



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,
31-33 Catherine Street, Limerick.

T: 00353 (0) 61 483369
Suíomh Gréasáin/Website: <http://www.hse.ie>

2nd August 2022

Deputy Padraig O'Sullivan,
Dail Eireann,
Leinster House,
Kildare Street,
Dublin 2.
E-mail: padraig.osullivan@oireachtas.ie

Dear Deputy O'Sullivan,

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: 40715/22

To ask the Minister for Health the way that he intends to replace the standard operating procedure model given the recent High Court challenge to the existing SOP in the assessment of needs process; and if he will make a statement on the matter.

HSE Response

The HSE's Standard Operating Procedure for Assessment of Need (SOP) was implemented for all new applications for AON from 15th January 2020. Since then approximately 10,000 Preliminary Team Assessments have been completed. The recent judgement of Ms Justice Phelan in the High Court directed that the Preliminary Team Assessment approach does not fulfil the requirements of the Disability Act. The judgement states that a diagnosis is required to determine the nature and extent of a person's disability. The implications of any ruling from the Court of Appeal in relation to other relevant cases will be considered as soon as this becomes available.

The Preliminary Team Assessments approach, as defined in the HSE's 2019 Standard Operating Procedure for Assessment of Need, is no longer being utilised to fulfil our obligations under the Disability Act 2005. Assessment of Need reports will no longer be issued on the basis of a Preliminary Team Assessment. A memo has issued to all stakeholders to this effect.

Pending the completion of clinical guidance for Assessments of Need, clinicians have been advised to use their clinical judgement to determine the level and type of assessment required. Assessment Officers have also been asked not to issue any final Assessment of Need Reports based on previously completed PTAs.

The HSE are continuing to review the files of all children who received a preliminary team assessment and engaging directly with families to establish what additional assessments will be required to meet the requirements of the Act.

Funding has been secured for a waiting list initiative that will facilitate the HSE to source assessments through a range of mechanisms including overtime, the establishment of dedicated assessment teams and private procurement



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.

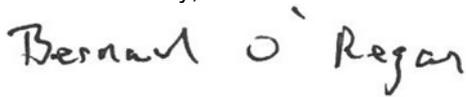
This new Interim Clinical Guidance has now been clinically approved and legal advice is awaited to confirm its compliance with the Disability Act (2005). The approach to assessment has to be designed in a manner which is clinically appropriate, prior to legal advice being sought.

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 HSE remains committed to the delivery of appropriate services for children with disabilities and will work with families and staff to develop services that meet their needs.

Yours Sincerely,



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

