

# relate

*information for all*

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## Developments in Disability Policy and Services

### Introduction

In this issue, we look at recent developments in disability policy and services. The disability legislation is not yet published but the debate is continuing and there have been developments in other areas.

Some of the information in this issue has been taken from Dáil debates and questions. There is a number of questions on disability issues every day that the Dáil is sitting. Much of the debate (in the Dáil and elsewhere) on services for people with disabilities concerns the level of funding and whether or not there have been cutbacks.

Here we give some examples of the level of funding provided but we do not examine the issue comprehensively. There is no doubt that significant extra resources were provided in the period up to 2002. The 2003 allocations are geared to supporting the 2002 levels of service but with no additional funding for new services. The demand for services is growing all the time - the population is increasing and people with disabilities are living longer. It is accepted that there is a shortage of various health professionals, in particular speech and language therapists, occupational therapists and physiotherapists, and this shortage cannot be immediately cured by providing more funds.

For space reasons, this article does not cover issues relating to older people even though many of them have disabilities.



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## The Disability Bill

The Disability Bill, 2001, was withdrawn last year and a consultation process was put in place to draw up a new Bill. The formal consultation process, facilitated by the National Disability Authority (NDA), ended in February 2003 and the outcome of that process was then considered by the Cabinet Sub-Committee on Social Inclusion. It is not clear when the Government will make a decision on the new Bill. "Sustaining Progress", the Social Partnership Agreement 2003 – 2005, includes a commitment to publish a new Bill by Autumn 2003 and to have it enacted by the end of the year.

The Disability Legislation Consultation Group which is an umbrella group of organisations in the disability sector and which came together for the purposes of the consultation process has published "Equal Citizens – Proposals for Core Elements of Disability Legislation". This outlines the views of the group on what the proposed legislation should contain. It is available on the NDA's website at [www.nda.ie](http://www.nda.ie)

Parts of the Disability Bill, 2001 were due to come into effect in 2003. For example, the rules on accessibility of new local authority services and of goods and services supplied by public bodies, the assessment of need for health and personal social services and the statutory basis for the 3% public service employment target were all due to come into effect in January 2003.

We do not know what will be included in the new Disability Bill. The Minister for Health and Children

has expressed reservations about a rights-based approach in a Dáil debate on services for people with disabilities. The rights-based approach is based on the view that peoples' rights to services should be clearly set out in legislation and there should be a corresponding legally enforceable obligation to provide services. The Minister said that there had not been an informed political debate about this approach: "The simplistic response has always been to do whatever the rights-based approach suggests without looking at the consequences or the implications for the roll-out and the targeting of services or at who should get what. If we brought in rights-based legislation tomorrow morning, we would be fooling people. We would be putting a template in front of them which the system, as we know it and irrespective of money, could not provide in terms of personnel and the multidisciplinary teams required to give the kind of one-to-one disability planning programmes necessary."

## Rights

The Oireachtas Committee on the Constitution is looking at the area of disability in the context of fundamental rights under the Constitution. [www.oireachtas.ie](http://www.oireachtas.ie)

### UN Committee on Economic, Social and Cultural Rights

The UN Committee on Economic, Social and Cultural Rights considered Ireland's report on the implementation of the International Covenant on Economic, Social and Cultural Rights in June 2002. The UN Committee made some observations which express concern about a number of issues which are relevant to the rights of people with disabilities. For example, the Committee regretted that the Disability Bill, 2001, did not adopt a human rights-based approach. It particularly criticised Section 47 of the Bill which sought to limit an individual's right to legal redress under the Bill. It also expressed concerns about "the persistence of discrimination against persons with physical and mental disabilities, especially in the fields of employment, social security benefits, education and health." Particular concern was expressed that people working in sheltered workshops do not have the status

of employees and are not entitled to the minimum wage as well as the number of people with mental disabilities still living in psychiatric hospitals. The full report is at [www.gov.ie/iveagh](http://www.gov.ie/iveagh).

### Proposed UN Convention

There is a proposal at present to draw up a UN Convention to promote the rights and dignity of people with disabilities. The UN has set up an Ad Hoc Committee (under UN resolution 56/168) to consider proposals for such a Convention. It met in summer 2002 and is scheduled to meet again in June 2003. The European Commission has issued a Communication which sets out its position regarding such an instrument. Attempts are being made to have a common EU position on this but it is not yet clear if this will happen.

