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*information for all*

Vol. 32 No. 1  
October 2004  
ISSN 07904290

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## Rights for People with Disabilities

### Introduction

Two bills which will establish various rights for people with disabilities have been published. They are the Disability Bill 2004 and the Comhairle (Amendment) Bill 2004.

The Disability Bill 2001 was withdrawn because of opposition by groups representing people with disabilities. One of the requirements of the Disability Bill 2004 is that a number of government departments must draw up sectoral plans which set out how they propose to provide services to people with disabilities. A number of departments have published draft sectoral plans. Here we describe the two bills and some of the draft sectoral plans. The Education for Persons with Special Needs Act 2004 was passed earlier this year. It is described in the August 2004 issue of *Relate*. It establishes a range of educational rights for children and many of its provisions and structures are relevant to the provisions of the Disability Bill and will be operated in co-ordination with them. In particular, the National Council for Special Education (NCSE) is given new responsibilities under the Disability Bill.

The Disability Bill 2004 has a number of provisions in relation to the allocation of resources for services. The government has said that it intends to address the issue of resources by outlining a multi-annual funding programme in the Estimates and Budget later this year.

In summary, the bills set out new rights for people with disabilities and place a number of obligations in respect of people with disabilities on public bodies. These rights and obligations are not absolute. They are all subject to various conditions and exceptions may be made in some cases.

People with disabilities will be entitled

- ◆ to have their health and educational needs assessed
- ◆ to have individual service statements drawn up setting out what services they will get
- ◆ to access independent complaints and appeals machinery
- ◆ to avail of the services of personal advocates.



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Public bodies will be obliged to ensure that public buildings and public services are accessible, that a number of people with disabilities are employed. Some government departments will have to set out plans for providing services to people with disabilities. There will be a complaints procedure for people who

consider that public bodies are not complying with their obligations.

The text of the Bills is available at [www.oireachtas.ie](http://www.oireachtas.ie). The draft sectoral plans are on the individual departments' websites.

## Disability Bill 2004

The Disability Bill's main aims are to provide for:

- ◆ assessment of health and education needs of people with disabilities
- ◆ provision of resources to meet those needs
- ◆ making of plans for services
- ◆ complaints and appeals procedures
- ◆ access to public buildings and public service employment
- ◆ restrictions on genetic testing.

### Allocation of Resources

From the 2005 financial year onwards, Government departments and public bodies which provide services under the Bill must make a specific allocation to those services – in effect, a certain amount of money will be earmarked for services under this Bill. The amount of this allocation will be decided by the relevant Minister. The Bill does not deal with the amount of money that will be allocated – this will be announced in the Estimates and in the Budget in December.

### Assessment of Need

The Bill provides that people with disabilities will have the right to have their health and educational needs assessed. There is no specific date given in the Bill for the implementation of this part. The Bill does provide that it may be implemented at different times for different age groups.

The assessment of need will be carried out by assessment officers who will be independent officers of the health board. There are provisions for co-operation and co-ordination between this assessment process and the arrangements for the assessment of educational need under the Education for Persons with Special Needs Act. After the assessment, a service statement will be drawn up by a liaison officer who will also be an independent health board official. The Bill provides for an independent complaints and appeals machinery for people who are dissatisfied with the assessment or with the service statement or with the subsequent provision of services. It is expected that the details of the procedures to be followed will be contained in regulations.

The Bill provides that all parts of the process including applications, replies, correspondence between the health board and the NCSE, must be in writing – this means that the documents will be accessible under the Freedom of Information Act or data protection legislation. It also means that information on the needs of people with disabilities and the services being provided to them will be more readily available. Health boards will be obliged to keep records of assessments and services. Each year, the health board must compile a report on the total needs identified in the assessment reports and the ideal timescale within which those needs should be met.

### Who is entitled to an assessment

You are entitled to an assessment of need if you have a disability as defined in the Bill. You have a disability if there is a substantial restriction in your capacity to carry on a profession, business or occupation or to participate in social or cultural life because of an enduring physical, sensory, mental health or intellectual impairment. For the purposes of the assessment of need, a “substantial restriction” means that you have a restriction which is permanent or likely to be permanent, results in a significant difficulty in communication, learning or mobility and means that you have a need for services to be provided continually.

