



**An Roinn Leanaí, Míchumais
agus Comhionannais**
Department of Children,
Disability and Equality

Public Consultation on Disability Act 2005

Public Consultation Response Template

gov.ie/dcde

Guidance:

Please read the consultation guidance note before completing this form.

You should only provide information you feel comfortable sharing with the Department.

You can get assistance from someone you trust to help you complete this form.

For alternative submission formats such as audio or video you can use FormsIE [here](#).

Section 1: About You/Your Organisation

1. Who are you making this submission on behalf of?

Yourself ☐

Another individual ☐

An Organisation ☒

A person who uses a disability support ☐

A disability service provider ☐

Other (Please specify below) ☐

2. If other, please specify here**3. Name of Individual (optional)****4. Name of Organisation (if applicable) – please specify if your Organisation identifies as a Disabled Persons Organisation**

Sage Advocacy CLG

5. Contact details (optional – only required if you wish for us to contact you about stage 2 of the consultation process)

Address: Sage Advocacy, 9a Merchants House, 27-30 Merchants Quay, Dublin 8. D08 K3KD. Email: info@sageadvocacy.ie

6. Please identify all Parts of the Act which you believe are relevant to your submission (please see below for a description of each Part)

1. Preliminary and General ☒
2. Assessment of Need, Service Statements and Redress ☒
3. Access to Buildings and Services and Sectoral Plans ☒
4. Genetic Testing ☒
5. Public Service Employment ☒
6. Centre for Excellence in Universal Design ☒

7. Miscellaneous ☒

7. Please indicate whether you would be interested in taking part in targeted focus groups during stage 2 of the consultation process. However, as space may be limited, an expression of interest does not guarantee participation.

Interested ☒

Not Interested ☐

Section 2: Our Questions about the Parts of the Act

Views are being sought in this section on:

1. What is working well with the operation of each Part of the Act, for example, in relation to Part 1, the definition of 'disability' and the provision for the funding of measures under the Act.
2. What is not working well with the operation of each Part of the Act, for example, in relation to Part 1, the definition of 'disability' and the provision for the funding of measures under the Act.
3. Suggestions or recommendations on issues arising from the provisions of the Act, such as the scope of the current definitions, resources for service provision, accessibility, the processing of genetic data, public service employment, and universal design?
4. Are you aware of any examples of international good practice which have had a positive impact that we should look at in reforming the Act to enhance alignment with the UNCRPD? If so, please provide as much detail as you can, including information on how the reform of legislation based on the UNCRPD has resulted in a positive impact on the lives of disabled people.

Please note, it is not necessary to provide a written submission on each Part of the Act if you do not wish to provide it. Submissions can be provided for individual Parts of the Act that may be of specific interest to you. You can therefore choose to leave sections of the below document blank if you do not wish to provide feedback.

Section 3: Other

We also welcome any general comments you may have which do not relate to any specific Part of the Act.

1. Do you have any additional views or recommendations regarding the Disability Act 2005?
2. Do you have any other suggestions for reform so that Ireland's Disability Act better reflects the State's commitments under the UNCRPD?

Instructions for Submission

Once you have completed this document with the feedback you wish to provide it can be attached to an email and sent to disabilityactreview@dcde.gov.ie.

Feedback on Part 1

Template for Feedback on Part 1 of the Disability Act 2005

Description of Part 1: Part 1 sets out the basics of the Disability Act 2005, its name, when it starts, key definitions, and how Ministers can make orders or regulations to bring different pieces of the legislation into law. It also provides for the funding of actions under the Act and says that the Act must be reviewed regularly.

Question 1: What is working well with the operation of Part 1 of the Act (for example, in relation the definition of ‘disability’ and the provision for the funding of measures under the Act)?

The Disability Act 2005 (the Act) represented an important advance at the time it was enacted. Whilst the intention of the Act was admirable in seeking to provide a statutory basis for key supports to promote inclusion and a rights-based approach to same, this subsequently did not meaningfully translate or keep pace with human rights requirements in a realisable way over the last 20 years.

Question 2: What is not working well with the operation of Part 1 of the Act (for example, in relation the definition of ‘disability’ and the provision for the funding of measures under the Act)?

The Act relies substantially on a medical and deficit-based understanding of disability rather than a social and human-rights model that recognises the interaction between disability and the social, cultural and economic environment in which people live, including, in particular, people with invisible, psychosocial, dementia-related and age-acquired disabilities. There is a clear argument for new legislation grounded in the UN Convention on the Rights of Persons with Disabilities (UNCRPD) in all aspects, but in particular in relation to the definition of ‘disability’.

Careful attention must also be given to reviewing the definition and associated implementation plans as the separation of ‘disability’ and ‘older persons’ in service design can result in those areas been seen as mutually exclusive in terms of service provision which can lead to older, disabled people being effectively denied access to ‘disability’ services as they access ‘older person’ services. This is a common issue arising in Sage Advocacy casework where people have lost access to personal assistance or visual aids when they access ‘older person’ services.

The provisions in the Act regarding funding for the measures contained within it has been the subject of particular challenge in its application. Section 5 of the Act effectively links service provision to available resources and as such limits the ability of individuals to compel any services provision even where same is based upon a recognised need (potentially based on the statutory process for those needs to be assessed). This is arguably one of the most important parts of the legislation requiring amendment as this section of the Act limits an individual's ability to enforce any rights they may have and certainly would challenge compliance with both national and human rights obligations.

