



**Report to the Minister of State for Disability at the  
Department of Children, Equality, Disability, Integration  
and Youth**

**As provided for under Section 13 of the Disability Act 2005  
in respect of data collected in 2022**

**Based on data extracted from the Assessment Officer System Database**

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## SECTION A - BACKGROUND

### 1. Introduction

- 1.1.** The Disability Act provides that a person who has, or may have, a disability, or specific persons advocating on their behalf may apply for an assessment of the health and education needs occasioned by their disability. The Act requires the HSE to appoint Assessment Officers to carry out or arrange the carrying out of Assessments of Need. The purpose of the assessments is to determine whether or not the person has a disability and to identify health and education needs occasioned by their disability and the services required to address these needs, without regard to the cost or the capacity to deliver these services.
- 1.2.** The Act requires the Assessment Officer to issue an Assessment Report, which includes a determination as to whether or not the individual has a disability, the nature and extent of the disability, a statement of the health and education needs and the services required to address these needs.
- 1.3.** The HSE is also required to nominate Liaison Officers who are responsible for the preparation of Service Statements, following each assessment. In this regard, the HSE has appointed Liaison Officers under the Act in each area. The Service Statement outlines the services which will be delivered within available resources, when the service will be delivered and at what location.

### 2. Provisions of the Legislation and Regulations - Assessment Report

- 2.1.** Section 8(7)(b)(iii) states that an Assessment Report should include:  
*A statement of the services considered appropriate by the person or persons referred to in subsection (2) to meet the needs of the applicant and the period of time ideally required by the person or persons for the provision of those services and the order of such provision*

### 3. Provisions of the Legislation and Regulations - Service Statement

- 3.1** Section 11(2) of the Disability Act states that a Service Statement should specify *...the health services or education services or both which will be provided to the applicant by or on behalf of the Executive or an education service provider, as appropriate, and the period of time within which such services will be provided.*
- 3.2.** Section 11(6) states that:  
*A service statement shall not contain any provisions relating to education services where the subject of the statement is a child.*
- 3.3.** Section 11(12) states that:  
*A Liaison Officer shall arrange with the person or persons charged with delivering the services specified in the service statement for the delivery of the services at such times and in such manner as he or she may determine.*
- 3.4.** Paragraph 18 of the regulations state that:  
*The service statement shall be written in a clear and easily understood manner and it shall specify:*
- a) The health services which will be provided to the applicant;*
  - b) The location(s) where the health service will be provided;*
  - c) The timeframe for the provision of the health service;*
  - d) The date from which the statement will take effect;*
  - e) The date for review of the provision of services specified in the service statement;*
  - f) Any other information that the Liaison Officer considers to be appropriate, including the name of any other public body that the assessment report may have been sent to under section 12 of the Act.*

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#### **4. Provisions of the Legislation - Maintaining Records and Reporting**

**4.1.** The Disability Act 2005 requires certain records to be kept concerning the assessment of need process under Part 2 of the Act. Section 13(1) of the Act states that:

*The Executive shall keep and maintain records for the purpose of:*

- (a) Identifying persons to whom assessments or services are being provided pursuant to this Part or the Act of 2004.*
- (b) Identifying those services and the persons providing the services pursuant to this Part.*
- (c) Specifying the aggregate needs identified in assessment reports which have not been included in the service statements.*
- (d) Specifying the number of applications for assessments made under section 9 and the number of assessments completed under that section.*
- (e) Specifying the number of persons to whom services identified in assessment reports have not been provided, including the ages and the categories of disabilities of such persons.*
- (f) Planning the provision of those assessments and services to persons with disabilities.*

**4.2.** Section 13(2) requires the Executive to submit a report in relation to *...the aggregate needs identified in assessment reports prepared including an indication of the periods of time ideally required for the provision of the services, the sequence of such provision and an estimate of the cost of such provision.*

#### **5. Compliance with Reporting Obligations**

- 5.1.** Since Part 2 of the Act was implemented in 2007, records have been kept in relation to 13(1) (a), (b), (d) and (f).
- 5.2.** Early in the process of implementation, a decision was taken in conjunction with the (then) Department of Health and Children that children's needs should be identified in terms of the desired outcomes and goals rather than in terms of a quantum of a particular service or discipline. This immediately presented difficulties in respect of fulfilling the obligations imposed by paragraph 13(1)(c).
- 5.3.** In respect of 13(1)(e), the developments to the IT system implemented in 2011, ensured that the processes around the production of the Service Statement by the Liaison Officer were recorded on the system. This ensures that each individual's file includes the details of the services that are identified in the Assessment Report as being required and those that they will actually receive. The age and category of disability (where known) of each applicant have been recorded since implementation in 2007.
- 5.4.** Converting need identified into a cost, as required under the Act, has proven problematic. Early reports to the Minister under section 13 of the Act have outlined suggested methodologies aimed at identifying the whole- time-equivalent (WTE) requirement indicated by a given shortfall identified in a particular service. However, this would require the identification of indicative case-loads for particular disciplines. There are no internationally accepted guidelines in this regard.
- 5.5.** A further issue arises from the fact that, increasingly, children are being referred to children's disability teams for team intervention, rather than being referred for intervention by individual disciplines. The practice of some Assessment Officers identifying services in terms of individual disciplines continues to militate against this move towards more appropriate practice