If you consider that you have a disability, or if certain people consider that you have a disability and that you are unable to form that opinion yourself, you or they may apply (in writing) to the health board for an assessment. Alternatively, health board officials may

arrange for such an application or may ask the health board to carry out an assessment. The people who may apply on your behalf are spouses, parents, relatives, guardians, legal representatives and personal advocates (see section on the Comhairle Bill for more information on personal advocates). These people have various rights to represent you at the different stages of the assessment process and in the complaints and appeals system. The Bill provides that regulations may be made about exactly who is entitled to represent you in this process. In general, parents are entitled to act on behalf of children. The situation with adults is very much more complex as there is no system of adult guardianship other than the Wards of Court arrangements which are not widely used. Parents have no general legal rights to make decisions in respect of their adult “children”. The problems which arise in this area have been raised by the Law Reform Commission.

The assessment must be started within three months of the application and must be completed without undue delay – there is no specific time limit on its completion. If you are already being or have been assessed under the Education for People with Special Needs Act, you will not generally be entitled to a health board assessment. However, if the educational assessment shows that you need health services, it must be sent to the health board for the purposes of drawing up a service statement. You may be refused a health board assessment if you have already had such an assessment and the review period has not yet expired or, if you are a child, you had an assessment in the previous 12 months. You may, however, look for a new assessment if there has been a change in circumstances or further information is available or if you consider that there was a mistake of fact in the assessment report.

### Carrying out the assessment

Health boards will appoint assessment officers who will be independent in carrying out their functions. The assessment officers will either carry out the assessment themselves or authorise other health board employees or other experienced people to do so.

The aim of an assessment is to decide what health and education needs arise from your disability and what services you require to meet those needs. Health services include personal social services and include services provided by the health board and services provided on behalf of a health board – many of the services for people with intellectual disabilities are provided by voluntary bodies on behalf of the health board. The assessment will identify your needs. It

will not take account of the costs of providing for those needs or the capacity to provide the services which are identified as necessary to meet the needs.

The assessment must be carried out in accordance with standards which will be set by the Health Information and Quality Authority. This is one of the new bodies which is to be established under the proposed reorganisation of the health services.

The National Council for Special Education (NCSE) will be required to help health boards in the assessments of the needs of adults with disabilities and the preparation of service statements. The Bill sets out the circumstances in which the NCSE must be involved and the procedures which must be followed by the health boards and the NCSE. If you are a child and the assessment identifies the need for education services, the assessment officer must refer the matter to the education service provider (usually a school) or the NCSE.

### Your role in the assessment

The assessment officer may interview you and your parent, guardian, legal representative or personal advocate. If an interview takes place, the assessment officer must tell you what its purpose is unless this would be prejudicial to your mental health, well-being or emotional condition or inappropriate having regard to your age or the nature of your disability. The assessment officer must try to ensure that you understand the process as far as possible.

### Assessment report

When the assessment is complete, the assessment officer writes an assessment report which is given to you and to the health board and, if appropriate, to the NCSE. The assessment report sets out whether you have a disability and, if you have,

- ◆ a statement of the nature and extent of the disability
- ◆ a statement of the health and education needs arising from the disability
- ◆ a statement of the appropriate services to meet those needs
- ◆ a statement of the period within which a review of the assessment should be carried out.

### Service Statements

As already stated, the assessment of need only takes account of your needs – it does not address the question of whether or not those needs can be met. Service statements do take into account whether those

needs can be met and how this can be done. Service statements will be based on the assessment report and will set out the health and education services which will be provided to you and the time within which they will be provided. The assessment of need does not take costs into account but the service statement does.

The health boards may appoint liaison officers to draw up service statements. The liaison officer may ask for help from other bodies including the NCSE when drawing up this statement. If you are a child, the service statement will not deal with educational services (because these are addressed under the Education for Persons with Special Needs Act) but a service statement for an adult may deal with educational needs.

When drawing up the service statement, the liaison officer must take a number of factors into account. These include

- ◆ the assessment report
- ◆ your eligibility for services under the Health Acts (these include services such as GP, free or subsidised prescribed drugs, medicines and appliances, hospital and residential care services; there is a clear entitlement to some of these services but many of them are services which the health boards are not obliged to provide)
- ◆ any approved standards and codes of practice which apply to the services identified in the assessment report
- ◆ the practicability of providing the services identified in the assessment report
- ◆ the need to ensure that the provision of the services by the health board would not cause the health board to spend more money than it is legally entitled to spend.
- ◆ the advice of the NCSE about the capacity of an education service provider to afford the service in question.

