

Submission from Mental Health Reform to the Review of the Disability Act (2005)

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**Mental
Health
Reform**



Contents

About Mental Health Reform.....	3
A Note on Language	3
Executive Summary	4
Introduction.....	5
Overarching feedback.....	5
Specific feedback	6
Conclusion.....	9



About Mental Health Reform

Mental Health Reform (MHR) is Ireland's leading national coalition on mental health. Our vision is of an Ireland with accessible, effective and inclusive mental health services and supports. We drive the progressive reform of mental health services and supports, through coordination and policy development, research and innovation, accountability and collective advocacy. Together with our 86 member organisations and thousands of individual supporters, MHR provides a unified voice to the Government, its agencies, the Oireachtas and the general public on mental health issues. MHR would like to thank our members for their continued insight, input and work.¹ Further information on our members can be found on the MHR website.

A Note on Language

Ireland's national mental health policy, *Sharing the Vision: A Mental Health Policy for Everyone*, uses the term 'mental health difficulties.' However, the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), which Ireland ratified in 2018, refers to 'psychosocial disabilities' when discussing individuals with mental health difficulties or those who identify with this term. The UNCRPD affirms that its protections and rights apply to people with psychosocial disabilities.

Mental Health Reform (MHR) supports individuals' right to choose how they describe their own experiences, recognising that "it is an individual choice to self-identify with certain expressions or concepts, but human rights still apply to everyone, everywhere." This is not about a medical diagnosis but rather the interaction between a person with a mental health difficulty and their social environment. 'Psychosocial disability' refers to the barriers and functional impacts faced by individuals living with enduring mental health difficulties in their daily lives.

¹ <https://www.mentalhealthreform.ie/membership/>



Executive Summary

Mental Health Reform welcomes the opportunity to contribute to the review of the Disability Act 2005.

More than 20 years after the Disability Act was enacted, and eight years after Ireland ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), we believe this represents an opportunity to establish a disability rights framework that reflects the rights, autonomy and lived realities of disabled people in Ireland.

Mental Health Reform's central position aligns with and supports that of many DPOs and organisations across the disability sector in Ireland. We believe that the Disability Act requires comprehensive reform. For Mental Health Reform, comprehensive reform means a legislative framework that is:

- firmly grounded in the UNCRPD;
- based on a human rights and social model of disability;
- inclusive of people with psychosocial disabilities;
- centred on autonomy, choice and the will and preferences of disabled people;
- supportive of independent living and full participation in community life;
- capable of delivering deinstitutionalisation;
- underpinned by enforceable rights and corresponding duties;
- supported by effective complaints, advocacy, redress and access-to-justice mechanisms;
- subject to meaningful monitoring and accountability;
- responsive to intersectionality and multiple discrimination;
- supported by adequate and transparent resources;
- informed by high-quality, disaggregated data; and
- developed and implemented through the meaningful participation of disabled people and their representative organisations.



Introduction

The Disability Act (2005) was enacted before the UNCRPD was adopted. Now, more than 20 years after the Act was passed, this review process provides an opportunity to consider the Act in its entirety and identify reforms needed to advance implementation of the UNCRPD, giving effect to Ireland's obligations under the Convention. This will require an ambitious response and significant reform of the Act.

The review must therefore consider whether Ireland's legislation gives practical effect to the UNCRPD and adequately recognises and responds to the rights of people with psychosocial disabilities. In our view, the current Disability Act does not deliver the comprehensive rights framework required to realise the range of rights recognised by the UNCRPD.

The Act includes provisions addressing important areas of disability policy, including the recognition of disability in legislation, Assessment of Need, accessibility, employment in the public service and universal design. These provisions provide a basis on which to build; however, substantial reform is necessary to ensure the Act provides for the full realisation of the UNCRPD.

Overarching feedback

The review process

Disabled people must be active participants in the development of the legislation. The National Disability Authority, in collaboration with Disabled Persons' Organisations in Ireland have created a guide on meaningful engagement with disabled people in public decision making. In addition, Mental Health Reform has developed guidance on effective public consultation with people with psychosocial disabilities, which is available on our website here, and which may be used to inform the review process.

The Department has indicated that the current consultation is the first stage of a wider process, with online and in-person consultation events planned as a second stage. Mental Health Reform strongly supports an ongoing process, which involves DPOs and representative organisations throughout, and ensures people with psychosocial disabilities can participate meaningfully.

Consideration should also be given to the impacts of existing policy and legislation, including the Mental Health Act, and the Assisted Decision Making (Capacity) Act, both of which have been signed into law since the passage of the Disability Act.

In addition, a permanent structure for monitoring implementation should be established, with meaningful representation of disabled people and their representative organisations.

Language: "having regard to its resources"

Mental Health Reform and other organisations in this sector are concerned about language that permits rights or statutory obligations to be qualified by the availability of resources. A



rights-based approach requires the State to use the maximum available resources to progressively realise rights.

The revised Act should therefore include mechanisms to identify where insufficient resources are preventing rights from being realised.

Data, monitoring and implementation

The revised Act must have effective enforcement and accountability mechanisms. This will require the following to be included within the text of the Act:

- Improved collection and use of data: Collection of fully disaggregated data, improved data collection across Government, and transparency.
- Implementation-focused policy: A clear, timed plan for full implementation of the revised Disability Act, which assigns actions to relevant actors.
- Monitoring and reporting mechanisms: As referenced above, a permanent structure for monitoring implementation should be established, with meaningful representation of disabled people and their representative organisations
- Independent advocacy: Access to independent advocacy should be enshrined within the Act.
- Complaints and redress mechanisms: Accessible complaints mechanisms, courts and other enforcement mechanisms are required.