This provision is particularly relevant to many Sage Advocacy clients who are forced to live in nursing homes against their will or expressed wishes because they cannot get a Home Care Package commensurate with their needs. The reality of such resource-associated limitations is that people's fundamental rights are impacted without accessible and effective recourse to challenge it. Sage Advocacy casework repeatedly highlights the fact that when basic public services are unsuitable or unavailable, community inclusion becomes more difficult. The realisation of Article 19 of the UNCRPD depends on the availability of basic public services and requires that:

States Parties ... recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

- a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;*
- b) Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;*
- c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.*

Question 3: Do you have suggestions or recommendations in relation to the operation of Part 1 of the Act? If so, please provide details below.

Sage Advocacy has made a number of submissions¹ that make recommendations and suggestions in relation to the provision of services more broadly and are directly relatable to Part 1 of the Act.

In short, the Act should include provision that:

- Social care assessment and the provision of related supports should be established on a statutory footing for all people (not limited by age).
- People should have enforceable rights to supports, not merely assessments or administrative processes.
- Social care legislation should be informed by the UNCRPD and a human-rights model.
- Independent advocacy should have a clear statutory basis.
- People receiving care should have specific protections relating to autonomy, dignity, participation and safeguarding.
- Stronger accountability, redress and remedies are required when services are not provided in accordance with assessed needs.

A further recommendation and requirement is to ensure that the Act (in particular Part 1 around definitions, interpretation and otherwise) is in compliance and alignment with the Assisted Decision-Making (Capacity) Act 2015 (ADMCA). It should rely upon and embed the Guiding Principles of the ADMCA into the wider legislation also.

Question 4: Are you aware of any examples of international good practice that may help us advance the implementation of the UNCRPD within Part 1 of the Act? If so, please provide as much detail as you can, including information on how the reform of legislation based on the UNCRPD has resulted in a positive impact on the lives of disabled people.

An organisation called, Support Girona, recently made a number of presentations at the 8th World Congress on Adult Capacity in July 2028 and will host the 9th World Congress in July 2028. Their model of support is an international example of

¹ [Older Persons in Receipt of Care: Five Human Rights Concerns in Ireland](#), [Developing an Observatory on Long-Term Care in Ireland – A Human Rights Perspective](#), [Choice Matters: Towards a Continuum of Support and Care for Older People](#), [Responding to the support care needs of our older population](#), [Submission to UN Independent Expert on the Enjoyment of All Human Rights by Older Persons](#), [Submission to Commission on Care](#)

good practice in terms of implementation of human-rights based approaches and translating them into meaningful support to those who require assistance.

The PANEL principles - Participation, Accountability, Non-Discrimination, Empowerment and Legality –are a core framework developed by the Scottish Human Rights Commission to guide human rights-based approaches in policy making, public services, and daily practice across Scotland.

Feedback on Part 2

Template for Feedback on Part 2 of the Disability Act 2005

Description of Part 2: Part 2 establishes an entitlement to an Assessment of Need (AON) and, where applicable, a related service statement. The assessment identifies health and education needs (if any). If needs are found, a service statement sets out the services to be provided and timelines. The contents of the service statement are subject to a number of considerations, including resource constraints.

There are complaint and appeal routes if someone is unhappy with the assessment, the service statement or delivery of services. It is important to note that several aspects of Part 2 are currently subject to targeted legislative reforms. Details of these reforms are available [here](#).

Question 1: What is working well with the operation of Part 2 of the Act (for example, in relation to assessment of need, service statements and redress)?

It is important to note that this legislation introduced the right to apply for a statutory assessment of need where a person (or 'specified person') was 'of the opinion' that they may have a disability. The term 'of the opinion' aligned more closely with a person-centred perspective and promoted accessibility and should be retained.

The Act also provided for enforcement of determinations under this Part, and therefore provided for accountability and recourse where the statutory entitlement was not provided.

Another aspect of this Part of the Act that could be considered as positive was the concept of inter-agency working. Section 11 of the Act allowed for the HSE to employ 'liaison officers' who could request assistance from the National Council for Special Education to assist in the preparation of service statements. Whilst Sage Advocacy does not get many referrals in relation to this part of the Act, it does recognise the need for cross-Departmental and inter-agency service provision.

Question 2: What is not working well with the operation of Part 2 of the Act (for example, in relation to assessment of need, service statements and redress)?

From Sage Advocacy's perspective, the assessment of needs process as it currently operates applies primarily for children and there is no comprehensive equivalent for adults. This is especially significant for people who acquire a disability later in life or move between disability services and older-person services (as many Sage Advocacy clients have had to do once they reached the age of 65 or where there is a lack of natural or home support services available to them in their community).

Whilst the Act is strong in the provision of a right to assessment, the implementation of the assessments did not work well. The failures of implementation have led to the State facing enormous costs (recently reported as €23m) in ‘defending’ legal challenges since 2021². This is not an effective use of resources.