[http://europa.eu.int/comm/employment\\_social/news/2003/feb/1044278937\\_en.html](http://europa.eu.int/comm/employment_social/news/2003/feb/1044278937_en.html)

# Education

## Education for Persons with Disabilities Bill

The Education for Persons with Disabilities Bill, 2002, was passed by the Seanad but not by the Dáil and it was then withdrawn. A consultation process was undertaken and is now completed. The Minister for Education and Science has said that his objective is to bring forward legislation which will;

- ◆ guarantee that the needs of children arising from a disability are identified and that they are provided with an education appropriate to their needs as early as possible in their lives
- ◆ ensure that adults with special educational needs have access to the education and related services and supports they need
- ◆ ensure that parents have a central role in their child's education and
- ◆ ensure that the various agencies involved in providing for special education and related support services are required to act within specified time limits.

The new Bill has not yet been published but the Minister said he intended to have it passed by summer 2003. This intention is also expressed in "Sustaining Progress".

## Pre-school

The health boards are responsible for pre-school children with disabilities. There is a small number of special pre-school class units for children with autistic spectrum disorders attached to primary schools.

There appear to be problems of delineation between the health boards and the Department of Education and Science. Health board psychologists are involved with pre-school children and the point at which this is taken over by the National Educational Psychological Service (NEPS) which deals with primary schools is not always clear. An example was given in a Dáil question about a service which was provided by a health board. The board withdrew the service saying that NEPS would take it over but had not been in contact with NEPS about it. There are discussions taking place between the health boards and NEPS about the transfer of responsibility for certain areas of work. This has to be done on a phased basis as NEPS is not yet up to full strength (see below). A working party representative of the health boards and NEPS

has produced a report, "Achieving Through Partnership", which contains an action plan for collaboration at national, regional and local levels. It is intended to begin implementing the action plan immediately.

## Primary Schools

The Department of Education and Science (DES) is responsible for primary school services. Children in primary schools who have been assessed as having special educational needs are entitled to a response to their needs. That response may be provided in special dedicated schools, in special dedicated classes attached to ordinary schools or on an integrated basis in the ordinary classroom. The policy is to have integrated education as far as possible. Health boards are responsible for providing speech and language therapy services to children.

## Learning support teachers

Learning support guidelines have been issued to all primary schools. These include procedures for identifying and selecting children for supplementary teaching. This is provided by learning support teachers. Psychological assessment does not occur until efforts have been made by the class teacher and the learning support teacher to address the child's problems. There are 1,531 learning support teachers in primary schools. Each teacher looks after approximately 30 children. The Department is examining current levels of learning support provision in primary schools.

## Resource teachers and Special Needs Assistants

If psychological assessment is required it is carried out by NEPS or, where the school has no NEPS service, a private assessment may be commissioned – see below. On the basis of these assessments schools apply each term to the department for resource teachers and special needs assistants. Circular 8/2002 from the DES sets out the criteria for eligibility for extra resources in respect of special educational needs. In relation to specific learning disability it stipulates that resource teaching for 2.5 hours per week may be allocated only to children who have

been assessed as being of average intelligence or higher and having a degree of learning disability specific to basic skills in reading, writing or mathematics which places them at or below the second percentile on suitable, standardised, norm-referenced tests. Special needs assistants may be allocated as required. Children who do not meet these criteria but who do have a specific learning disability may be looked after by the learning support teacher and/or the class teacher.

There are about 2,300 resource teachers in primary schools at present (there were 100 at the end of 1998). There are 5,100 special needs assistants, some part time (300 in 1998).

In December 2002, 788 applications from schools for resource teacher or special needs assistant support were assessed by the Department. These applications sought extra resources for 1,590 individual children. The department concluded that 948 of these children met the criteria set out and sanctioned the resources requested. In some of the remaining 642 cases, some extra resources were granted but not to the level requested and in some cases no extra resources were granted.

### Special Classes and Special Schools

Where children's needs cannot be met by the allocation of extra resources within the ordinary school, then they may be put into special classes or special schools. These have a maximum pupil-teacher ratio of 8:1 and special needs assistant support is provided where required. A higher capitation rate per child is paid in respect of children in these classes and schools and they may get extra funding for special equipment.

