



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,
31-33 Catherine Street, Limerick.

T: 00353 (0) 61 483369

Suíomh Gréasáin/Website: <http://www.hse.ie>

23rd August 2023

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 question, which was submitted to this department for response.

PQ: 36165/23

To ask the Minister for Children; Equality; Disability; Integration and Youth if the HSE is operating a protocol whereby correspondence from a solicitor in relation to a child awaiting an assessment of need report under Section 8 or a service statement under Section 11 of the Disability Act 2005 are prioritised and completed out of the chronological basis the applications were received; and if he will make a statement on the matter.

HSE Response

Completion of AON Reports and Service Statement Out of Turn

With regard to your query if the HSE is operating a protocol whereby correspondence from a solicitor in relation to a child awaiting an assessment of need report under Section 8 or a service statement under Section 11 of the Disability Act 2005 are prioritised and completed out of the chronological basis the applications were received, this is not the case.

It is only when an Order of the Court is made by the Circuit Court or the High Court with a timeframe for completion of an Assessment of Need that a child's Assessment of Need is taken out of the waitlist and dealt with, due to the fact that there is now Court Order mandating same within the particular timeframe.

It may well be the case that some Service Statements might be done following correspondence, but those will be Service Statements that are due in any event and would have been carried out in order to comply with the ongoing obligation to issue annual Service Statements i.e. second or subsequent Service Statements.

Pre Action Protocol

The Pre Action Protocol (attached), arose from the concerns raised by Judge Meenan in the JR list last December regarding the number of Judicial Reviews coming before him arising from the Disability Act.



The Court specifically asked for an efficient process to be put in place to deal with the risk of Judicial Reviews arising.

As a result, this protocol was agreed, however, importantly, this protocol only applies to situations where Judicial Review proceedings are being contemplated.

To date, the protocol has allowed the parties to try and resolve issues such as S.11.11 meetings, Regulation 16A decisions, late Service Statements, incomplete AON Reports where the NCSE report is missing and other matters where the HSE are in default of an obligation under the Act

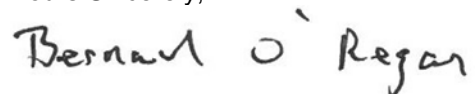
The protocol is singularly designed to relate to situations wherein persons have already gone to solicitors and Judicial Review proceedings are being contemplated in relation to alleged failures by the HSE in breach of the Disability Act 2005.

It does not and has not to our knowledge allowed for children receiving their first Assessment of Need report out of turn.

Court Orders in the Circuit Court (which are enforcing DCO decisions) or to a lesser degree High Court Orders do result in children receiving their Assessment of Need out of turn. In all such cases, the statutory time limits are exceeded and the HSE are in breach of the timeframes laid down by the Act.

The HSE must adhere to Court orders or they will find themselves in contempt of Court.

Yours Sincerely,

A handwritten signature in black ink that reads "Bernard O'Regan". The signature is written in a cursive style with a clear 'O' and 'R'.

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

