

National Disability Authority's Submission

on

Proposed Regulation of Counsellors and Psychotherapists

under the Health and Social Care Professionals Act 2005

Introduction

The National Disability Authority is the independent state body providing expert advice on disability policy and practice to the government and the public sector, and promoting Universal Design in Ireland.

The National Disability Authority welcomes the opportunity to make a submission on the proposed regulation of counsellors and psychotherapists under the Health and Social Care Professionals Act 2005 and to address the following key issues as outlined by the Minister for Health in the public consultation. The National Disability Authority is making this submission within its statutory remit and competencies regarding disability and Universal Design.

Whether the professions of counsellor and/or psychotherapist ought to be subject to State regulation.

The National Disability welcomes the recommendation that counsellors and psychotherapists should be subject to State regulation, to ensure that they have the requisite qualifications, professional training and experience to provide services and supports to people with psychological, emotional and mental health difficulties.

There are approximately 96,000 people in Ireland with a psychological or an emotional condition.¹ Some people with a psychological or an emotional condition also have another disability. In 2011, 37,210 people reported that in addition to a mental health difficulty they also have a difficulty with learning, remembering or concentrating. One in three people with an intellectual disability, (approximately 19,329 people), also have a psychological disability.²

People with a psychological or an emotional condition are a diverse group with a range of complex needs. People with a dual diagnosis of a psychological and an intellectual disability have distinct service needs. The Psychiatry of Learning Disability is a recognised subspecialty, for example, reflecting clinical and diagnostic aspects of difference. Additional considerations arise from variation in communication and comprehension impairment; vulnerability in mixed group settings; and the ability of individuals to give consent to assessment and treatment.³ It is, therefore, essential that the State has a regulatory mechanism in place to ensure that counsellors and psychotherapists are qualified to provide appropriate supports to this diverse cohort of vulnerable people.

Counsellors and psychotherapists should also have an understanding of relevant legislation and how this could impact on the people they are providing services to, for example, the Assisted Decision Making (Capacity) Act (2015).

Under this Act, there is the presumption that a person has the capacity to make decisions unless proven otherwise. A person is not presumed to lack capacity if they:

¹ Central Statistics Office (2011) Profile 8 Our Bill of Health
http://www.cso.ie/en/media/csoie/census/documents/census2011profile8/Profile_8_Full_document.pdf

² Central Statistics Office (2011) Profile 8 Our Bill of Health
http://www.cso.ie/en/media/csoie/census/documents/census2011profile8/Profile_8_Full_document.pdf

³ National Disability Authority (2003), Mental Health Services Review of Access to Mental Health Services for People with Intellectual Disabilities,

- Require information to be explained to them in a way that is appropriate to their circumstances
- Can only retain the relevant information for a short period of time
- Lacked capacity for a particular decision at one time, but may no longer lack capacity to make that decision
- Lack capacity for some decisions but have capacity to make decisions on other matters

This Act provides a statutory framework for people to make legally-binding agreements to be assisted and supported in making decisions about their welfare, their property and affairs. This assistance and support is particularly required where the person lacks, or in the future may lack, the capacity to make a decision by themselves.

A person with a mental health difficulty, an intellectual disability, or a dual disability may turn to their counsellor or psychotherapist for guidance on this Act, on making important life decisions etc. In this context, the counsellor or psychotherapist should ensure that they alleviate the person's concerns and put them in touch with the appropriate services.

If so, whether the professions ought to be regulated under the Health and Social Care Professionals Act (2005) or otherwise.

CORU, the organisation responsible for regulating health and social care professionals, defines counsellors and psychotherapists as professionals who are:

“trained to work with people who have psychological, emotional and/or mental health issues which interfere with their health, well-being and quality of life.”⁴

⁴ CORU (2014) Response to Minister for Health on Regulation of Counsellors and Psychotherapists

This definition of counsellors and psychotherapists matches the criteria for healthcare professionals as set out in Section 4 (3) (a-d) of the Health and Social Care Professionals Act (2005) which states:

“A health or social care profession is any profession in which a person exercises skill or judgment relating to any of the following health or social care activities:

- (a) the preservation or improvement of the health or wellbeing of others
- (b) the diagnosis, treatment or care of those who are injured, sick, disabled, or infirm
- (c) the resolution, through guidance, counselling or otherwise, of personal, social, or psychological problems
- (d) the care of those in need of protection, guidance, or support”

The National Disability Authority agrees that it makes sense for counsellors and psychotherapists to be regulated under the Health and Social Care Professionals Act (2005).

If the professions are to be regulated under the 2005 Act whether it would be appropriate to regulate one or two professions under one registration board.

The National Disability Authority acknowledges that regulating two professions under one registration board may be the most efficient way to deal with this process.

However, the National Disability Authority strongly advises that if a decision is made to regulate two professions under one registration board, that the registration board should produce information that clearly describes the difference between counsellors and psychotherapists and the different types of services they provide, so that people can decide which type of service is the most appropriate for them.