There are 500 teachers in special dedicated classes attached to ordinary primary schools and more than 1,000 teachers in the 108 special schools.

There is a special school transport service, including an escort service.

Children may transfer from special schools to special classes attached to ordinary primary schools or to ordinary classes. Children need a review assessment before transferring and there seem to be delays in getting these assessments. The reviews are necessary so that the resource teaching and/or special needs assistants can be provided.

### Specific disabilities

Children with visual impairment and children with hearing impairment are also supported by the relevant

visiting teacher service and they may also get funding to buy specialised equipment.

The Department is currently considering proposals for the establishment of a national centre for the visually impaired.

An advisory committee on the education of the deaf and hard of hearing was established by the Minister for Education and Science to review the adequacy of the current range of educational support services available to students with hearing impairment, to identify and prioritise areas of service provision which require development or adjustment and to bring forward proposals to ensure the development and delivery of an appropriate, effective and efficient education support service for students with hearing impairment. This committee is expected to produce an interim report before the end of the current school year.

There are four special schools and 23 special classes attached to primary schools for children with dyslexia.

### Post Primary Schools

Psychological reports are supplied to the school and/or to the child's parents, see NEPS below. When a child is about to leave primary school, the parents may take the reports themselves or may authorise the school to send them to the relevant post primary school. There is no automatic transfer of such reports from one school to another.

Resource teaching posts, special needs assistant posts and additional teaching hours are allocated to second level schools to cater for special needs pupils. Each case is considered on its merits and additional allocations are made on the recommendation of the psychological service. There is an independent appeals board for teacher allocations to second level schools.

### National Educational Psychological Service (NEPS)

The National Educational Psychological Service agency was established in 1999 to develop and provide an educational psychological service to primary and secondary schools. The planning group which had recommended its establishment recommended that 200 psychologists would be needed and that 180 should be in NEPS and the other 20 elsewhere in the education system. It also recommended that they be recruited over a 5 year period starting in 1999. The agency started with 43 psychologists and it now has 120. The cost of NEPS in 2003 is expected to be almost €14 million.

The NEPS mission is to “support the personal, social and educational development of all children through the application of psychological theory and practice in education, having particular regard for children with special educational needs”.

The service provided by NEPS has four main strands:

- ◆ Casework with individual children and young people
- ◆ Consultation and support for teachers and parents
- ◆ Project work in schools
- ◆ Promotion of mental health in schools.

### Private assessments

Those primary schools which do not yet have access to NEPS may commission private assessments under a scheme administered by NEPS. Each school may commission a number of assessments – broadly one assessment for every 50 students. Under this scheme, individual psychological assessments may only be administered by psychologists whose names appear on

a panel compiled by NEPS. The Regional Directors of NEPS also have a limited discretion to meet exceptional needs. The contact details for the NEPS regional offices, information on the commissioning of individual psychological assessments and NEPS publications are on the Department of Education and Science website. [www.education.ie](http://www.education.ie)

### National Council for Special Education

The Government intends to establish a National Council for Special Education. It is intended that the council will have local offices and that it will play a key role in the development and delivery of services for people with special needs. It will have a research and advisory role and will establish expert groups to consider specific areas of special needs provision. It will also establish a consultative forum to facilitate inputs from the education partners and other interested parties. A chief executive officer designate has been appointed and it is expected that the council will be established shortly.

## Health Services

### Intellectual Disability

#### Funding for Extra Services

There is a question in the Dáil to the Minister for Health and Children about the funding of services for people with intellectual disabilities virtually every day. The Minister has given the following information about funding:

Between 1997 and 2002 an extra €188 million revenue and €139 million capital funding was provided for services for people with intellectual disabilities and autism. In 2003, additional funding of €13.3 million has been provided. This is to meet the full year cost of the 2002 developments and “will further enhance the health related support services for children with an intellectual disability or autism”.

This funding has financed 1,700 extra residential places (including some respite places), 465 dedicated respite places and 2,950 new day places. The number of people with intellectual disabilities who took up residential places increased by 10% between 1996 and 2001.

Since 1998 approximately €14.6m has been allocated to enhance the early intervention, pre-school and multi-disciplinary support services for children with an intellectual disability and those with autism. Between 1999 and 2002, additional funding of €11.43m was provided to enable health boards to put in place a range of support services for people with an intellectual disability or autism who present with

major behavioural problems and require a more intensive level of support.

