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Director, Child Care Law Reporting Project
November 2015

CCLRP Reporters Kevin Healy BL, Meg MacMahon BL and Lisa Colfer MA

Introduction

The Child Care Law Reporting Project was set up in November 2012 under newly-made Regulations arising out of the Child Care (Amendment) Act 2007, which provided for the reporting of the proceedings of the child care courts, subject to maintaining the anonymity of the families and children concerned. In permitting the preparation of reports of child care proceedings, the 2007 Act states that the Minister [for Children and Youth Affairs] may make regulations specifying "a class of persons" who can prepare such reports "if the Minister is satisfied that the publication of reports prepared in accordance with subsection (5)(a) by persons falling within that class is likely to provide information which will assist in the better operation of the Act, in particular in relation to the care and protection of children." In 2012 the Minister made such Regulations, naming the Free Legal Advice Centres (FLAC), which hosts the CCLRP, as one such "class of persons". The CCLRP was supported by philanthropic funding from the One Foundation and Atlantic Philanthropies and by the Department of Children and Youth Affairs.

Therefore the purpose of the reporting project is two-fold: to bring transparency to child care proceedings and to collect information "which will assist in the better operation of the Act". We fulfilled the former by attending child care proceedings and writing reports of individual cases, published at intervals on our website; the latter by collecting data on all cases mentioned during our attendance, collating and analysing it in the statistics published below. We also collected our observations on the conduct of cases and some of the issues arising from them, which we offer at the end of this report, to fulfil our mandate of assisting in the better operation of the legislation in relation to the care and protection of children.

Prior to commencing reporting, the Director drew up a Protocol to ensure no identifying information could be published, and this is available on our website, www.childlawproject.ie. We also obtained reassurance from the Data Protection Commissioner that no data protection issues were involved. In addition to the Director, three part-time reporters were recruited to assist in attending court, reporting on the proceedings and collecting data on both reported and unreported cases, which are usually brief. This began in December 2012. In 2013 and 2014 we published two Interim Reports, based both on the published reports and the data collected and analysed. These reports have been published both in hard copy and on the website. This Final Report summarises all the information gathered over the life of the project to date and includes recommendations, in line with our mandate to "assist in the better operation of the Act".

To date we have published approximately 300 case reports, ranging in length from about 400 words to 20,000 words, in 11 quarterly volumes. Volume 3 of 2015 is currently on our website, and the others are all available on the Archive page. A number of the case reports are successive reports published in different volumes on the same case as it wends its way through the system, but the majority are reports of a particular hearing during the progress of a case, and illustrate the work of the court and of the social workers, guardians *ad litem*, lawyers and others in child care proceedings. They are reports at a given point in the case,

and may not include its eventual outcome. Some reports are composite reports of a number of cases heard on the same day, usually short hearings which involve the renewal of Interim Care Orders or reviews of existing Care Orders. The hearings include seeking Emergency Care Orders or Interim Care Orders, renewing those orders, seeking Care Orders or Supervision Orders and reviewing those orders. The reports also include cases where children are returned to their families, cases where the court orders services or plans for children on the application of their guardians *ad litem*, and various other aspects of the work of the court in over-seeing the child protection system. We look at some of the main issues and themes that emerge in these reports in Chapter 4.

We have collected and analysed data on 1,272 cases, 1,194 in the District Court and 78 in the High Court, where secure care cases and those concerning disputes about country of jurisdiction are heard. Based on the fact that, according to the latest available figures, there are 3,664 children in court-ordered care (and 2,666 in voluntary care) we estimate that we have captured data on approximately 30 per cent of all the cases that go before the child care courts. (This is only an approximate figure, as not all the children currently in care have featured in court appearances in the past three years, and some who have featured in such cases are likely to have left care since.)

International conference

In addition to this work, we organised, with the CPD Department of the Law Society, an International Conference on *Child Protection and the Law* in April of this year. The conference was opened by the Minister for Children, Dr James Reilly, and the opening address was given by the chair of our Oversight Board, former Supreme Court judge, Mrs Justice Catherine McGuinness. The Director of the Project, Dr Carol Coulter, spoke about some of the issues that have emerged so far. Other speakers included Janice McGhee of the University of Edinburgh on the Scottish Children's Hearings system, Sophie Kershaw of the Family Drug and Alcohol Court in England, who spoke about the origins and work of that court, Professor Tarja Pöso of the University of Tampere, Finland, who spoke on balancing family support and child protection in the Scandinavian system and Dr Conor O'Mahony of UCC on parental representation and participation in child care proceedings. All these contributions are on our website, both in printed and video form.

In this report we follow the format of our previous Interim Reports, with a few additions. We begin by outlining the law relating to child protection in Chapter 1. In Chapters 2 and 3 we elaborate on the statistics published in Appendices 2 and 3. In Chapter 4 we look at issues and themes that emerged in the cases we reported on the website. In Chapter 5 we draw some conclusions and outline our recommendations. While the Child and Family Agency uses the name "Tusla" in its publications, when referring to court practice we usually refer to it as the CFA, as this is the name in its founding legislation and the one that features in court applications.

Chapter 1 Child protection law & policy

It must be stressed that seeking care orders in the courts for vulnerable children makes up only part of the work of the Child and Family Agency/Tusla. Not all children who are being cared for out of their homes were the subject of care proceedings, as about 42 per cent are in voluntary care, which does not receive court scrutiny. We only examine what happens in court and have no way of knowing, apart from evidence given in court, what involvement the family had with social services and what support they received prior to their arrival in court, or indeed what issues may exist which do not feature in evidence. It goes without saying that we have no way at all of knowing what supports the CFA/Tusla is giving to the many families it helps who never come to court. Therefore this report cannot be seen as a general examination of the work of the CFA/Tusla. Rather we are looking at the operation of the courts in the child protection system, whereby the CFA is mandated by statute to seek out and protect children at risk, bringing care proceedings to court where necessary.

The legal context in which this occurs is the Constitution and the law governing the rights of children and the family, along with the constitutional right of every citizen to fair procedure. The broader context is the State's infrastructure for protecting children and the profession of social work, which is the instrument of this work. These two interact in court, where social workers must satisfy legal standards of evidence to support their applications, based on protecting the welfare of children. These applications strike at the heart of fundamental human rights: the right of children to be reared by their own families, and the right of parents to rear their children, and so are regarded with the utmost seriousness by the courts.

The role of the courts can seem contradictory – on the one hand they perform an inquisitorial role, inquiring into the appropriate protection and care for children; on the other they are administering justice in an adversarial system where the State, through the CFA, must prove that on the balance of probabilities the parents have failed in their duty towards their child or children, and where the parents are fully entitled to contest this. Child care proceedings are therefore frequently described as hybrid: combining aspects both of an inquiry and of an adversarial court contest.

Marrying these two approaches, and the two disciplines of law and social work, is not easy. One of the most striking things we saw in observing court proceedings involving child protection was how social work practice was a very different discipline from managing the legal process which determines what, if any, order should be made by the court. Law requires definitions and standards against which actions can be measured. Social work, while governed by law when court intervention is sought, is based on developing human

relationships and requires the exercise of judgment, moulded by experience and sometimes informed by intuition, which is not easily amenable to standardisation.

Despite many efforts to do so, especially in neighbouring jurisdictions, social work is thus not reducible to the application of a set of rules and procedures, and attempting to do so may actually make good practice more difficult. Hoyano and Keenan, the authors of a major study of policy and the law relating to child abuse across common law jurisdictions, have written: "Problems are caused by the plethora of guidance and procedures which professionals in a diverse range of disciplines are meant to read, digest and apply whilst performing an extraordinarily difficult and time-consuming job." Proper procedures are essential, and the courts play a vital role in ensuring they are followed, but they are no substitute for the empathy and sensitive relationship-building which are at the heart of good social work practice.

In relation to social work in the UK, Brid Fetherstone, Sue White and Kate Morris have written: "Social workers are charged with entering the lives and moral worlds of families, many of whom have routinely experienced disrespect, and have longstanding histories of material and emotional deprivation … As the research evidence suggests, service users often feel fearful and powerless in their interactions with social workers, and this feeds into encounters that may be characterised by misunderstandings at best and aggression at worst." (Fetherstone, *et al,* 2014*,* page 1). We have seen this spill over into court proceedings.

In their study of the experiences of social work service-users in Ireland, Helen Buckley *et al* have written: "Qualities that promoted positive and respectful relationships between service users and workers were identified as trust, friendliness, empathy, open-mindedness, being believed and understood and being encouraged ... There were many examples of good relationships based on the above components, but also some where interactions had been undermined by what service users perceived as bossiness, intrusiveness, indifference, unreliability and lack of respect." (Buckley *et al*, 2007, page 67) We have observed all of these, both the positive and the negative, during our attendance at child care proceedings. Buckley has also pointed out, "Judgements about parents' caring and protective capacities were often based on the degree of co-operation shown during the early enquiry into child abuse allegations", and we share that observation. (Buckley *et al,* 1997, page 31)

In reporting on these proceedings, along with collecting data on individual cases, we hope to throw light on how the disciplines of law and social work interact, how the law and CFA stated policy are applied in practice and suggest how the child protection roles of both the CFA and the courts can be improved to ensure that children receive the best care and protection available.

Constitutional and international legal context

The Child Care Law Reporting Project is not primarily a legal research body. However, as its mandate includes providing information "to assist in the better operation of the Act,

in particular in relation to the care and protection of children" it has carefully examined our child protection legislation, and is grateful for the many clarifications of the law provided by the numerous judgments of the District Court that have been delivered since we began our work, and which are now published on the Courts Service website, www.courts.ie.
They supplement judgments on aspects of child care proceedings from the higher courts.

The central piece of legislation governing child protection proceedings is the Child Care Act 1991, along with its various amendments. However, it must be stressed that this, like all our legislation, is subordinate to the Constitution, which guarantees the rights of the family and, since the enactment of the Children's Amendment, the specific rights of children. In this, our child protection legislation exists within a very different context to that in the neighbouring jurisdiction of England and Wales, where there is no written constitution and no constitutional protection for the family. This has inevitably marked their child protection legislation and practice, and there taking a child into care is not necessarily seen as a last resort. However, given that many Irish social workers were trained or have worked in England and Wales, and most social work textbooks come from that jurisdiction, English social work practice exercises a considerable influence on Irish practice.