The liaison officer may amend a service statement if circumstances change.

You will be given a copy of the service statement, as will the health board and the NCSE and education service provider if appropriate.

## Delivery of Services

After the service statement is drawn up, the liaison officer then arranges the delivery of services with the various service providers, with help from the NCSE if

necessary. In order to do this, the liaison officer may send a copy of the service statement to a relevant public body if you agree to this (or if one of the people who is entitled to apply for an assessment of needs on your behalf agrees to this). The public body concerned is then required to communicate with you (or your representative) or the liaison officer in order to facilitate the provision of services. In effect, the onus is on public bodies to come to you with services rather than you having to approach them.

## Complaints and Appeals – Assessments and Services

The Bill provides for a two-tier complaints and appeals system. The first tier is an independent but internal health board complaints officer system and the second is an external appeals officer.

You may complain to the health board about any of the following:

- ◆ A decision by the assessment officer that you do not have a disability
- ◆ The failure to carry out the assessment in accordance with standards set by the Health Information and Quality Authority
- ◆ The contents of the service statement provided to you
- ◆ The failure to provide a service specified in the service statement.

Complaints must be made as soon as possible but it is expected that specific time limits will be set out in regulations. The health boards may appoint complaints officers to deal with these complaints. The Bill provides that the complaints officers be independent in performing their functions.

The complaints officer may dismiss the complaint as frivolous or vexatious but must give reasons in writing for doing this. In other cases, the officer may try to resolve the complaint informally. If this fails, or if the issue is not suitable for informal resolution, the complaints officer investigates the complaint. You and the other people involved - for example, the assessment officer or the liaison officer or the various service providers - must be heard and given the opportunity to present evidence. The complaints officer must issue a report which includes findings and recommendations. When considering the complaint, the complaints officer must take into account the factors which the liaison officer is obliged to take into account when drawing up the service

statement – this means that the costs involved must be taken into account. Complaint proceedings must be held in private.

The complaints officer's recommendation must be implemented by the health board unless the chief executive officer considers that

- ◆ it would cause the health board to spend more than it is legally entitled to spend
- ◆ it is not possible or practicable to provide a service or to provide it in the time specified or
- ◆ you are not eligible for the services under the Health Acts.

If the recommendation deals with the provision of an education service, the relevant service provider must arrange for its implementation unless

- ◆ its implementation would mean that the provider had to spend more than its annual budget allowed
- ◆ it would not be possible or practicable to provide the service or to provide it within the time specified.

The health board or education service provider must give reasons in writing to you and to the complaints officer for the refusal to implement any recommendation.

### Appeals Officer

An independent appeals officer will be appointed by public competition. He/she will not be an employee of the health board. You or your representative may appeal to the appeals officer against

- ◆ a finding or a recommendation of the complaints officer
- ◆ the failure of the health board or education service provider to implement a complaints officer's recommendations.

You (or your representative) must lodge an appeal within six weeks. The appeals officer may appoint mediator officers who may try to mediate a settlement. However, this cannot happen if you do not agree to it. If mediation is not being used, or is unsuccessful, the appeals officer must hear you and the other parties involved but has the discretion as to whether or not to have an oral hearing. This seems to mean that you and the service providers must be interviewed by the appeals officer but this need not take place in the presence of each other. An oral hearing, if it occurs, must be held in private. The appeals officer may ask the assessment officer or the liaison officer to make further inquiries. He/she will

have a range of powers including the power to require the production of documents, to apply to the District Court for a search warrant and to have people appear and give evidence.

The appeals officer's decision will be in writing and will be sent to you and to the service providers involved. The decision is binding on both the health board and the education service providers. The decisions will be publicly available. You may appeal the decision to the High Court on a point of law.

If the health board or the education service provider fails to implement

- ◆ the appeals officer's decision or
- ◆ the settlement agreed in the appeals mediation process or
- ◆ the recommendation of a complaints officer (where that has not been appealed)

within three months, you or your representative or the appeals officer may apply to the Circuit Court for an order directing its implementation.

### Access to Public Buildings and Services

The Bill has provisions dealing with the right of access to public buildings and services by people with disabilities. There is a general exclusion which provides that any public building, service, information or goods need not be made accessible if the adaptation or modification involved, or the provision of auxiliary aids would

- ◆ fundamentally change the nature of the business, profession or trade of the person providing the service, information or goods, or
- ◆ would constitute a risk to the health, safety or welfare of any person.