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## **SECTION B – BUILDING CHILDREN’S DISABILITY TEAMS**

### **6. The Progressing Disability Services for Children and Young People Programme (0-18s Programme).**

- 6.1.** The implementation of the Progressing Disability Services for Children & Young People (PDS) programme is agreed Government and HSE policy. This policy supports children’s disability services across all statutory and non-statutory organisations to provide equitable, child and family centred services based on need rather than diagnosis, where the child lives or goes to school.
- 6.2.** The HSE is committed to the full implementation of the Progressing Disability Services for Children and Young People Programme (PDS). PDS is a significant change programme for the provision of services and supports for children from birth to 18 years of age, in line with Sláintecare and the Programme for Government, in order to:
- Provide a clear pathway and fairer access to services for all children with a disability
  - Make the best use of available resources for the benefit of all children and their families
  - Ensure effective teams are working in partnership with families and with education staff to support children with a disability to reach their full potential.
- 6.3.** In line with the PDS model, resources assigned to children’s disability services are allocated to the Children’s Disability Network Teams providing supports to children with complex disability needs from birth to 18 years of age. 91 Children’s Disability Networks have aligned to 96 Community Healthcare Networks across the country.
- 6.4.** While there were no additional posts allocated to Children’s Disability Services in the National Service Plan for 2023, the HSE is committed to progressing the recruitment of 136 senior clinicians to facilitate Children’s Disability Network Teams (CDNTs) to restore on-site health and social care supports to 104 special schools, as required by Government. This initiative will be in addition to recruiting the balance of the 2021 allocation of therapists to special schools as well as the continued recruitment of the 2022 allocated posts.
- 6.5.** Furthermore, as outlined in the National Service Plan 2023, the HSE is committed to establishing 91 family fora and nine family representative groups in order to co-design CDNT service improvements and developments with families.

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## 7. National Disability Authority Report on the Practice of Assessment of Need under part 2 of the Disability Act 2005

7.1. The National Disability Authority (NDA) published its report in 2011. The conclusions included the following:

### **Section 10.3**

*Where the Department of Health and the Health Service Executive have configured disability services for children into geographically-integrated teams, **the National Disability Authority found that the statutory assessment of need process worked better and in a more streamlined way.** There was also less emphasis on using the assessment process to develop a diagnosis in order to meet the specific entry requirements of individual services.*

***Accelerating the reconfiguration into geographically integrated teams would be very important therefore in improving the efficiency and effectiveness of the statutory assessment of need process.***

7.2. Although the report also found that there was no one solution to address the issues around the AON process. It would appear that the reconfiguration of existing services for children and young people with disabilities, in the statutory and non-statutory sectors, to form integrated geographically based teams (under the progressing children's disabilities programme) should improve the Assessment of Need process.

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## SECTION C – ACTIVITY DATA

### 8. Activity Data – 2022

**8.1** The Activity Data in this report is an amalgamation of the four Quarterly “Assessment of Need Management Reports” for 2022. These are based on the data extracted from the Assessment Officer System Database.

**Table 1. Number of Applications Received - Summary Totals**

This table outlines the number of completed applications based on the date the HSE accepted the application. The report is grouped by Community Healthcare Organisation (CHO) Area.

**6,755** completed applications were received by the HSE in 2022. This compares with **5,899** received in 2021, representing a significant increase of 15%.

From the 1st June 2007 to 31st December 2022 a total of 73,422\* completed applications were received by the HSE.