Between 1999 and 2002 additional revenue funding of €10.476 million and €27.4 million capital was allocated to the programme to provide more appropriate care settings for people with an intellectual disability and those with autism accommodated in psychiatric hospitals, those accommodated in de-designated units, which were formerly designated as part of the psychiatric services and others who moved some years ago from psychiatric hospitals to alternative accommodation which is now unsuitable for their needs.

#### Dormant Accounts Fund

The intention is that funds in the Dormant Accounts Fund will be disbursed to charitable and community projects, with a particular focus on children with learning disabilities.

#### National Intellectual Disability Database

The Intellectual Disability Database was established in 1995. Its objective is to ensure that accurate

information is available about the needs of people with intellectual disabilities. Services are planned and co-ordinated on the basis of this information. The information on the database is gathered by service providers, health boards, voluntary bodies, community care workers, public health nurses, school principals and others involved in education. The information is given to the health boards – each health board has a Database Co-ordinator. The regional database is compiled from this information. The national database is compiled from the regional database.

The National Intellectual Disability Database Committee issue an Annual Report each year. The latest report available is for 2000. This shows, among other things, that there were 1,711 people with an intellectual disability living at home who needed a full-time residential service, 861 who needed a day service and 1,014 who needed a respite service. There has been a delay in producing the 2001 and 2002 reports because one of the health boards had not submitted the relevant data. Both are expected to be published shortly. Preliminary information from the 2001 report indicates very substantial increases in the numbers of people accessing services, particularly residential and respite services.

The database shows the increasing demand for services. For example, the 1999 report shows that, while 269 people from the original waiting list of 1,439 received full time residential services in the period 1997 - 1999, 507 people had joined the waiting list in the period. In 1996, 85.5% (22,804 people) of the population of people with an intellectual disability were known to be in receipt of services. By 2000, this had increased to 89.8% (24,035 people).

### **People living in psychiatric hospitals**

The policy is that people with an intellectual disability or autism should not be admitted to psychiatric hospitals unless they have an underlying psychiatric disorder which cannot be appropriately treated elsewhere and that those who are inappropriately in psychiatric hospitals or units should be transferred to more appropriate accommodation. There were 452 people with intellectual disabilities or autism living in psychiatric hospitals in October 2002 (571 in 2001 and 970 in 1996). Separate information on the number of these who are autistic is not available in the Department.

### **Physical and Sensory Disability**

#### **Funding for New Services**

Approximately €180 million in extra funding has been provided since 1997 for services for people with

physical and sensory disabilities. Such services include residential services, respite services, home support services, including personal assistant services, therapy services and day care services. Over €20 million has been provided specifically for home support services. €71 million has been provided in once-off grants for capital projects and the provision of technical aids and appliances. An extra 95 respite places were created specifically for this group between 1997 and 2001.

### **National Physical and Sensory Disability Database**

The National Physical and Sensory Disability Database was launched in March 2002. Its objective is to gather information on the specialised health and personal social service needs of people with a physical or sensory disability. The database is operated through the health boards and will monitor current service provision and future service requirements over a 5 year period. It will be used for planning service developments, prioritising service needs and assisting in resource allocation decisions at national, regional and local level. So far, just under 16,000 individuals have been registered on the database. It was expected that there would be over 40,000 registered.

### **Disabled Drivers and Passengers**

The interdepartmental group which was set up in 1997 to review the disabled drivers and disabled passengers scheme was chaired by the Department of Justice, Equality and Law Reform. The group has reported but the report is not yet published. The report was considered by the Tax Strategy Group (TSG) before Budget 2003. Most of the reports of the TSG are on the Department of Finance website but this report is one of those withheld.

There are approximately 7,500 beneficiaries of this scheme. The cost of the scheme, excluding the annual road tax costs, was estimated at €34 million in 2002. There is a waiting time of between 12 and 18 months from the application to the hearing of an appeal under the scheme.

### **Personal Assistant scheme**

The Minister for Health and Children has established a working group to examine the provision of a uniform, national personal assistant scheme for people with physical and mobility difficulties. The working group includes representatives of the Department, health boards, service providers and service users. It has received information and statistics from health boards on current practices, procedures, service utilisation and demand in the relevant boards. Draft standard policies and procedures on assessment of need and

training of personal assistants have been compiled and these are to be considered by the health boards.