In addition to the challenges mentioned above in relation to the failures around implementation of the right to an assessment, there are additional aspects that are not working well particularly in relation to the provision of services on foot of the assessment (as mentioned above). There continues to be a gap between assessing a person’s needs and actually meeting them. A person may be found to require particular services or supports, but the Act does not create a corresponding enforceable entitlement to receive them. Service provision may also be limited by available resources, meaning that assessed need does not necessarily determine what is delivered. The State’s attempts to align the assessment to fit service availability was found to be unlawful.³

Part 2 of the Act has been described as ‘*A Procedural Right Detached from Services*’⁴ and this aspect is extremely problematic. This can leave formally recorded needs unmet, with limited avenues for an effective remedy. Having remedy or recourse to rights violations is an essential safeguard in society and Sage Advocacy’s casework has demonstrated that those most at risk in this regard often face significantly more barriers in accessing justice.⁵

The Sage Advocacy experience is that the implementation of positive aspects of the 2005 legislation is hampered by weak accountability structures, complicated redress and appeals processes, and difficulty securing compliance from public bodies.

² <https://www.rte.ie/news/ireland/2026/0814/1587800-assessment-legal-costs/>

³ C.T.M. (A Minor) v Assessment Officer & Anor [2022] IEHC 131 and .D. v HSE [2024] IEHC 21.

⁴ [The Disability Act 2005 at 21: Reflecting, Reforming, Reimagining](#), University of Galway, May 2026

⁵ [Access to Justice by At-Risk Adults, Sage Advocacy, 2024](#)

Question 3: Do you have suggestions or recommendations in relation to the operation of Part 2 of the Act? If so, please provide details below.

Part 2 of the Act sought to progress the rights of disabled people but needs to be reviewed or completely overhauled having particular regard to the following suggestions and recommendations:

- People should have enforceable rights to supports, not merely assessments or administrative processes.
- Legal entitlement to assessment of need should be provided to disabled people across all ages.
- Assessed needs, if they are to be meaningful, must be capable of being translated into enforceable entitlements to supports and must incorporate or have corresponding social care legislation providing a right to social care, including but not limited to, home care support.
- The legislation should remove age-based administrative divisions between disability and older-persons services.
- The legislation should include access to independent legal representation in a manner similar to that included in the ADMCA and as per the amended Civil Legal Aid Act 1995. Particular regard should be given to the non-means-tested legal aid for Part 5 and Part 6 of the ADMCA to better enable people access justice as required.
- The legislation should include a right to access independent advocacy which must be resourced accordingly.

Question 4: Are you aware of any examples of international good practice that may help us advance the implementation of the UNCRPD within Part 2 of the Act? If so, please provide as much detail as you can, including information on how the reform of legislation based on the UNCRPD has resulted in a positive impact on the lives of disabled people.

The PANEL Principles referred to above are a core framework developed by the Scottish Human Rights Commission to guide human rights-based approaches in policy making, public services, and daily practice across Scotland.

Feedback on Part 3

Template for Feedback on Part 3 of the Disability Act 2005

Description of Part 3: Part 3 requires public bodies to make public buildings, public services and public information accessible, as far as practicable, to persons with disabilities. It also provides for codes of practice to guide public bodies, access to heritage sites, and sectoral plans prepared by named Ministers describing how accessibility will be achieved in their sectors. Complaints procedures and review by the Ombudsman are available in any case where the access required by this Part is not provided.

To help public bodies meet the requirements set out in under sections 26, 27 and 28 of the Act, the National Disability Authority (NDA) has prepared a Code of Practice on Accessibility of Public Services and Information Provided by Public Bodies. Information on this can be found through this link [here](#).

The NDA has also prepared a Code of Practice on Accessible Heritage Sites to guide public bodies in meeting their obligations under section 29 of the Act. A link to this Code is available [here](#).

Question 1: What is working well with the operation of Part 3 of the Act (for example, in relation to access to public buildings and services)?

Part 3 of the Act has worked well in establishing statutory accessibility duties particularly in the public sector. Sage advocates report engaging with Access Officers and in seeking to ensure services are provided in a way that promotes and actually enables access to services. However, it's the experience of Sage Advocacy that the availability and role of Disability Access Officers may not be well known by the public.

Accessible information and communication requirements under this Part are of particular relevance to Sage Advocacy's casework. The requirement for information being provided by public bodies to be *'in clear language that is easily understood..'* can help in promoting the Guiding Principles of the ADMCA in ensuring that all practicable steps have been taken to support a person to make decisions where they require or desire such support.

Whilst it will be submitted below that there are improvements needed, the provisions around Sectoral Plans are good provisions in the Act. They require a positive obligation on the Minister of the Government to consult with *'such persons representative of persons with disabilities.'*

However, in practice, it would appear that Sectoral Plans under the Disability Act

2005 have generally not been published for some years, although the statutory framework for them remains in force.

Finally, this Part of the Act provided for recourse to address issues by creating mandatory requirements for a number of Government Departments to incorporate complaints mechanisms into their sectoral plans. It further then provided an individual right to make a complaint under this Part to the head of a public body for non-compliance with their obligations under that Part and sought to promote due process in providing for 'inquiry officers' to be employed and procedures created in the making and investigation of complaints.

Question 2: What is not working well with the operation of Part 3 of the Act (for example, in relation to access to public buildings and services)?