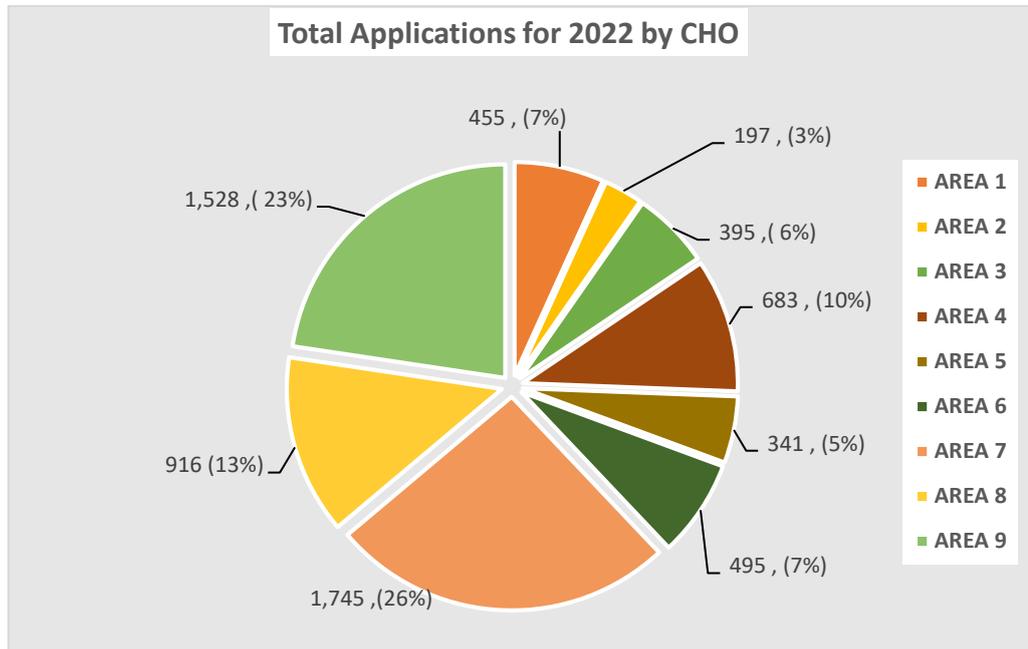
<b>CHO</b>	<b>Total for Qtr.1</b>	<b>Total for Qtr.2</b>	<b>Total for Qtr. 3</b>	<b>Total for Qtr.4</b>	<b>Total for 2022</b>
AREA 1	88	113	98	156	455
AREA 2	37	60	40	60	197
AREA 3	150	119	62	64	395
AREA 4	154	165	182	182	683
AREA 5	58	99	88	96	341
AREA 6	84	131	130	150	495
AREA 7	473	462	384	426	1,745
AREA 8	234	213	189	280	916
AREA 9	367	394	342	425	1,528
<b>Totals</b>	<b>1,645</b>	<b>1,756</b>	<b>1,515</b>	<b>1,839</b>	<b>6,755</b>

\*Late data entry may result in slight discrepancies from previous year.

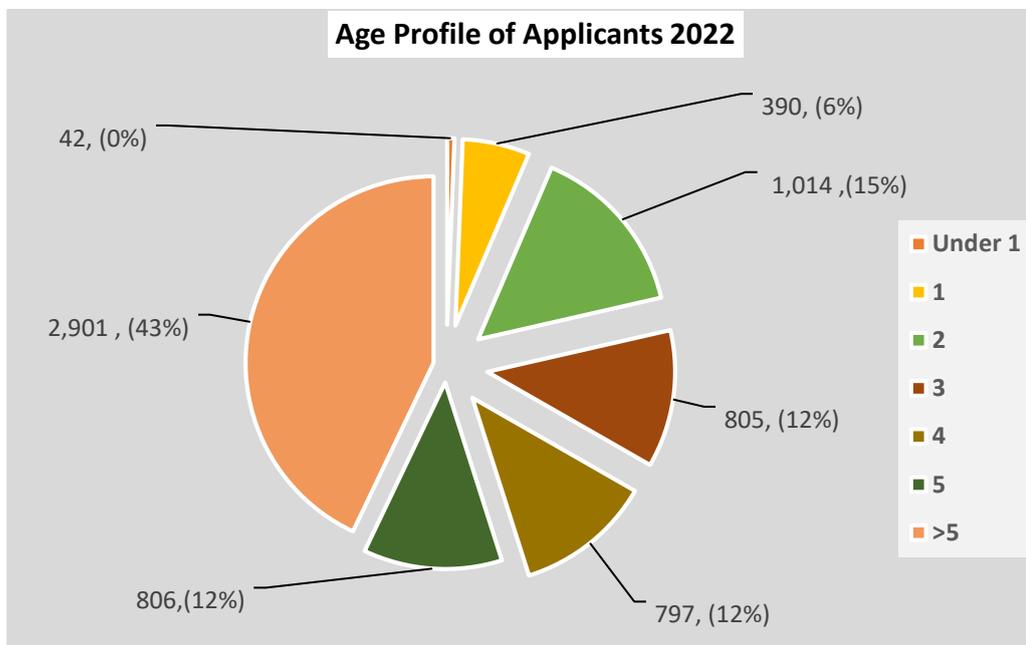
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## Completed Application Data.

**Figure 1 – Applications by CHO Area**



**Figure 2 - Age Profile of Applicants**



### Number of Applications acknowledged

72% of applications received were acknowledged within the 2-week timeline.

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**Table 2. Number of Applications Commenced Stage 2.**

According to defined statutory timelines all applications should commence stage 2 of the assessment process within 3 months of receipt of a completed application.

- 4,116 applications started stage 2 for the first time during 2022.
- 55% of those fell within the 3-month timeline.