### Public Buildings

The Bill requires that public buildings must be accessible to people with disabilities, as far as practicable. A public building means a building, or that part of a building, to which members of the public generally have access and which is occupied, managed or controlled by a public body.

Public buildings must be in compliance with Part M of the Building Regulations 1997 (SI 45/497 of 1997 as amended) by 31 December 2015 at the latest. If amendments are made to part M, then public buildings must be in compliance with the amendments within 10 years. Ministers will have the power to order that specific public buildings need not comply with Part M if the building is being temporarily used

as a public building or will not be used as such after three years or if the cost of making the building accessible would not be justified given the use to which the building is put and the frequency of its use by people with disabilities.

The Minister for Justice, Equality and Law Reform may ask the National Disability Authority (NDA) to prepare a draft code of practice for public bodies on accessibility. The Minister may then approve, refuse to approve or amend the draft. If a code of practice is approved, public bodies must take account of that code as far as is practicable, having regard to its resources and obligations. In particular, they must take account of the code of practice when starting or extending a building.

This part of the Bill will come into operation on 31 December 2005.

## Access to Public Services

The obligations on public bodies will apply to virtually every body which is publicly financed but not to the Defence Forces. Public bodies will be required to provide access to public services on an integrated basis, where this is practicable and appropriate. (Public services include information services.) They must also provide help for people with disabilities to access the services, if this is practicable and appropriate. All public bodies will be obliged to have at least one access officer to help people with disabilities to access their services.

Public bodies will be required to ensure that services (including the supply of goods) provided to them by third parties are accessible to people with disabilities unless such access

- ◆ would not be practicable
- ◆ would not be justified by the cost involved or
- ◆ would cause unreasonable delay in making the goods or services available to other people.

Public bodies will be required to communicate in an accessible manner with people who are visually impaired or hearing impaired.

These requirements will come into operation on 31 December 2005.

## Heritage Sites

Public bodies will be required to ensure that people with disabilities will, as far as practicable, be able to visit heritage sites with ease and dignity. This, however, does not apply if providing such access

would have an adverse effect on the site. This will come into effect on 31 December 2007.

## Codes of Practice

The Minister may ask the NDA to draw up codes of practice in relation to access to public services. If such a code is approved by the Minister then public bodies which comply with the code will be considered to have met their obligations to provide accessible public services.

## Sectoral Plans

A number of Ministers will be required to prepare sectoral plans. These are plans setting out the services to be provided for people with disabilities. Each Minister must consult with representatives of people with disabilities before drawing up the plan. All sectoral plans must provide for co-operation with other departments in the development and co-ordination of services.

Each plan must include information about

- ◆ any relevant codes of practice or regulations which are in operation
- ◆ the complaints procedure to be provided in relation to any matters which are included in the plan
- ◆ the monitoring and review procedures
- ◆ if appropriate, the level of access to the services specified in the plan.

The first sectoral plans must be prepared within one year of this part of the Bill coming into effect – there is no specific date for this. They must be approved by the Daíl before coming into effect.

The Bill provides that the following sectoral plans be produced:

### Health Sectoral Plan

The Department of Health and Children sectoral plan must have information on

- ◆ the services for people with disabilities
- ◆ the rules on eligibility for services under the Health Acts
- ◆ the arrangements for the implementation of assessment of needs.

### Social Welfare Sectoral Plan

The Department of Social and Family Affairs sectoral plan must have information on

- ◆ the rules in relation to eligibility for social welfare payments and the amounts of these payments

- ◆ the information, advice and advocacy services and sign language interpretation services provided or arranged to be provided to people with disabilities by Comhairle.

### Transport Sectoral Plan

The Department of Transport sectoral plan must have information on

- ◆ plans for accessible passenger transport services (public transport and regulated privately run transport); passenger transport services does not include air transport or railways which are run for historic or tourist purposes only
- ◆ measures to facilitate access by people with disabilities to these services and the time within which these measures will be taken. The original Disability Bill 2001 included time limits by which various transport services had to be accessible. Such time limits are not included in the Disability Bill 2004 but will be included in the sectoral plan
- ◆ arrangements to be made by the Minister for the Environment to facilitate access from public roads to transport services.

### Communications, Marine and Natural Resources

The Department of Communications, Marine and Natural Resources sectoral plan must have information on

- ◆ measures to facilitate access to marine transport passenger services and the time scales involved
- ◆ measures to facilitate access to harbours and ports.

