



Oifig an Cheannaire Oibríochtaí,
Na Seirbhísí Míchumais/An Rannán Cúram Sóisialta,
31-33 Sráid Chaitríona, Luimneach.

Office of the Head of Operations,
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10th March 2022

Deputy David Cullinane,
Dail Eireann,
Leinster House,
Kildare Street,
Dublin 2.
E-mail: david.cullinane@oireachtas.ie

Dear Deputy Cullinane,

The Health Service Executive has been requested to reply directly to you in the context of the following parliamentary question, which was submitted to this department for response.

PQ 10709/22

To ask the Minister for Health the number of children with a disability who have had an assessment of need carried out and in which a service statement has been issued but no services have been provided and broken down in bands by month and by the year the service statement issued; and if he will make a statement on the matter.

PQ 10711/22

To ask the Minister for Health the number of children with a disability who had an assessment of needs carried out and in which the findings were appealed to the office of the disability appeals officer in each of the years 2016 to 2021; the timeframe for the complaints to be heard by 0 to 3, 3 to 6, 6 to 12 and greater than a year; and if he will make a statement on the matter.

PQ 10714/22

To ask the Minister for Health the number and percentage of children who had an assessment of needs carried out under the Disability Act 2005 but such assessments were outside the statutory timeframe provided for in the Act in each of the years 2016 to 2021 and to date in 2022; and if he will make a statement on the matter

HSE Response

The Disability Act (2005) provides for, among other things, an Assessment of Need (AON) for people with disabilities. Any person born on or after June 1st 2002 who is suspected of having a disability, is eligible to apply for an Assessment of Need that will detail their health and education needs arising from the disability.

The Disability Act outlines the statutory timelines under which Assessments of Need under the Act must be completed.



- The Assessment Officer must commence the assessment process as soon as possible after the completed application has been received, but no later than three months after that date. This desktop assessment undertaken by the Assessment Officer is known as 'stage one'.
- The completed assessment report must be forwarded to the Liaison Officer within a further three months from the date on which the assessment commenced. (Stage two)
- The Service Statement must be completed within one month following receipt of the assessment report by the Liaison Officer. (Stage three)

Since the Disability Act commenced in June 2007, the HSE has endeavoured to meet its legislative obligations under the Act. However, as a consequence of a High Court ruling of December 2009, the effect of which was to open eligibility to all children born after 1st June 2002, the number of children aged five and over, and in addition of school-going age, has risen steadily as a percentage of all applications received. At the end of 2011, the figure stood at 26%, while throughout 2021, this figure averaged 53%. This is a reflection that the AON process is an accumulative process in terms of numbers of children seeking access. However, it is acknowledged that the numbers of assessments overdue for completion remain high.

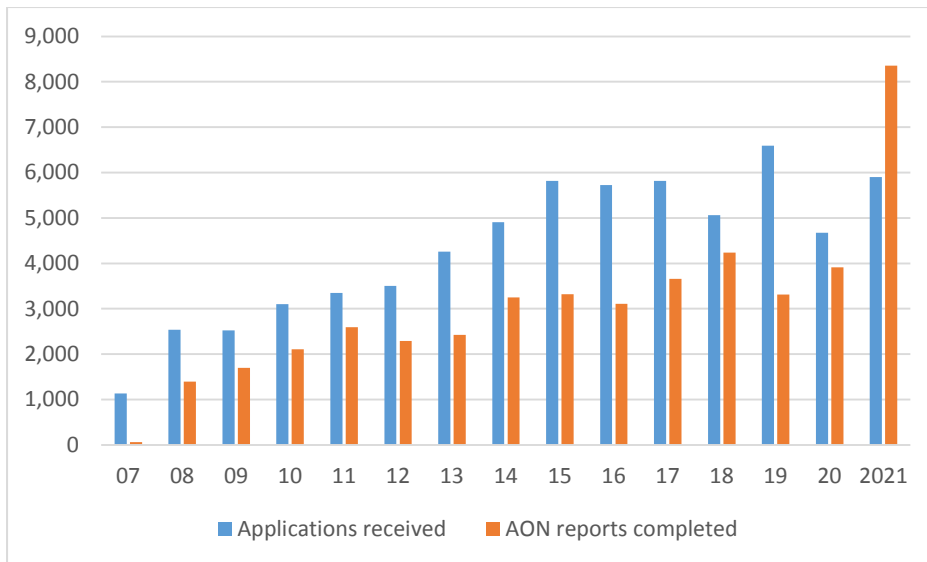
From the 1st June 2007 to 31st December 2021 a total of 66,639 completed applications have been received by the HSE. Due to the limitations of the database we are currently using to facilitate the case management, planning and reporting of assessments and services to children with a disability eligible to apply for an assessment under the Disability Act, 2005 - The Assessment Officers' System Database (AOS) - the HSE is unable to provide details on the number of children with a disability who have had an assessment of need carried out and in which a service statement has been issued but no services have been provided and broken down in bands by month and by the year the service statement issued.