The Centre for Independent Living has a waiting list of 370 people who need personal assistants.

## General

The care of people with disabilities is one of several special initiatives identified in the social partnership agreement "Sustaining Progress". Among other things, this involves commitments that

- ◆ the Department will carry out a strategic review of existing service provision, in consultation with relevant interests, with a view to enhancing health and personal social services to meet the needs of people with disabilities
- ◆ the Government will, within six months, complete a review of the waiting lists for residential care for people with disabilities.

## Health professionals

As stated, the shortage of health professionals is a major issue in services for people with disabilities. The numbers of health professional being employed in the health service is increasing – over 8,000 (an increase of 22%) more were employed in 2001 than in 1997. This increase includes some extra therapists but it is recognised that a major increase in the number of therapists is required. More training places for speech and language therapy, occupational therapy and physiotherapy have been created but it will be a number of years before they are trained.

## Community Employment Schemes.

The current situation in respect of community employment (CE) schemes was outlined in Relate, March 2003. The intended mainstreaming of CE services provided by voluntary and community organisations in the health area has not yet occurred. Many personal assistants are employed through CE schemes.

# Standards for Services

The National Disability Authority (NDA) and the Department of Health and Children have published "Draft National Standards for Disability Services". These standards are to apply to day, residential, respite, training and home support services for children and adults with autism, intellectual, physical and/or sensory disability, funded by the Department of Health and Children and provided by both statutory and non statutory agencies. "Sustaining Progress" includes a commitment to complete the development of these standards and to implement them on a pilot basis.

The NDA and the Mental Health Commission have responsibility for standards in mental health services.

## Inspection of care facilities for people with disabilities

The Social Services Inspectorate (SSI) was established in April 1999 on an administrative basis. It is proposed to establish it on a statutory basis. The 2001 Health Strategy set 2003 as the target date for this. It is intended that the SSI will monitor all personal social services operated by the health boards but initially it is concentrating on the child care area and in particular on the inspection of health board operated residential child care facilities. The inspection of residential facilities for children with disabilities was excluded from the remit of the SSI under the Child Care Act 1991. This exclusion was revoked in the Children Act 2001.

A steering group chaired by the Department of Health and Children and including representatives of the Department and the health boards oversees the operation of the SSI. The process of inspection has been agreed. A national set of standards against which all children's residential homes, both statutory and non-statutory, are being inspected was published in September 2001. These standards are being examined with a view to ensuring that they encompass the particular needs of children with disabilities.

The 2001 Health Strategy also states that the remit of the SSI will be extended to cover residential care for older people and adults with disabilities, but no date has yet been set for this. Currently there is no statutory inspection for adult residential care services.

# Mental Health

## Mental Health Act

The Mental Health Act, 2001 is not yet fully implemented. The Mental Health Commission was established in April 2002. It is in the process of appointing the Inspector of Mental Health Services and other senior staff.

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## Policy

The policy on mental health services is set out in "Planning for the Future" which was published in 1984. The policy involves the closure of the old mental hospitals and their replacement with acute psychiatric units attached to general hospitals and treatment in the community. There are now 19 general hospital psychiatric units in operation and two more are expected to be in operation in the near future. There are approximately 400 community psychiatric residences which provide over 3,000 places and about 200 day hospitals and day centres with 3,500 places. There were 12,484 patients in psychiatric hospitals and units in 1984 and 4,256 patients in 2001. There are still people receiving care in psychiatric facilities who should not be there either because they should be in more appropriate residential care or they should be receiving care in the community.

It is accepted that there are problems in getting housing for people who are suffering from psychiatric illness.

A White Paper on Mental Health was issued in 1995. This was concerned mainly with the law on admission to psychiatric hospitals.

A commitment to drawing up a new policy on mental health services is included in the 2001 Health Strategy. Draft terms of reference for the preparation of a National Policy Framework on mental health are being drawn up and it is expected that an Expert Group will be appointed before the summer to prepare this.

## Funding

Funding for mental health services is 7% of the total health budget at present. An extra €70 million was invested in the mental health services in the period 1999 – 2002. Extra funding of €7.6 million was provided in 2003. Approximately €190 million in

capital is being provided over the lifetime of the national development plan to fund the development of acute psychiatric units linked to general hospitals.