The Irish Constitution also guarantees the right of every citizen to fair procedure, including the right to have his or her voice heard adequately in any proceedings concerning him or her. The Constitution and the law have been interpreted by the superior courts, and there are a number of judgments from the higher courts on the family, the rights of parents and of children, and on fair procedures, which form part of the law governing how our child protection system operates. As Paul Ward, author of the definitive commentary on the Child Care Acts, states: "The judicial role in care proceedings safeguards the rights, constitutional and otherwise, of both children and their parents." (Ward, 2014, page 7)

This has been elaborated by the superior courts in a number of judgments. For example, the Supreme Court judgment of Chief Justice Finlay in *Re JH* [1985], ILRM 302 stated: "Section 3 of the Act of 1964 must be construed as involving a constitutional presumption that the welfare of the child … is to be found within the family, unless the Court is satisfied on the evidence that there are compelling reasons why this cannot be achieved." In a more recent case, *N v Health Service Executive* [2006] Mr Justice Hardiman stated: "The phrase 'compelling reasons' why the child's welfare cannot be secured in the family plainly connotes that, to meet the test, there must be found coercive reasons to believe that the proper nurturing of the child in the natural family is not possible." Elaborating on that, Ms Justice O'Malley in the High Court in *KA v Health Service Executive* [2012] stated: "the District Judge must be satisfied that a specified factual event or set of events has happened, is happening or is likely to happen and that the child, in brief, needs the protection of the order."

These judgments (and there are many others) make clear that taking a child into care must be seen as a last resort and will be regarded in this light by our courts. This illustrates the pitfalls that lie in drawing too heavily on practice in the UK in developing Irish child protection

policy, and the need for Irish child protection policy to be embedded in international human rights and Irish constitutional principles.

Ireland is a signatory to the European Convention on Human Rights and it has been incorporated into Irish law through the European Convention on Human Rights Act 2003. This means that Irish administrative practice must be compatible with the Convention, and Irish courts must take very serious account of it and of the jurisprudence of the European Court of Human Rights in interpreting the law. There have been a number of judgments in this court relating to child protection and the actions of states and they emphasise the principle that removing children from their families is a measure of last resort, and that, if they are removed, the reunification of the family must generally continue to be under active consideration. This is the context in which the planned review of the Child Care Acts must take place.

While social workers are not lawyers and cannot be expected to have a comprehensive knowledge of the law, it is important that they are educated in the broad legal context of their work, and in our basic guiding constitutional and international legal principles.

Child Care Acts

As stated above, the 1991 Child Care Act operates within a very different context to the Children Act 1989 in England and Wales, even though the two Acts resemble each other and it is clear the Irish Act was influenced by the UK legislation, drawn up in the absence of a written Constitution and constitutional protection for the family. However, recently the courts there have been examining child protection practice in the context of the jurisprudence of the European Court of Human Rights and that is likely to be a growing influence on practice.

Section 3 (2)(c) of the Child Care Act 1991 states that it is in the best interests of children that they grow up within their families, though this is rarely referred to during child protection proceedings. The same Act obliges the State, through the Child and Family Agency, to identify children in need of care and protection and to supply that. This includes various forms of family support. If this fails to protect the child, the CFA should seek an appropriate order in the courts. The orders provided for in the Act are an Emergency Care Order, an Interim Care Order, a Care Order and Supervision Order. An Emergency Care Order is granted, sometimes without notice, when there is "an immediate and serious" risk to the child. The threshold for an Emergency Care Order is different to that for other care orders – the risk to the child's health and welfare must not only exist, it must be both "immediate" and "serious". We have seen a number of cases where an Emergency Care Order was refused where a risk existed, but was not immediate, or not sufficiently serious, to justify the emergency order.

An Interim Care Order is made when "there is reason to believe" that the safety or welfare of a child is at serious risk. It is envisaged as a precursor to a Care Order, providing for the

safety of the child while the case for a "full" Care Order is prepared, which usually involves a number of assessments of the child and the parent or parents. A full Care Order (until the child is 18 or "for such shorter period as the court may determine") is made when the court is "satisfied" (as distinct from "has reason to believe") that abuse or neglect of a child, as described above, has existed, exists at the time of the proceedings or is likely to occur in future, and that only a full Care Order will avert that risk. Thus the threshold for a full Care Order is considerably higher than for an Interim Care Order and the evidence required to support the application for a Care Order must be stronger than that needed for an Interim Care Order. This may be particularly difficult where there are concerns about possible sexual abuse, but it has not been proved.

Paul Ward has commented: "Of the three grounds [for seeking a Care Order] this [the likelihood of future harm] is the most difficult to satisfy in terms of proof." He looked at English case law on this issue, and summarised the judicial consensus in that jurisdiction: "Any conclusion that a child was suffering and was likely to suffer (future harm) had to be based on facts and not just suspicion." This has been quoted by a number of Irish District Court judges in dealing with child care cases. Ward also pointed out that the action being proposed by the child protection authorities must be proportionate to the risk. Removing the children from their parents may not satisfy this requirement, especially if alternatives have not been attempted and found insufficient, and we have seen the courts sometimes decline to make full Care Orders on this basis.

Interim Care Orders must be renewed every 29 days, which requires everyone returning to court with their lawyers in order to convince the court there is still "reason to believe" the child is at risk. It is rarely a long enough period to complete the necessary assessments so that a full Care Order can be sought, requiring repeated visits to court. Nor is it conducive to parents committing themselves to taking the necessary actions to provide a basis for reunifying their family. It may well be that, following all the assessments, the threshold is not reached and the Care Order is refused. If the process has continued for a long time, with repeated renewals of the ICO (or, as happened in one case, with the application adjourned repeatedly without a decision because there was not enough time to hear all the evidence) the children will have been out of their home all that time and family relationships will inevitably already have been damaged. Repeated monthly renewals of Interim Care Orders over a lengthy period are clearly not in the interests of children or their parents.

A Supervision Order is made when the risks outlined above exist, but not to a sufficient degree to justify removing the children from their home, and the CFA considers that it is desirable that the child be visited in his or her own home to ensure that their welfare is being promoted and any necessary medical or other interventions are taking place. The High Court recently ruled that a Supervision Order could not impose any obligation on parents to undergo psychotherapy or other forms of treatment – it could only require the child to receive necessary therapy and support.

Children's rights amendment

The insertion of a specific Amendment into the Constitution protecting the rights of children, though voted by the electorate in 2012, only finally cleared the last hurdle of legal challenges earlier this year, and it is too early to say what impact it will have on child protection practice. It states (in part): "In exceptional cases where the parents, regardless of their marital status, fail in their duty towards their children to such an extent that the safety or welfare of any of their children is likely to be prejudicially affected, the State as guardian of the common good shall, by proportionate means as provided by law, endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child."

It makes provision for the adoption of the children of married as well as unmarried parents by consent, and for the non-consensual adoption of children, irrespective of the marital status of the parents, after the parents have effectively abandoned them for a period of time to be specified by law. New adoption law reflecting these provisions remains to be enacted. The amendment also provides for the views of the child to be heard in proceedings taken by the State affecting him or her. It stipulates that in the resolution of all proceedings involving a child the best interests of the child shall be the paramount consideration.

As well as removing the distinction between the children of married and unmarried parents in child protection proceedings, the amendment thus imposes an obligation on the State to show that any order sought is "proportionate" to the problems identified in the family, and that the least intrusive intervention is being made. We hope to examine how the amendment is affecting child care proceedings as our project enters its second phase later this year, and in particular how the views of the child are heard and how the constitutional obligation to make a "proportionate" order impacts on the provision of services prior to a court order being sought, and on the length of time for which the order is sought.

This will cohere with the jurisprudence of the European Court of Human Rights, which requires care placements to be temporary if possible. For example, this court found that Finland had violated the right to a family life of a father (and his children) who was prepared to divorce his wife, who was suspected of abusing the children. "The local social welfare authority and the administrative courts appeared determined not to consider the reunification of the family as a serious option; presuming instead that the children would be in need of long-term public care in a foster home. The severe restrictions on the applicant's right to visit his children reflected the social welfare authority's intention to strengthen the ties between the children and the foster family rather than reunite the original family." (*K.A. v. Finland*, [2003] application no. 27751/95,).

In a recent judgment, which stressed the paramountcy of the welfare of the child in all child protection proceedings, the court stated: "It is in the child's best interests that his ties with his family be maintained except in cases where the family has proved particularly unfit, and secondly, it is in the child's best interests to ensure his development in a safe and secure

environment. It is clear from the foregoing that family ties may only be severed in very exceptional circumstances and that everything must be done to preserve personal relations and, where appropriate, to 'rebuild' the family." (*YC v United Kingdom*, [2012] 55 EHRR 967)

Ursula Kilkelly comments: "It is clear from the case law of the ECtHR … that the ECHR requires a care order to be temporary in nature other than in exceptional circumstances … The long-stay nature of the care system [in Ireland] is a very worrying feature and it suggests a lack of compliance with the ECHR principle that alternative care should in most cases be temporary in nature." (Kilkelly, 2008, p 335)

Chapter 2 District Court statistics

We publish in Appendix 2 the results of our data collection from the District Court since December 2012. This data was collected from hearings of cases we attended during that time. Our attendance was based as closely as possible on the figures we obtained from the Courts Service about the volumes of child care cases being heard in the various District Courts around the country, so that the information we collected was as representative as possible. As can be seen from the Courts Service statistics for the past four years, which we publish on our website, our attendance at hearings generally corresponds to the volumes of cases dealt with by the various District Courts.

The data we capture represents a moment in time of each particular case. Especially outside of Dublin, a single family law day or child care day in a District Court typically contains initial Interim Care Order applications, renewals of Interim Care Orders, full Care Order applications, some of which may be concluded that day especially if there is consent, Supervision Order applications and reviews of Care Orders or discussion of after-care plans. They might also deal with applications under Section 47 of the Act relating to access, services for the child or other matters.

We followed some cases from the initial application through to their end, and these are reported on our website, sometimes over a number of volumes of reports. In other cases we reported only on the one hearing we attended, which contained evidence of the reasons for the application, without reaching a conclusion. However, in many cases the hearing was very short, or they resembled a great number of other cases, and we did not report them, though we collected data on the essential features of the case. In some of these cases we required the assistance of the lawyers in the case in obtaining the details, as they were not given in evidence, and we are very grateful for this assistance. These short appearances, as much as the longer cases, go to make up the total picture of what happens in the child care courts, and are captured in our statistics. We elaborate on these statistics below.

1.1 Applications

This heading includes some issues that did not require applications at all, for example, reviews of Care Orders. In this report we also include a heading "Secondary applications", referring to cases where other matters arose during the main application.