<b>CHO</b>	<b>Start Stage 2</b>	<b>*Within Timeline</b>	<b>% within timeline</b>
<b>AREA 1</b>	406	248	61%
<b>AREA 2</b>	148	140	95%
<b>AREA 3</b>	254	203	80%
<b>AREA 4</b>	792	260	33%
<b>AREA 5</b>	209	109	52%
<b>AREA 6</b>	323	282	87%
<b>AREA 7</b>	476	117	25%
<b>AREA 8</b>	642	467	73%
<b>AREA 9</b>	866	431	50%
<b>Totals</b>	<b>4,116</b>	<b>2,257</b>	<b>55%</b>

**NOTE: Applicants that are re-entered into stage 2 are not included in the report**

**\* 'Within Timeline' refers to applications starting stage 2 strictly within the 3 month timeline. Some applications are late starting stage 2 due to mitigating circumstances e.g. 'Application on Hold', 'Parental Request'.**

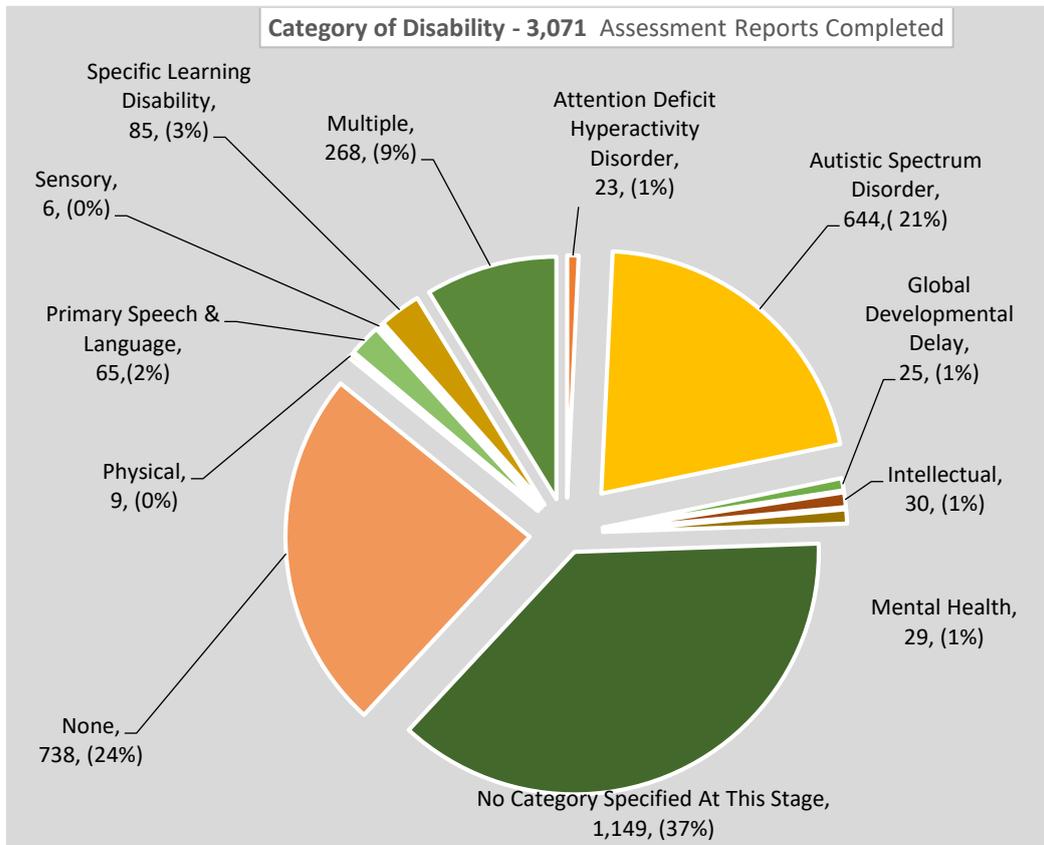
**Table 3 Number of Assessment Reports Completed**

'Within timeline' includes those assessments which have been completed within the timeframes set out in the Disability Act 2005 and accompanying Regulations. It also includes those assessments completed within a timeframe which has been extended due to 'exceptional circumstances' as provided for in Paragraph 10 of the Regulations. Reviewed reports are not included in this table.

The average duration of the assessment process per report completed in 2022 was 16.51 months.

<b>CHO</b>	<b>No Disability</b>	<b>Disability</b>	<b>Total for 2022</b>	<b>Within Timeline</b>	<b>% Within Timeline</b>
AREA 1	25	103	128	77	60%
AREA 2	23	63	86	33	38%
AREA 3	33	59	92	25	27%
AREA 4	269	472	741	160	22%
AREA 5	19	42	61	20	33%
AREA 6	69	81	150	62	41%
AREA 7	89	431	520	51	10%
AREA 8	281	339	620	218	35%
AREA 9	205	468	673	106	16%
<b>Total</b>	<b>1,013</b>	<b>2,058</b>	<b>3,071</b>	<b>752</b>	<b>24%</b>

**Figure 3 -  
Reports Completed by Disability**



*N.B. Applicants with more than 1 recorded disability appear in the 'Multiple' category only.*

