



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

Office of the Head of Operations,
Disability Services/Social Care Division,
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5th October 2022

Deputy Gary Gannon,
Dail Eireann,
Leinster House,
Kildare Street,
Dublin 2.
E-mail: gary.gannon@oireachtas.ie

Dear Deputy Gannon,

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 46765/22

To ask the Minister for Health the number of judicial review cases that have been taken against the State in relation to both delays in assessment of needs process' as well as disability services provision, since 2017 (details supplied).

Details supplied;

- i. To ask the Minister of those cases, how many has the state successfully defended their case.
- ii. To ask the Minister to outline the cost to the state in using legal services and other associated costs in relation to such cases.

HSE Response

Judicial Reviews brought in relation to delays in assessment of needs process

Information is not collated on specific issues being litigated in Judicial Reviews, however information provided to the HSE informs that from 2017 approximately fifty one Judicial Reviews were brought seeking Orders to compel the HSE to commence/complete the Assessment of Need for a particular Applicant where there had been delays in the statutory timeframes.

No case has been successfully defended regarding delays in the Assessment of Need process. In cases where the delays in the Assessment of Need process are evident and if there is a breach of the statutory time limits for the commencement/completion of Assessment of Need, those cases are usually not defended but compromised at the earliest date.

Judicial Reviews brought in relation to delays in relation to disability service provision.

To date, there has been no Judicial Review arising from the Disability Act 2005 that has required the HSE to provide services for Applicants. Four Judicial Reviews were issued in 2021 challenging the location of service provision and those Judicial Reviews were struck out following the change in the Disability (Assessment of Needs, Service Statements and Redress) Regulations 2021.



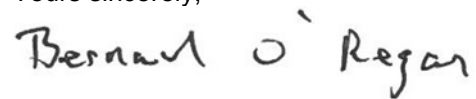
Three Judicial Reviews have issued challenging the decision of Disability Complaints Officers where Applicants sought to access services outside their functional area on the exceptional circumstances provision in the Disability Regulations (2007), however, these Judicial Reviews do not relate to delays in relation to service provision.

With regard to costs, the HSE does not have visibility of these figures as the legal costs of any party bringing an action against the HSE are negotiated and paid by the State Claims Agency.

The HSE's legal costs, including Counsel, are approximately €600,000.

It is important to note that these costs are estimated costs for all litigation arising from the Disability Act 2005 and not specifically judicial review cases that have been taken against the State in relation to both delays in assessment of needs process as well as disability services provision since 2017.

Yours sincerely,

A handwritten signature in black ink that reads "Bernard O'Regan". The signature is written in a cursive style with a clear loop for the letter 'O'.

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