The largest single category of hearings was extensions of Interim Care Orders, which accounted for almost a third of all those we attended. This was followed by extensions of

Care Orders, which accounted for 16 per cent, or one in six. Reviews of Care Orders came next, but the majority of these were accounted for by Cork, where reviews form a much greater proportion of the proceedings than elsewhere. According to the Courts Service statistics for 2014, which give a more detailed breakdown of child care proceedings than in previous years, there were 475 reviews of Care Orders in Cork city that year, accounting for almost 60 per cent of all such reviews in the State. Nenagh had 66 reviews of Care Orders. This compares with 62 in Dublin, according to the Courts Service figures.

Care Order applications account for one in eight of the proceedings we attended. Supervision order applications were made in one in 12 cases, or eight per cent. Emergency Care Order applications are probably under-represented, as they can be made on any day to any District Court, not just on family law or child care law days, and we would have no way of knowing in advance they were coming up.

1.1.2 Reasons for seeking order

As we pointed out in our 2014 Interim Report, the heading "Reasons for seeking order" denotes the main reason as it was presented in the evidence. It must be stressed that there is rarely just one reason for an order being sought, and our heading includes both problems experienced by the parents (cognitive disability, addiction) and the impact of these problems on the child (neglect, abuse). For example, it can be assumed that neglect was present where the main reason for seeking the order was noted as "parental disability". Equally, a note of abuse of drugs or alcohol may be accompanied by or mask cognitive disability or mental health problems.

Nonetheless, we consider it important to note these issues when they are presented as very serious factors in the case. Unless the underlying causes of much of the neglect and abuse experienced by children are understood we cannot develop a societal response to tackling them. As can be shown by these figures, parental disability emerges as a major factor in one in six cases. The vast majority of these involved cognitive disability or mental health problems, and sometimes both. Drug and alcohol abuse feature in one in five cases. Where it was not possible to isolate one major factor, we listed "multiple", and it can be assumed that this heading included drug and alcohol problems, domestic violence and mental or cognitive issues.

In recent months the issue of homelessness has cropped up with increasing frequency, but this is never the sole reason for the application being made. We had no such category in our data collection system.

Where the emphasis of the CFA/Tusla has been on neglect or abuse suffered by the child we note this as the major factor in seeking the order. Some forms of physical or sexual abuse, and some extremes of neglect, are so serious that they overshadow all other issues. It cannot be assumed that substance abuse or parental disability was absent in these cases. In our first Interim Report in 2013, we had a heading of "abuse" which we than sub-divided into sexual

and physical/emotional abuse. The total number of cases where abuse featured as the main issue was 159, or 13 per cent of cases.

1.2 Applicant

In all cases in our statistics this heading refers to the CFA, though in a minority of cases, for example, when seeking the discharge of an order, the applicant is the parent. However, for ease of analysis of the figures "applicant" must be taken to mean the CFA and "respondent" the parent. Occasionally the applicant/respondent is "other". Usually this is the grandparents or other close relatives of the child, seeking to be foster-carers or to access services.

1.3 The Respondents

In the majority of cases both parents were cited as respondents, with one parent (almost always the mother) being named as the sole respondent in just under a third (30.7 per cent). As we said in our 2014 Interim Report, citing two respondents does not generally mean the parents were parenting together. This was only the case in one in five cases, with 11.3 per cent of respondents being married and 9.4 per cent cohabiting. Over 20 per cent of respondents were described as divorced or separated, the majority of whom had been in co-habiting relationships which had come to an end. Four per cent were widowed, in which we included those who had lost a cohabiting partner, and a similar number were separated by prison or hospitalisation. The largest group of respondent parents, 38.3 per cent, were single, meaning that the child had, up to the time of the application, been parented by just one parent, almost always the mother. We were unable to obtain information on the respondents in seven per cent of cases.

This means that, of the respondents whose status we were able to establish, 74 per cent were parenting alone. Parenting alone is difficult for anyone, even those of full ability and with strong social networks. As we have seen, many of these parents suffered from disabilities or addictions, and our reports show that they also often suffered from social isolation, so were particularly vulnerable.

We also noted whether the respondents were represented, and if so by whom. Over half were represented by a solicitor from the Legal Aid Board, with a further 3.4 per cent represented by a barrister briefed by the LAB as well. In a number of cases one was represented and the other not, or one by the Legal Aid Board and the other by a private solicitor, with or without a barrister. Together they accounted for 15 per cent of respondents. In 25.5 per cent of cases the respondent had no legal representation at the hearing we attended. In some instances, for example, the review of a Care Order, the issue might not arise. If cases were at a very early stage the respondent may not yet have obtained representation. In some cases one or other respondent did not appear, or if they did stated they did not want representation.

From the outset we also noted the respondents' ethnicity. We were surprised to find that a disproportionate number of the families before the child protection courts had at least one parent from an ethnic minority, in which we included Irish Travellers, who accounted for 4.4 per cent. In fact, this is almost certainly an under-estimation, as we did not record settled Travellers where no evidence of their ethnicity was given during the case. Travellers only make up 0.6 per cent of the Irish population, so they are significantly over-represented in the child care courts.

Excluding Travellers, 26.5 per cent of respondents included at least one parent from an ethnic minority. "Mixed" included both families where one parent was Irish and the other from an ethnic minority, and those where both were from different ethnic minorities. "Mixed" made up the largest single group, at 7.7 per cent, closely followed by Africans, at 7.6 per cent. Europeans accounted for five per cent, and we have observed that these are invariably from Eastern Europe, particularly Poland, Latvia and Lithuania. This does not include Roma, who usually also come from Eastern Europe, and made up 1.4 per cent. Parents from the UK accounted for 2.4 per cent of all respondents.

These figures need to be seen in the context of the Irish population as a whole. According to the 2011 Census 12.5 per cent of the population (544,357) is now from ethnic minorities. Poland, Latvia and Lithuania together account for a third of all non-Irish, and 3.8 per cent of the entire population, with UK nationals making up another 20 per cent, or 2.5 per cent of the population as a whole. According to the Census, Nigeria and South Africa are the countries of origin for most Africans living here, accounting for 22,514 of the non-Irish population. Other African countries contributed much smaller numbers. Even if the total African population of Ireland amounts to 40,000, this is less than one per cent of the Irish population as a whole.

Thus African families are about seven times more likely to face child protection proceedings than are Irish people, and this figure is likely to be greater if the "Mixed" category includes one African parent, as we have observed it often does. Eastern Europeans are about 1.5 times as likely as Irish people to face the child care courts.

1.4. The children

Following a suggestion at our stakeholders' meeting in 2013, we added a new sub-division of the age of the child: under 12 months. We also sub-divided the children's special needs into physical, educational and psychological. This means that until October 2013 children under 12 months were included in the 0-4 age category, and educational special needs were subsumed as psychological special needs, so these categories are under-represented in these statistics.

With this caveat, we found that in just under 10 per cent of cases care applications were made for very young infants under 12 months old, including a number of new-borns. They accounted for 5.7 per cent of all the children who were the subject of child care proceedings,

indicating that a substantial number were the youngest children in families facing child care proceedings and the infants were included in the application. One in four children was of pre-school age, half were between five and 14, and 15 per cent were older teenagers. Almost 60 per cent of all applications involved one child, with a further 19.7 per cent involving two, and the remainder concerned larger families.

As we have noted before, a very high proportion of the children coming into care have special needs. Our figures show that one in four children had special needs, and many of them had more than one type of special need. In fact, this is likely to be an under-estimation, as in certain types of hearings, for example, reviews of Care Orders, there may be no evidence given of a child's special needs as such proceedings are mainly paper-based exercises, where the judge receives a report and, if necessary, seeks clarification on it.

Guardians *ad litem* (GALs) were appointed in 53 per cent of cases. However, this may not be complete, as often, especially where an existing Care Order is being reviewed, there has been a GAL who was discharged when the order was made. Sometimes a GAL is appointed on the day of the hearing while we are present and will not have had an opportunity to obtain representation, though some courts do not routinely authorise the GAL to have legal representation. In 88.9 per cent of cases GALs are legally represented.

1.5 Care of children

Just under 80 per cent of the children went into foster care, with 8.3 per cent remaining at home under Supervision Orders. The remainder, just over 10 per cent, went into residential units. This does not include the children who were subject to Secure Care Orders in the High Court, which are recorded in Appendix 3 and examined in Chapter 3. The proportion of children in relative foster care (17.7 per cent) following court orders is lower than the total proportion of children in relative foster care which, according to CFA/Tusla figures is about 40 per cent, but it is very likely that where relative foster care is available the parents are more likely to agree to voluntary care.

1.6 The hearing

As we noted before, the majority of hearings are short, with 81.7 per cent taking less than an hour and a further 11.6 per cent taking less than three hours. More than 96 per cent are over in a day or less. The remaining four per cent are those complex and contested cases that can take several days. We attended eight cases which took more than 10 days, usually including a number of adjournments, so the cases lasted many months. Where the hearings were short there was either no witness, with the CFA/Tusla case being presented by its solicitor, or there was just one witness, normally the social worker. Where there was a GAL, he or she normally also gave evidence, though this is not noted under "witness" in our data.

More than a third of all applications (37.4 per cent) were granted with the consent of the parent or parents. A further 16.7 per cent were adjourned. In 13.5 per cent the issue of

consent did not arise, as the order had been made and was being reviewed, or a supplementary issue was being discussed. The order was granted following opposition from at least one respondent in just under 22 per cent of cases, and refused in 2.8 per cent, but these figures must take account of the fact that no question of consent arose in 13.5 per cent of cases, and 16.7 per cent were adjourned.

Under heading 1.6.4 we break down the outcome of the case according to the type of application. This shows that consent is most likely for an extension of an Interim Care Order, where two-thirds of such applications are agreed to. Almost half of all Supervision Orders are consented to. The initial Interim Care Order is the most likely application to be opposed by the respondent, followed by Care Order applications.

2. Regional Analysis

In our final report we break down the figures for the 11 District Courts where we attended the highest number of hearings. As can be seen from the Courts Service statistics for 2014, these generally correspond to the busiest child care courts, though our figures cover three years. Previous Courts Service figures are also available on our website for comparison.