The AOS was developed by a small software development company, which no longer provides maintenance or technical support for the system. The database is 20 years old and has not had the necessary upgrades or technical changes in recent years that are generally required by IT systems, to reflect changes in policy, operational practice and user requirements. This has created many challenges for both Disability Services nationally and for system users locally.

The HSE is committed to the development of a new integrated Management Information System for children's disability services, which will include a module on the Assessment of Need process under the Disability Act. This will facilitate the HSE to provide a wide range of reports on AON activity.

Activity for 2021 indicates that there has been significant progress in the number of Assessment of Need reports completed during the year, 8,353 by year end. This has led to a significant reduction in the total number of applications 'overdue for completion', which now stands at 1,793 (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).

The following graph illustrates the increase in applications and the corresponding increase in the number of AONs completed each year.



5,899 applications for AON were received in 2021 and 8,353 AONs were completed. As evidenced in the graph above this was the highest number of completed assessments since Part 2 of the Act was commenced in June 2007. Furthermore, 4,220 service statements were provided during 2021.

The increase in activity in 2021 can be attributed to the additional funding allocated to the AON process via Slaintecare. This has been utilised to provide additional assessments through a range of options including overtime for existing staff and private procurement. The total number of overdue AONs has reduced by 63% since this additional funding was allocated.

The table below provides details of the number of Assessments of Need completed between 2016 and 2021 together with the number and percentage completed within the timelines outlined in the Disability Act, 2005:

Year	Number of AONs Completed	Number of AONs completed within Timelines	% Within Timelines
2016	3,108	732	24%
2017	3,614	915	25%
2018	4,237	374	9%
2019	3,312	325	10%
2020	3,911	322	8%
2021	8,353	1,224	15%
Total	26,535	3,892	15%

Statutory Complaints Mechanism

The Disability Act makes provision for a separate redress system. An applicant may make a complaint in relation to one or more of the following:

- A determination by the Assessment Officer concerned that he or she does not have a disability
- The fact that the Assessment of Need was not commenced or completed within the specified time frames
- The fact that the Assessment of Need was not conducted in a manner that conformed to the agreed standards



- The contents of the Service Statement
- The fact that the service provider (health or education) failed to provide, or fully provide a service specified in the Service Statement

Complaints will be received by a complaints officer. The complaint will be resolved informally, if possible. If informal resolution is not possible, the complaint will be investigated and a recommendation will issue, which will include a timeframe for the action directed. The recommendation will have regard to the outcome of the investigation as well as other considerations, including the eligibility of the person for the service, the practicality of providing the service and the resources available to the service provider. Complaints under the Act are managed through the HSE's Quality Assurance and Verification Division.

Appeals

A person may lodge an appeal against a recommendation of a complaints officer. The HSE can also appeal a recommendation in relation to the provision of a service. Appeals will be investigated by an independent appeals officer. If the parties to the appeal agree, an appeal may be resolved by mediation. Otherwise, an appeal hearing will take place and a formal determination will issue. The appeals officer's determination is final and may only be appealed on a point of law to the High Court.

The Disability Appeals Officer is an independent officer appointed by the Minister for Health. He or she provides an appeals service for persons who wish to appeal:

- against a finding or recommendation of a Complaints Officer of the Health Service Executive made under Section 18(1) of the Disability Act 2005 ("the 2005 Act"), or
- against the failure of the HSE or an Educational Service Provider(ESP) to implement a recommendation of a complaints office.

Should the HSE fail to implement a determination by the Disability Act Complaints Officer the applicant may submit an appeal to the independent Appeals Officer or they may apply to the Circuit Court for an enforcement order. Likewise, the Appeals Officer may apply to the Circuit Court for an enforcement order should the HSE fail to implement his recommendations. The Disability Appeals Officer would have information on the number of children with a disability who had an assessment of needs carried out and in which the findings were appealed to his/her office and can be contacted at the following:


Office of the Disability Appeals Officer,
Block 1, Miesian Plaza, 50 – 58 Lower Baggot Street,
Dublin, D02 XW14

LoCall: 1800 211 583
Email: appeal@odao.ie

Enforcement

Where a recommendation of a complaints officer, a mediated settlement, or an appeals officer's determination is not implemented, the applicant or the appeals officer can apply to the Circuit Court for an enforcement order. The Circuit Court may then order the HSE (or the head of an education service provider) to implement the relevant decision.

Yours sincerely



Bernard O'Regan
Head of Operations - Disability Services,
Community Operations

