

Joint Oireachtas Committee on Justice and Equality

Speaking notes for Minister Finian McGrath

Opening Address

June 2018

Chairperson and Members of the Committee, I welcome this opportunity to meet with the Committee and to update members on the important work being undertaken in the Department of Justice and Equality to support the recent ratification of the UN Convention on the Rights of Persons with Disabilities.

Specifically I'd like to update the Committee on progress regarding the Disability (Miscellaneous Provisions) Bill, the Optional Protocol to the UN Convention on the Rights of People with Disabilities, the Assisted Decision Making Capacity Act 2015, and the implementation of the National Disability Inclusion Strategy 2017-2021.

The week before last, I was delighted to attend the UN Conference of the States Parties to Convention on Rights of

Persons with Disabilities and to speak of Ireland's progress in ratifying and implementing the Convention.

As you know, ratification of the Convention has been a deeply held commitment of mine since I was appointed as Minister of State with responsibility for Disability issues a little over two years ago, indeed as an independent Minister I insisted on it being highlighted as the highest of priorities when negotiating the Programme for Government.

The Convention came into force for Ireland on 19 April 2018. This marked a key moment, not only for people living with a disability, but also for their families, friends and support networks, and for Irish society generally. Ireland's ratification means that all European Union Member States have now ratified the CRPD, marking the EU as the first Region to ratify the Convention.

Ratification was the first action listed in Ireland's National Disability Inclusion Strategy. The Strategy takes a whole of Government approach to improving the lives of people with disabilities and contains 114 measurable and time-specific actions under eight themes that relate to the areas of education, employment, provision of public services, health, transport, and personal safety and autonomy.

The strategy and the robust monitoring framework supported by the NDA leaves us well placed to respond to the requirements of the Convention.

I am a firm believer in placing a strong focus on ability rather than disability and as such, key actions in our National Strategy include the implementation of a Comprehensive Employment Strategy for Persons with Disabilities, including an increase of the public service employment target from 3% to 6%, the arrangement of special public service recruitment competitions, and the opening up of alternative recruitment channels.

In Ireland, we have strong equality legislation which prevents discrimination on the basis of disability, however, people with disabilities are still only half as likely to be in employment as others of working age. This is why the Comprehensive Employment Strategy sets out a ten-year approach to ensuring that people who are able to and who want to work, are supported and enabled to.

The Strategy includes commitments such as:

- Special public service competitions and the opening up of alternative recruitment channels

And

- The provision of an NDA-assisted employer helpline to provide expert guidance and peer support to employers

These are concrete examples of how Ireland will fulfil its obligations under the CRPD.

In line with the Convention's guiding principles of respect for inherent dignity, individual autonomy - including the freedom to make one's own choices, and independence of persons, the Disability Inclusion Strategy contained a commitment to establish a Task Force on Personalised Budgets to make recommendations on potential models of personalised budgets to give people with disabilities more control in accessing health funded personal social services. .

When establishing the Task Force in September 2016, I was eager for it to proceed along the lines of my thinking and beliefs regarding people with a disability - that we must allow them to say how they wish to lead their own lives and I am pleased that this vision was demonstrated in the recommendations of Report of the Taskforce which I hope to publish shortly. It will be a core element in responding to some of the fundamental principles of the Convention - that we respect dignity, autonomy, independence and the freedom to make one's own choices.

The Convention rebalances the right of people with disabilities to make decisions for themselves, rather than have decisions

made for them. With ratification now in place for Ireland, I can now focus on using the Convention to better equip and resource people with disabilities to improve their quality of life.

Ratifying the Convention signals our commitment to ongoing improvement in the provision of disability services. In keeping with this principle, I recognise that there is always more to be done including ratification of the Optional Protocol.

Indeed there has been some commentary on ratification of the Optional Protocol, which is not being ratified at this current time but will be ratified as soon as possible following completion of Ireland's first reporting cycle. This will provide an opportunity to identify areas for improvement and any actions needed for a high level of compliance.