Although the Act contains duties relating to public buildings, services and information, there is a need for stronger enforcement, updated standards and provision of legally-binding supports for people with underdeveloped literacy skills who are forced to use digital- only access for some services that they require – many Sage Advocacy clients are in this category,

Furthermore, it would appear that the requirements in this Act around accessibility are often viewed through an implementation lens as an administrative burden rather than as enforceable human rights. This presents as a barrier (whether real or perceived) and is not in compliance with the UNCRPD.

Many people with disabilities continue to live with access barriers relating to transport, public and shared spaces, houses and buildings, services (health, social and financial) as well as difficulties in accessing information by those who communicate differently.

While there are many positive developments in relation to improved accessibility, the lived experience is still very different. Universal access is far from normative and universal design in terms of access for all, falls far short of what is required.

There is insufficient attention given in practice to monitoring the implementation of various regulatory and legal provisions relating to access. While, as stated above, there is an emphasis on consultation with stakeholders, the lived realities of disabled people in terms of accessibility have not been given due cognisance. This is the case in respect of both identifying the barriers and formulating solutions.

Sage Advocacy casework shows that frequently disabled adults, including younger adults, are being forced to move to nursing homes because of lack of accessible accommodation and supports. This can have a negative impact on an individual's mental health, well-being, autonomy, self-esteem and self-confidence as a result, of, for example,

not being facilitated or supported to engage in social activities outside of the nursing home.

Whilst it is acknowledged that ‘residential settings’ do not necessarily fall within the definition of a public body they are often funded by such bodies and accessibility issues arise frequently in Sage Advocacy’s casework such as:

- Under-developed use of audio and vision technology.
- Lack of due care and attention to residents’ hearing aids or low vision aids requirements.
- Hearing aid “sharing” with use by more than one nursing home resident.

Digital exclusion remains a key feature in Sage Advocacy casework and formed a core part of a submission recently made to the Oireachtas Joint Committee on Disability Matters.⁶

With technological and communication advances, it is often more difficult for people to meet or speak to human beings working in or on behalf of public bodies, this creates barriers to providing accessible complaints mechanisms. The availability and visibility of Access Officers should be enhanced and targets set for proactive stakeholder engagement outside of the public body within which they are based.

⁶ <https://sageadvocacy.ie/wp-content/uploads/2026/06/Submission-JCDM-June-2026-Sage-Advocacy.pdf>

Question 3: Do you have suggestions or recommendations in relation to the operation of Part 3 of the Act? If so, please provide details below.

Part 3 of the Act seeks to promote accessibility and accountability across the public sector in particular. Whilst the Act has improved access to buildings and services it has not quite gone far enough and the monitoring, continuous improvement and enforceability of this Part needs to be strengthened and expanded to include those organisations and services funded by the ‘Sectors’ referred to in Part 3.

In addition to the broader recommendation above, Sage Advocacy submits the following specific suggestions and recommendations:

- The legislation should be reframed as rights-based legislation, rather than legislation primarily concerned with administrative service provision.
- The legislation should impose clear, time-bound and enforceable accessibility standards that are enforced on existing structures (physical and digital) rather than, as is currently the practice, focused on new or developing structures.
- The Act must expand digital accessibility obligations and provide for positive obligations to promote learning, training and upskilling opportunities in digital access for disabled people.
- Align adherence with the Guiding Principles of the ADMCA into sectoral plans and codes of practice, particularly to ensure that the presumption of capacity is applied in the first instance and that all practicable supports are provided to individuals to support decision making.
- The statutory role of the Centre for Excellence in Universal Design should be expanded and include a mandated inter-agency approach with Government Departments with a particular priority on housing, health and social care sectors.
- Provision should be incorporated into the Act for independent advocacy to be provided to assist and support those who might struggle to exercise their rights under this Act (or in its amended or reformed form).

Question 4: Are you aware of any examples of international good practice that may help us advance the implementation of the UNCRPD within Part 3 of the Act? If so, please provide as much detail as you can, including information on how the reform of legislation based on the UNCRPD has resulted in a positive impact on the lives of disabled people.

Feedback on Part 4

Template for Feedback on Part 4 of the Disability Act 2005

Description of Part 4: Part 4 provides protection in relation to the use of 'genetic data', as defined. It limits when genetic testing may be carried out and, importantly, prohibits the processing or use of genetic test results for employment, insurance, pensions or mortgages. It also allows for regulations on the handling of family history information and requires a review of how these rules are operating to be carried out.

Question 1: What is working well with the operation of Part 4 of the Act (that is, in relation to the protection of genetic data)?

Part 4 of the Act is designed to prevent discrimination in relation to employment, provision of insurance of life assurance, pension or mortgage and in this regard is helpful. This Part was developed prior to the Data Protection Act 2018 and GDPR so was quite progressive for its time.

Question 2: What is not working well with the operation of Part 4 of the Act (that is, in relation to the protection of genetic data)?

Sage Advocacy staff reported little awareness of the protections available under this Part of the Act. Whilst this issue has rarely arisen in Sage Advocacy casework, Sage Advocacy believes that greater public awareness should be promoted across Ireland of the provisions under this Part.

