



AN BILLE UM FHAISNÉIS DO SHAORÁNAIGH 2006 CITIZENS INFORMATION BILL 2006

EXPLANATORY MEMORANDUM

Introduction

This Bill is a key element of the Government's legislative programme for improving services for people with disabilities. The combination of this Bill, the Disability Act 2005 (and accompanying Sectoral Plans) and the Education for Persons with Special Educational Needs Act 2004 are intended to convey clearly the Government's intention to have an effective combination of legislation, policies, institutions and services in place to support and reinforce equal access for people with disabilities. The Citizens Information Bill, 2006 replaces the Comhairle (Amendment) Bill, 2004.

Purpose of the Bill

The purpose of the Bill is to amend the Comhairle Act 2000 so as to confer enhanced and additional functions on Comhairle involving, *inter alia*, the introduction of a personal advocacy service specifically aimed at people with disabilities. The Bill also seeks to change the name of the statutory body to the Citizens Information Board, to make certain changes to the term of office and the membership of the Board and to provide for related matters.

Context

Comhairle was established under the Comhairle Act, 2000. Its core function is to support the provision of, and where appropriate, to provide directly, independent information, advice and advocacy services so as to ensure that individuals have access to accurate, comprehensive and clear information relating to social services. The Citizens Information Bill aims to strengthen the Board's functions in the development of information and advocacy services for people with disabilities. Provision for the assignment of a personal advocate to a qualifying person with a disability who is unable to obtain or who has difficulty in obtaining a social service without the assistance of an advocate is a central feature of the Bill. The change in the name of the statutory body to Citizens Information Board — An Bord um Fhaisnéis do Shaoránaigh — is intended to better reflect how the body carries out its functions in the provision of information to the public in matters of social rights and entitlements.

Main Provisions of the Bill

Sections 1 and 2 provide for definitions of the terms used in the Bill, including "disability", "social service", "Chief Appeals Officer"

and “voluntary body”. The definition of disability used is that contained in Section 2 of the Disability Act 2005. Other definitions are included in relevant sections as appropriate.

Section 3 changes the name of Comhairle to Citizens Information Board — An Bord um Fhaisnéis do Shaoránaigh.

Section 4 amends and extends the statutory functions of the Citizens Information Board in three ways:—

- to provide for a personal advocacy service for people with disabilities who meet the criteria of qualifying persons having regard to the financial resources of the Citizens Information Board and whether or not advocacy services are provided elsewhere,
- to enhance an existing function of supporting the provision of, or providing directly, advocacy services for individuals, in particular, people with disabilities, and
- to provide an enhanced role for the Citizens Information Board in supporting and promoting greater accessibility and public awareness of social services and the provision and dissemination of integrated information in relation to those services through a wider definition of what constitutes social services as set out in *section 2*.

Section 4 further provides that the Board may establish criteria, terms and conditions for voluntary bodies applying to it for financial assistance and other resources, that such terms and conditions shall have regard to the need for high quality accessible services and that assistance may be refused or withheld if the applicant organisation does not supply the required information.

Section 5 provides for the details of the personal advocacy service, including—

- the provision of a personal advocacy service to qualifying persons by personal advocates who are designated as such by the Chief Executive of the Citizens Information Board — An Bord um Fhaisnéis do Shaoránaigh.
- the appointment by the Citizens Information Board — An Bord um Fhaisnéis do Shaoránaigh — of a Director of the Personal Advocacy Service who shall be responsible for the management and control of the service and who shall be accountable to the Chief Executive for the performance of those functions.
- a definition of a qualifying person. In the case of a person 18 years of age or older, a qualifying person is a person who in the opinion of the Director is, by reason of a disability, unable to obtain or has difficulty in obtaining a particular social service without the assistance or support of a personal advocate and there are reasonable grounds for believing that there is a risk to the person’s health, welfare or safety if he or she is not provided with the social service. A person under 18 years of age is a qualifying person if his or her sole parent or guardian is a qualifying person or if he or she has a disability, or in the opinion of the Director there are reasonable grounds for believing that he or she has a disability, and the circumstances are such that it would be unreasonable to expect a parent or guardian to act on his or her behalf in obtaining a particular social service without the assistance or support of a personal advocate and, in the Director’s opinion, there are reasonable grounds for believing there is a risk to the person’s health,

welfare or safety if he or she is not provided with the social service in question.