Dublin accounted for just over 40 per cent of all the cases we attended. According to the Courts Service, Dublin only accounted for a quarter of all cases in 2014, but it made up at least 40 per cent in previous years. Cork accounted for 15.7 per cent, which accords with its status as our second city. Other major cities, notably Limerick and Waterford, accounted for a substantial proportion of the cases, as did the Co Tipperary towns of Clonmel and Nenagh, and Wexford.

The statistics show significant variations in the type of applications sought and granted in different parts of the country. Supervision Orders were more likely to be sought in Munster than in the rest of the country, representing 12.3 per cent of applications in Cork, 15.3 per cent in Waterford, 12.9 per cent in Clonmel and 20 per cent in Mallow. This compares with 5.8 per cent of the applications in Dublin and a national average of 8.3 per cent.

Cork and Nenagh both feature 55.6 per cent of applications as "Other", which we then sub-divided. A high proportion of these were reviews of existing Care Orders and this is substantiated by the Courts Service statistics, which recorded these categories for the first time in 2014 and recorded 475 Care Order reviews in Cork and 66 in Nenagh. Extensions of Interim Care Orders were the largest category of applications in Dublin and Louth. Care Order applications dominated in Wexford, Mallow and Galway. Extensions of Care Orders made up a significant proportion of applications in Dublin and Limerick.

We also see regional variation in the ethnic background of respondents appearing in court. Dublin saw a higher proportion of respondents from ethnic minorities than any other District Court, with a non-Irish respondent in one in three cases, including 14 per cent

African. Louth also saw a high proportion of non-Irish respondents, especially of European and mixed background, who made up 16.7 and 14.3 per cent of respondents respectively. Limerick and Cavan had high numbers of Traveller respondents, and Wexford saw a high proportion of parents from a UK background. This reflects the fact that a number of UK-based families land in Rosslare having fled the UK in order to escape anticipated care proceedings there.

In Table 2.6.3 we show the regional variations in the outcome of cases. Consent is much more likely in Louth, Wexford, Clonmel and Mallow than the average of 37.4 per cent. Adjournments are more likely in Dublin, Limerick and Galway than elsewhere.

3. Reasons for seeking orders with family status and ethnic background

Allegations of sexual, physical and emotional abuse are more likely in married families than in those where the parents are co-habiting, separated or single, accounting for a third of all married families. However, alleged alcohol and drug abuse, along with neglect, are more likely where the parents are single, co-habiting or separated. We do not know if lone parent families are more closely scrutinised than married families, with reports of obvious abuse prompting intervention in married families, while evidence of substance abuse might be enough to prompt such intervention in single-parent families.

Parental disability is spread across various types of family status and we know this mainly refers to cognitive disability and mental illness.

Allegations of sexual abuse featured disproportionately among Traveller families, who accounted for six of the 38 cases where alleged sexual abuse was the main issue, or 16 per cent of all cases, while Travellers account for four per cent of child care cases. Allegations of physical or emotional abuse featured in 12 of the 90 African families, with the general heading of abuse prior to mid-2013 featuring in a further 11. Parental disability was also very common in African families, featuring in 19 cases. From attending these cases, we know that very frequently this represents mental health problems on the part of the mother, who is sometimes living in direct provision.

These figures, which should be read in conjunction with the Courts Service statistics on all child care proceedings in the District Court, raise a number of issues of policy and practice for the CFA/Tusla, for other State services and for the courts. In particular the huge variation in the numbers and types of applications both sought and granted raises the issue of consistency in policy in bringing applications on the part of the CFA; the prevalence of disability and ethnic minorities among the respondents raises questions about the provision of services to these groups; and the differences in the use of reviews of orders and in outcomes raises the issue of consistency across the various District Courts.

Chapter 3 High Court statistics & analysis

We attended the High Court on Thursdays for the "Minors' Review List" for 18 weeks between October 2014 and March 2015 (excluding the Christmas vacation). This list is heard by the judge to whom the list is allocated, who during this time usually was Ms Justice O'Hanlon. Most of the proceedings concerned "mentions" of cases, reviews or discharges of secure care orders, or applications under the Brussels II Convention for the transfer of a case to another EU jurisdiction on the grounds that the family's primary connections are with that jurisdiction, usually the UK. Typically such cases concern mothers who have been involved with social services in the UK, are pregnant and fear their children will be taken into care and adopted, and flee to Ireland to avoid the UK proceedings. There are also some applications to detain young people who have reached the age of 18 in adult mental health facilities under the Mental Health Act.

Where the case is an initial hearing, or it appears the proceedings are likely to be prolonged, time is allocated for the case outside of the Thursday morning list, sometimes on that afternoon, sometimes another day, depending on how long the hearing is expected to be. We found there were a small number of secure care hearings over the 18 weeks concerning children from the UK whose return was often delayed or prevented by a lack of suitable facilities in the Irish state.

Background

The background to the High Court secure care lists lies in the exercise by the High Court of its inherent jurisdiction (derived from the Constitution) to adjudicate on any matter. The High Court is the only court with full "plenary" jurisdiction to make orders compelling State bodies to carry out certain functions.

During the late 1990s the High Court heard a number of applications brought on behalf of very vulnerable children in need of secure therapeutic care and for whom there was no provision other than placing them in St Patrick's Institution for convicted children, with minimal therapeutic provision. Following a number of highly contentious cases, where it emerged that responsibility for such children was split between the Departments of Health, Education and Justice, Mr Justice Peter Kelly ordered the Government to provide appropriate therapeutic units for such children, in vindication of their constitutional rights.

In April 1999 an official in the Department of Health came to the High Court to assure the court that an additional 42 secure places would be provided, meaning that there would be

170 such places by the year 2000, provided appropriate staff could be found. A case where a 16-year-old was detained in St Patrick's, *DG v Eastern Health Board*, ended up in the European Court of Human Rights, which found that the Irish state acted unlawfully in failing to provide a child with emotional or behavioural problems with a safe, therapeutic unit and noted that St Patrick's was not appropriate. The centre at Ballydowd was built.

However, the State appealed another Kelly judgment on the provision of care for such children and, in *TD v Minister for Education* [2001] the Supreme Court found that the High Court had exceeded its powers and overturned the order. The urgency went out of supplying such services, and from the cases we have attended it appears that a chronic shortage of secure and high support places continues to exist.

According to the Department of Children and Youth Affairs, in 2015 just 17 secure care places exist nationally and the provision of specialised high support facilities for children who have a high level of need but are not deemed to require secure detention is no longer made by the CFA, though this is under review. It is difficult to believe that there are only 17 children nationally in need of secure care at any one time, and the difficulties revealed in court in accessing such places suggests this is so.

In relation to the availability of High Support care for children with some therapeutic needs, the DCYA informed the CCLRP that the Child and Family Agency/Tusla has access to 177 residential centres, which are open, non-secure centres (typically housing between one and four young people). These include a substantial number of centres run by private organisations, some of whom specialise in specific types of need. In May this year these residential centres held 343 children, the majority of them older teenagers requiring some level of High Support, for whom foster care in families is not suitable. They are there either on a Care Order from the District Court or in voluntary care. In addition, the Department said, some young people over the age of 18 stay on in residential care in order to finish their second level education.

The DCYA also said the statutory High Support units were phased out in 2014, with the last child leaving a CFA/Tusla high support unit in June 2014. There have been no admissions to a CFA/Tusla High Support centre since. At present CFA/Tusla is upgrading the Crannóg Nua High Support centre to become a Special Care Centre. This work is on-going with completion expected sometime next year, and Fred McBride, chief operating officer with CFA/Tusla has said that further provision of special care is being considered.

In the meantime High Support as a methodology is still being used, according to the Department, with the services provided to CFA/Tusla by private providers. They are designed to accommodate the individual needs of the child. There are also times when these centres are commissioned specifically for certain children with complex needs. Some of these private centres utilised by CFA/Tusla have access to child psychiatrists/psychologists with on-site therapeutic supports to cater for such children. In addition, a small number of

children with highly specialised needs, for whom no suitable placement exists in Ireland, are sent to special centres abroad.

This means that rather than having a designated number of High Support residential units, children in need of High Support services are assessed and attempts made to match their needs to the available services. But there appears to be a chronic shortage of appropriate services. This can often mean protracted wrangling in court between CFA/Tusla and the child's guardian *ad litem,* or, on occasion, parents. The children in need of such services include both those coming into care for the first time as adolescents, and those leaving secure units but needing step-down facilities. We have been present at numerous cases both in the High Court and District Court where a child has been judged to need either Secure Care or High Support, but the court is told no suitable bed is available.

Detaining children who have not committed any offence against their will under Secure Care Orders, even when it is deemed necessary for their welfare, is a very serious matter, and the basis for it has been considered very deeply by the High Court in a number of judgments. The jurisdiction for making Secure Care Orders lies in the High Court, though as we see below the legislation providing for this has never been commenced, so the High Court continues to exercise its inherent jurisdiction. It is questionable that this is the most efficient way of dealing with the needs of such vulnerable children, many of whom are also the subject of Care Orders made by the District Court.

Legislating for Secure Care

Statutory provision for special care has been slow to come. The Child Care (Amendment) Bill 2009, which became law as the Child Care (Amendment) Act 2011, provided for Special Care Orders, to be made by the High Court, and spells out the basis for such orders. It also provides for the review of Special Care Orders for every four-week period when the order has effect. This Act places the jurisdiction to deal with such applications exclusively in the hands of the High Court. In reviewing the detention, the High Court should be required to consider whether the continuation of special care is necessary to address the behaviour of the child and the risk of harm and the HSE (now the CFA) is also required "from time to time" to assess the effect of special care on the child and whether it continues to be necessary, the Act states. The 2011 Act also allows for interim Special Care Orders, to last for 14 days and be renewed every three weeks.

However, more than four years after being enacted, the 2011 Act remains to be commenced and Secure Care Orders continue to be made in the High Court under its inherent jurisdiction. This means that there is no statutory regime, no rules that must be adhered to, and no protocols for assessing the suitability of the secure care regime for the particular child. Instead, in each case lawyers for the CFA, the child's guardian *ad litem* and sometimes the child's parents or guardian, argue on the basis of what is in the interests of the individual child in a context in which there is a shortage of appropriate places and some children are sent to special units abroad. This inevitably gives an *ad hoc* character to these proceedings.

They are also extremely costly. One case before the courts at the time of writing has cost the State approximately €1 million to date in legal proceedings, according to an *Irish Times* report. In addition, it costs £400,000 (€560,000) a year to keep the young woman in question in St Andrew's unit in Northampton, where other Irish children and adults are regularly detained. The woman had been detained for 19 months in St Andrew's. From the age of 14 she was treated in various units in Ireland for some two years.