While I accept that there was a commitment given, in the 2015 Roadmap, to ratify the Optional Protocol at the same time as the Convention, my current focus has been on ratifying the Convention in the first instance – that was the first step.

As I have outlined, the Convention and the Optional Protocol cover a broad range of commitments some of which require substantive cultural change. Indeed an analysis of the some 14 complaints brought under the Optional Protocol since 2010, indicates a range of areas that we are actively working hard on to address such as deprivation of liberty, and the right of deaf persons to participate in jury duty.

Work is continuing on the final reforms needed for Ireland's compliance with the Convention's requirements. For this reason, a phased approach is seen as the most practical and realistic way of moving ahead.

Furthermore, while we have already made significant progress in terms of legislative change, such as the law on decision making capacity, there still remains some legislation to be enacted.

The Disability (Miscellaneous Provisions) Bill was published in 2016 and is currently awaiting Committee Stage in Dáil Éireann. The Government has given approval for the Bill to receive priority within the Office of the Parliamentary Counsel and work is underway to progress the Bill for enactment by the end of the year and hopefully sooner.

The Bill addresses a range of issues to facilitate the highest possible level of compliance with the Convention such as:

- Amendment of the Juries Act 1976 and Electoral Act 1992 to facilitate greater participation of persons with Disabilities in jury service and political life.
- Improving the standard of reasonable accommodation to be provided by commercial bodies whose activities are regulated for quality of service,

- Bringing civilian staff of the Garda Síochána back within the terms of Part 5 of the Disability Act to promote and support the recruitment and employment of persons with disabilities. This will allow the public sector employment quota to apply to civilian staff.

There are a range of mostly technical amendments to be brought forward at Committee Stage and it was originally intended to introduce deprivation of liberty provisions as amendments at this stage.

However, owing to the complexity and far reaching implications of the proposals and in response to feedback, the Government decided it was better to deal with the issues separately.

The deprivation of liberty provisions will now feature in a standalone Bill to be sponsored by Minister Harris and myself.

The central problem to be addressed by the new provisions is that existing legislation does not provide a procedure for admitting persons without capacity to relevant facilities in which they will be under continuous supervision and control and will not be free to leave.

Existing legislation also does not provide procedural safeguards to ensure that individuals are not unlawfully deprived of their liberty. The draft legislative proposals that I

published for public consultation last December are designed to address this gap by providing safeguards for older people, persons with a disability and some categories of people with mental illness to ensure that they are not unlawfully deprived of their liberty in certain residential facilities.

The development of these deprivation of liberty legislative provisions is a highly complex undertaking. In addition to satisfying the requirements of the UNCRPD, the provisions must also align with our obligations under the European Convention on Human Rights and existing legislation such as the Assisted Decision-Making (Capacity) Act and Mental Health Act. I am continuing to progress this legislation as a matter of priority and the target date for finalisation of the Heads is the Autumn.

The Assisted Decision-Making (Capacity) Act also needs to be fully commenced. €3m in funding has been allocated in 2018 for the establishment of the Decision Support Service.

A question that people often ask me about the Convention is on resources. I fully agree that to support people effectively in accessing their rights, the proper allocation of resources is a key consideration.

We, as politicians, need to be mindful of any changes in policy and resourcing that can significantly impact on everyday circumstances.

I have always placed a strong emphasis on securing adequate funding with €1.76 Billion allocated by the Department of Health for disability services in 2018 representing an increase of 4.4% on 2017. Furthermore, in December of 2017, I announced the securing of an additional €10 million funding for respite care.

But it's not just about funding: we need to challenge attitudes and mindsets and recognise the valuable contribution that persons with disabilities have made and will continue to make to our economy and society when supported to do so. We need to focus on ability rather than disability and we need our society to encourage and empower people with a disability to define themselves, and in turn to be defined, not on what they can't do but on the many other things they can do.

This country has embarked on an era of unprecedented change in services for people with disabilities over recent years which means we are now ready to meet our obligations.

Thank you