**Table 4 - Applications Overdue to commence Stage 2 on 31<sup>st</sup> December 2022.**

CHO	Overdue	<1 month	1 - 3 Months	>3 Months
AREA 1	8	1	3	4
AREA 2	2	1	1	-
AREA 3	70	12	14	44
AREA 4	100	13	21	66
AREA 5	12	10	-	2
AREA 6	26	21	2	3
AREA 7	1,069	126	232	711
AREA 8	16	13	2	1
AREA 9	433	124	201	108
<b>TOTAL</b>	<b>1,736</b>	<b>321</b>	<b>476</b>	<b>939</b>

1,736 Applications due to commence stage 2 by the end of 2022 had not done so.

*Note: Applications that were placed on hold are not included in this report.*

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**Table 5 Applications overdue for Completion on 31<sup>st</sup> December 2022 (1)**

Applications are deemed 'Overdue' if it is more than 6 months since the application was accepted by the HSE and there is no record of an Assessment Report being sent to the Liaison Officer or to the Applicant. This overdue figure does not include applications that have been put on hold, are closed or are ineligible for Assessment.

4,613 applications were overdue for completion at end 2022 with 90 of these on the grounds of there being exceptional circumstances as provided for in paragraph 10 of the regulations.

<b>CHO</b>	<b>Total Overdue<sup>1</sup></b>	<b>Overdue/ Exceptional Circumstances<sup>2</sup></b>	<b>Overdue/ No Exceptional Circumstances</b>
AREA 1	191	2	189
AREA 2	77	10	67
AREA 3	260	1	259
AREA 4	665	9	656
AREA 5	208	7	201
AREA 6	271	2	269
AREA 7	1,321	-	1,321
AREA 8	353	7	346
AREA 9	1,267	52	1,215
<b>Total</b>	<b>4,613</b>	<b>90</b>	<b>4,523</b>

<sup>1</sup>All assessment reports that were not completed within 6 months of application or within 3 months of Start Stage 2 and before the end of the quarter are included in this report.<sup>2</sup>The number of Assessment Reports for which an extended time-frame was negotiated with the parent on the grounds of there being exceptional circumstances as provided for in paragraph 10 of the regulations. Consent to extension is only valid if agreed extension date has not already passed.

**Table 6 Applications overdue for completion on 31<sup>st</sup> December 2022 (2)**

- Of the 4,613 applications that are overdue, 3,155 (68%) are overdue for longer than 3 months.
- Months overdue are calculated based on the statutory timelines of 3 months from start stage 2 and no more than 6 months from the application date. This overdue figure does not include applications that were put on hold, are closed or are ineligible for Assessment.

<b>CHO</b>	<b>Overdue</b>	<b>&lt;1 month</b>	<b>1-3 Months</b>	<b>&gt;3Months</b>
AREA 1	191	27	34	130
AREA 2	77	22	18	37
AREA 3	260	41	60	159
AREA 4	665	73	76	516
AREA 5	208	24	36	148
AREA 6	271	55	55	161
AREA 7	1,321	168	274	879
AREA 8	353	52	88	213
AREA 9	1,267	142	213	912
<b>TOTAL</b>	<b>4,613</b>	<b>604</b>	<b>854</b>	<b>3,155</b>

## Table 7 Service Statements Completed 2021

This table counts Service Statements dispatched to the applicant during 2022. It does not include reviewed or modified service statements. The timeline is calculated from the date the Assessment Report was sent to the Liaison Officer to the date the Service Statement is dispatched to the applicant. The Statutory Timeline for this process is 1 month.

1,543 Service Statements were dispatched to the applicant during 2022 with 40% dispatched within the 1-month timeline.

CHO	Total	Within Timeline	% within timeline
AREA 1	116	22	19%
AREA 2	14	10	71%
AREA 3	59	46	78%
AREA 4	270	12	4%
AREA 5	164	8	5%
AREA 6	104	64	62%
AREA 7	197	103	52%
AREA 8	220	136	62%
AREA 9	399	222	56%
<b>TOTAL</b>	<b>1,543</b>	<b>623</b>	<b>40%</b>

**8.1.** Since a High Court ruling of December 2009, the effect of which was to open eligibility to all persons born after 1st June 2002 who are suspected of having a disability, the number of children over five years of age, and therefore of school-going age, has risen steadily as a percentage of all applications received. At the end of 2011, the figure stood at 26%, at the end of 2021, the percentage was 53%. Table 8 shows the percentage to be 55% at the end of 2022.

