

ASPECTS OF CHILD CARE IN THE DISTRICT COURT

JUDGE CONAL M. GIBBONS

APPENDICES

Appendix 1

Questions sent to the Health Services Executive

The Irish Times on the 16th August last reported under a contribution by a Mr Carl O'Brien that there are more than 5000 children in care in Ireland. The article continued and said that figures were provided to the Irish Times. Is it possible to receive these figures? I read in a report by HSE in 2005 that there are 1,027,880 children (0 -17) in the Republic of Ireland.

The type of information I would like relates to issues such as:-

1. Cost of Child protection nationally and regionally.
2. Is there a published budget and/or report specifically relating to Child Care and Protection, either nationally or regionally?
3. What percentage of children in care are placed on a voluntary basis?
4. Of those in voluntary care how many so placed are done so by their parents or under S.4 of Child Care Act?
5. What percentage of children are placed in care by reason of Court Order?
6. How many children are in care under ICO and ECO, at any one time, say a snapshot view?
7. Are there any figures that disclose the number of cases initiated for Care Orders that the Court refuses the application?
8. What is the view of the HSE with respect to the provisions of S.45 of the Child Care Act and the provision of aftercare?
9. The number of children cared for in residential homes.
10. How many private service providers are there to the HSE in the area of child care, say in respect of homes, high support units etc.
11. Is there a register of such providers and or such homes?
12. What is the inspection system in place in respect of such homes and generally?

13. Are there specific costings in respect of residential homes, foster homes, and or high support units?
14. Are there figures available in respect of the legal costs involved nationally or regionally for HSE in respect of child care hearings?
15. Are there figures in respect of Guardian Ad Litem costs available broken down in respect of the GAL costs and their legal costs?
16. Do the HSE maintain a register of people who they deem qualified to act as GALs and if so what are the criteria for entry to the register?

Appendix 2

Replies by John Smith of HSE to Judge Conal Gibbons 7th November 2006

Q: Cost of Child Protection Nationally and Regionally?

Specifically there has been no published budget either regional or national in respect of Child Care and Protection. There has been a significant increase in funding and investment in Childcare from 14m in 1989 to 375m in 2004 equating to a rise from 0.82% to 4% of overall health expenditure. The largest share of resources is allocated to safeguarding services with preventative services being allocated the remainder, approximately a 75:25 split.

Q: Is there a published budget and/or report specifically relating to Child Care and Protection, either nationally or regionally?

In respect of reports specifically relating to Child Care & Protection the former Health Boards annually provided a Review of Adequacy of Child Care and Family Support Services fulfilling their statutory obligations to review services which are defined under Section 8 of the Child Care Act 1991. The Review of Adequacy afforded the former Health Boards with an opportunity to address service deficits through the provider plan.

Q: What percentage of children in care are placed on a voluntary basis?

Former Health Board Area	Care Order	Voluntarily	Total
Eastern Region (E)	832	1,248	2,080
Midland (M)	70	230	300
Mid-Western (MW)	282	156	438
North-Eastern (NE)	232	205	437
North-Western (NW)	133	71	204
South-Eastern (SE)	167	408	575
Southern (S)	301	403	704
Western (W)	163	159	322
National	2,180	2,880	5,060

Table: Data is based on provisional number of Children in Care, Department of Health & Children 2004 Analysis of Child Care Interim Minimum Dataset and the National Census 2002.

Q: Of those in voluntary care how many placed are done so by their parents or under S.4 of Child Care Act?

Q: What percentage of children are placed in care by reason of Court Order?

Q: How many children are in care under ICO and ECO at any one time, say a snapshot view?

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Former Health Board Area	Care Order	Voluntarily
Eastern Region	40%	60%
Midland	23%	77%
Mid-Western	64%	36%
North-Eastern	53%	47%
North-Western	65%	35%
South-Eastern	29%	71%
Southern	43%	57%
Western	51%	49%
National	43%	57%

The data below is based on Department of Health & Children *Analysis of Child Care Interim Minimum Datasets 2004*. Unfortunately some of the specific information you have requested in Questions 4-8 are not collated nationally. In future years it is envisaged that these deficits will be addressed through the National Childcare Information Project.