Question 3: Do you have suggestions or recommendations in relation to the operation of Part 4 of the Act? If so, please provide details below.

Whilst the review provisions in section 44 of the Act required a review to be undertaken by 01/01/2014 it is suggested that more regular reviews are undertaken to monitor the awareness and effectiveness of this Part. It is recommended that, in addition to the Data Protection Commissioner and the Central Bank of Ireland being named in section 44, that the Competition and Consumer Protection Commission, the Financial Services and Pension Ombudsman, the Irish Human Rights and Equality Commission and the Decision Support Service be named whilst retaining the right of the Minister to engage with *'such other persons or bodies and he or she considers appropriate.'*

Effective and accessible complaint and redress mechanisms must be included in this Part specifically for breaches of the legislation.

It is recommended that there is a statutory function provided for in this Part requiring information sharing and raising public awareness of the protections available under this Part.

The various forms of decision-making support provided for under the ADMCA (an overarching recommendation throughout this submission} -- such as Decision Making Representation Orders and/or Advance Healthcare Directives) – must be incorporated in new legislation to provide a legislative basis for consent to such testing by those who lack that specific decision-making capacity.

Finally, whilst the protections available under this Act should be retained, it is important that the language is changed to reflect provisions of equality and non-discrimination rather than suggesting a medical model reference to disability.

Question 4: Are you aware of any examples of international good practice that may help us advance the implementation of the UNCRPD within Part 4 of the Act? If so, please provide as much detail as you can, including information on how the reform of legislation based on the UNCRPD has resulted in a positive impact on the lives of disabled people.

Feedback on Part 5

Template for Feedback on Part 5 of the Disability Act 2005

Description of Part 5: Part 5 places obligations on public bodies to promote and support the employment of people with disabilities and to meet a statutory minimum employment target. It provides for monitoring, compliance actions and codes of practice to help public bodies improve recruitment, retention and progression of disabled staff. Following the amendment of the Disability Act by the Assisted Decision-Making (Capacity) (Amendment) Act 2022, the current employment target is 6 percent.

Question 1: What is working well with the operation of Part 5 of the Act (that is, in relation to public service employment of persons with disabilities)?

The public service employment target has worked well, subject to the below comments, in promoting a greater representation of disabled people within public service employment. This has promoted awareness and implementation of diversity, equality and inclusion approaches to employment, leadership and public service provision more generally. The provision providing for codes of practice being developed has also supported implementation.

Question 2: What is not working well with the operation of Part 5 of the Act (that is, in relation to public service employment of persons with disabilities)?

Whilst the target for public service employment is positive, it is still far below the reported 22% proportion of people who identified as disabled in the 2022 Census.

Similarly, as mentioned above, the target can be perceived by some as an administrative burden rather than as a mechanism to increase inclusion and diversity and the wider benefits that accrue as a result. Ireland performs particularly badly in terms of the employment of disabled people (this is not specific to the public service)⁷ and it can be argued continues to promote ableist (and Sage Advocacy would argue ageist) perspectives.⁸ Having accessible and enforceable rights under this Part would significantly strengthen its application and effectiveness rather than relying upon high level reporting mechanisms.

Sage Advocacy casework showed that clients were often slow to disclose disability prior to employment as they feared being treated less favourably or being stigmatised. This is something that needs to be challenged in the public service and beyond.

⁷ OECD (2021), [Disability Work and Inclusion in Ireland: Engaging and Supporting Employers](#)

⁸ <https://www.lawsociety.ie/gazette/in-depth/disability-inclusion/>

Sage Advocacy regularly sees procedural flaws in the consideration of reasonable accommodation to enable access and participation in areas of social, cultural, economic and community life more generally. This is equally applicable to this Part. The Act must therefore strengthen the obligations on Public Service employers to provide reasonable accommodations.

In Sage Advocacy's submission on a UN Convention on the Rights of Older Persons⁹ it criticises approaches that view older people primarily through a deficit or dependency lens which fails to recognise the value, benefit and ongoing contributions older people make to society (including but not limited to older disabled people). This Act must ensure that its protections apply equally to all disabled people regardless of age or life stage.

⁹ <https://sageadvocacy.ie/wp-content/uploads/2026/06/Submission-by-Sage-Advocacy-Ireland-on-an-International-Binding-Instrument-on-the-Human-Rights-of-Older-Persons.pdf>

Question 3: Do you have suggestions or recommendations in relation to the operation of Part 5 of the Act? If so, please provide details below.

Employment is a core part of the economic, social and cultural rights that people in our society must be in a position to access on an equal basis with others. Part 5 of the Act goes some way to challenge ableist perspectives that have historically been a barrier to accessing employment, but it is arguable that it does go near far enough to do so meaningfully. Sage Advocacy recommends an overhaul of this Part and that the Act includes:

- Setting more ambitious and societal reflective targets for the employment of disabled people.
- Ensure protections are in place to prevent intersectional discrimination (including but not limited to older people).
- Mandatory obligations around appropriate and effective reasonable accommodation provision including, but not limited to, promotion and leadership prioritisation.
- The development, resourcing and implementation of Diversity, Equality and Inclusion employment initiatives within the wider employment sector.
- Strengthening the rights-based approach to Part 5 and incorporating co-design in the development of effective remedies for redress where the obligations under this Part are breached.
- Enabling access to and resourcing of independent advocacy within the Public Service employment rights framework for disabled people.