Table 8 Applicants 5 years and over			
2022	Total	5 yrs & over	%
Q1	1,645	911	55.4%
Q2	1,756	969	55.2%
Q3	1,515	768	50.7%
Q4	1,839	1059	57.6%
<b>TOTAL</b>	<b>6,755</b>	<b>3,707</b>	<b>54.9%</b>

**8.2.** Table 9 provides some comparisons of activity between 2021 and 2022.

Table 9 Comparison of Activity 2021-2022						
	Applications Received		Variance	Assessment Reports Produced		Variance
HSE	2021	2022	%	2021	2022	%
<b>TOTAL</b>	<b>5,899</b>	<b>6,755</b>	<b>+15</b>	<b>8,353</b>	<b>3,071</b>	<b>-158.14%</b>

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## **SECTION D – IDENTIFYING THE RESOURCE REQUIREMENT**

Section 13 (2) requires the Executive to submit a report in relation to the aggregate needs identified in assessment reports prepared including an indication of the periods of time ideally required for the provision of the services, the sequence of such provision and an estimate of the cost of such provision.

### **9. Resource Availability**

**9.1.** It has been determined that work should continue on building the evidence-base necessary to inform the allocation of resources which may become available in the future. It is clear that this is a more complex process than originally envisaged by the drafters of legislation.

**9.2.** The following sections outline the potential components of that evidence base. It must be remembered that there continues to be a lack of international consensus on what constitutes an indicative case-load for each of the disciplines involved or, indeed, for a team of clinicians offering services to a particular population.

### **10. WTEs Required for the Assessment of Need Process**

**10.1.** At the time Part 2 of the Act was commenced it was understood that the process was only open to children up to the age of 5 years and the WTE projections were based on that age-cohort and an estimated disability prevalence rate of 5%. Since a High Court ruling of December 2009, the effect of which was to open eligibility to persons born after 1<sup>st</sup> June 2002, the number of children over five years of age, and therefore of school-going age, has risen steadily as a percentage of all applications received.

**10.2.** Eligibility for Assessment of Need now includes persons up to age 20 years. It had originally been anticipated that school going children would be assessed under the terms of the Education for Persons with Special Educational Needs Act 2004 (EPSSEN). The relevant sections of this Act have not been commenced. No additional health resources have been identified to meet the resulting demand for Assessment of Need for children in school or for adults.

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## **11. 0-18s Programme**

- 11.1** In October 2022, a second Children’s Disability Network Team Staff Census and Workforce Review National Report was undertaken to establish the actual staffing resource available to the 91 CDNTs. An interim comparative analysis of the data from 2021 and 2022 demonstrated an increase of 11% in the overall number of approved posts and a 2% increase in the CDNT workforce.
- 11.2** Funding was allocated in the HSE’s National Service Plan for 2022 to provide an additional 190 additional multi-disciplinary posts within CDNTs to improve access to Assessment of Need and intervention, and to develop specialised services and supports in line with the recommendations of the Report of National Advisory Group on Specialist Supports for Deaf Children to National PDS 0-18s Working Group.
- 11.3** An additional 136.3 WTEs were approved by the Minister of State for Disabilities to restore pre-existing services in 104 special schools. These additional posts are intended to support the newly established CDNTs to prioritise intervention for children with complex needs in special schools.
- 11.4** Health Services are operating in a very competitive global market for healthcare talent as there are significant shortages of qualified healthcare professionals across the globe. In partnership with our CDNT Lead Agencies, we continued to explore a range of options to enhance the retention and recruitment of essential staff into our CDNTs.
- 11.5** In addition to national initiatives to support the recruitment of staff for the CDNTs, the HSE launched International Recruitment campaigns for qualified healthcare professionals. To support these international campaigns, the HSE is working in partnership with CORU, the regulator, and Government Departments to maximise this pool. Some of the CDNT Lead Agencies are also progressing International Recruitment.
- 11.6** Another key focus of HSE Disabilities in 2022 was staff retention. A further CDNT Training and Development Programme 2022/2023 was launched, with dedicated funding and based on competency gaps identified and prioritised by the teams. A secure online site was set up for Children’s Disability Network Managers (CDNMs) and their staff to facilitate sharing of training and development resources as well as clinical and service good practice models in place across the country.
- 11.7** The National Policy on Access to Services for Children & Young People with Disability & Developmental Delay policy provides a single point of entry, signposting parents and referrers to the most appropriate service (Primary Care for non-complex functional difficulties and Children’s Disability Network Teams for complex functional difficulties).
- 11.8** As the Children’s Disability Network Teams consolidate and they begin to collect data, the shortfalls in terms of disciplines required to populate the teams and information on the size of the population which can be catered for will become clearer.
- 11.9** In the light of the fact that the 0-18s Programme has been demonstrated to have a significant effect on the efficiency and effectiveness of the operation of the Assessment of Need process the information contained in this report will serve as a useful base-line. As the interdisciplinary family centred model of support is consolidated it will be possible to measure the effect they are having in particular areas.

**11.10** In completing assessment reports clinicians identify the services required to meet the needs of the child. Table 10 shows the frequency (ranked nationally) with which requirements for certain services have been identified. These figures are based on Assessment of Need reports completed in 2022. During this period 1,665 children determined to have a disability under the Act had service requirements identified. It should also be noted that a significant proportion of children not determined to have a disability as defined by the Act will also require access to health and social care services.