This information should be provided in a range of accessible formats, for people with disabilities, for example:

- Easy to read versions and Plain English versions for people with intellectual disabilities
- Large print for people who are partially sighted
- Text accompanied by diagrams for people who are deaf or hard of hearing, who may have literacy issues

The National Disability Authority has produced an Accessibility toolkit that provides guidance on producing accessible documents and communications. For further information, see:

<http://nda.ie/Resources/Accessibility-toolkit/Make-your-information-more-accessible/>.

The National Disability Authority's Centre for Excellence in Universal Design has also produced guidance on creating accessible websites. For further information see: **<http://universaldesign.ie/Technology-ICT/>**.

The appropriate level of “grand parenting” qualifications to be set for existing practitioners having regard to the QQI Awards standards

It is outside the competency of the National Disability Authority to comment on the appropriate level of 'grand parenting' qualifications to be set, however we would note the following in relation to the QQI Award Standards, that they contain no criteria for ensuring that professionals provide Universally Designed services – that is services that all people regardless of age, size, disability or ability can access, understand and use.

In practice, this means that counsellors and psychotherapists would:

- Have an awareness and understanding of the importance of creating environments that are accessible to people with physical disabilities and mobility issues, for example, offices that have level access or wheelchair ramps and hand rails, in addition to accessible toilets

- Produce information about their services in a range of accessible formats, for example, easy to read versions and large print
- Communicate appropriately with people with different disabilities, for example, explaining information in a clear and simple manner for a person with an intellectual disability and repeating this information if necessary

The National Disability Authority suggests that the Health and Social Care Professional Council and the proposed registration board should develop strategic objectives around adopting the Universal Design approach to mainstream its services and the services provided by registered professionals. The National Disability Authority would also suggest that Quality Qualifications Ireland (QQI) should incorporate the principles of Universal Design into its Awards Standards.

The National Disability Authority's Centre for Excellence in Universal Design provides guidance on all aspects of Universal Design at:

<http://universaldesign.ie/>

The appropriate level of qualifications to be set for future applicants for registration having regard to the QQI Awards standards

The National Disability Authority strongly advises that the Health and Social Care Professional Council, the proposed registration board and QQI should ensure that the QQI Awards Standards incorporate the principles of Universal Design so that current professionals and future applicants for registration provide mainstream services that everyone can access, understand and use, regardless of their age, size or ability.

As part of this process, the National Disability Authority suggests that the aforementioned organisations should work together to disability proof the QQI Awards standards. This practice will ensure that counsellors and psychotherapists have the skills, the knowledge and the understanding to provide appropriate services to people with a range of different disabilities.

The Health and Social Care Professional Council, the proposed registration board and QQI could consider developing a disability impact assessment process. A disability impact assessment involves a comprehensive examination of how any proposed policy, legislation, programme or service impacts on a person with a disability.

The National Disability Authority has attached the Department of Justice and Equality's guide on conducting a disability impact assessment.

In 2015, the National Disability Authority and the Health Service Executive produced the **National Guidelines on Accessible Health and Social Care Services (2015)**. The National Disability Authority suggests that the Health and Social Care Professional Council and QQI use this guide to develop criteria for accessible health and social care services that can be incorporated into the QQI Awards standards for Counselling and Psychotherapy. This document can be downloaded from:
<http://www.hse.ie/eng/services/yourhealthservice/access/NatGuideAccessibleServices/NatGuideAccessibleServices.pdf>.

The title or titles that ought to be protected for the exclusive use of registrants.

It is outside the competence of the National Disability Authority to define the range and type of counselling and or psychotherapy services for registration.

However, the National Disability Authority suggests that the titles of counsellor and psychotherapist should only be used for professionals who are registered with the registration board and who have the necessary qualifications to provide appropriate universally designed services to the public.

References

Assisted Decision-Making (Capacity) Act (2015).

<http://www.irishstatutebook.ie/eli/2015/act/64/enacted/en/html>.

Central Statistics Office (2011) Profile 8 Our Bill of Health.

http://www.cso.ie/en/media/csoie/census/documents/census2011profile8/Profile_8_Full_document.pdf.

CORU (2014) Response to Minister for Health on Regulation of Counsellors and Psychotherapists.

Health and Social Care Professionals Act (2005).

<http://www.irishstatutebook.ie/eli/2005/act/27/enacted/en/html>.

National Disability Authority (2003), Mental Health Services Review of Access to Mental Health Services for People with Intellectual Disabilities.

National Disability Authority's Accessibility-toolkit/Make-your-information-more-accessible.

<http://nda.ie/Resources/Accessibility-toolkit/Make-your-information-more-accessible/>

The National Disability Authority's Centre for Excellence in Universal Design Guidance on producing accessible websites.

<http://universaldesign.ie/Technology-ICT/>.

National Disability Authority and the Health Service Executive (2015).

National Guidelines on Accessible Health and Social Care Services.

<http://www.hse.ie/eng/services/yourhealthservice/access/NatGuideAccessibleServices/NatGuideAccessibleServices.pdf>.