

Opening Statement – Wards of Court

Wards of Court are amongst the most vulnerable people in the State. These are people who are deemed to lack the capacity to manage their affairs.

The Office of Wards of Court is governed by the archaic 1871 Lunacy Regulations – which is in violation of the UN Convention on HR and the UN Convention on the Rights of Persons with Disabilities.

When a person becomes a Ward of Court, their property is taken under the care of the Court and basically all major decisions concerning the person will be made by the Office of Wards of Court or the President of the High Court who has responsibility for Wards.

This may happen for many reasons – old age related dementia, neurological disabilities, mental health disabilities, brain injuries and so on. There are 20,000 beneficiaries in the system now – including 2,800 Wards of Court with funds of €5.6bn held by the Courts Service on their behalf

Much talk has taken place in the last ten years about changing this system but it is only now that a process has begun with the recent appointment of the Director of the Decision Support Service under the Mental Health Commission.

We welcome this long awaited development, however, we are told that it will be some time before all the processes are in place to allow the Wards of Court to be discharged from Wardship into the Decision Support Service.

In this new system, Capacity is assumed and varying levels of supports will be provided.

In the current system all Wards are deemed to lack capacity and there are no levels – Wards of Court cannot marry, or leave the country without permission, or make decisions about medical treatments.

We are here today to discuss the current system of Wards of Court and more specifically the role of the Courts Service in relation to the Investment and Management of Wards' Funds.

Wards of Court will have a Committee appointed to look after their every day needs under the supervision of the Office of Wards of Court.

This can be an onerous task – depending on the needs of the Ward and the extent of the work involved in their care and so on.

Some Wards come under the remit of the Office of the General Solicitor who acts as Committee of their Estate (property) for various reasons which will be discussed during the debate later on.

We are unaware of how many Wards come under the remit of the Office of the General Solicitor – back in 2001 it was 40% of Wards and today the figure is unknown to us. Generally it appears this happens when a Ward does not have a family member to take responsibility for their financial affairs but it also happens for other reasons which are not clear but hopefully may become clear during the debate.

As neither the Ward nor his/her family has any control over their money once it is taken under the control of the Courts Service, families rely heavily on the expertise that the Courts Service has in relation to investment of these funds.

That has become a central issue for many Wards since the financial crisis during the years 2007-09 when the funds of many Wards were seriously depleted, to the point that many Wards lost their entire fund.

The Courts Service set up a new Investment Scheme in 2003 when computerisation had been introduced. Prior to that it was individual accounts and manual ledgers. We understand that they had advice from the NTMA and Mercer regarding the type of investments which would meet the needs of this very vulnerable group of citizens.

In due course the fund was set up and families received a letter stating that this had been done with an information booklet accompanying the letter.

One has to assume with all the expertise involved that these funds would be well managed and secure.

We believe that this did not happen and that is why we are here today, to discuss the issues and try to find a resolution of the problems.

The Committee for Justice and Equality has been provided with extensive documentation relating to the funds with various reports and other relevant documents.

It is our contention that some Wards have lost considerable amounts of money – that the investments did not meet their needs and were not fit for purpose. It is our contention that there was not due care and diligence of these funds.

These people are not ordinary investors – they are our most vulnerable people – and cannot be consulted. Their families and/or committees are not consulted about any decisions made regarding the investments.

These investments cannot be equated with the average citizens investments – people who make decisions or take risks and expect a return but lose their funds. These people did not make any such decision nor did their families.

We are seeking a fair hearing of our concerns here at this Committee Meeting today.