Question 4: Are you aware of any examples of international good practice that may help us advance the implementation of the UNCRPD within Part 5 of the Act? If so, please provide as much detail as you can, including information on how the reform of legislation based on the UNCRPD has resulted in a positive impact on the lives of disabled people.

Whilst not specific to the UNCRPD or indeed Europe, there has been research that shows ‘The Disability Inclusion Advantage’¹⁰. Undertaking similar studies in Ireland would be very informative and setting a specific strategy to challenge ableism (and intersectional discrimination in areas such as ageing) would be very helpful.

¹⁰ CEO Commission for Disability Employment, 2018
<https://ceocommission.org/sites/default/files/2026-08/accenture-disability-inclusion-research-report.pdf>

Feedback on Part 6

Template for Feedback on Part 6 of the Disability Act 2005

Description of Part 6: Part 6 established the Centre for Excellence in Universal Design within the NDA. The Centre promotes Universal Design across the built environment, products, services and ICT so that they can be accessed, understood and used by as many people as possible.

Information on the Centre for Excellence in Universal Design can be found on their webpage through this link [here](#).

Question 1: What is working well with the operation of Part 6 of the Act (that is, in relation to the Centre for Excellence in Universal Design)?

It is arguable that this Part of the Act worked particularly well compared with other Parts in that it positioned Ireland well in terms of its approach to universal design and by incorporating it by way of statute and via the establishment of the Centre for Excellence in Universal Design (CEUD). The CEUD has had a positive impact on influencing policy development and design.

Question 2: What is not working well with the operation of Part 6 of the Act (that is, in relation to the Centre for Excellence in Universal Design)?

Part 6 of the Act lacks enforceability and whilst the development of the CEUD is praiseworthy, its powers are primarily limited to being advisory in nature. It does not have any enforcement powers in terms of compliance with its recommendations or standards. As such, where compliance remains voluntary, the benefit of the CEUD's contributions are significantly more limited than they could be if there was authority to compel compliance.

One such example of this shortfall is particularly evident in Sage Advocacy's casework where the CEUD's guidance on Universal Design Guidelines: Dementia Friendly Dwellings and Dementia Friendly Hospitals have been commended internationally but are not adopted across much of the services and housing that the people Sage Advocacy supports require.

Ironically, the complaints mechanisms for accessibility under Part 3 are disconnected from Part 6 which is a shortfall. Accessible complaints mechanisms are essential.

Question 3: Do you have suggestions or recommendations in relation to the operation of Part 6 of the Act? If so, please provide details below.

Part 6 of the Act has enabled Ireland develop knowledge and expertise in universal design standards however there must be monitoring, compliance and enforcement in the applications of the CEUD guidelines. In addition, Sage Advocacy suggests and recommends:

- Expanding universal design research, policy and implementation pathways to include transition between and services such as between hospitals, home, respite or residential services.
- Providing for specific obligations in the development of universal design standards in service accessibility to incorporate adherence with and promotion of the Guiding Principles of the ADMCA.
- Expanding the statutory mandate of the CEUD to provide for enhanced authority to mandate universal design monitoring.
- Enabling the CEUD to undertake reviews and to publish compliance sectoral reports.
- The legislation should require universal design standards to be applied to all residential care facilities, including nursing homes, to enhance quality of life and well-being for residents.

Question 4: Are you aware of any examples of international good practice that may help us advance the implementation of the UNCRPD within Part 6 of the Act? If so, please provide as much detail as you can, including information on how the reform of legislation based on the UNCRPD has resulted in a positive impact on the lives of disabled people.

There are various models of high-quality design of long-term residential care units that could be replicated in Ireland if there was a legal requirement for residential care providers to do so.

Small-scale community-integrated care homes (Denmark)

Household model long-term care homes (Canada)

Homelike residential environments with strong autonomy (Sweden)

The Teaghlach Model of residential care for older people in Ireland seeks to move away from large, institutional nursing home environments towards small, household-style living arrangements that feel like a genuine home. An example of this is Nenagh Community Nursing Unit (Co. Tipperary).

Feedback on Part 7

Template for Feedback on Part 7 of the Disability Act 2005

Description of Part 7: Part 7 contains additional provisions to support the Act, including amendments to other laws (such as the Broadcasting Act), offences and enforcement matters, changes to the size of the NDA board and related matters, repeal of certain provisions in the Equal Status Act, and exclusions.

Question 1: What is working well with the operation of Part 7 of the Act (for example, in relation to offences and enforcement matters)?

Part 7 of the Act includes, importantly, the sanctions that can be imposed upon a person or body corporate found guilty of an offence under the Act and provides the authority to bring and prosecute offences (under section 55) to the Minister for Health and Children under Part 2, the Ombudsman for section 40 offences and the Data Protection Commissioner under Part 4. Whilst this Part could work better, it is an essential element of the legislation and provided for accountability and clarity.

The amendments to the Broadcasting Act have also enhanced accessibility in a positive way. For many of the people that Sage Advocacy supports, this has been of particular benefit and moving the requirement for accessibility (particularly on television) from a voluntary to mandatory has been significant.