When Mr Justice Noonan observed the costs of the case would fund a purpose-built unit for the woman here, Gerry Durcan SC, representing the young woman, said the legal costs of similar cases involving vulnerable young people over the last 20 years would pay for an "entire purpose-built system", according to the *Irish Times* report. Eleven barristers, including six senior and five junior counsel, and at least five solicitors were involved in this case.

The needs of these children are clearly extensive and complex, and providing appropriate therapy and support will be challenging and expensive. There will inevitably be competition for resources between the needs of such children and the need for early intervention and more conventional assistance for less damaged but still vulnerable children. There has been little public debate on the manner in which all these needs are met and its implication for the allocation of resources. Instead the case of each individual child in need of secure care is dealt with in an *ad hoc* way in the High Court.

Statistics

Usually normal cases in the High Court take hours, if not days, rather than minutes, as they deal with complex issues of law and/or extensive and contested evidence. They involve legal argument and the testing of evidence. It is customary, though it is not legally required, to have barristers and sometimes senior counsel as well as solicitors in High Court cases. However, the Minors' Review list is very different from most High Court proceedings.

Most secure care proceedings in the High Court are very brief but very costly. As can be seen from the figures we publish below, large numbers of lawyers, including solicitors, barristers and senior counsel, are involved in what, for the most part, are extremely brief appearances. Each Thursday morning in its Minors' Review list the High Court reviews existing Secure Care Orders, or hears applications to discharge them. These account for over 60 per cent of all cases before the High Court Minors' List. In addition, this list hears applications for the transfer of cases to another jurisdiction when the child's parents are from the other jurisdiction, accounting for almost 20 per cent of the cases. A small number of cases concern vulnerable adults or applications under the Mental Health Act, which provides for the detention of people over the age of 18 in a mental health facility for their own protection and therapy.

Over the six months we attended this list, the average number of appearances for each individual case mentioned (many of which did not conclude in those six months) is 4.3, with applications under the Mental Health Act taking on average 6.5 hearings, and those

involving Secure Care Orders involving about five appearances each. These appearances are extremely short. We attended the High Court Minor's List for 18 days (the list usually takes between half an hour and two hours) with a gap over the Christmas period, during which time we saw 78 cases, involving a total of 332 appearances. This did not always exhaust the case in question. This means that each Minors' Review List day dealt with an average of just under 18 cases. With a few exceptions, each was over in a matter of minutes.

Where the case involved a review or an extension of a Secure Care Order (almost half of all cases) reports are handed to the judge and lawyers for the guardian *ad litem* and, where the parents are notice parties, to their lawyers in advance (sometimes only very shortly before the case is heard). The senior counsel for the CFA refers briefly to the report in court, seeking an extension or discharge of the order. Sometimes the report is challenged by the guardian *ad litem*, who seeks more information, or a specific service for the child, giving rise to a dispute. Frequently there is no dispute about the recommendation.

From time to time, when a place is sought for a child and the senior counsel for the CFA says that no place is available, the judge will order the lawyer to make a phone call and try to find a place. Sometimes this succeeds in locating a place for the child. In none of the cases in the Review List we attended were any witnesses heard and very few complex issues of law were debated, though these could arise when the cases were more fully heard later on a Thursday afternoon or on another day. Initial hearings of applications for Secure Care Orders, or of transfer of jurisdiction under EU law, usually took place in the afternoon or on another day and took a few hours. In some of these cases, where the child was in a unit abroad, video evidence was heard from specialists in that unit.

The extreme brevity of most of the proceedings in the High Court Review List raises a question about the need for legal teams of two or three, including a barrister and senior counsel, for each of the participants – the Child and Family Agency, the guardian *ad litem* and, where they are present, the parents as notice parties – in these cases. Because he or she is being deprived of his or her liberty, the child is the respondent, and the solicitor for the CFA usually suggests a solicitor for the child, who then nominates a GAL.

In the Minors' Review List hearings we attended senior counsel were engaged by the CFA in 68 cases, or 87.2 per cent, with barrister only (who must be briefed by a solicitor) in 12.8 per cent of cases. GALs were represented by senior counsel in one third of cases and by barristers in 48.7 per cent. There were no guardians *ad litem*, and therefore no need for representation, in 18 per cent of cases, usually jurisdiction cases. Senior counsel represented parents as notice parties in 12 of the 78 cases (15 per cent), with barristers being present in 36 (46 per cent), but in a number of cases parents were not notice parties.

The Project was concerned to observe occasions in which secondary school students, apparently from Transition Year, attended and observed the proceedings. It is questionable whether such proceedings are suitable places for Transition Year students to learn about the operation of the courts, given the extreme vulnerability of the children at the centre of the

proceedings. We have no way of knowing whether some information from them was posted on social media as a result.

Unsurprisingly, almost three-quarters of the cases involved children with psychological problems or involved in dangerous behaviour. Half of the children were in secure units either in Ireland or abroad, 5.5 per cent in step-down facilities and 7.7 per cent in mental hospital.

We reported on eight cases concerning secure care and transfer of jurisdiction in our case reports for the website, some mentioned during the Review List, others dealt with during fuller hearings. These can be found in Volume 1 of the 2015 report, in case reports number 1, 2, 3 (which covered three cases), 4, 6 and 7.

Given the constraints on our time and resources, and the fact that, arising out of the authorisation given to the project by the 2007 Child Care (Amendment) Act, the focus of our work has been child care proceedings under the 1991 Act, and therefore in the District Court, we were not able to devote further resources to the High Court and follow a number of cases from initial application through to their conclusion. We hope to rectify this in the second phase of the project.

Chapter 4 The reported cases

Our analysis of the data collected during our attendance at court cases since December 2012 provides a statistical overview of those cases, and an insight into the child protection system at the point at which it comes before the courts either at initial application stage, during an application for a court direction, or for a review of an existing order. Some 1,300 such cases go to make up those statistics, and we comment on them in Chapters 2 and 3 above.

A deeper insight into what goes on can be found in our reports on the court hearings, published quarterly on our website. To date we have published over 300 case reports. These do not exactly correspond to 300 individual cases, as some long-running cases have featured in two or more reports, and other reports contain brief accounts of a number of cases heard on the same day, usually in a rural District Court with a heavy family law list. Nonetheless, we can say that more than 300 cases have been reported on in some detail on our website.

Prevalence of issues

These reports put flesh on the bones of the statistics. They also show similar themes emerging. For example, the single biggest factor leading to care proceedings in these cases was the mental health of one or both parents, usually the mother, which featured in 28 of the case reports, almost 10 per cent of the total. Mental health problems on the part of the child were also a significant issue, featuring in 19 of the cases. A cognitive disability on the part of the parent, again usually the mother (as we have seen, the majority of the parents in these proceedings are parenting alone), which featured in 22 cases, almost 7.5 per cent. This is likely to be an under-representation, as in some cases where alcohol abuse, drug abuse or severe neglect dominated the proceedings, undiagnosed cognitive disability was likely to have featured also.

Cultural differences involving members of ethnic minorities featured in 29 cases, abuse of substances, both drugs and alcohol, leading to neglect, was the main issue in 21 and 13 cases respectively. Allegations of child sexual abuse featured in 17 of the cases we reported (5.7 per cent). Although these make up only a small minority of cases overall, they are among the most contested, and usually give rise to lengthy legal arguments about hearsay evidence (indirect evidence from the child given through a third party) and the credibility of the allegations. In many of these cases cognitive disability and abuse of substances also featured.

Thus more than half the cases featuring in our reports concerned mental or cognitive disability on the part of the parent or of the child, alcohol or drug abuse by one or both

parents, cultural differences or allegations of sexual abuse. Usually these problems led to, or were accompanied by, neglect of the child or children.

In a significant number of cases (14) a major issue of contention, or an issue that emerged during the case, was the role of the child's father in his or her life and the attitude of the CFA towards the father. In 10 cases the mothers were themselves in care, or had only very recently left care, raising the issue of the support in their personal lives available for young people leaving care. As can be seen below, in some instances these young people had very good support, with both them and their babies being in foster care, but in others their history seemed to make them more vulnerable to facing care proceedings. In a similar number of cases (not the same cases) very severe neglect was described as the main reason the CFA was seeking care orders.

Other matters that arose regularly were the reunification of families after the children had spent time in care; the need for secure care and/or the lack of secure care beds for children in need of them; the existence in some rural courts of very lengthy and over-crowded family law lists, with the attendant difficulty of finding time to give the cases a proper hearing; difficult relationships between the parents and CFA staff, leading to reductions in access or supervised access which became the subject of dispute; poor management by the CFA of individual cases, leading to applications from guardians *ad litem* for directions by the court, and court criticism of the CFA.

What many of these cases highlight is the lack of availability of suitable and appropriate services for vulnerable parents. Parents with mental health problems, cognitive disabilities, from minority ethnic groups, parents who are or recently have been in care themselves, parents who are addicted to drugs or alcohol, parents struggling with a child with mental health problems, all require appropriate and targeted support services. Again and again questions were raised about the availability of such services.

Below we give examples of cases where these issues were demonstrated.

Mental health and cognitive disability

It is important that people with mental health problems are not stigmatised, and many such parents provide safe and loving homes for their children. However, mental health problems on the part of parents can pose risks to children as can be seen from recent history. The CCLRP heard of some of those risks in numerous cases throughout the past two and a half years. In one case a mother who suffered from depression and other problems sought to convince her husband and health professionals that her two-year-old child suffered from cancer, and subjected him to a number of unnecessary tests; in another a mother with complex mental health problems told professionals she had recurrent ideas about harming her children and sought to have them taken into care; in a number of cases we saw immigrant mothers in direct provision centres ending up detained in a psychiatric hospital, leading to their children being taken into care for a period; in another case involving an

African family a child was received into care six times in six years, returning each time his mother's mental health stabilised, only to deteriorate again. Eventually a full Care Order was granted.

However, in few of these cases was evidence given of the nature of the therapy offered to the mother and the extent to which the needs of the children were given consideration by the mental health services. A further issue is the capacity of parents with mental health difficulties to engage in court proceedings, or, indeed, to consent to voluntary care where this occurs. There was only patchy evidence of such parents receiving assistance in engaging in the legal proceedings, and in one case the mother's counsel unsuccessfully sought an adjournment because she was not satisfied the mother was capable of giving instructions.

