



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

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5th April 2022

Deputy Pauline Tully,
Dail Eireann,
Leinster House, Kildare Street,
Dublin 2.
E-mail: pauline.tully@oireachtas.ie

Dear Deputy Tully,

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

PQ: 14379/22

To ask the Minister for Health the number of children who have been referred for further assessment after receiving a preliminary team assessment under the standard operating procedure for assessment of need; the waiting times for completion of the further assessment; and if he will make a statement on the matter.

PQ: 14385/22

To ask the Minister for Health the timeframe for the completion of the review of the standard operating procedure for assessments of needs; if he has received interim reports; if so, the date on which any such reports were received; if he published any interim reports; and if he will make a statement on the matter

HSE Response

The commencement of Part 2 of the Disability Act in 2005 and the legislative requirement for the HSE to provide Assessments of Need for persons born on or after 1st June 2002 has presented the HSE with a significant challenge. Historically the AON process became a 'gateway' to services in some areas. Furthermore, the practice and time associated with AON varied hugely across the country. In some areas more than one hundred hours was allocated to each assessment. Consequently, waiting times for Assessment of Need were well outside of the legislative time frames. This in turn resulted in children not being able to access the services they needed on a timely basis and which the HSE was committed to providing. From 2017, there were significant numbers of legal cases in both the High Court and Circuit Court resulting from delayed AONs.

In order to find the right balance between meeting the legislative requirements of the Disability Act (2005), and ensuring children have access to the interventions they need as quickly as possible, the HSE developed a Standard Operating Procedure for AON. 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.

Over the past year, the type of AON legal cases has changed. In the main, children receive timely assessments so cases relating to delayed assessments have all but ceased. Instead the HSE is challenged on the requirement to provide reviews and the level of intervention committed to in service statements. As expected, the HSE has also been challenged with regard to the appropriateness of the PTA approach. Two separate cases have been heard; one in the High Court (CTM & JA v HSE) and a second in the Court of Appeal (LO'BA v HSE). The High Court judgement was delivered on March 11th and the Court of Appeal judgement is expected in the coming weeks.

The judgement of Ms Justice Phelan in the High Court 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. The implications of any ruling from the Court of Appeal will be considered as soon as this becomes available.

The HSE will implement a process over the coming weeks for a revised approach to Assessment of Need. In developing this, the HSE will include a wide range of stakeholders, including families, providers, staff and representative bodies, in an intensive consultation to develop a pathway for AONs that seeks to comply with the requirements of the Act but also protects the commitment to the provision of intervention and principles as set out above.

The SOP was implemented for all new applications for AON from 15th January 2020. Since then approximately 10,000 Preliminary Team Assessments have been completed. The HSE will engage directly with these families to establish if they wish to receive a further assessment under the terms of the Disability Act.

Assessment of Need reports will no longer be issued on the basis of a Preliminary Team Assessment. Where appointments have already been scheduled with children, these will form the first step in their AON process. The HSE remains committed to the delivery of appropriate services for children with disabilities and will work with families and staff to develop services that meet their needs.

Figures for 2021 indicate that 4,951 Preliminary Team Assessments were provided under the terms of the SOP during the year. While this data indicates that there is substantial variation in outcomes across the 9 CHO areas, 86% of children are being referred for intervention on the basis of their PTA. This represents a significant improvement in the pathway to intervention for children and their families. Only 54% of children who received a Preliminary Team Assessment in 2021 were identified as requiring further assessment. This requirement did not delay their access to intervention. This cohort of children will be prioritised for completion of their AONs.

	Total PTA Activity 2021				
	No. of PTAs completed	No. referred for intervention	% referred for intervention	No. referred for further Ax	% referred for further Ax
CHO1	366	356	97%	309	84%
CHO2	132	130	98%	121	92%
CHO3	375	242	65%	330	88%
CHO4	554	542	98%	252	45%
CHO5	139	138	99%	84	60%
CHO6	207	155	75%	111	54%
CHO7	1407	1300	92%	551	39%
CHO8	719	490	68%	411	57%
CHO9	1052	884	84%	511	49%
	4951	4237	86%	2680	54%



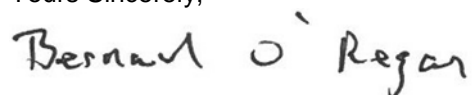
National Information Management System for the CDNTs

Information regarding the waiting times for completion of the further assessment is not currently available. A National Management Information System for all 91 CDNTs is in development and when implemented, will provide current data on waiting lists for all CDNTs. In the interim, manual data collection is on-going and will provide information to the local areas regarding the number of children waiting for each CDNT.

Status of the Robbie Ryan Review of SOP

The HSE and the Fórsa trade union jointly commissioned the review of the HSE's Standard Operating Procedure for Assessment of Need. The agreed reports will be provided to the commissioners. The interim reports have unfortunately been delayed and we had scheduled a meeting with Mr Robbie Ryan (Chairperson) to discuss the provision of his first interim report for later this month. The judgement of Ms Justice Phelan in the case of CTM and JA v HSE has wide ranging implications and as such the HSE are meeting with representatives of Fórsa in the coming days to agree the most appropriate next steps.

Yours Sincerely,



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