Former Health Board Area	Abuse			
	<i>Emotional Abuse</i>	<i>Neglect</i>	<i>Physical Abuse</i>	<i>Sexual Abuse</i>
Eastern Region	13	618	120	59
Midland	36	59	13	9
Mid-Western	16	80	23	15
North-Eastern	17	202	28	9
North-Western	6	28	18	12
South-Eastern	11	117	23	29
Southern	40	206	53	12
Western	8	76	12	14
National	147	1,386	290	159

Former Health Board Area	Child Problems						
	<i>Drug/ Alcohol abuse</i>	<i>Involved in crime</i>	<i>Pregnancy</i>	<i>Emotional/ Behavioural problems</i>	<i>Mental health problems/ Intellectual disability</i>	<i>Other- please specify</i>	<i>Physical illness/ disability</i>
E	0	0	2	35	1	98	0
M	3	4	0	19	0	0	0
MW	0	0	0	11	2	5	1
NE	0	0	0	2	0	10	0
NW	2	0	0	4	0	0	2
SE	0	0	4	39	14	27	4
S	3	0	1	14	1	1	1
W	1	0	0	10	1	5	0
National	9	4	7	134	19	146	8

Q: What is the view of the HSE with respect to the provisions of S.45 of the Child Care Act and the provision of aftercare?

The HSE recognizes that young people leaving care need a high level of planning and support and indeed it is a regulatory requirement that young people of 16 years and over have a leaving care plan. In pursuance of same with a view to improving care planning the HSE has initiated a national care planning project and in addition has convened a working party to review the whole area of aftercare. Part of that process, in conjunction with the Department of Health and Children, will be to address the permissive nature of the Child Care Act 1991 Section 45 (1).

Q: The number of children cared for in residential homes?

Former Health Board Area	No. of Children in Care	No. of Children in Care per 100,000 population
Eastern Region	2,080	57
Midland	300	46
Mid-Western	438	46
North-Eastern	437	45
North-Western	204	32
South-Eastern	575	48
Southern	704	44
Western	322	31
National	5,060	

Former Health Board Area	Foster Care General	Foster Care Special	Relative	Pre-Adopt Placement	Resid.* General	Resid. Special Care	Resid. High Support	At Home Under Supervism.	Other	Total
E	988	0	603	5	221	12	12	10	229	2,080
M	199	0	74	2	18	4	2	0	1	300
MW	266	13	121	3	4	1	12	10	8	438
NE	274	10	97	2	14	0	2	0	38	437
NW	126	0	47	0	16	1	1	7	6	204
SE	367	2	121	9	48	5	16	2	5	575
S	446	0	197	9	30	1	4	3	14	704
W	203	0	89	8	14	3	1	0	4	322
National	2,869	25	1,349	38	365	27	50	32	305	5,060

Table: Data is based on provisional number of Children in Care, Department of Health & Children 2004 Analysis of Child Care Interim Minimum Dataset and the National Census 2004.

Q: How many private service providers are they to the HSE in the area of child care, say in respect of homes, high support units etc?

Children's Residential Centres are any centres that care for children under 18 years of age who are in the care of the HSE. This includes special arrangements, community based Children's Residential Centres, High Support Units, Special Care Units and Hostels. In October 2005 there were 141 Children's Residential Centres in all categories, a decrease of 7 from 148 in 2004. Statutory and non-statutory Children's Residential Centres by former Health Board area as at 24th October 2005 were Statutory Centres 86 and non-statutory centres 55.

A detailed breakdown of the Children’s Residential Centres, No. Category and occupancy levels are outlined in the Social Services Inspectorate Annual Report (2005) which is available on the S.S.I. Website.

Q: Is there a register of such providers and/or such homes?

Yes, All Centres are inspected against National Standards and HSE Inspectors send copies of their reports to the Social Services Inspectorate. In 2005 the HSE had 8 distinct registration and inspection units based on former health board areas undertaking the inspection and registration of Children’s Residential Centres in the non-statutory sector.

Q: What is the inspection system in place in respect of such homes and generally?

Under the provisions of the Child Care Act 1991, Section 69 the Social Services Inspectorate inspects Health Service Executive (HSE) Children’s Residential Services, while the HSE inspects and registers children’s residential services run in the voluntary and private Sector. Since it’s establishment in 1999 the S.S.I. has been administered by the Department of Health & Children, however, plans are in place to establish it on an independent statutory basis with a remit that includes a remit for Older People and Disability Services. It has been announced that the S.S.I. is to be established as the Office of the Chief Inspector within a new organization, the Health Information and Quality Authority (HIQA). Draft legislation set out as the Health Bill 2006 is being prepared to this effect.