As stated above, a significant proportion of the cases concerned mothers with cognitive disabilities. However, the diagnosis of these cognitive disabilities appears to be somewhat haphazard, and we have frequently seen cases where the issue of a parent's cognitive ability arises in the middle of the hearing. Parenting capacity assessments are sometimes carried out before cognitive assessments, and if account is not taken of a person's cognitive capacity they will be bound to fail a conventional parenting capacity assessment. On other occasions a report on cognitive ability was referred to that was many years old and had been conducted prior to the individual becoming a parent.

One case, in a provincial city, illustrates the problems that often arise in such cases. The Child and Family Agency had been involved for some time with a family of five children, whose parents were a co-habiting couple, and at least two of the children had special needs. It emerged that both parents had low cognitive functioning and a degree of personality disorder. Following a number of interventions in the family the CFA sought Care Orders for all the children until they were 18.

A psychologist who conducted psychometric tests of both parents said that these gave an indication of intellectual and emotional functioning and risk and could show whether someone could follow advice or recommendations. She concluded that the mother was of a low to average intellectual ability and had low morale and a mood disorder, finding it very difficult to be positive and having very little power of reflection. The psychologist said that the pace with which you can make recommendations about behaviour change for such a person is slower than normal and you have to structure things to suit that personality style. Another psychologist said that the father had an extremely low IQ, bordering on a mild learning disability. She said that he was "not a problem solver. It might be difficult for him to apply rules of parenting" and that he would struggle with behavioural management of children. She added that it would be extremely difficult for him to follow complex instructions. During the case the mother, who said she got on well with some of the professionals, said there were so many people coming to the house with instructions about caring for the children that she became confused.

The paediatric physiotherapist, who was treating the children with special needs, said: "If more money were put into support [earlier] we may not be here in the first place. If [what we are providing now] had been given to other [older] children, we probably wouldn't be sitting here at all." She added: "Everyone brings up their children according to their own experiences. [The parents] have not experienced the childhood which we are now asking them to give their children."

Following a six-day hearing, spread over a number of weeks, the judge said that the fact that "children might get less than the best from their parents is not a ground to take children into care. Children are entitled to sufficient care rather than optimum care. Parents who are less than the best need not be subjected to having their children taken away from them." Judgment was reserved. When the judge delivered it some weeks later, he said he was giving them a last chance to attend a parenting course with an independent residential parenting centre, and they agreed they would attend.

However, in some cases involving cognitive disability the relationship between the CFA and the parents works to the advantage of all concerned. In one case in a rural town the parents, both mildly cognitively impaired, consented to their younger children going into care, with substantial access between them and the children. They acknowledged that the children were doing better in school in care than they had at home. An older child had returned home after a period in care and was working on his parents' farm. The father asked that the case be reviewed within a few years, which was readily granted. However, this case did not appear to have been complicated by hostility between the parents and CFA staff, which sometimes arises in other cases involving cognitive disability.

There are also cases where a person's cognitive ability is so impaired that it is unlikely she can ever parent a child, no matter what level of support is offered. We have attended a number of cases where the court has heard the mother in the case had the mental capacity of an eight or nine year old, and evidence was also given of her likely victimisation through sexual exploitation. This raises wider issues relating to the protection of vulnerable adults as well as children.

Exceptionally vulnerable children

Some children show extreme levels of need at an early age, due to a combination of inherent problems and family circumstances. In one case, a five-year-old boy with complex needs had had five placements in three years. His mother was seeking support in caring for him herself, stating he had been "pushed around like a football". The court was told the mother had had a "truly appalling" life and would not be able to meet his needs. Eventually the child was placed in therapeutic residential care, not foster care, and the court directed that his relationship with his mother be supported by the CFA.

In another case concerning another very young child – aged six – the court heard he had been placed in a residential unit specialising in attachment issues in another jurisdiction three

years earlier. His parents had had little contact with him, and both of them had spent time in prison. The boy had no contact with his half-siblings either. The court heard "he has no idea of family." It considered whether there was a suitable placement for him in Ireland but this required a detailed assessment of his psychological needs. Meanwhile he remained in another jurisdiction, cut off from his family and cultural background.

Complex psychological problems on the part of such young children were comparatively rare in the cases heard, but were more common among teenagers. In both District Court general care proceedings and High Court secure care proceedings time and again the court was told of children with high levels of need for therapeutic support, but also told that there were no places available to meet their needs. In a minority of these cases the children were sent abroad to specialised units, but all too often the cases came back to court again and again with their parents or guardians *ad litem* pleading for action to be taken to find them a suitable placement before, as sometimes happened, they ended up before the children's criminal court. In one case before the District Court where a very troubled boy required a secure bed, the court was told none was available, he needed to be even worse before he could advance up the waiting list. In another case a child committed a Section 4 assault while waiting for a secure bed.

Even when places were found for these children, they were sometimes left languishing there for long periods because no suitable step-down places were available. The High Court was told of one child who could not return to Ireland after three years in a centre in the UK because there was no suitable place for him here. In another case a boy who had spent four years in Boys Town in the US came back to Ireland but, again, there was no suitable place for him and he was moved from pillar to post, even spending time in holiday home accommodation. In a case covered in the national media a girl had spent over 19 months in a highly specialised unit in England and sought to return to Ireland when she turned 18, while the CFA considered she remained highly vulnerable and sought to continue her detention in England.

Some children with less extreme needs nonetheless experience problems when they enter their teenage years, a difficult time for most young people and obviously a time when childhood traumas can come to the surface for children in care. We have seen a number of cases of placement breakdown when children hit the teenage years and the foster parents find it difficult to deal with them. Such breakdowns can happen at extremely short notice, and must result in the teenagers feeling further rejection and instability. This raises questions about the preparation of foster carers for the likely difficulties they will encounter when their foster children reach this age, and the support they receive in dealing with these difficulties.

Ethnic minorities and cultural difficulties

In our first Interim Report we noted the disproportionate number of families where at least one parent was from an ethnic minority and who came before the child care courts. This trend has continued, as revealed in our statistics.

We know that Ireland has changed in recent decades from a country that was largely ethnically and culturally homogeneous to one that is much more diverse. According to the 2011 Census 12.5 per cent of the population is now from ethnic minorities, of whom the majority (7.5 per cent) are from the UK, the US and Europe, predominantly Eastern Europe. This does not include the 30,000 people indigenous to Ireland who are widely regarded as an ethnic minority – Irish Travellers. There are few places where the challenges of integrating those who migrate to Ireland are more sharply revealed than in the child protection system.

The families from ethnic minorities coming before the child care courts were very diverse. Four groups predominated: Africans, Eastern Europeans (including Roma), Irish Travellers and people from "Mixed" ethnic backgrounds, which may or may not include one Irish parent. The problems associated with the different groups also tended to vary. Three types of problem arose frequently with African children: abandoned or unaccompanied minors, mental health difficulties on the part of the mother, and physical chastisement. Alcohol abuse and mental health difficulties arose frequently with parents from Eastern Europe, with allegations of neglect and physical chastisement also arising. Among Irish Travellers alcohol abuse, domestic violence and allegations of sexual abuse featured regularly. All of these problems could be found among those of mixed ethnicity.

There is no doubt that members of ethnic minorities (apart from Irish Travellers) are more likely to experience social isolation and less likely to have the support of extended family than Irish families. But this alone does not explain their disproportionate presence in the child protection system. International studies show that certain ethnic minorities are over-represented in child care proceedings in many countries. (See Tilbury, 2009:18 pp 57-64 for figures on ethnic minority children in care in Australia, New Zealand and the USA) These groups are also over-represented among lone-parent families and families suffering economic and social deprivation, issues closely linked to child protection concerns. It is unlikely that Ireland is different in this respect.

Cultural differences clearly play a role in the over-representation of children from ethnic minorities in child protection proceedings. In both African and some Asian families there is more emphasis on parental authority, sometimes maintained through physical chastisement, than is now acceptable within Irish society (it must be stressed that physical violence against children also features in Irish child protection cases, but Irish parents are less likely to justify it). These problems sometimes come to light when the child reports violence to teachers or the Garda Siochána.

In one such case a teenager from an Asian Muslim family presented himself to the local Garda station with a broken nose stating his father had hit him and thrown him out of the house in the most serious of several incidents. In the subsequent child care proceedings the father stated that the boy was hanging about with bad company, drinking and going to night clubs. The case is still before the courts. In a case involving a teenage Muslim girl she reported fearing her father would kill her because he objected to her behaviour, which included going out at night with friends. Her mother told social workers she could not

protect the girl from the father. The family later returned to their country of origin with their younger children, leaving the girl in care in Ireland. One very protracted case in Dublin concerned African children beaten with implements, including a belt and an iPhone cable.

In another case the Muslim parents of children in general foster care in rural Ireland objected to the placement and sought a change so that they could be brought up as Muslims. Following proposals from the CFA to involve a cultural mediator and contact the local Muslim community the case was adjourned. In another case involving a very young child, the court was told that she was growing up in an English-speaking family and had no language in common with her Roma mother. Linguistic difficulties could also arise where non-Irish children from families with limited English are placed in Gaeltacht areas and grow up speaking Irish.

Child sex abuse

The most contentious cases we have attended concern those where child sex abuse is alleged. This is not surprising: parents will always strenuously deny such allegations, which attract the greatest public odium and which also expose them to prosecution for serious criminal offences. In addition, the stakes are very high. A finding of fact that children were sexually abused while in the care of their parents will inevitably mean they will be taken into care until adulthood. On the other hand, leaving children who have been abused with their families can expose them to further abuse either at the hands of their parents or others from whom their parents have failed to protect them. The need for exceptional care in decision-making cannot be over-emphasised.

One such case concerned an Interim Care Order hearing for two young children who had been in the care of their parents under Supervision Orders. Two older siblings were in care following allegations of sexual abuse by an uncle, which had been found to be credible by St Clare's sexual abuse unit and were under investigation by the Gardaí. In the course of this investigation, the oldest child alleged that the younger ones had been sexually and physically abused and neglected by their parents three years earlier, prior to the making of the Supervision Orders. These allegations were recorded on a DVD by the specialist Garda interviewer.

The highly complex case, involving two guardians *ad litem* with two sets of lawyers for the two pairs of children and separate legal representatives, including counsel, for each of the parents, as well as the CFA legal team, took 24 days over six weeks for the Interim Care Order application to be heard.