Specific feedback

Part 1 of the Act

The UNCRPD should be the foundation of the revised Disability Act. A revised Act should explicitly reflect the Convention's principles, and the definition of disability should be revised in line with the UNCRPD and other appropriate definitions. Recognition must also be given to episodic and fluctuating conditions and abilities.

Care must be taken in relation to terminology. For example, Mental Health Reform must caution that although the term “mental disorder” is used in the Mental Health Act, we agree with the UN Committee on the Rights of Persons with Disabilities’ view that this and similar terms are derogatory. We note that the [Committee has requested information from the State](#) on measures to ensure legislation aligns with the Convention, including amending this terminology.

The legislation should also reflect the Convention's recognition that disability results from the interaction between impairments and barriers in society. This is particularly significant for psychosocial disability.

Part 2 of the Act: Assessment of Need

Mental Health Reform has significant concerns about the current Assessment of Need framework.



Part 2 establishes a statutory Assessment of Need process but does not guarantee access to the services required to meet the needs identified, with service provision subject to resource constraints. This creates a significant gap between identifying an individual's needs and ensuring that those needs are met. Mental Health Reform considers that legislation must go beyond assessment and recognition of need to establish an enforceable right to access the services and supports required. This must be underpinned by clear statutory obligations, realistic timeframes for delivery and effective mechanisms of accountability and redress, rather than leaving access to essential services dependent on resource availability.

In practice, access to Assessments has been extremely difficult, and subject to significant delays. The [NDA's fifth report on the NDIS](#), and the 2026 report, '[The Disability Act 2005 at 21: Reflecting, Reforming, Reimagining](#)' (Quinlivan and O'Mahony) both highlight the ongoing challenges with the assessment of need process and the impact of delayed interventions for children with disabilities.

Mental Health Reform recommends that Assessment of Need be fundamentally reconsidered as part of this wider review. In addition, any reforms currently progressing in the interim should not constrain this wider consideration, and must subsequently be reconsidered as part of the comprehensive review of the Act. Criteria and operation under Part 2 must also adequately recognise psychosocial disabilities, episodic and fluctuating.

Part 3 of the Act: Access to Buildings and Services and Sectoral Plans

Mental Health Reform supports the emphasis on accessibility and universal design, and the work of the Centre for Excellence in Universal Design.

Accessibility must be understood broadly, particularly in relation to access to services, and access to information. For people with psychosocial disabilities, many barriers exist, including complex or inaccessible information; rigid appointment systems; inaccessible digital services; lack of flexibility; inadequate reasonable accommodation; and assumptions about mental health or capacity. Universal design should also encompass psychosocial accessibility (see 'How laws of universal design discriminate between different types of disabilities – Lessons learned from Norway' ([Nielsen, 2023](#))) by designing public services that provide flexibility, and reduce unnecessary confusion and exclusion. Public bodies should be required to demonstrate how universal design has informed areas such as policy, legislation, public services, and service redesign.

In addition, the current Part 3 requirement for accessibility "as far as practicable" should be reconsidered. As highlighted earlier in this submission, a rights-based framework should create clear duties rather than broad qualifications that can weaken accountability or undermine obligations, including equality and non-discrimination. Public services should be designed to be accessible from the outset. Where universal design is insufficient, people must have an enforceable right to reasonable accommodation.

Part 5 of the Act: Public Sector Employment

Mental Health Reform believes that employment targets in public services for disabled people are welcome. Improvements could be made to this section by addressing the full employment journey, including the recruitment process, career progression, and prevention of discrimination.

Additional elements to be considered in the review

The Act could be strengthened by including several additional elements. These include:

- The right to independent living and inclusion in the community, as outlined in CRPD Article 19.
- Deinstitutionalisation: Article 19 of the CRPD explicitly recognises the right of people with disabilities to live independently, make choices about their lives and access the supports necessary to participate fully in the community. The Disability Act should include a commitment to deinstitutionalisation, supported by a comprehensive national strategy aligned with the UNCRPD guidelines. This should set out clear objectives, timelines and accountability mechanisms for transitioning away from institutional settings towards community-based support and independent living. The strategy should explicitly address the needs and rights of people with psychosocial disabilities living in institutional settings and ensure access to appropriate, person-centred support in the community.
- The Act should provide for a statutory right of access to independent advocacy to enable people with disabilities to understand and exercise their rights, participate in decisions affecting their lives, and challenge decisions or failures to comply with statutory obligations. Advocacy should be independent, accessible and adequately resourced, with provision for support tailored to individual needs.
- An accessible and effective statutory complaints and redress mechanism, enabling people with disabilities to challenge failures to comply with statutory obligations, barriers to accessing services and supports, and decisions that affect their rights. The mechanism should provide for independent review, timely resolution and appropriate remedies. Importantly, it must complement, and not replace or restrict, the recognition of enforceable statutory rights or the right of individuals to seek legal remedies through the courts. Access to a complaints mechanism should not be a prerequisite for pursuing legal proceedings or undermine the justiciability of rights established under the Act.



Conclusion

The review of the Disability Act represents an important opportunity to enshrine the UNCRPD within our legislation. For people with psychosocial disabilities, this means moving beyond a model in which mental health difficulties are understood primarily through diagnosis, treatment or service provision.

Mental Health Reform therefore calls for comprehensive reform of the Disability Act.

The Government should use this review to create a framework that is rights-based, enforceable, inclusive, accessible, properly resourced and accountable. We will be pleased to support this work.

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