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**12/12/2022**

Mr Martin Hughes,  
Committee Secretariat,  
Public Accounts Committee,  
Leinster House,  
Dublin 2.

**Re: Ref (S1094 PAC33)**

Dear Martin,

Further to our recent correspondence to the Committee on 23<sup>rd</sup> November last, regarding the 2018 confidential Briefing Report entitled '*Funding and Deficit Challenges in Voluntary Disability Services Agencies*', please find below a briefing report as promised.

If any further information is required, please do not hesitate to contact me.

Yours sincerely,

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**Ray Mitchell**  
**Assistant National Director**  
**Parliamentary Affairs Division**

## HSE Briefing Paper for the Oireachtas Public Accounts Committee on Sustainability in Disability Services

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### Introduction

The majority of disability service provision in Ireland is by voluntary agencies, which are funded under Section 38 and Section 39 of the Health Act 2004. All of these organisations are governed by voluntary Boards of Directors and are subject to the wide range of applicable legislation and regulation, including Company law, HIQA, Health and Safety, Charity and Housing regulations, among other.

The HSE funds a range of organisations to ensure the best level of service possible is provided to people with a disability, and their families, within the available resources. The majority of specialised disability provision (approx. 80%) is delivered through non-statutory sector service providers.

The HSE acknowledges the role and contribution of non-statutory agencies in the development and provision of health and personal social services and is committed to the development of effective working relationships as enacted by the Health Act 2004.

The HSE has Service Arrangements or Grant Aid Agreements with approximately 419 organisations providing a wide variety of disability services on behalf of the HSE. A Governance Framework covers these Service Arrangements and Grant Aid Agreements.

### Context

A number of disability Service Providers are experiencing financial challenges. This is due to a number of drivers including:

- The continuing effect of the recession
- The introduction of a regulation, especially of respite services as inspected by HIQA, without a regulatory impact assessment
- Changing needs of people already supported and unmet needs

Most organisations in the disability sector have had to face these challenges. However, the circumstances for organisations vary, with some facing more significant challenges in meeting the standards required by HIQA due to the historical design and staffing of services they provided. A good example of this relates to those organisations who had large institutional service settings that required the most change and reform to meet the required standards.

The current financial challenges in some organisations also relate to changing and unmet need. The only agency in the State that is authorised to respond to need outside of budget is the HSE, as the agency of last resort. Some organisations made decisions over recent years to respond to the changing and emerging needs of disabled people, without approval or the necessary budget. While this raises financial challenges, it should be noted that often these decisions to respond were:

- In response to clear service need, especially reflecting an aging population of disabled people and of aging carers no longer able to maintain their caring role

- Driven by the relationship the Service Provider already had with individuals with that need, who were part of the community the Provider delivers services to

While not all Providers are experiencing the same level of sustainability challenges, it is evident that many organisations are limited in their scope to be flexible or to respond to service needs. The Disability Capacity Review Report to 2032 sets out well the scale of unmet need and the investment in services that the State will have to consider over the next decade. Aligned with other sector reforms, this investment will meet the needs of those requiring specialist disability services and lead to a more sustainable sector.

### **Disability Service Provider Sustainability**

Some disability organisations can be characterised as systemically challenged in terms of financial sustainability and a number of existing providers continue to present a risk in terms of service continuity without medium to long-term statutory intervention/ reform.

The key drivers of this challenging position relate to the following challenges:

1. Responding to changing/ unmet service user need (Including clinical/ safeguarding risks).
2. The cost of maintaining onerous and intensive regulatory compliance (in particular HIQA) regimes, many of which have not been financially/ risk assessed prior to implementation.
3. The cost of implementing ambitious and far-reaching policy initiatives without the necessary requirement for multi-annual investment planning, for example, Decongregation, New Directions, Progressing Disability Services for Children and Young People.
4. There are significant legacy deficits carried by some organisations and the impact this is placing on future organisational sustainability.
5. Disability services, in terms of the scope of the current operating model, stretches well beyond the role and remit of Health & Social Care Provision; for example, in the area of housing, transport and training/ employment based programmes all of which are significant cost factors in the delivery of disability supports currently.
6. Many S39 service provider agencies are experiencing a staffing crisis as a direct result of pay parity issues which has the potential to impact adversely on the sustainability of the provider. In some cases, agencies are unable to attract appropriately qualified staff for core positions.