**Table 10 Service Requirements Identified in Completed Reports**

Service Requirements	Service Totals 2022	Frequency of Services Indicated
Occupational Therapy	1049	63%
Speech and Language Therapy	965	58%
Psychology	839	50%
ASD service	351	21%
Physiotherapy	255	15%
Paediatric Services (Hospital/Community)	173	10%

In the main these figures represent new referrals to the identified services. In all cases, every effort is made to ensure that these services are provided in a timely way.

**11.11** Through the Progressing Disability Services for Children and Young People Programme (0-18) the HSE has identified resourcing deficits across a range of services required by children and young people with disabilities. For the purposes of this report estimated staffing ratios have been used to determine the staffing requirements to meet the current need. It should be noted that there are no nationally or internationally accepted guidelines in this regard.

### **Staffing requirement to meet current need**

The High Court judgement delivered on 11<sup>th</sup> March 2022 has impacted on the completion of assessments since that date. As a consequence of the judgement, Assessment Officers cannot complete assessments based on the agreed Preliminary Team Assessment format. As a result, activity for 2022 indicates that there has been an increase in the total number of applications 'overdue for completion' of 9,784, which includes 5,171 Preliminary Team Assessments requiring an assessment and 4,613 AONs overdue at the end of 2022 (including 90 applications for which an extended time-frame was negotiated with the parent on the grounds of there being exceptional circumstances as provided for in paragraph 10 of the regulations). In addition, an estimated 7005 new AONs are anticipated in 2023 based on the number of AONs received in 2022.

Based on an average of 36 hours to complete each AON, it is estimated that 628 Whole Time Equivalent clinicians would be required to complete this total of 16,789 AONs within the next 12 months.

The staffing requirement described above is estimated based on the numbers of children requiring an AON in the next 12 months. The allocation of 190 development posts through the HSE's National Service Plan for 2022 will facilitate children's disability services to provide these AONs for children with complex disability needs.

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## 12. Conclusion

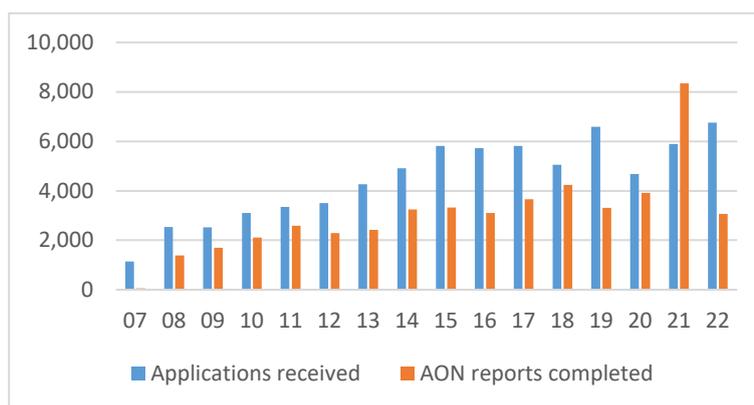
- 12.1** There are shortcomings in the Assessment of Need process with additional applications being received from an increasing age cohort.
- 12.2** There is a difference between the identified needs of children (as outlined in their Assessment Reports) and the services which are being provided to them.  
This can be due to a range of factors including:
- \*Staffing levels
  - \*Demand levels
  - \*Availability of specialist support etc.
- 12.3** Early intervention is a key component to supporting children presenting with challenges, and is supported by international research.
- 12.4** An internal HSE review of the practice of implementation of Part 2 of the Act in 2016 confirmed anecdotal evidence that the approach to AON was not consistent across the country. It was apparent that practice varied widely across the 9 Community Health Organisation (CHO) areas as well as within CHO areas. While a large number of "Guidance Notes" regarding AON processes had been issued since 2007, there had been no nationally standardised or agreed definition of an Assessment of Need. This led to an inconsistent approach to assessment as well as inequity in terms of time afforded to 'assessment' versus 'support or treatment' interventions with children and their families.
- 12.5** To help address this situation, the HSE implemented a Standard Operating Procedure (SOP) for the Assessment of Need process to ensure that;
- Children with disabilities and their families access appropriate assessment and intervention as quickly as possible.
  - The approach to Assessment of Need is consistent across all areas.
- In line with this procedure, Stage 2 of the Assessment of Need process comprised a Preliminary Team Assessment that would identify initial interventions and any further assessments that may be required.
- 12.6** The SOP addressed the requirement for a standardised approach to the administrative processes for AON and, most controversially defined the clinical assessment as a Preliminary Team Assessment (PTA) with a guideline timeframe of three hours per assessment. The PTA approach was not developed to prevent or reduce children's access to their legal entitlements, but rather sought to ensure that available resources were being used in the most effective way. It was developed following considerable engagement with stakeholders and an extensive industrial relations process. Of note, the HSE sought legal advice from a Senior Counsel who advised that the SOP and PTA format complied with the requirements of the Act. In parallel, the Fórsa trade union sought advice from a Senior Counsel who also advised that the SOP complied with the requirements of the Act.
- 12.7** The judgement of Ms Justice Phelan in the High Court delivered on 11th March 2022 directed that the Preliminary Team Assessment approach does not fulfil the requirements of the Disability Act. The judgement states that a diagnosis is required to determine the nature and extent of a person's disability.
- 12.8** As a consequence of the judgement, the standardised Preliminary Team