Finally, the harmonisation of Equality legislation in this Part worked well.

Question 2: What is not working well with the operation of Part 7 of the Act (for example, in relation to offences and enforcement matters)?

Whilst the offences outlined in the Act are seen as something that was positive in the Act, the standard of proof to pursue or prove such offences is too high and effectively prevent access to accountability and effectiveness. This is in stark contrast to the burden of proof required for offences under section 42 of the Act (Part 4).

Question 3: Do you have suggestions or recommendations in relation to the operation of Part 7 of the Act? If so, please provide details below.

Part 7 of the Act repealed and modified conflicting elements of other human rights based legislation. Sage Advocacy recommends that the Act is now reviewed and aligned with the ADMCA.

The burden of proof regarding offences for non-compliance with the Act should be reduced so as to better enable disabled individuals effectively enforce administrative accountability. Furthermore, there is no overarching body or monitoring mechanism to audit, enforce or promote compliance and as such disabled people should have statutory access to independent advocacy and/or legal aid (as referenced above) to assist them navigate the process. It is also recommended that a process similar to the independent monitoring mechanisms provided for in the Convention against Torture be established in relation to this legislation (and an organisation such as IHREC be considered to be the or the coordinator of such a mechanism).

Question 4: Are you aware of any examples of international good practice that may help us advance the implementation of the UNCRPD within Part 7 of the Act? If so, please provide as much detail as you can, including information on how the reform of legislation based on the UNCRPD has resulted in a positive impact on the lives of disabled people.

Template for General Feedback

Do you have any additional views or recommendations regarding the Disability Act 2005? If so, please provide details below.

The Act represented an important advance in Irish legislation in 2005, particularly through its accessibility provisions, duties on public bodies and the establishment of the Assessment of Need process. However, it is abundantly clear and widely acknowledged that the Act does not provide a sufficiently enforceable, comprehensive or rights-based framework for disabled people.

There is a clear argument for new legislation grounded in the UN Convention on the Rights of Persons with Disabilities, with enforceable rights, age-neutral access to supports, stronger accountability and a statutory basis for independent living and independent advocacy. Ideally, any new disability legislation should enhance and give stronger legal effect to the provisions of the ADMCA.

A common individual and systemic issue presenting in Sage Advocacy casework is when a person effectively loses their supports under the 'Disability' category once they enter into 'Older Person' services. A practical example of this is where a person who has personal assistance support provided through HSE disability services loses access to this support when they enter residential care such as nursing homes. The loss of the support appears to be related to the funding stream of service rather than the person's need for personal assistance ceasing. A person's support needs cannot be overshadowed by administrative categorisation and barriers. Social care support should be individualised and holistic, focused on meeting the person's needs in all aspects of life and aligned to meet their will and preferences as regards their personal welfare and property and affairs (the areas of which are as defined in the ADMCA).

Based on its casework experience with older people with an age-related disability and/or whose decision-making capacity is compromised because of dementia, acquired brain injury or a chronic mental health condition, Sage Advocacy identifies the following shortcomings of the Act.

No enforceable right to services

The Act provides a right to an assessment, but not a clear legal right to receive the services identified through that assessment. This can leave formally recorded needs unmet, with limited avenues for an effective remedy. The right of assessment is not accessible to older people and this promotes intersectional discrimination.

Rights constrained by resources cannot be said to be rights in the meaning of the concept

Access to services based on resources available at any given time allows financial

and administrative considerations to override assessed individual need and compliance with national and international human rights requirements. Prioritisation of resources and the decision-making around this can often be led by normative or majority perspectives thereby reducing the impact of anti-discrimination measures and increasing the risk of further marginalisation at times of financial uncertainty or recession.

The definition of disability is outdated

The Act relies substantially on a medical and deficit-based understanding of disability rather than a social and human-rights model that recognises the interaction between disability and the social, cultural and economic environment in which people live, including, in particular, people with invisible, psychosocial, dementia-related and age-acquired disabilities.

Assessment of need provided for in the legislation is not effectively available across the life cycle

The assessment of needs process as it currently operates applies primarily for children and there is no comprehensive equivalent for adults. This is especially significant for people who acquire a disability later in life or move between disability services and older-person services (as many Sage Advocacy clients have had to do once they reached the age of 65).

Weak enforcement and accountability

The Sage Advocacy experience is that the implementation of positive aspects of the Act have been hampered by weak accountability structures, complicated redress and appeals processes, and difficulty securing compliance from public bodies or effectively making the provisions therein unenforceable.

Access to Justice

The provisions in the ADMCA amending the Civil Legal Aid Act have proven to be effective safeguards in the promotion and protection of fundamental human rights. Sage Advocacy's *Access to Justice*¹¹ report demonstrates the importance of accessible supports to enable redress and enforcement of rights and how this is especially important for at-risk adults.

Access to Independent Advocacy

Access to independent advocacy is something that has previously been provided in statute by way of the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2013 to better enable older people who live in designated centres be aware of, access, protect and enforce their rights. There is no similar provision in relation to disabled people specifically.