## Child psychiatry services

The first report of the working group on child and adolescent psychiatric services was presented in March 2001. The working group recommended that seven in-patient psychiatric units for children aged 6 to 16 years should be developed. Project teams have been established for the proposed units in Cork, Limerick, Galway and at St. Vincent's Hospital, Fairview. The 2001 Health Strategy includes a commitment to the implementation of the recommendations of the working group's report.

Each health board has approval and funding for a minimum of three consultant-led, multidisciplinary child and adolescent psychiatric teams.

The placing of children in adult psychiatric facilities has been criticised by the Inspector of Mental Hospitals. Amnesty International considers it a breach of the UN Convention on the Rights of the Child.

## Mentally ill prisoners

The Irish Penal Reform Trust has published "Out of Mind, Out of Sight" which deals with the solitary confinement of mentally ill prisoners, in particular the use of padded and strip cells. The Minister has given a commitment to replace all traditional padded cells with new safety observation cells.

## Mental health and advocacy services

There was a commitment in the Programme for Prosperity and Fairness to help initiatives to provide independent advocacy services for people who are involuntarily detained under the provisions of the Mental Health Act 2001. (People are still involuntarily detained under the Mental Treatment Act, 1945, because the new Act is not yet in effect.) The 2001 Health Strategy also includes a commitment to develop advocacy services in the mental health area. Some funding (€251,000 in 2002) was provided to health boards and voluntary agencies for this purpose. The Irish Advocacy Network received funding and now employs a number of peer advocates in different health board areas.

## Publications

The Annual Report of the Inspector of Mental Hospitals for 2001 was published in September 2002. It is available at [www.doh.ie](http://www.doh.ie)

In his report for 2001, the Inspector notes the continuing decline in the number of patients in psychiatric inpatient facilities, from 4,522 at the end of 2000 to 4,256 at the end of 2001. Involuntary admissions account for about ten per cent of all admissions.

Amnesty International (Irish Section) has published "Mental Illness: The Neglected Quarter". (The Quarter refers to the fact that one in four people suffers from a psychiatric illness at some stage). This reviews how

the rights of people with mental illness are respected in Ireland, the legal provisions and procedures by which they are governed and protected, their living conditions in psychiatric institutions and units, the standard of care generally available in the mental health services, the therapies administered and the treatment experienced in the wider community. It is available at [www.amnesty.ie](http://www.amnesty.ie)

The Irish Psychiatric Association has published "The Stark Facts" which is an analysis of its survey of Irish psychiatric service providers on the mental health system. Among other things, this called for a new national mental health strategy.

# Employment and Training

## Employment in the Public Service

There is a long standing commitment to the goal of having people with disabilities fill 3% of jobs in the public service. In this context, people with disabilities includes people with physical, sensory or psychological impairments. There is a Civil Service code of practice on the employment of people with disabilities.

Government Departments met the 3% target in the mid-1990s but the percentage was 2.78% in December 2001. In the rest of the public service, the percentage employment on 1 January each year was as follows:

1998 - 1.52%  
 1999 - 1.72%  
 2000 - 1.89%  
 2001 - 2.12%  
 2002 - 2.21%.

The figures for 2000, 2001 and 2002 are provisional as a number of public service bodies have not submitted returns to the Department of Justice, Equality and Law Reform.

The Department of Finance, the Civil Service Commission and the Department of Justice, Equality and Law Reform, commissioned a study on the career progression of people with disabilities in the Civil Service. The results of this research are due to be published shortly.

The Department of Justice Equality and Law Reform and the Equality Authority launched an employer resource pack in December 2002 to help public service employers in the recruitment and retention of people with disabilities.

## Rehabilitative Training – Department of Health and Children

A draft code of practice for sheltered occupational services has been completed and is being examined by the Department of Health and Children. The Department is also reviewing the funding of sheltered occupational services. "Sustaining Progress" includes a commitment that an action plan will be developed in 2003 for the implementation of the Code of Practice following a transition period of one year. The transition period will involve briefing workshops for service providers and training programmes for staff on a number of aspects of the Code, most particularly in the area of Person-Centred Planning. Funding has been allocated to allow this to start in 2003.

