

National **Safeguarding** Committee

Promoting the rights of adults who may be vulnerable



Department of Justice
51 St Stephens Green
Dublin 2
D02 HK52

10 November 2018

Public Consultation on Draft National Standards for Direct Provision

Dear Sir/Madam

I write as Chair of the National Safeguarding Committee (NSC) with regard to your recent public consultation on the Draft National Standards for Direct Provision. The National Safeguarding Committee (NSC) which was established in December 2015 is a multi-agency and multi sectoral committee with strategic objectives that include raising societal awareness with regard to abuse of vulnerable adults and to advocate for policy and legislative reform in respect of adult safeguarding.

The NSC welcomes the development of the Draft National Standard for Direct Provision but stress that it is important to ensure that any standards that are being developed take account of the State's international human rights obligations particularly in relation to Ireland's recent ratification of the UN Convention on the Right of Persons with Disabilities. The NSC in this submission refers in particular to:

Theme 8 – Safeguarding and Protection. This section needs further development particularly in relation to the adult safeguarding. Specifically -

8.1.6 Reference should be made to the HSE *Safeguarding Vulnerable Persons at Risk of Abuse: National Policy & Procedures*. This policy is at present subject to a detailed review. There should be collaboration with the HSE National Safeguarding Office to ensure that there is consistency of approach in both Standards being developed for Direct Provision and the revised National Policy.

8.1.8 There is a gap in this standard in that there is no reference to training in adult safeguarding.

8.2 While this provides a standard for the protection of children, there is a major gap in that there is no similar standard for the protection of adults. Any standard for the protection of an adult should also include the provision of access to an independent advocate to ensure that the voice of the person is being heard. It is acknowledged that draft standard 6.1.5 provides for access to an advocate but this is limited to information about rights.

Theme 10 – Identification, Assessment and Response to Special Needs. This section also needs further

development particularly in relation to an adult who lacks the capacity to make decision/s for him/herself.

Ireland ratified the UN Convention on the Rights of Person with Disabilities in March 2018. The implications of the ratification of the UNCRPD is that Ireland has undertaken to and must now comply with its human rights obligations under the Convention. Therefore it would be important that the principles of the convention are reflected in the Standards for Direct Provision. In particular where an adult lacks decision-making capacity it is important that his/her will and preferences and beliefs and values are given effect to and that the paternalistic approach currently in practice is replaced by a process that is respectful of each person as a human being with individual human rights.

10.1.2 This standard provides for the sharing of the assessment where the person consents to the sharing. There is gap as to who gives consent if the person lacks capacity to consent. The *Assisted Decision-Making (Capacity) Act 2015* has been enacted (but not yet fully commenced) which sets out a number of legal arrangements that can be put in place by a person whose capacity may be in question or who lacks capacity. However, pending commencement of the relevant provisions and arrangements, the standards should provide for consent to be given by a person with legal authority to do so.

The Draft Standards also include a number of Appendices and the NSC make the following recommendation –

Appendix 3 Members of Standard Advisory Group – it is suggested a member of the HSE Adult Protection Office be added as a representative on the Standard Advisory Group

Appendix 4 Table of Legislation – This should include reference to the *Assisted Decision-Making (Capacity) Act 2015*

Appendix 5 Policies and Procedures – This should include HSE Safeguarding Vulnerable Persons at Risk of Abuse Policy

Appendix 7 Adult Safeguarding Statement – This should be an additional Appendix to include a statement on Adult Safeguarding.

The NSC looks forward to the taking into account of the above points in the National Standard for Direct Provision.

Yours faithfully



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Chair, National Safeguarding Committee

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