



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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4th November 2022

Deputy Pauline Tully,
Dail Eireann,
Leinster House,
Kildare Street,
Dublin 2.
E-mail: pauline.tully@oireachtas.ie

Dear Deputy Tully,

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: 53640/22

To ask the Minister for Health if the legal advice sought on new interim clinical guidance has been issued; if this advises that the new interim clinical guidance complies with the Disability Act 2005; if this new interim clinical guidance has been issued to children's disability network teams; if CDNTs are currently conducting assessments of need; 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 March 2022 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 Preliminary Team Assessment 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 are no longer being issued on the basis of a Preliminary Team Assessment.

Pending the completion of interim 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'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



has been sought to confirm its compliance with the Disability Act (2005). The HSE is continuing to engage with its legal advisors in this regard.

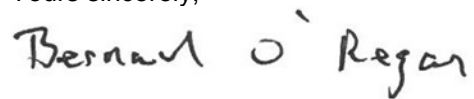
The National Clinical Programme for People with Disability (NCPD) has also committed to establishing a Task Group on Assessment of Need to address other issues related to the Assessment of Need process that are not addressed in the Interim Clinical Guidance. This group will include representatives from 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.

Please note, children do not require an Assessment of Need under the Disability Act to access any health services including the CDNTs.

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,

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

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