### Environment, Heritage and Local Government

The Department of the Environment, Heritage and Local Government sectoral plan must have information on

- ◆ measures to ensure compliance with the access to buildings regulations - Part M of the Building Regulations 1997 (S.I. No. 497 of 1997)
- ◆ measures to be taken to facilitate access to public roads and other public places
- ◆ arrangements to be made by the Minister for Transport to facilitate access from public roads.

### Enterprise, Trade and Employment

The Department of Enterprise, Trade and Employment sectoral plan must have information on

- ◆ vocational training and employment support services made available by FAS.
- ◆ plans for appropriate services to facilitate the integration of people with disabilities into employment

- ◆ measures to review the delivery of such services and the time scales involved
- ◆ any measures to be taken to ensure more effective provision of such training and services.

See also page 11

### Complaints in relation to access to public buildings and services

You or your representative may complain, in writing, to the head of a public body if you consider that the public body has failed to comply with its obligations in relation to access to buildings and services. The public body must publish procedures for the investigation of complaints. The head of the public body may appoint an inquiry officer to investigate the complaint. Inquiry officers will be independent in carrying out their functions.

Unless the inquiry officer considers the complaint to be frivolous or vexatious, he/she must investigate it and prepare a written report for you and the head of the public body. This report must set out the officer's findings and decision. If it is found that the public body is not in compliance, the decision must set out what steps need to be taken to bring it into compliance.

### Role of Ombudsman

The Bill gives specific power to the Ombudsman to review a decision of an inquiry officer. It also gives the Ombudsman the power to review a decision of a complaints officer in relation to a sectoral plan. However, it does not provide for the appointment of complaints officers in relation to sectoral plans – it does require that complaints procedures be put in place.

The sections of the Bill dealing with the role of the Ombudsman appear to propose changes to the Ombudsman Act but these changes seem to apply only to the decisions of inquiry officers and sectoral plans complaints officers.

You can of course complain to the Ombudsman in the normal way about decisions made by the health boards under the assessment and services provision of the Bill.

### Genetic Testing

The Bill provides that genetic testing may not be carried out unless the testing is allowed by the law and you have given consent to the processing of the genetic data derived from the test. The Bill does not deal with how the question of capacity to give consent is to be

decided. In general, people are required to give free and informed consent before such tests take place. Parents may give consent on behalf of their minor children but there is no system of substitute consent for adults who are themselves unable to give consent. It appears that such adults simply cannot give consent.

People may not engage in processing genetic data in relation to

- ◆ employment – unless the processing has been approved by the Data Protection Commissioner
- ◆ insurance or life assurance policies
- ◆ health insurance
- ◆ occupational or other pensions or retirement annuities
- ◆ mortgages.

People may not process your genetic data unless they have taken all reasonable steps to give you appropriate information about the purpose and possible outcome of the processing and any possible health implications which may become known as a result.

If you are applying for insurance, then information about your family history may be processed in accordance with regulations under the Data Protection Acts. Such information would not derive from genetic testing.

The Bill does not affect any genetic testing or processing of genetic data that is carried out for the purposes of a criminal investigation.

There is no date set for this part to come into effect but it must be reviewed no later than 1 January 2014.

## Public Service Employment

The provisions of the Bill in relation to public service employment do not apply to the Defence Forces, the Gardaí or prison officers. All other public bodies will be obliged, as far as practicable, to take all reasonable measures to promote and support the employment of people with disabilities. Ministers may specify “compliance targets” for the recruitment and employment of people with disabilities in the civil service, the local authorities and health boards and other bodies operating under the different government departments. Public bodies will be obliged to reach these targets unless there are good reasons for not doing so.

Under the Bill, compliance targets may specify

- ◆ the numbers or percentages of people with disabilities to be employed in the public service concerned
- ◆ the holding of recruitment competitions confined to people with disabilities for specific posts
- ◆ measures for the filling, by qualified people with disabilities, of specified categories of vacancies.

If no specific targets are set out, then public bodies must ensure that at least 3% of their employees are people with disabilities, unless there is good reason for not doing this. This 3% target or quota has been the policy since 1977 but the Bill proposes that it be a statutory obligation.

Ministers must appoint monitoring committees in the public bodies to monitor and encourage compliance with the employment targets. The committees must include a representative of people with disabilities – this person may be a staff member. Each public body must draw up an annual report outlining its compliance with the targets set and submit this to the monitoring committee. The committee must draw up an annual report on compliance by the public body.