¹¹ <https://sageadvocacy.ie/wp-content/uploads/2023/12/sage-access-to-justice-report.pdf>

It has been clearly established by the recent review of the Legal Aid Scheme¹² that targeted early and preventative services are essential and effective in supporting people to navigate processes such as those in the Act. These services are determined to be ‘vital’ for disabled people, people living in residential care, people in prison, and those in de facto detention (and other at-risk groups) to ensure that there is a ‘no wrong doors’ approach. Sage Advocacy currently offers such services and already provides support where advocates, who are non-legal professionals, assist people to identify legal needs and issues whilst also progressing and identifying other holistic ways to support the person.

Sage Advocacy will shortly launch a report showing the social value of its work and is happy to share that with the Department when available.

By providing a statutory right to access independent advocacy and the resourcing of same, it is submitted herein, that it would promote accessibility and be more aligned with the rights under the UNCRPD as was recently outlined in a report of Mental Health Reform¹³. In addition to aligning with a more human rights-based approach, a statutory right to independent advocacy would be a much more cost effective way to avoid the kind of legal costs that are incurred in areas such as the Assessment of Need litigation.

Non-alignment with the UNCRPD

The Act does not adequately reflect contemporary international disability-rights standards relating to, for example, self-determination, equality of access, social inclusion, independent living and, very importantly, supported decision-making.

No clear statutory right to independent living supports

Independent-living supports such as home care support and Personal Assistance are not guaranteed legal entitlements under the legislation but clearly should be in order to give effect to Article 19 of the UNCRPD.

The right to independent living supports is particularly relevant to many Sage Advocacy clients who are forced to live in nursing homes against their will because they cannot get a Home Care Package commensurate with their needs. This often leads to what people describe as de facto deprivation of liberty as they have no other option available to them.

New disability legislation should address this deficit as a matter of high

¹² [Minority Report on the Civil Legal Aid Review, 2025](#)

¹³ [Strengthening Human Rights in Ireland's Mental Health Bill: Evidence and Recommendations](#), February 2026

importance. Sage Advocacy has repeatedly called for this in addition to wider social care legislation.¹⁴

Accessibility obligations are difficult to enforce

Although the Act contains duties relating to public buildings, services and information, there is a need for stronger enforcement, updated standards and, particularly, provision of legally-binding supports for people with underdeveloped digital literacy skills who are forced to use digital- only access for some services that they require – many Sage Advocacy clients are in this category,

Main Points

- The gap between care needs assessments, personal outcome goals based on a person's will and preference and access to the therapies and supports actually required to achieve those goals is regularly highlighted in Sage Advocacy casework. There should, therefore, be legislative provision for enforceable access to home supports based on assessed needs taking into account an individual's will and preferences.
- New legislation should give effect to the principle that disability rights should follow the person across the whole of the life cycle and should apply irrespective of age, living location (e.g., in a nursing home) or reduced decision-making capacity as a result of the ageing process.
- The legislation should be reframed as rights-based legislation, rather than legislation primarily concerned with administrative service provision.
- New legislation should adopt a UNCRPD-aligned definition of disability.
- Legal entitlement to assessment of need should be provided to disabled people across all ages.
- Assessed needs, if they are to be meaningful, must be capable of being translated into enforceable entitlements to supports.
- The legislation should remove age-based administrative divisions between disability and older-persons services;
- The legislation should provide a statutory legal basis for the practice of independent advocacy.

¹⁴ [Older Persons in Receipt of Care: Five Human Rights Concerns in Ireland](#), [Developing an Observatory on Long-Term Care in Ireland – A Human Rights Perspective](#), [Choice Matters: Towards a Continuum of Support and Care for Older People](#), [Responding to the support care needs of our older population](#), [Submission to UN Independent Expert on the Enjoyment of All Human Rights by Older Persons](#), [Submission to Commission on Care](#)

Summary

Sage Advocacy strongly argues that new legislation should move from a system in which people are legally entitled to processes and assessments to one in which they hold enforceable rights to supports, participation, independent living and effective remedies.

While resource availability will always understandably be a factor, Sage Advocacy is strongly of the view that there is a need for revised legislation to provide for stronger linkages between assessment of need and an enforceable right to receive the services identified in that assessment.

Since 2005, there has been a significant paradigm shift from welfare-based to rights-based legal provisions in respect of people with disabilities generally. Any new legislation should reflect this shift and the legal reform in relation to supported decision making.

Do you have any additional views or recommendations so that Ireland's Disability Act better reflects the State's commitments under the UNCRPD? If so, please provide details below.

In essence Sage Advocacy is calling for new or substantially revised legislation that moves:

- From a medical and deficit-based model to a social and human-rights model of disability;
- From entitlement to assessments and administrative processes to enforceable rights to services and supports;
- From age-separated services to a life-course approach under which rights and supports follow the person;
- From voluntary guidance to stronger monitoring, accountability, enforcement and effective remedies;
- Towards statutory recognition and resourcing of independent advocacy;
- Towards a clear recognition that older persons with an acquired disability (such as dementia) are equality entitled to full protection under disability legislation as the general disabled population;
- That applies universal design principles to all residential care facilities that take cognisance of not just physical accessibility but accessibility in respect of a dignified and quality of life living environment that maximises liberty, choice and freedom of movement;
- That incorporates the provisions of the ADMCA 2015 with particular reference to presumption of capacity unless formally assessed otherwise.

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