



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

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12<sup>th</sup> July 2022

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Dear Deputy Tully,

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

**PQ: 34604/22**

*To ask the Minister for Health if the HSE seeks a legal opinion prior to changing the assessment of need process to incorporate the Preliminary Team Assessment; if so, the cost of this legal opinion; if not, the reason no legal opinion was sought; and if he will make a statement on the matter.*

**PQ: 34605/22**

*To ask the Minister for Health the organisations that were consulted during the process to introduce the standard operating procedure preliminary team assessment; the schedule of meetings that took place to deliberate the introduction of the standard operating procedure and preliminary team assessment; the organisations that were involved in these deliberations that were in support of the introduction of the preliminary team assessment; the organisations involved in these deliberations that voiced opposition to the introduction of the preliminary team assessment; and if he will make a statement on the matter..*

**PQ: 34607/22**

*To ask the Minister for Health further to Parliamentary Question No. 723 of 31 May 2022, the members of the group that was established to develop a revised approach to assessment of need under the Disability Act 2005; if the same persons who compiled the preliminary team assessment model are also members of the group established to develop a revised approach to assessment of need under the Disability Act 2005 who is tasked with making the appointments to this review group; and if he will make a statement on the matter.*

**PQ: 34608/22**

*To ask the Minister for Health further to Parliamentary Question No. 723 of 31 May 2022, the terms of reference of the group that was established to develop a revised approach to assessment of need under the Disability Act 2005; the person or body that set out the terms of reference of this review group; if the terms of reference are in the public domain; if so, the location in which the terms of reference can be found. -*



## 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. The SOP was intended to ensure a standardised approach across the state in respect of the operational application of the Disability Act 2005 and aimed to balance or ensure equity in terms of assessment and support interventions for vulnerable children and young people with a disability.

It had been widely acknowledged that compliance with the statutory timelines for Assessment of Need was a significant challenge for all HSE and HSE funded services. During 2017 it was agreed that there was a requirement for a standardised approach to Assessment of Need to facilitate compliance with the HIQA standards for assessment. In addition, the Judicial Review applications submitted throughout 2017 highlighted the requirement for HSE to define an "Assessment of Need".

The HSE prepared an outline of a new process for Assessment of Need and commenced a consultation process regarding same in September 2017.

Approximately 50 key stakeholders attended a consultation workshop in September 2017. Attendees included Assessment Officers; Liaison Officers; Community Health Doctors / Community Paediatricians; Consultant Psychiatrists; Occupational Therapists; Physiotherapists; Psychologists; Speech and Language Therapists; and Service Managers. These stakeholders worked in a variety of settings including HSE, HSE funded organisations; Children's Disability Services; Child & Adolescent Mental Health Services; and Primary Care.

There was also substantial consultation with the Department of Health and the Office of the Disability Appeals Officer and e-mail submissions were received representing a range of individuals and groups. HSE National Disability Children & Families Team also consulted with parents of children with ASD.

An extensive industrial relations engagement with the Forsa trade union commenced in April 2018 and concluded in January 2020. Forsa represents the grades of staff involved in AON including Assessment Officers, Liaison Officers, Occupational Therapists, Physiotherapists, Psychologists, Speech & Language Therapists and others.

In developing the Standard Operating Procedure for Assessment of Need, the HSE consulted on an on-going basis with its legal advisors. This included a request for Senior Counsel Opinion that was received in December 2018. Of note, the Forsa trade union sought an independent opinion from another Senior Counsel. Both legal opinions advised that the approach defined in the HSE's Standard Operating Procedure complied with the requirements of the Disability Act (2005)

The HSE's National Clinical Programme for People with Disability (NCPDP) was established in March 2022. The Clinical Programme 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 process was undertaken through the Disability Advisory Group (DAG) of the Clinical Programme. This advisory group is chaired by a person with lived experience of disability and also has three other lived experience service users, along with the Confidential Recipient. Other (DAG) representation includes, The Wheel, National Disability Services Association, National Federation of Voluntary Bodies, Inclusion Ireland, and the Disability Federation of Ireland. The DAG also has representation from the professions providing the majority of services to people with disability: Dietetics, Medicine, Nursing, Occupational Therapy, Physiotherapy, Psychology, Social Care, Social Work, and Speech and Language Therapy. The DAG also comprises representatives from HSE's Operations and HSE Change Planning & Delivery.

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.

Professor MacLachlan, Clinical Lead for the Clinical Programme, continues to express concern regarding those factors that are major causes of the difficulty the HSE has in complying with the Disability Act (2005) – the lack of trained health and social care professions to undertake Assessment of Need, and the inevitable consequence on waiting times of prioritising Assessment of Need over interventions. The Clinical Programme wishes to acknowledge that the current Interim Clinical Guidance will not address these important structural barriers within the systems and appeals for stakeholders to work with it as its endeavours to improve access to assessments and interventions for people with disability.

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.

Yours sincerely



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