An extra 500 rehabilitative training places were provided in 2002.

"Sustaining Progress" also includes a commitment that the Department will produce a rehabilitative training policy document as part of its 2003 Business Plan.

## Department of Enterprise, Trade and Employment

In April 2003, the Employee Retention Grant Scheme and the Disability Awareness Training Support Scheme were launched. The Employee Retention

Grant Scheme aims to maintain people in employment if they get an illness, condition or impairment that puts their continued employment at risk. It supports employers to access the necessary expertise to enable them to retain such employees. The Disability Awareness Training Support Scheme provides funding towards the cost of in-company training to educate and inform staff about people with disability and disability in general.

The Department has commissioned a review of vocational training provision for people with disabilities. This review will

- ◆ assess the FÁS role in supporting, managing and monitoring training provided by specialist providers
- ◆ examine the nature and extent of supports used by

the various providers to assist people with disabilities to progress to employment

- ◆ consider the potential for increased training of people with disabilities in a more integrated way and
- ◆ identify areas where improvements can be made in operational procedures.

FÁS is reviewing the National Supported Employment Programme. “Sustaining Progress” includes a commitment that the Department will conclude by mid-year its consideration of existing sheltered employment models and will, subject to available resources, develop actions and a policy framework aimed at enhancing the potential of sheltered employment to provide better employment opportunities for people with disabilities.

## Disabled Person's Housing Grant

The scheme is operated by local authorities who are recouped two thirds of the expenditure by the Department of the Environment and Local Government. Expenditure on the scheme increased from €15.8 million in 1999 to €41.7 million in 2001. There were 2,857 grants in 1999 and 5,070 in 2002. The Department is currently undertaking a review of the scheme.

Comhairle (then the NSSB) issued a report and recommendations on the disabled person's housing grant in 1998. This report outlined many of the problems which still exist with the scheme.

The delays in processing applications and the shortage of money available for the scheme were raised on a number of occasions in the Dáil. Also the maximum grant - €20,000 or 90% of the cost whichever is the lesser - is considered inadequate to meet the costs involved in building an extension.

## Criminal Law (Insanity) Bill, 2002

The Criminal Law (Insanity) Bill provides for changes in the law in relation to people who are charged with criminal offences and who may be suffering from a mental disorder. The question of the mental state of a person charged with a crime may arise at two different stages - at the start of the trial and at the decision on guilt. At present, people may plead unfitness to plead (which means that they are not fit to stand trial) because of insanity. There is no statutory definition of insanity. If the person cannot understand the charge or is unable to instruct a legal team, challenge jurors or follow the evidence, then he/she may be considered unfit to plead. The decision is made by a jury. If the trial proceeds and the person claims insanity at the time the offence was committed, then he/she may be found to be guilty but insane - again, by a jury. This verdict, in spite of the way it is phrased, is actually an acquittal. The result of this finding is that the person is committed to the Central Mental Hospital and must stay there until the government decides otherwise.

The Bill proposes to introduce a new finding of “unfitness to be tried” and new verdicts of “not guilty by reason of insanity” and “diminished responsibility”.

The Bill defines mental disorder as including mental illness or handicap, dementia or any disease of the mind, but excludes intoxication by alcohol or other substances.

### Fit to stand trial

Fitness to plead is to be replaced by “fitness to be tried” and this is being given a statutory definition which is similar to its present meaning. The decision on this will be made by a judge. This finding is not a decision on the alleged criminal activity. If the person is found to be unfit to be tried, then the trial is postponed. The judge decides what happens next. The person may be detained if, for example, he/she is considered to be in need of in-patient psychiatric treatment under the terms of the Mental Health Act, 2001. If the Judge considers that there is a reasonable doubt that the person committed the alleged crime, the person may be acquitted.

### Not guilty by reason of insanity

The present verdict of guilty but insane will be replaced by the more accurate verdict of “not guilty by reason of insanity”. The tests for this verdict are set out in statute law form, but are not changed. This decision will continue to be made by a jury. If this verdict is reached, the question of whether or not the person should be detained will be decided in accordance with the Mental Health Act 2001.

