

# **Decision Support Service must be prioritised by next government**

## **Without adequate funding, reforming service will not launch until 2023**

**Friday, May 22<sup>nd</sup>:** The director of a new service for people with capacity issues has said that unless they are allocated adequate funding in the next budget, they will not be in a position to commence operations until at least 2023, more than seven years after the introduction of legislation that provided for it.

Áine Flynn, the Director of the Decision Support Service (DSS), has written this morning to each political party to ensure that the commencement of the DSS is prioritised within any programme for government. The letter has been co-signed by the Chairman of the Mental Health Commission, under whose remit the DSS is being established.

In the letter, Ms. Flynn explained that the DSS - which was established by the Assisted Decision-Making (Capacity) Act 2015 - will maximise autonomy for people who require support to make decisions about their personal welfare, property and financial affairs.

Ultimately, it will replace the current ward-of-court system. Figures provided by the Department of Justice and Equality suggest that there could be as many as 220,000 adults with capacity difficulties who currently reside in Ireland and who will benefit from the new service once it opens its doors.

The letter also noted that some of the country's most vulnerable people, many of whom have suffered disproportionately in the current Covid-19 crisis, would have had access to significant new supports and protections if the 2015 Act had been in place.

"The 2015 Act is long-awaited, reforming, human rights-based legislation. However, we are now approaching four-and-a-half years since the legislation was signed into law. It is critically important that those who will be most affected by the Act are provided with a clear roadmap for full commencement so we can all be assured, and continue with the job of getting the service ready for operation."

Ms Flynn explained that approximately one third of the allocation applied for in the estimates process was awarded to the DSS in the last two budgets.

"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. . It is therefore, absolutely critical that the full commencement of the 2015 Act 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 1,250 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; and the establishment of the DSS.

While more than 220,000 people would presently benefit from the reforms in the 2015 Act, the Chairman of the Mental Health Commission, John Saunders, said that to presume that it would only assist that cohort of people is to completely misunderstand its reach and potential.

“The figure of 220,000 is based on numbers of persons with intellectual disabilities, acquired brain injury, mental illness and age-related degenerative disorders currently residing in Ireland,” he said. “However, at any point in time, anyone could lose the capacity to make and communicate decisions for ourselves. Therefore, this is an Act for everyone.

“Work is well underway to establish the DSS within the Mental Health Commission. Apart from the resourcing issue, the other major dependency impacting progress have been the delay in passing amending legislation, which 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 service 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.”

Ms Flynn added that 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 (UNCRPD), which was ratified by the State in March 2018.

“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,” she said.

The DSS team have informed all parties that they are available to brief their representatives on all matters relating to the 2015 Act and its planned implementation.

**Ends**

## **Notes to the Editor**

### **What is the Decision Support Service (DSS)?**

The DSS is an essential service for all adults who have difficulties with decision-making capacity. This may include people with an intellectual disability, mental illness or acquired brain injury, as well as people with age-related conditions who may need supports to make decisions.

The DSS is provided for under the Assisted Decision Making (Capacity) Act 2015. The 2015 Act is a significant piece of reforming human rights legislation which provides a modern statutory framework for supported decision-making. The supports provided for, and monitored by the DSS, will help to ensure that people are afforded the fundamental human rights to make their own decisions as far as possible about their personal welfare, property and affairs and finances.

Estimates suggest that there could be as many as 220,000 people living in Ireland who have capacity-related difficulties and who may become users of the DSS. Based on the above figure, it is estimated that one in 20 adults could have an active arrangement registered with the DSS, and that one in every two people will interact with the DSS in their lifetime.

### **What is the relation of the DSS to the Mental Health Commission?**

Under the provisions of the 2015 Act, the remit of the Mental Health Commission was extended to include the establishment of the DSS.

The DSS is now one of four functions of the Commission. Although it is not confined to mental health, the DSS has found a natural home in the Commission as it (the Commission) has vital experience of setting up innovative structures under reforming legislation to deliver on a human rights agenda. The Director of the DSS, Áine Flynn, sits on the Executive (SMT) of the Commission.