

**Joint Committee on Health**

**Wednesday 11<sup>th</sup> October 2017**

**Opening Statement by**

**Ms. Frances Spillane**

**Assistant Secretary, Social Care Division, Department of Health**

Good morning Chairman and members of the Committee.

Thank you for the invitation to attend the Committee meeting to discuss the subject of 'Adult Safeguarding'.

I am joined today by my colleague Mr. Niall Redmond, Principal Officer, Services for Older People Unit.

**Introduction**

The safety and protection of vulnerable people is a key objective of Government and society. We already have a range of legislation and policy-based measures to that end in Ireland but it is acknowledged that there are gaps in legislation and also that promoting awareness and cultural change is key to effective safeguarding.

The opportunity to consider this topic is welcome and timely for the Department of Health, which is considering, subject to Government approval, the development of a comprehensive national safeguarding policy for the health sector underpinned with appropriate legislation. This is a very broad and complex piece of work involving an extensive scoping exercise to determine the precise nature of the policy and the legislative framework that may be required to support it. It includes reviewing current practice and legislation, researching best practice internationally and wide-ranging consultation.

## **Safeguarding of adults at risk of abuse – existing measures**

In recent decades, we have seen, within and beyond the health sector, the strengthening of policies, procedures, professional codes of practice, primary and secondary legislation to protect and safeguard our most vulnerable citizens.

Health sector safeguarding of adults at risk relies both on broader legislation and codes, including the criminal justice system and health sector specific provisions. The range of protections for adults at risk in existing legislation include:

- the *National Vetting Bureau (Children and Vulnerable Persons) Act 2012*,
- the *Protected Disclosures Act 2014*,
- the *Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012*,
- financial and consumer protection legislation,
- domestic violence and family law legislation,
- Irish criminal law (including specified sexual offences in respect of protected persons), and
- a number of Acts relating to equality, anti-discrimination and social inclusion such as the *Equal Status and Equality Acts* and the *Disability Act 2005*.

The *Assisted Decision-Making (Capacity) Act 2015* is a very important Act in terms of protecting vulnerable adults. It provides a detailed statutory framework for individuals to be assisted and supported in making decisions about their welfare and their property and affairs. The Act is a “game-changer” in terms of safeguarding both by maximising individuals’ control over their own lives and through a range of robust provisions to protect vulnerable people against exploitation and abuse.

Within the health sector, a number of important steps have been taken in recent years to strengthen the protection of recipients of health services including vulnerable adults.

Relevant legislation in the health sector includes:

- the *Mental Health Act 2001*,
- the statutory complaints provisions in *Part 9 of the Health Act 2004* and related regulations,
- bye-laws on codes of professional conduct and ethics for a wide range of regulated health professions, requiring relevant professionals to prioritise the safeguarding of children or other vulnerable people, and
- the *Health Act 2007* which established the Health Information and Quality Authority (HIQA) and regulations made under that Act setting standards in residential centres for older people and for children and adults with disabilities.

The HSE published its national safeguarding policy and procedures in December 2014. The HSE has established a number of structures to implement this policy, including a national safeguarding office, a national safeguarding committee, safeguarding teams, appointment of designated officers across disability and older persons services and training of over 30,000 staff.

A detailed review of the operation of the HSE's safeguarding policy to date is at an advanced stage and is expected to be completed by early 2018. The findings of the review, when completed, will be of particular value in informing the development of appropriate policy approaches and the preparation of safeguarding legislation by the Department of Health.

### **Adult Safeguarding Bill 2017**

As you are aware, Senator Colette Kelleher brought forward the Adult Safeguarding Bill 2017 during Private Members time in the Seanad on the 5th April and the Bill has passed second stage. The Bill includes the establishment of an independent National Adult Safeguarding Authority, provision of independent advocates and mandatory reporting by a wide range of persons of abuse or risk of abuse to vulnerable adults. Minister Harris broadly welcomed the intentions behind this proposed legislation during the Seanad debate, but

noted that significant work would be required to bring forward appropriate legislation in the area.

### **Current work to develop a comprehensive national policy and legislative framework**

The development, subject to Government approval, of a comprehensive health policy on safeguarding adults at risk and associated legislation, informed by the forthcoming HSE review and consultation with stakeholders and the public at large would be a major step forward. To that end, we are currently researching best practice including international models, together with the HSE. We are also consulting with colleagues in the Department of Children and Youth Affairs as we can learn a lot from their experience in the development of policy and legislation on child protection services. We want to work directly with the National Safeguarding Committee and HIQA in terms of developing our proposals. In addition, we are in the process of identifying gaps in current legislation with a view to commissioning research from the Law Reform Commission to assist in informing the process.

Of necessity, the preparation of detailed legislative proposals will take some time, and it is important that such proposals are built on the foundations of a clear, carefully considered, coherent and implementable policy. However, we are aiming to submit preliminary proposals to Government outlining our high level approach in November.

We are also exploring a suitable approach to engage the public and the views and inputs of citizens regarding improvements to the current system. The Department would also welcome continued engagement with Senator Kelleher in the development of national policy and legislation in this context.