### **Accumulated S38/39's deficits**

The reported deficits for voluntary organisations are cumulative and historical, having arisen over a number of years, and generally resulted from organisations incurring expenditure in excess of agreed levels set out in their annual service level agreements.

Previous reporting in this area has identified three main drivers of these deficits:

- The impact of achieving and maintaining HIQA regulatory compliance;
- Weakened financial resilience owing to reductions in State funding over the austerity period; and

- Demographic changes and 'changing service user need'.

The State is not liable for expenditure incurred through decisions taken by self-governing organisations in the course of the exercise of their own governance functions. While there are various factors that may contribute to expenditure exceeding the agreed funding for the service, any overruns arising require careful analysis of the specific causal factors lest they undermine budgetary discipline within the health sector. This risk could be further accelerated in the event that DOH and the HSE engage with the relevant organisations that are facing financial challenges on a case-by-case basis. Accumulated deficits and surplus cannot be netted off across the different S38/39 organisations.

The HSE has allocated additional funding to organisations following analysis of their financial positions. The table below sets out the investment in organisations, on both a once-off and recurring basis in recent years:

<b><u>Additional funding provided since 2018</u></b>					
	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>Total</b>
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Recurring	€0	€5,530,288	€4,259,000	€2,800,000	€12,589,288
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<b>Total</b>	<b>€18,493,140</b>	<b>€28,515,423</b>	<b>€18,059,897</b>	<b>€24,024,471</b>	<b>€89,092,931</b>
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### Cash Accelerations

A number of sec 38 organisations receive cash accelerations on an ongoing basis. These accelerations are primarily driven by deficits that have accumulated over a number of years. When the organisations approach year end they may require an acceleration "outside" of profile i.e. an advance of following years cash.

This outside profile acceleration goes through a detailed review process, which becomes approved, or not, by CFO and CEO. If approved, HSE treasury then deduct this advance as a first charge from the following year cash allocation. For example, as per the above table Saint Michaels House received €9.3m outside profile in 2020, in Jan 2021 this €9.3m was deducted from their 2021 allocation in order to repay what has been advanced.

Brothers of Charity are a Sec38 non-IMR and are not part of the HSE Treasury process for cash accelerations. However, they have received cash accelerations in the past that is managed at a local CHO level where the SLA resides.

Cash acceleration data for 2022 is currently draft, as there may be further accelerations required as we reach year-end.

<b>Analysis of Section 38 Organisations in receipt of Cash Accelerations Outside Profile</b>					
	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
<b>Key Organisations:</b>	<b>€M's</b>	<b>€M's</b>	<b>€M's</b>	<b>€M's</b>	<b>€M's</b>
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* 2022 is at Nov 22 and may change as the year comes to a close					

### HSE Response to Challenges

All funded service providers, including non-clinical/service delivery focussed organisations are required to deliver safe and effective services within a defined budget allocation. The HSE must also ensure that it prioritises available resources based on meeting the health and social needs of people with a disability. Engagement is ongoing between the HSE nationally, the Community Healthcare Organisations (CHO) and the agencies we fund. The HSE works in partnership with these agencies to ensure the best level of service possible is provided to people with a disability, and their families, within the resources available.

Whilst there has been positive and notable recent year on year increases from the state in finance terms and having regard to substantial and direct support interventions by the HSE in respect of assisting providers with necessary improvements and reform, the Section 38/39 funded sector is nevertheless in a weakened state in terms of financial stability and organisational resilience.

