

The Mental Health Commission has this afternoon formerly written to each political party to ensure that the establishment of the Decision Support Service is appropriately prioritised within any programme for government. The text of our letter is below.

Letter to political parties – 22.05.20

The Assisted Decision-Making (Capacity) Act is long awaited, reforming, human rights-based legislation. It was signed into law at the end of 2015 and has largely not been commenced. It is critically important that its full commencement is prioritised in the new programme for government.

The principal reforms introduced by the 2015 Act include.

- the abolition of the Victorian wards of court system under the Lunacy Regulation Act of 1871;
- the review of all current adult wards of court (over 1250 adults have been taken into wardship since the 2015 Act was passed);
- a modern regulated three-tier framework of decision-making supports;
- enhanced tools for advance planning by way of enduring powers of attorney and advance healthcare directives;
- the establishment of the Decision Support Service (DSS), a new statutory service in the Mental Health Commission.

It has been acknowledged that the full commencement of the 2015 Act is essential for Ireland to become compliant with the United Nations Convention on the Rights of Persons with Disabilities, ratified by the State in March 2018.

The Department of Justice and Equality has estimated that over 220,000 adults in Ireland could presently benefit from the reforms in the 2015 Act. This is based on numbers of persons with intellectual disabilities, acquired brain injury, mental illness and age-related degenerative disorders. Moreover, as any of us could lose the capacity to make and communicate decisions for ourselves, it is an Act for everyone.

Work is well underway to establish the Decision Support Service (DSS). The two major dependencies impacting progress have been the absence of adequate resourcing and the delay in passing amending legislation.

Resourcing

In the last two budgets, approximately one third of the allocation applied for in the estimates process has been awarded to the Decision Support Service.

Recent engagement with the Department of Justice and Equality has been positive. The Decision Support Service has presented to the Department a draft time bound, costed project plan to include the development of an essential ICT system. This plan has been favourably received. However, unless adequate funding is allocated in the coming budget, the DSS will not commence operations until after 2022.

Amending Legislation

Amending legislation is required to address a number of procedural and technical matters in the 2015 Act. These amendments will facilitate the more effective delivery of the services under the Act and will also provide a more equitable review process for current wards of court. The amending legislation has been in drafting since 2018 and must now be expedited.

It is submitted that the COVID-19 crisis has caused us to re-evaluate priorities. We have witnessed how the most vulnerable members of our community have suffered disproportionately. There is an overlap between those citizens who have suffered the worst effects of the pandemic and the potential cohort of service users of the Decision Support Service. As stakeholders have noted, the supports and protections available to these citizens would have been very different if the 2015 Act had been in place.

There is now an opportunity which should not be lost, to uphold the human rights of some of the most vulnerable and most overlooked members of our community in the next programme for government.

The Decision Support Service is available to brief your representatives on all matters relating to the 2015 Act and its planned implementation.

Ends