Ministers and the National Disability Authority also have powers to ensure compliance by public bodies. In certain circumstances, the NDA may require public bodies to take measures to come into compliance – these include making reasonable changes to the work premises and other measures to facilitate people with disabilities.

The NDA may draw up codes of practice in relation to the recruitment and employment of people with disabilities and, if these are approved by the relevant Minister, public bodies must have regard to them.

There is no specific date for the implementation of this part of the Bill.

## Centre for Excellence in Universal Design.

The Bill proposes the establishment of a Centre for Excellence in Universal Design. This centre will be based in the NDA. The main aim of the Centre will be to facilitate the achievement of excellence in universal design by the development and promotion of standards. Among other things, it will help to promote the principles of universal design in the education and training of architects, engineers, town planners, systems analysts, software designers, transport providers and designers.

## Obligations of leaseholders

If you lease a premises, you may need to make changes in order to comply with your obligations as an occupier under this Bill. The lease may specify that you may not make any changes or you may be restricted in the changes you may make. The Bill provides that such a term in a lease will have the effect that you may not make changes without your landlord's consent and that consent may not be unreasonably withheld.

## Broadcasting

The Broadcasting Commission of Ireland may make rules requiring broadcasters to take specific steps to promote the understanding and enjoyment of programmes by people who are deaf or hearing impaired and by people who are blind or partially sighted. This may mean that broadcasters are required to provide sign language, teletext services and subtitling at particular times or for particular programmes.

# Comhairle (Amendment) Bill 2004

The Comhairle (Amendment) Bill 2004 is mainly concerned with extending Comhairle's remit to include the establishment of a personal advocacy service for people with disabilities. It also provides for some changes in the membership of the Board of Comhairle including a reduction in numbers from 20 to 15. The Disability Bill 2001 provided for the establishment of a personal advocacy service but now it has been decided to deal with this in a separate Bill.

Under the Comhairle Act 2000, Comhairle has responsibility for, among other things, supporting the provision of or directly providing independent advocacy services so as to ensure that all citizens have access to accurate, comprehensive and clear information relating to social services and are referred to the relevant services. It has particular responsibilities towards people with disabilities. Advocacy is defined as including services in which the interests of a person seeking a social service are represented in order to assist the person in getting entitlements to such service but does not include legal representation.

The Bill proposes to replace two of Comhairle's current functions. These are:

- ◆ to assist and support individuals, in particular those with disabilities, in identifying and understanding their needs and options and in accessing their entitlements to social services
- ◆ to promote greater accessibility, co-ordination and public awareness of social services and of information, advice and advocacy services provided in relation to such services whether by a statutory body or a voluntary body.

The Bill proposes that Comhairle will have the following functions instead:

- ◆ to support the provision of or, where the Board considers it appropriate, to provide directly, advocacy services to individuals, in particular those with a disability, that would assist them in identifying and understanding their needs and

options and in securing their entitlements to social services

- ◆ to provide, or to arrange for the provision of a Personal Advocacy Service to "qualifying persons"
- ◆ to support, promote and develop—
  - (i) greater accessibility, co-ordination and public awareness of social services and
  - (ii) the provision and dissemination of integrated information in relation to such services by statutory bodies and voluntary bodies.

## Social Services

The Comhairle Act does not define a "social service" but the Bill proposes to define it as follows; any service provided by a statutory or voluntary body which is available to the public and includes, but is not limited to, services in relation to health, social welfare, education, family support, housing, taxation, citizenship, consumer matters, employment and training, equality, asylum and immigration.

## Disability

In the Comhairle (Amendment) Bill 2004, disability is defined in the same way as in the Disability Bill 2004.

## Personal Advocacy Service

When providing a personal advocacy service, the Board of Comhairle must take account of its own financial resources and whether the people concerned can get advocacy services from another source. Comhairle may appoint personal advocates or may arrange for other people to take on the role of

personal advocates. A Director of the Personal Advocacy service will be appointed and he/she will be responsible to the Chief Executive Officer of Comhairle.

### Qualifying Persons

You may qualify for a personal advocacy service if you are aged 18 or over and

- ◆ because of a disability, you are unable to obtain or have difficulty in obtaining a social service without the help or support of a personal advocate and
- ◆ there are reasonable grounds for believing that there is a risk of harm to your health, welfare or safety if you are not provided with the social service in question.