### Diminished responsibility

If a person is charged with murder, the verdict of not guilty by reason of insanity is one possible verdict. The Bill also introduces the concept of diminished responsibility in murder cases. A conviction for murder brings an automatic life sentence. In other crimes, the judge has discretion in relation to sentencing and so can take into account any diminished responsibility which may exist. If a person charged with murder successfully pleads diminished responsibility, then the verdict will be manslaughter. The judge can then sentence the person to any length of time in prison.

### Mental Health Review Board

The Bill provides for the establishment of the Mental Health Review Board. Its main function will be to review the detention of people found not guilty by reason of insanity or unfit to be tried, who have been detained in a designated centre by order of a court. The board will be made up of a legal chairperson and a number of other people, at least one of whom must be a consultant psychiatrist. It will be obliged to review each detention at least once every six months.

## Other Developments

### No Fault compensation for brain damaged infants

An advisory group to examine the feasibility of introducing a no-fault compensation scheme for brain damaged infants was established in July 2001. The group has conducted an investigation of the clinical and legal issues involved and the existing levels of service provision for those affected by cerebral damage. It is expected to report in the middle of 2003.

### Community Development

The community development support programme operated by the Department of Community, Rural and Gaeltacht Affairs is aimed at addressing all areas of poverty and disadvantage. It includes projects for people with disabilities. There is a number of specialist support agencies for the programme including the Disability Equality Specialist Support Agency. It focuses specifically on disability issues and works to enhance the capability of the programme to develop actions and ways of working to ensure the full involvement and inclusion of people with disabilities within the programme.

### Disability Payments

The Department of Social and Family Affairs is conducting an expenditure review of the illness and disability payments. The key elements of this study include;

- ◆ clarifying the objectives of each scheme; identifying gaps and overlaps in the overall provision, with a view to producing a more simplified system which is consistent and comprehensive
- ◆ examining the extent to which schemes support self-sufficiency (e.g. as regards incentives to move into work/training/ rehabilitation)
- ◆ examining possible alternative approaches to the design and delivery of social protection for people who are ill or disabled, and
- ◆ examining the roles of the Department of Social and Family Affairs and the Health Boards in the provision of income maintenance for this group.

The purpose of this study is to take a general overview of the system of income maintenance provision for this group. This review represents the first step towards comprehensively reviewing all of the illness and disability payment schemes and therefore, it provides a framework within which future more detailed reviews in this area can take place. It is expected that it will be published in Autumn 2003.

### Access to public transport

Private bus operators are licensed to provide public transport services under the Road Transport Act, 1932. This does not mention the question of accessibility. This Act is currently under review and it proposed to replace it with a new statutory framework for the independent regulation of bus services. The Minister for Transport said he intended to address the question of accessible buses in the context of the proposed new regulatory regime for bus services.

### Disability Awareness

A Disability Awareness Week is being organised by Comhairle for the week beginning 8 September 2003. This will promote information, advice and advocacy services for people with disabilities through Citizens Information Centres, the Citizens Information Call Centre LoCall 1890 777 121 and the Comhairle websites [www.oasis.gov.ie](http://www.oasis.gov.ie) and [www.cidb.ie](http://www.cidb.ie)

### Assistive Technology

Comhairle is developing an Assistive Technology Information database in partnership with relevant organisations. This will provide an integrated electronic source of information on technical aids and appliances for people with disabilities in Ireland. It will carry information on products, suppliers, financial assistance and relevant support organisations. An important part of this development will be the provision of a telephone help line as a back-up information resource.

### National Study of Disability

The ESRI and the Centre for Disability Studies in UCD have been funded by NDA to develop and pilot an instrument for measuring the prevalence of disability in Ireland.

## European Year of People with Disabilities

At the launch of the European Year of People with Disabilities, the EU Commissioner for Social Affairs outlined her view that the year would see the start of a programme to achieve clear, tangible results:

- ◆ by drawing attention to the many barriers that continue to exist for people with disabilities and identifying ways to overcome those barriers
- ◆ by changing attitudes with respect to disability and people with disabilities
- ◆ by recognising and protecting the rights of people with disabilities
- ◆ by recognising that the benefits are not just for people with disabilities, but to society as a whole.

The Commissioner outlined some specific actions which the Commission would support. These included improving access to assistive technology and improving accessibility. Research into the situation of people with disabilities in institutions is being conducted and will be published in 2004. The Commission intends to publish a Communication at the end of 2003 on what should be done to follow up the year.

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