

## **Opening Statement on Behalf of the Mental Health Commission**

On behalf of the Mental Health Commission (MHC), I would like to thank you for the opportunity to address the Committee today. I am joined by my colleagues Orla Keane, General Counsel for the MHC (DSS) and Joanna Macklin, Decision Support Service Senior Panel Manager / Protected Disclosures Officer / Recipient.

As part of the MHC's strategic plan for 2019-2022, our vision is the highest quality mental health and decision support services underpinned by a person's human rights. We welcome the introduction of clear and enhanced protected disclosure procedures that will assist in protecting those individual human rights.

The principal functions of the MHC under the Mental Health Acts 2001-2018 are to promote, encourage and foster the establishment and maintenance of high standards and good practices in the delivery of mental health services and to take all reasonable steps to protect the interests of persons detained in approved centres. As a regulator, we welcome any legislative provisions which will support staff and other parties to raise concerns about the safety and quality of care for patients and other vulnerable service users.

The remit of the MHC was extended by the Assisted Decision-Making (Capacity) Act 2015 which provides for the establishment of the Decision Support Service. The DSS will support decision-making by and for adults with capacity difficulties and will regulate individuals who are providing support to people with capacity difficulties.

It is the MHC's hope that this Bill will result in continuing the change in attitude to protected disclosures in the workplace by ensuring there are sufficient safeguards and protections, organisations will be less apprehensive of the possibility of false or vexatious disclosures and individuals will be empowered to expose wrongdoing without fear of retaliation.

## **Key Submissions**

In considering, the General Scheme of the Protected Disclosures (Amendment) Bill 2021, we have confined ourselves to commenting on matters within our remit.

The MHC welcomes the retention of the existing obligation that all public bodies must establish internal reporting channels. This is in line with section 42 of The Irish Human Rights and Equality Commission Act 2014 which requires all public bodies to have regard to the need to eliminate discrimination, promote equality of opportunity and protect human rights in carrying out their functions. The MHC recommends that there be the possibility of local authorities / smaller public bodies pooling resources and sharing internal reporting channels. Over the last 10 or more years, there has been increased obligations in the area of compliance. This proposal would allow for centralised expertise, increased efficiency, assistance with training and reduced costs for those smaller agencies.

The establishment of a Protected Disclosures Office within the Office of the Ombudsman is a further positive proposal that is welcomed by the MHC. This centralised system should

ensure consistency in reporting, investigating and communication. In addition, the MHC believes that this office could provide supports to and guidelines for public bodies.

At the same time, it may be appropriate to make strengthened provision for public bodies to decline or redirect a protected disclosure where they do not believe it is within their remit.

The MHC would note that there are a number issues that need to be addressed: clarification on the issue of legal aid, the limits to liability of Reporting Persons, the timeframe for the disclosure of a wrongdoing, limiting protected disclosures from job applicants and establishing more details on penalties under the Bill.

In conclusion, the MHC supports the transposition of the Directive through the proposed amendments to the Protected Disclosures Act 2014, which shall enhance the protections and scope available.