim Clinical Guidance. This group will include representatives from all the key stakeholders and particularly those with lived experience, and will meet monthly over the next 12 months.

Following legal advice on the Interim Clinical Guidance, Disability Operations, in collaboration with the Clinical Programme, will provide further information to service users and service providers, including a training webinar to support adoption of the Interim Clinical Guidance.

The requirement to provide diagnostic assessments under the Assessment of Need process will require the HSE and its funded service providers to prioritise these assessments. Unfortunately, this will result in the prioritisation of assessments and is likely to impact on the capacity of services to provide timely interventions for children with disabilities.

Yours Sincerely,

A handwritten signature in black ink that reads "Bernard O'Regan". The signature is written in a cursive style with a clear, legible font.

**Mr Bernard O'Regan,
Head of Operations - Disability Services,
Community Operations**

