



Oifig an Stiúrthóir Cúnta Náisiúnta,
Foireann Míchumais Náisiúnta,
An Chéad Urlár - Oifigí 13, 14, 15,
Áras Phlásóg na Rós, Coimpléasc Gnó na hOllscoile,
Páirc Náisiúnta Teicneolaíochta,
Caladh an Treoigh,
Luimneach.

Office of the Assistant National Director,
National Disability Team,
First Floor- Offices 13, 14, 15,
Roselawn House, University Business Complex,
National Technology Park,
Castletroy,
Limerick.

11th March 2025

Deputy Cian O'Callaghan,
Dail Eireann,
Leinster House,
Kildare Street,
Dublin 2.
E-mail: cian.ocallaghan@oireachtas.ie

Dear Deputy O'Callaghan,

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: 2785/25

To ask the Minister for Children; Equality; Disability; Integration and Youth the number of legal actions taken against her Department due to a child not receiving an assessment of need within the statutory timeframe since 2020, by year, in tabular form; and if he will make a statement on the matter.

HSE Response

The Assessment of Need process is set out in the Disability Act, 2005. The aim of an Assessment of Need under the Disability Act is to identify whether a person has a disability, the nature and extent of the disability, any health and education needs arising from that disability, as well as what services are required to meet those needs.

The Disability Act outlines the statutory timelines under which Assessments of Need under the Act must be completed. In summary, the assessment report must be completed within 6 months of the date the application was received. While the HSE endeavours to meet its legislative obligations under the Act, it has struggled to achieve compliance with these timeframes. In 2024, 10.4% of assessments were completed within the timeframes set out in the Disability Act 2005 and accompanying Regulations.

Section 14 of the Disability Act

Section 14 of the Disability Act outlines a number of grounds for complaint in relation to Part 2 of the Act. An applicant may make a complaint in relation to one of more of the following:

- a) a determination by the assessment officer concerned that he or she does not have a disability;



- b) the fact, if it be the case, that the assessment under section 9 was not commenced within the time specified in section 9(5) or was not completed without undue delay;
- c) the fact, if it be the case, that the assessment under section 9 was not conducted in a manner that conforms to the standards determined by a body referred to in section 10; PT. 2 S. 12 [No. 14.] Disability Act 2005 [2005.]
- d) the contents of the service statement provided to the applicant;
- e) the fact, if it be the case, that the Executive or the education service provider, as the case may be, failed to provide or to fully provide a service specified in the service statement.

Assessment of Need not completed within the statutory timeframes

The process where Applicants can seek a remedy for an Assessment of Need that has not been completed within the statutory timeframes is as follows:

1. The Applicant/Applicant parents can make a complaint to the HSE under s14(1)(b) of the Disability Act 2005 and those complaints are dealt with by a Disability Complaints Officer.
2. A Disability Complaints Officer will investigate the complaint.
3. If it is found that the Assessment of Need was not commenced or completed with the statutory timeframes (3 months to commence, 3 months to complete) the Disability Complaints Officer will issue a report with a finding that the HSE have failed to commence/complete the Assessment of Need within the specified period and will recommend that it be commenced/ completed by a certain date.

(It is important to note that if the timelines have not been adhered to by the HSE, the HSE will not oppose the complaint and will confirm any delays and the reasons for same to the Disability Complaints Officer)

4. If the Applicant is unhappy with a decision of the Disability Complaints Officer, they can appeal the decision to the Disability Appeals Officer under s18 of the Disability Act.
5. If the HSE do not action the recommendations of the Disability Complaints Officer or the Disability Appeals Officer within 3 months, proceedings can be brought before Dublin Circuit Court under s22 of the Disability Act 2005 to enforce the recommendation by way of Court Order.

Please note that where timeframes have not been adhered to, the HSE do not contest such applications in the Circuit Court and consent to orders to complete the Assessment of Need.

With regard to the question concerning the number of legal actions taken against her Department due to a child not receiving an assessment of need within the statutory timeframe, it is difficult to isolate the number of such actions that relate to delay only however, there have been 355 legal actions taken against the HSE due to a child not receiving an assessment of need within the statutory timeframe since 2020.

Please note that these are the cases where the issue is an AON that is late where the time frame under statute was exceeded.

Yours Sincerely,

Bernard O'Regan
Assistant National Director,
Access and Integration,
National Disability Services