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Assessment (PTA) approach, as defined in the SOP, could no longer be utilised to fulfil our obligations under the Disability Act, 2005 and Assessment Officers were advised that they could not complete assessments based on the PTA format.

**12.9** Pending the completion of clinical guidance for Assessments of Need, clinicians were advised to use their clinical judgement to determine the level and type of assessment required. This impacted significantly on the numbers of AONs overdue for completion.

**12.10** The numbers of applications for Assessment of Need under the Disability Act have risen steadily since its implementation in June 2007. Activity for 2022 indicates that 6,755 applications for AON were received; the highest number since Part 2 of the Act was commenced in June 2007. This rise is illustrated in the graph below. The non-commencement of the Education for Persons with Special Education Needs (EPSEN) Act (2004) is a significant contributory factor. When originally implemented it was envisaged that the Assessment of Need would apply to children aged less than five years. Following a High Court ruling in 2009 eligibility was expanded to include all persons born on or after June 1st 2002. This has also contributed to the rise in applications. A new commencement order (S.I. No. 3 of 2022) subsequently confirmed that Part 2 of the Disability Act applies to persons born on or after 1<sup>st</sup> June 2002. The following graph illustrates the increase in applications and the corresponding number of AONs completed each year.



**12.11** As a result of the High Court Judgement, activity throughout 2022 indicates that there has been an increase in the total number of applications 'overdue for completion', which at end of the year stood at 4,523 (excluding those applications for which an extended time-frame was negotiated with the parent on the grounds of there being exceptional circumstances as provided for in paragraph 10 of the regulations).

**12.12** The requirement to provide diagnostic assessments under the terms of the Act for children whose assessments were completed based on the Preliminary Team Assessment format will further impact on compliance in the coming year. The HSE estimates that approximately 10,000 Preliminary Team Assessments had been completed. These additional assessments for children whose status has already been recorded as "complete" must be progressed in parallel with new applications for AON.

**12.13** The HSE is continuing to review the files of all children who received a preliminary team assessment and engaging directly with families to establish what additional assessments will be required to meet the requirements of the Act. Additional funding has been secured to support the additional assessments required.

**12.14** The HSE's National Clinical Programme for People with Disability (NCPDP) has led the process of developing Interim Clinical Guidance to

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replace the element of the Standard Operating Procedure which was found to be non-compliant with the Disability Act (2005) – the Preliminary Team Assessment. This new Interim Clinical Guidance is being updated following consideration of a recent legal opinion and has been shared with staff representative bodies.

- 12.15** The National Clinical Programme for People with Disability (NCPD) has also committed to establishing a Task Group on Assessment of Need to address other issues related to the Assessment of Need process that are not addressed in the Interim Clinical Guidance. This group will include representatives from all the key stakeholders and particularly those with lived experience, and will meet monthly over the next 12 months.
- 12.16** While any delay in assessment or intervention for any child is not desirable, the assessment process under the Disability Act can take place in parallel with any intervention which is identified as necessary. The fact that a child is waiting for their statutory assessment to be completed should not be interpreted as meaning that the child is necessarily waiting for necessary, identified interventions. Direct referral to services is a consideration for referrers, and is in keeping with appropriate clinical practice.
- 12.17** There continues to be a steady flow of legal cases seeking enforcement orders in the Circuit Court as part of the statutory complaints mechanism under the Disability Act, 2005. Judicial Review cases in the High Court are currently focussed on issues such as the provision of reviews, service statements, assessment of education needs and the geographical basis for providing assessments and intervention.
- 12.18** Many children and young people with disabilities access health and education supports outside of the statutory AON process. Figures represented in this report do not take account of those children / young people.
- 12.19** Children’s Disability Network Teams (CDNTs) carry both an intervention clinical caseload and responsibility for the AON process under the Disability Act 2005 and providing therapeutic interventions.
- 12.20** In the light of the fact that the **Progressing Disability Services (0-18s Programme)** has been demonstrated to have a significant effect on the efficiency and effectiveness of the operation of the assessment of need process, the information contained in this report will serve as a useful base-line. As teams are consolidated it will be possible to measure the effect they are having in particular years.
- 12.21** The HSE will continue to focus the full implementation of the interdisciplinary, family centred **Progressing Disability Services Programme** as a means to improve services for children and young people with disabilities and consequently the Assessment of Need process in the longer term.