The CFA sought the introduction of the DVD into evidence, which was opposed by the Gardaí on the basis of public interest privilege. Following lengthy legal argument over many days the judge rejected this argument, a redacted version of the DVD was produced and the Garda interviewer agreed to give evidence. (*Child and Family Agency and R* [2014] IEDC 03)

After three weeks of discussing the legal issues relating to the DVD and the issue of hearsay evidence more generally, the inquiry proceeded, the DVD was shown and witnesses were called to give evidence. After three weeks of this evidence the Interim Care Order was granted. The hearing of the application for a full Care Order for these children will take place early next year.

The judge ordered that in the meantime three assessments must take place: a forensic risk assessment of the parents; a credibility assessment of the oldest child's allegations (contained in the DVD and also made to foster parents); and a credibility assessment of the information gathering process. All three assessments were to be carried out by three sets of independent experts from the UK, who had been appointed by the judge.

Similar issues arose in a number of other cases. In two cases the same expert from the UK was called to give evidence on the credibility of disclosures of sexual abuse made to foster carers and social workers by young children.

In another case a different expert from the UK gave evidence about an assessment of children for sexual abuse that criticised the manner in which St Clare's sexual abuse unit conducted the interviews of the children. This expert told the court: "Research says it's quite easy to implant information into children and for them to believe it's part of their experiences." This case is still ongoing, and it must be stressed that she was just one of a large number of witnesses.

In yet another case where sexual abuse was alleged, lawyers for the parents sought the disclosure of DVDs of Garda interviews with children who allegedly had disclosed sexual abuse by their parents. The judge said he considered he did not have jurisdiction to order the Gardaí to produce evidence gathered for a criminal prosecution to a court hearing child care proceedings. When reference was made to the ruling in the case referred to above, he pointed out that this was a District Court ruling which was not binding. "If the Gardaí refuse to comply [with an order for discovery] I have no jurisdiction to force them to comply," he said. He suggested that a case be stated to the High Court to obtain clarification on this matter.

Following discussions between lawyers for the CFA and the parents in this case, the CFA undertook to write to the Gardaí seeking third party discovery of the DVD, under District Court rules, thus averting stating a case to the High Court. It is clear that the issues raised are likely to continue to be the subject of extensive legal argument in cases involving allegations of sexual abuse in the District Court.

Abuse of substances

A recurring theme in child protection proceedings is the impairment of people's ability to parent by their addiction to alcohol or drugs. However, the attitude of both the CFA and the courts can vary, with some showing more tolerance and ability to work with substance-

abusers than others. As we reported in our 2014 Interim Report, a suspicion of cannabis use was enough to spark an application for an Emergency Care Order in one rural town, which was granted by the judge. However, in a different case in a provincial city a judge stated that he did not see cannabis use as a huge problem, unless linked to other drugs. Most cases concerned much more serious drug abuse, often accompanied by homelessness. Sometimes the drug-using parent was herself the child of drug-users, and had experienced very poor parenting. The courts are often sympathetic in such cases, and attempt to provide a road-map for the mother to resume the care of her child or children.

In one such case the court declined to make a Care Order until 18 for the child of a very young drug-user, the daughter of a deceased drug addict mother, who had been in care when she became pregnant. After hearing evidence of her close bond with her child and her repeated efforts to come off drugs herself, the court made a Care Order for 14 months in order to give her an opportunity to enter a residential drug treatment programme and resume care of her child afterwards.

During some of these cases differences emerged between the attitude towards assessment of drug abuse on the part of social workers and that of drug treatment professionals. In one case a doctor from a drug treatment centre told the court he thought there was too much emphasis in social work reports on the results of urinalysis (detecting the presence of opiates). He said a positive result from urinalysis could equally come from smoking heroin once or twice a week, when the person could function well in society, as from injecting frequently, and thus being unable to function. He said the way a person presented to professionals was a better guide to their ability to function.

As stated above, drug-abusing parents are frequently young, from drug or alcohol-abusing families themselves, and may have spent time in care. Yet there appears to be little coordination between drug treatment services and child protection services. There are very few mother and baby residential places in Ireland, and only one, in Cork, which accepts and treats drug-users. Residential drug treatment centres do not accept parents with children.

Young parents

Not all very young parents are drug-users, but even those who are not can face difficulties in accessing the services they need. Many have spent time in care, and that in itself may lead to more intense scrutiny of their parenting abilities if they become parents. We have seen many cases of young parents, who have been in care (or even are still in care) facing child care proceedings when their baby is born with applications to take their babies into care until they are 18. Such cases can be very contested, as often the parents' experience of care was not a positive one, and they do not wish to lose their child and have him or her to go through the same experience as they did. Yet the very fact that they were in care themselves indicates they did not experience positive parenting when they were young and did not learn parenting skills at home. We have also heard that their fear of social services can mean they do not access the support they need in a timely way, which can exacerbate their difficulties.

In one such case the court heard that the mother had suffered abuse and neglect, had difficulty in caring for her child and also in understanding the legal proceedings. Her after-care worker was explaining things to her. The father had also spent time in care, a number of his placements had broken down, it was alleged he had threatened staff, which he denied. He was now living with relatives who came to court to support him. The mother's solicitor said that there had been a high recommendation of therapy and support for the mother, but what was proposed fell short of that. In addition, the mother's access to the baby was being reduced, which would affect her bond with the child. The GAL for the baby opposed the reduction of access, emphasising the need to keep relations between the mother and the child's foster-carers as stress-free as possible into the future for the sake of the child.

The father's solicitor challenged the CFA's very negative report on his client, pointing out that the report was not accurate and his client's denials of certain allegations were not in the report. "[The report] is not inaccurate, it is incomplete," the social worker said. Allegations of theft in the report, when explored by the court, concerned the father taking two bars of chocolate as a child. He told the court he had been damaged by growing up without a father, and he did not want this for his daughter. He wished to be assessed as her carer, but the social worker said the parenting capacity assessment of him only related to access, not to him caring for his child, which was not being contemplated. They had not considered a psychological assessment of the father, to assess his ability as a carer. The judge extended the Interim Care Order, and directed that psychological assessments be carried out on both parents before deciding on a full Care Order.

However, not all young parents have such a negative experience of social services. In the same part of the country a young girl who became a mother at the age of 15 while in care lived with her baby in a foster family for two years. Originally from another jurisdiction, where she had become pregnant, she was joined in Ireland by her boyfriend after two years (when she had reached the age of consent) and he obtained a job and accommodation for them and their baby. The social work department outlined to the court its support for her moving out of foster care, and its provision of support to her parenting the baby. It is important to stress that in this case the girl had no cognitive or psychological problems, and her social worker praised her maturity and her devotion to her child.

Fathers in the child protection system

As can be seen from our statistics, most of the cases coming before the courts concern a parent, usually the mother, parenting alone, either because she is single, because a marriage or other relationship has broken up, or, occasionally, her partner is dead or in prison. But in a substantial minority of cases a father is involved in the proceedings, sometimes living with the mother, sometimes not.

However, the attitude of the CFA towards these fathers can sometimes be dismissive. In our Interim Report of 2014 we drew attention to a case where the judge told the CFA that, if he was to make the Care Order it sought, they must demonstrate that the father was not a

suitable carer for the child (the mother suffered from serious mental health problems). No such evidence was produced and a Supervision Order was made instead, with the baby living with his father and paternal grandparents. A year later the CFA sought the discharge of the order on the grounds that the infant was being very well cared for, despite having been premature and suffering early health problems.

In another case a father sought the lifting of the *in camera* rule so that he could sue the CFA for negligence in taking his child into care (from the custody of the mother) and in its attitude to him. In this case, having heard the evidence, the judge directed that an independent retrospective review of the case be carried out. An agreement between the parties was read into the court record, containing a plan of action for the agreed short-term Care Order, referring to Section 3 (2)(c) of the Child Care Act stating that it was in the best interests of children that they grow up within their families.

In the agreement it was stated that the father "had demonstrated a tireless and commendable commitment" to his daughter in "challenging the entitlement of the HSE to have her in its care and in seeking custody of his child and maintaining access" with her. The agreement acknowledged that she was not in his custody when taken into care, and that the concerns that led to this centred on her mother's capacity to care for her. In this case too the court heard that allegations of sexual abuse were made against the father that were shown to be groundless.

However, clearing his name took two years, and a report entitled "Report on Sexual Abuse" remained linked to him, and could have been brought to the attention of employers. In the same case the social worker stated delays were caused by original files being in a different area and it had taken a few months to access them. In evidence a social care worker said there had never been any child protection concerns around the father, and any anger he exhibited had been in relation to the HSE. This case is still before the courts.

In another case the CFA sought a Care Order till 18 for an infant where the father had been guilty of a sexual offence against a child 23 years earlier, at the age of 16. He had not offended since, he had been open about the matter, he had moved out of the home he shared with his partner while assessments were made, and there were no concerns about the mother's ability to care for the child. The judge said that the consideration of abuse or harm had to be based on fact and not just on suspicion, and he took into account the fact that the father had not committed any sexual offence in over 20 years. He made a Supervision Order for 12 months, during which time the father would remain out of the family home and undertake a treatment course.

Conflicts between the CFA and parents

Conflicts between parents and the CFA can generate mutual hostility and suspicion, leading to the prolonging of cases. The relationship between the parents and the foster parents may also be a factor in the conflict. Frequently there is a sharp divergence between the material

circumstances of the foster parents and those of the child's birth parents, which can give rise to parents' suspicions that this will influence the children and make family reunification more difficult. We have seen a number of cases where it is stated that the children are very upset following access visits with their parents, and the CFA seeks to reduce access. However, in some of these cases it has been claimed that the foster parents have discussed the case with the children, and the parents' lawyers have argued that this was the cause of the children's distress.

It is understandable that a litany of such incidents could lead a parent to suspect that the CFA was determined to keep his or her child in care, and to frustrate all attempts at reunification, even if this is not the case, and many problems, especially around issues like access, are caused by sheer lack of resources in the CFA.

Despite the examples we saw of difficult relationships between some parents and the CFA, and the fact that parents sometimes do not receive the benefit of any doubt, there are many instances where the reunification of children with their birth parents is brought about, with sustained and dedicated support from professionals in the CFA.

Reunification

This usually happens when the parent or parents have tackled specific problems. In one case where the mother had mental health problems and had been homeless, an Interim Care Order was not renewed when the mother had, according to the CFA solicitor, "made phenomenal improvements in her life" and would receive support in parenting her child. The judge commented: "An extremely robust plan of supports to enable reunification between [the child] and her mother is in place. It is an extremely carefully thought-out plan, extremely workable, working in partnership is central to this plan and central to its success."