- provision that a person will not be disqualified for assignment of a personal advocate by reason only of the fact that he or she is already in receipt of a social service or services.
- the criteria to which the Board shall have regard in determining the order of priority to be accorded to different qualifying persons, including the needs of qualifying persons to have personal advocates assigned to them, the benefits likely to accrue to qualifying persons of having personal advocates assigned to them and the degrees of risk of harm to their health, welfare or safety if they are not provided with the social service they are seeking to obtain.
- arrangements for making application for the assignment of a personal advocate and for the decision process on that application.
- arrangements for an independent appeals process for a person with a disability who is dissatisfied with a decision regarding his or her eligibility for the Personal Advocacy Service. The legislation provides that the Chief Appeals Officer of the Social Welfare Appeals Office will be appointed by the Minister for Social and Family Affairs to determine such appeals and that similar rules and procedures to those used by the Social Welfare Appeals Office in deciding appeals will be adopted but in a modified form for appeals in relation to the Personal Advocacy Service. This section also contains provisions to enable the Minister for Social and Family Affairs to make any necessary regulations concerning appeals procedures.
- The role of the personal advocate in terms of
 - assisting, supporting and representing the qualified person to apply for and obtain a social service, including an application for an assessment of need or a service specified in a service statement under the provisions of the Disability Act 2005;
 - pursuing any right of review or appeal on behalf of the qualifying person;
 - providing support and training to a qualified person and any member of his or her family, a carer or any other person representing his or her interests in order to promote the best interests of his or her health, welfare and well-being;
 - entering any place that provides day care, residential care or training for the qualifying person to represent his or her interests; and
 - accessing information, attending meetings or consultations, and identifying any person who may assist the qualifying person, subject to the requirements of data protection legislation.
- provision that statutory or voluntary bodies shall co-operate with a personal advocate and provision for offences to apply to persons who obstruct or hinder a personal advocate in his or her work.
- provision enabling the Board, with the approval of the Minister and subject to such terms and conditions as are considered appropriate, to arrange for the functions of personal

advocates to be performed by persons other than members of the staff of the Board.

Sections 6 and 7 provide for changes to the term of office and the membership of the Citizens Information Board. In the light of operational experience since the Board was first constituted in June 2000, it is being reduced from 20 to 15 members. The reduction in Board members necessitates consequential adjustments to the number of members representing people with disabilities (which is being reduced from 5 to at least 3) and the arrangement for a quorum for Board meetings (which is being reduced from 11 members to a number between 8 and 5 as determined by the Board from time to time). In the context of the reduced Board membership and having regard to Government mainstreaming policy, the nominating role of the Minister for Justice, Equality and Law Reform in relation to members representing people with disabilities is being removed. There will be no change in the gender balance of the Board.

The term of office of members of the Board is being extended from 3 to 5 years.

Section 8 provides that the Minister may from time to time issue directions to the Citizens Information Board in relation to policy matters including directions to undertake information campaigns on particular social services.

Section 9 sets out standard provisions relating to the short title and commencement arrangements for the implementation of the Bill. Different commencement dates will apply to different sections of the Bill.

Financial Implications

It is intended that the resources necessary to introduce the new personal advocacy service set out in this Bill will be sought by way of an additional allocation to the Citizens Information Board — An Bord um Fhaisnéis do Shaoránaigh, which is funded by the Department of Social and Family Affairs. Estimates as to the additional funds required in respect of the new service are currently being prepared in the context of a detailed examination of all aspects of the new service, including best estimates of take-up among people with disabilities and models of best practice in other jurisdictions.

*An Roinn Gnóthaí Sóisialacha agus Teaghlaigh,
Deireadh Fómhair, 2006.*