The provision of support from the HSE in terms of "Service Improvement" initiatives, as well as providing cash liquidity to ensure day to day operations are maintained, has provided some relief for the organisations concerned. In this context, the HSE routinely engages in a cash acceleration process with service providers that are under financial pressure and has been doing so for a number of years.

## **HSE Governance Framework**

The HSE has a Governance Framework to cover funding relationships with all Non Statutory Agencies. The framework was introduced to implement the legislative provisions of the Health Act, 2004 and to reflect the requirements for public accountability where the HSE is legally obliged to account for all public expenditure on health and personal social services. There is also a requirement to ensure that value for money is being achieved. It is the policy of the HSE, that all funding arrangements with non-statutory agencies are formalised by complying with this Governance Framework, which has two different components:

- Part 1 - A Service Arrangement that is signed every 3/4 years by both parties and sets out the legal requirements that the agency must comply with to receive funding for the provision of services.
- Part 2 – A Set of 10 Schedules which must be completed and signed by the Agency and the HSE which sets out the detail of the service and the exact funding that the HSE is providing for the delivery of this service. This Set of Schedules also identifies the quality standards and best practice guidelines to be adhered to in the provision all services, along with process for managing complaints in relation to service provision.

The service arrangement between the HSE and a provider is an important contractual document that sets out the funding provided by the state to deliver services. The HSE is statutorily obliged to ensure that providers are accountable for the services they provide.

## **Stability and Sustainability Process**

The HSE has established a structure around Stability and Sustainability of disability Service Providers. The Stability and Sustainability team has started work since February this year with one large Section 38 organisation, that presented sustainability challenges as an exemplar process and has engaged with a section 39 to initiate a similar programme. The purpose is to work through a process with them ensuring the transition, over the medium term, to the provision by the provider of high quality co-designed services meeting the needs, abilities and potential of services users with an intellectual disability or with mental health support needs, where these services align with agreed service delivery models, are appropriately and sustainably resourced and are supported by strong governance mechanisms. The programme will provide significant learning about the sector. There has been extensive engagement with key stakeholders.

Key stated principles of the process include amongst others:

- Partnership and a collaborative approach with open communication
- Consistent service user focus and a person centred approach focusing on outcomes and principles of the UNCRPD.
- Open communication with stakeholders; service users, families, staff, the Board, Government colleagues, the sector.
- Commitment to establishing and maintaining healthy and respectful communication.
- Commitment to openness and transparency from all parties.

- A strong project focus

The process has delivered a significant and extensive draft interim report on the first organisation and is working towards a final agreed report.

### **Boards of Directors**

The HSE is supporting a number of smaller Section 39 Service Providers who have indicated they are no longer able to continue as entities. They are primarily pointing to the difficulties in finding new Directors to take on the governance role in light of the demands on voluntary Directors. These organisations are financially sound but are not able to attract Directors. They are engaging constructively with the HSE to ensure a smooth process to ensure that services are maintained and continued.

### **Dialogue Forum**

The HSE, with representatives from its Board and senior managers, are fully engaged and committed to the Dialogue Forum. It has worked with sector representatives to develop a set of Principles to underpin the further development of the relationship between the HSE and voluntary Sector, while also committing to a review of the Service Agreement process.

### **Conclusion**

The approach being taken by the HSE to the sustainability of the disability sector is to create a model of service and delivery that is:

- Affordable to the State,
- Meets the needs of disabled children and adults and
- Reflects the requirements of the UN Convention on the Rights of People with Disabilities and the standards set by the State and inspected by HIQA.

This will require the combined focus on:

- The work of the HSE Stability and Sustainability programme with those organisations facing immediate challenges
- Investment by the State in the development of service in line with the Disability Capacity Review Report to 2032, to meet the needs of disabled children and adults, but also in support of the many Providers who provide good services but are limited in scope currently
- Reform of models of service to ensure the balance of quality and value for money

**Community Operations**  
**Health Service Executive**  
**December 2022**



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