Q: Are there specific costings in respect of residential homes, foster homes, and/or high support units?

The cost of Foster Care per child are as detailed in the Boarding Out Regulations. The cost of residential care has wide variances and can be influenced by a multiplicity of factors including occupancy rate in a given centre (for example special arrangements or one child in occupancy in a center with greater capacity). Therapeutic supports, whether community based residential centre, high support or special care unit et al. A costing continuum (2003) estimated would show an average expenditure range as follows:-

Service Area	Expenditure	% of Total	No of Recipients	Cost/Year per User
Foster Care	73.008m	19.538%	3,986	€18,316
Mainstream Residential Care	87.451m	23.451m	466	€187,663
High Support Special Care	25.421m	6.80%	66	€385,178
Special Arrangements	13.257m	3.54%	35	€378,799
Family Support Community Interventions	45.751m	12.24%	N/A	N/A
Legal	9.817m	2.62%	N/A	N/A

Q: Are there figures available in respect of the legal costs involved nationally or regionally for HSE in respect of child care hearings?

As above, no specific breakdown is available.

Q: Are there figures in respect of Guardian Ad Litem available broken down in respect of the GAL costs and their legal costs?

Historically Health Boards were not allocated specific funding for GAL Services with payments coming out of general budgets for child care allocated by the Department of Health & Children. In essence this entailed GAL fees being paid out of a centralised fund with no specific provision being made for them and de facto no limit on the financial liability faced and no scope or mechanism for additional resources.

A review of the Guardian Ad Litem Service (2003) found that there was no clear policy regarding payment and that the nature of current arrangements, largely unstructured and unregulated, meant that inevitably disputes in respect of costs arose. During the period from 2001-June 2003 126 cases the average cost per case was €5,524.00 however, there were extensive variations with the former ERHA paying on average €1,311.00 per case as afforded to figures between €3,425 & €7,145 for other Boards.

The average rates charged by GAL's varied from €3.57 per hour in the NEHB to €8.00 per hour in the ECAHB. These are average charges with some GAL's having reportedly charged €50.00 per hour. It is interesting to note that in the same period GAL's in Northern Ireland charged €2.94 per hour for professional time and €9.61 per hour for non productive time. Total cost for the period Jan 2001 – June 2003 was €1074,068.

Q: Do the HSE maintain a register of people who they deem qualified to act as GAL's and if so what are the criteria for entry to the register?

There is no mandatory regulated process for the selection of persons to act as GAL's. At present there are no standards which apply if an individual wishes to work as a GAL: in theory anyone could be appointed to this role by a court!

A review of the GAL Service is currently being undertaken by the Department of Health & Children given that current arrangements are unstructured and hap hazard leading to problems which include:-

- Delays in appointment of GALs due to lack of availability;
- Some courts not maintaining records of GALs in current practice, or unaware of the existence of the GAL role;
- Individuals being appointed as a GAL by the court without consultation to determine availability;
- GALs being appointed on the basis of availability rather than suitability;
- GALs being sourced by Health Board and Solicitors, rather than the judiciary making independent appointments;
- Questions over the independence of certain GALs, perceived or actual.

In some instances, GALs are being appointed too late in the proceedings to be able to make a meaningful difference. The GAL's reporting relationship to the Court is somewhat unclear. The GAL's powers are not identified. Arrangements for monitoring of GAL activities, and for complaint, are not structured.

John Smyth
13th November 2006

Appendix 3

District Court, Cork

General Endorsement of Care Order under Section 18.

The Court directs that the Care Order is made in accordance with the Care Plan submitted and approved or amended by the Court. This Care Order shall continue in force, subject to any application to the Court for a direction under Section 47 of the Child Care Act 1991.

Unless by consent of the Parents, the Guardian as Litem if appointed, an the Health Service Executive or any other notice party, with regard to any variation of the Child Care Plan, if there is a departure from the Care Plan submitted and approved by the court, such as the placement of the child at a particular foster placement or the timely provision of such therapies or interventions as outlined in the Care Plan or for any other significant departure from the Care Plan, the Health Service Executive is hereby directed to re-enter this matter for such further directions under Section 47, forthwith. Nothing in this general endorsement shall preclude the right of any party to seek a direction under Section 47 of the Child Care Act 1991 as the case may be.

DAVID RIORDAN

Judge of the District Court.