If you are under 18, you may qualify for a personal advocacy service if

- ◆ your only parent or guardian meets the qualifying conditions or
- ◆ you have a disability or there are reasonable grounds for believing you have a disability and it would be unreasonable to expect a parent or guardian to act on your behalf without the help of a personal advocate and your health, safety or welfare would be at risk if you did not get the service concerned.

When assigning personal advocates, Comhairle may have to set an order of priority among the people who qualify for the service. When doing this, Comhairle must take into account:

- ◆ the needs of the people who qualify
- ◆ the degrees of risk of harm to the health, welfare or safety of the people concerned if they are not provided with the social service they are trying to get
- ◆ the benefits likely to accrue if they do get personal advocates
- ◆ the availability of advocacy services from other sources.

### How to get a Personal Advocate

If you consider that you are entitled to get a personal advocate – that you are what the legislation describes as a “qualifying person”, you write to the Director of the Personal Advocacy service asking that you be assigned a personal advocate and setting out the social services that you are trying to get. This application may be made by any other person on your behalf. The Director decides whether or not you are a

qualifying person and, if you are, he/she assigns a personal advocate to you.

If your application is refused, reasons must be given in writing. You may then write to the Chief Executive of Comhairle and ask for a review of the decision. Again, anyone else can do this on your behalf. In general, you must look for a review within 21 days of getting the decision but the Chief Executive has the power to allow an extension. If the Chief Executive reverses the decision, you are assigned a Personal Advocate. If the Chief Executive upholds the decision you must be told the reasons in writing.

### Functions of a Personal Advocate

A Personal Advocate has a range of functions including

- ◆ applying on your behalf or helping you to apply for an assessment of need and helping and/or representing you at the various stages of the process of drawing up a service statement
- ◆ helping you or representing you in the process of getting the social services you have named in your application or which are included in your service statement
- ◆ if the Personal Advocate considers it appropriate, making or helping you to make a complaint, appeal or application for review to any body other than a court. This could involve, for example, helping you to make an appeal to the Social Welfare Appeals Office or a complaint to the Ombudsman as well as helping you to use the new complaints and appeals machinery provided under the Disability Bill
- ◆ in order to help you to promote the best interests of your health, welfare and well-being, providing support and training to you, members of your family, your carers or others who are involved in promoting your best interests

Personal advocates will be entitled to get certain information and make inquiries on your behalf. They may go into any place where day care, residential care or training is provided for you and make inquiries. They may, subject to the data protection legislation

- ◆ get information relating to you from a statutory or voluntary body. (The Bill does not give the personal advocate any rights in relation to accessing information under the Freedom of Information Acts. There are regulations in place about access under FOI on behalf of people with disabilities. Broadly, this allows parents/guardians to access personal information about an adult who

is incapable of exercising his/her rights under the Acts because of a condition of mental incapacity or severe physical disability – Statutory Instrument No 47 of 1999).

- ◆ attend and represent you at any meeting, consultation or discussion at which your interests are being considered and
- ◆ identify any family member or carer who may be able to help in promoting your best interests.

Voluntary and statutory bodies which provide social services will be obliged to co-operate with personal advocates.

## Sectoral Plans

The relevant government departments have published draft sectoral plans. The Disability Bill sets out the items which must be included in the plans. Here we very briefly set out the main features of some of these plans.

### Department Of Social And Family Affairs

The Department's statement of strategy includes the aim of facilitating and improving access to education, training and labour market programmes for people with disabilities.

Four specific tasks are outlined:

- ◆ to identify an appropriate range of options to help people with disabilities, who are receiving welfare payments, to take up employment.
- ◆ to review the application of rules for continuing entitlement to sickness and disability payments to ensure that they are appropriate to the needs of recipients
- ◆ to pilot specific employment initiatives for people with disabilities, initially people in the 16-25 age group who qualify for long-term disability payments
- ◆ to review the application of the Back-to-Work Allowance scheme and related supports to people with disabilities and bring forward proposals for any necessary changes.

The draft sectoral plan describes the current services provided by the department.

[www.welfare.ie](http://www.welfare.ie)

### Department Of Health And Children

The objectives of the sectoral plan are:

- ◆ To provide access to appropriate health and personal social services for people with disabilities

### Sign Language Interpretation Service

The Comhairle Act 2000 already provides that the Minister for Social and Family Affairs may request Comhairle to "design schemes relating to social services to address needs identified by the Minister concerning such services, and, where the Board considers it appropriate to do so, to provide such services directly". The Minister intends to ask Comhairle to design such a scheme in relation to sign language interpretation services. The scheme will then be part of the Department's sectoral plan as provided for in the Disability Bill.

- ◆ To provide services which are people-centred and which maximise participation and choice
- ◆ To ensure access to information
- ◆ To promote and facilitate participation by people with disabilities in decision-making processes
- ◆ To encourage a high level of awareness amongst all health service personnel in respect of the particular needs of people with disabilities
- ◆ To promote co-ordination between the health services and other statutory and non statutory bodies providing services for people with disabilities.

The Department is making plans for the implementation of the relevant provisions of the Disability Bill. The plan sets out the current services available and entitlement to them as well as existing plans for changes.

[www.doh.ie](http://www.doh.ie)

### Department of Transport

The draft sectoral plan outlines the proposals of the Minister for Transport in relation to the development of accessible public transport for people with mobility and sensory impairments. The plan includes a definition of what the Department means by accessibility. All new proposals for public financing of transport projects must involve full accessibility.

The plan outlines targets for fully accessible transport. Close to 95% of all buses operating on the Bus

Éireann urban services in Cork, Limerick, Galway and Waterford are low floor, wheelchair accessible vehicles, as are close to 50% of all Bus Átha Cliath buses. The policy of buying only such vehicles will continue. All Bus Éireann bus stations should be fully accessible by 2006. Bus Éireann will start to replace its inter-city coach fleet with wheelchair accessible coaches as soon as such vehicles become available. All inter-city trains will be accessible by 2006 and 50% of the rolling stock will be accessible by 2007. Iarnród Éireann will publish a railway station accessibility refurbishment programme for the period up to 2006. The Commission for Taxi Regulation is addressing taxi accessibility issues. The Plan also outlines plans for establishing disability user advisory groups in state agencies as well as for disability awareness training.  
[www.transport.ie](http://www.transport.ie)

#### Department of Enterprise, Trade and Employment

The main aim of the plan is to facilitate and improve access to vocational training and employment opportunities for people with disabilities, in the belief that employment offers the best means for them to participate fully in the social, cultural and economic life of the country. It outlines a number of planned labour market policy initiatives aimed at ensuring equal opportunities for people with disabilities including:

- ◆ a FÁS Action Plan for provision of Specialist Vocational Training
- ◆ implementation by FÁS of new criteria for supported employment services for people with disabilities
- ◆ a review of the Workway initiative
- ◆ a proposal to introduce a new Full Time Employment Support Scheme (FTESS) for the employment of people with disabilities that would provide incentives to both employees and employers.

[www.entemp.ie](http://www.entemp.ie)

#### Department of the Environment, Heritage and Local Government

The plan sets out

- ◆ national objectives and guidelines for access to public buildings, public spaces and services owned and operated by local authorities
- ◆ the building code (Part M) including enforcement measures and a complaints procedure
- ◆ national objectives and guidelines for improved access to heritage sites
- ◆ local authorities' plans to carry out accessibility audits of their buildings, facilities, services and information and consequent implementation plans
- ◆ local authorities' plans to arrange disability awareness training for relevant personnel.

[www.environ.ie](http://www.environ.ie)

#### Department of Communications, Marine and Natural Resources

The plan deals with passenger ships, the international ferryports which serve these passenger ships and regional ports and harbours, and sets out some timescales for making them accessible.

There are already EU Directives dealing with standards for some new passenger ships. It is planned that existing passenger ships will comply with these rules on a phased basis between 2007 and 2009.

The passenger services at the ports of Cork, Dublin, Dun Laoghaire and Rosslare will be accessible, as far as is reasonable and practicable, by 31 December 2005. Their public buildings will be accessible by 31 December 2007.

[www.dcmnr.gov.ie](http://www.dcmnr.gov.ie)

The two new bills have yet to be discussed by the Dail and Seanad so it is possible that amendments will be made before they become law.

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Relate Subscription Rates:

Annual Subscription

(12 issues, January to December)

€15.85 post free

Each additional subscription sent  
in the same envelope

€1.90 per year.

Published by:

Comhairle

7th Floor, Hume House

Ballsbridge, Dublin 4.

Tel: 01-6059000 Fax: 01-6059099

E-mail: [comhairle@comhairle.ie](mailto:comhairle@comhairle.ie)

Website: [www.comhairle.ie](http://www.comhairle.ie)

Individual copies 75 cent



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