In another case where a short Care Order had been made the CFA solicitor said the Agency was not seeking any further orders as the mother "had come a long way" in addressing her mental health problems and was abstaining from alcohol, was motivated and enthusiastic about reuniting with her children. In another case where an Interim Care Order was in place the social worker told the court that the mother was being requested to engage with substance misuse services, her tests were clear and if this continued the order would not be renewed.

In these cases the taking of proceedings appeared to focus the minds of the parents on their need to address the problems that impacted on their ability to parent, and where a road-map was provided, along with necessary supports, they were able to do so and achieve reunification.

Neglect

Sometimes reunification is not possible, and it is clearly in the best interests of the child that he or she remains in care. In these published reports we have described some cases of horrific neglect, where children are lice-infested, under-nourished and suffer from developmental delay. Such cases demonstrate the difficult task the CFA and the courts face in balancing the right of parents to bring up their children, and the constitutional presumption that children are best brought up in their families, with the right of children to develop to their maximum potential.

Time and again social workers, psychologists and speech and language therapists have described small children who are seriously underweight for their age, who are unable to walk when they should due to spending long periods strapped in buggies, who cannot talk or relate to people because they have received no stimulation from their parents. Sometimes the parents suffer from cognitive disabilities, and, left unattended, it is clear the children will grow up with similar deficits. Equally, we have seen reports of children overcoming such developmental delay after a period in appropriate foster care.

Voice of the child

The Children's Amendment to the Constitution, stating that the views of children should be heard, subject to their age and level of maturity, in State proceedings concerning them, only finally crossed the last legal hurdles and became law in April 2015. CFA policy statements already contained this principle, and increasingly the courts also considered it necessary to obtain the views of the child.

However, the manner in which they do so varies greatly. As is shown by our statistics, some courts routinely use guardians *ad litem* to inform them as to the views and wishes, and also the best interests, of the child at the centre of the proceedings. In others this is much rarer. In some courts where a GAL is less frequently appointed older children are made parties to the proceedings, solicitors for them are appointed and give evidence of their views. Sometimes the judge also asks to meet the child. This is most likely to take place in the judge's chambers. A written judgment from Dublin District Court recently outlined the conditions for such a meeting, but this is not binding on other courts. (Ni Chúlacháin J: *Child and Family Agency and DE* [2014] IEDC 13.)

The attitude of the CFA to the views of the child also varies. There is no consistency in the reference to the views of the child from social workers and in the weight given to them, which should be related to their age and maturity. In a number of cases involving teenage children social workers have acknowledged that they may wish to go home, but add that this is not in their best interests. In a case where the CFA wished to reduce a parent's access, the social worker reported that the two-and-a-half year old child was upset after access and "we must pay attention to the wishes of the child." Yet in another case where older children wished to have access with their parents, which was opposed by the CFA, the social worker

said she "had to make decisions in the best interests of the child that may not accord with their views". In the same case, where the younger children said they did not want to see their parents, she said "that needs to be respected".

The social worker in this case may well have been right that it was not in the interests of the children to see their parents. But it is important that the views of children are not only reported and respected when they accord with those of social workers, and that children feel their views are always recorded and respected, even if they do not determine the decision of the court.

Guardians *ad litem*

Where a guardian *ad litem* is appointed, he or she routinely reports on the views of the child, while also providing an assessment of their best interests. This usually accords with the application sought by the CFA, though the GAL often brings more depth and nuance to the case and in some cases argues for necessary supports and therapies for parents and children that otherwise receive little attention. In such cases lawyers for the parents opposing the application face two teams of lawyers supporting it. In a few cases where the GAL did not support the application of the CFA his or her intervention was crucial in bringing about a different outcome to the case which was later shown to have worked.

One such example involved a serious non-accidental injury to a young baby, where the CFA sought a Care Order till 18 for the baby and her older sibling, who had special needs. During the very protracted proceedings the children were in the care of members of the extended family under Interim Care Orders and were receiving appropriate support and therapies for their special needs. The GAL said that children with special needs usually experienced more placement breakdown than children without such needs; the proposed foster carers for these children had no experience of children with special needs and it was unlikely they could meet the needs of these children. He suggested an approach, piloted in the UK, whereby the parents of children who had suffered abuse or injury while in their care participated in a programme based on an acknowledgement of the reasons for concern, with a gradual reunification of the family. The judge made a one-year Care Order while this programme was followed, and a year later the order was discharged and the family reunited.

Court practice and procedure

Outside of Dublin and the major cities and towns child care cases are on the regular family law lists. Indeed, in some of the smaller courts family law itself can be combined with general civil and criminal matters. Family law lists are invariably crowded, and we have seen up to 100 cases listed on a single day, including at least a dozen child care cases. Many of those are either renewals of existing orders or consents, but the question must be asked whether the very fact of time being limited may contribute to a culture of not interrogating very rigorously the basis for the application, with respondents feeling there is little point in

opposing it. The Courts Service statistics, indicating that in some District Courts the vast majority of orders are granted, would tend to support such a view.

Where a case is likely to be complex or very contested, the resident judge may seek the assistance of a "moveable" judge to hear it, so that it does not interrupt the regular work of the court. This means that a judge with a lot of experience of such cases is likely to hear the case, but it also means that there can be a lot of adjournments as he or she will have other commitments elsewhere in the country. The lawyers for the various parties can be very unrealistic about the time the case is likely to take. In one case three days had been set aside, but when the case began the barrister for the CFA said the agency had a large number of witnesses, there was a GAL in the case and the parents were opposing the application. The judge said the case would need at least a week and a fresh date was set. In the event, when the case began later the parents withdrew their opposition after three days.

The lack of preparation of cases in some courts is a major contributor to delay as the cases are then unfocused and unnecessarily protracted. The time taken by court proceedings could be substantially reduced with better preparation, with engagement between the professionals in advance, and with efforts to agree on a roadmap that could resolve at least some of the issues. The CFA will always have the vast majority of witnesses, and it should be possible for its lawyers to work out in advance how long each will take and to ensure they do not repeat the same evidence. It should also be possible to establish with respondents' and GAL lawyers what will and will not be contested. However, we have seen cases where the time a case took bore no relationship to the original estimates, and there were multiple adjournments continuing over many months, even years, before a decision was finally made.

Lack of clarity on thresholds can contribute to this. Some social workers seem not to have been trained in understanding the different thresholds that apply to applications for different orders. By putting the appropriate threshold at the centre of the evidence needed, a witness can structure that evidence to meet it, outlining the reasons for concern, the measures taken prior to seeking an order to obviate the risk to the child, and the reasons, despite these measures, that an order is needed. However, we have been present during different types of applications when an undifferentiated series of incidents and complaints are presented, some serious, some trivial, without them being linked to the threshold required for the making of the particular order. Parents opposing the order may contest the accuracy of the incidents, or their significance, without contributing to clarity on the threshold for the order. We have seen cases where a social worker gives evidence for four or five hours without relating it to the threshold for the order being sought, much of it repeating evidence given by other witnesses.

We further consider measures to address the conduct of cases below.

Chapter 5 Conclusions and Recommendations

The establishment of the Child and Family Agency drew together in a national organisation the various bodies responsible for child protection and welfare, including the former Education and Welfare Board. It thus provides an invaluable framework for the development of national policy and best practice, which was previously missing, and has embarked on an ambitious programme of reform of child and family welfare and protection services. However, its establishment came at a time of severe economic crisis and the contraction of public services, so that the CFA has been hampered in its work by a shortage of social workers and a reduction in many of the family support services previously existing in the community. Improving its services and impact will require increased investment.

The welfare of children and their families is not the sole responsibility of the CFA and cannot be. Many of the issues affecting the well-being of children fall outside the remit of the CFA and we have been struck by the extent to which services mentioned in court that might assist children and their families are not within the control of the CFA. It has been stated during debates on the many lapses on the part of the State in its duty towards children that this is the responsibility of all State departments, and the need to realise this is very evident in proceedings in the child care courts. Sometimes services for children required by the courts are not within the remit or the CFA, or of that local area of the CFA.

For example, public health nurses, who usually are the first public servants outside the maternity hospital to encounter a new mother and her child, work for the HSE, not the CFA. Psychologists, who are called upon to assess parents, and child psychologists, who assess children, also work for the HSE. Disability and mental health services, which may be required by vulnerable parents, also reside within the HSE. Addiction services are provided by a multitude of organisations, none of them linked to the CFA. It can thus be difficult for the CFA to ensure that children and their families always get the help they need in a timely way. Bearing that in mind, we make the following observations about what we have learned from attending child care proceedings.

We are very grateful for the observations made by others interested in improvements in the child protection system, especially those of the Government Rapporteur on Child Protection, Dr Geoffrey Shannon, legal practitioners and members of the judiciary, which we quote below. We have also received many helpful comments and insights from legal practitioners, social workers, guardians *ad litem* and staff in the DCYA and Tusla, without

which this report would be much the poorer. However, apart from direct quotations, we assume full responsibility for all the recommendations we make here.

1. Early intervention and assessment

Concerns about the welfare of very young infants can arise before they are born, for example, in cases where the mother is addicted to opiates or alcohol or suffers from serious mental illness. This may prompt an application for an Emergency Care Order immediately following the birth. Clearly this is a very draconian step and risks breaking the bond between the mother and new-born infant. It is also difficult to see how a mother can contest such proceedings in the days after giving birth. The European Court of Human Rights has found that such a step should be avoided if possible and every other alternative should be exhausted before it is taken, including placing both mother and baby in a protected environment. (*K. and T. v. Finland*, 2001, Application no. 25702/94)

Dr Shannon has proposed that once any post-birth action is contemplated by the CFA there should be provision for compulsory notice of intended proceedings to be given pre-birth to allow for parents' legal advice and representation, and legal aid should be available on a priority basis. He also proposed the amendment of the Child Care Act to allow for a "Holding Order" immediately following the birth, rather than an Emergency Care Order, which could keep the infant in hospital, with extensive access by the mother to allow feeding and bonding. We endorse these recommendations, and would add that the option of placing both mother and baby in foster care or residential care when there are such concerns should be actively considered. This would allow co-parenting while the mother worked to overcome her difficulties and learned how to parent her child.

Recommendation 1.1: Pre-birth concerns about a child's safety and welfare should be raised with the parents as early as possible, and, if a court order is considered necessary, early notice given of the application so that legal advice and representation can be sought. The Child Care Act should be amended to include a "Holding Order" permitting the infant to remain in hospital for a brief period, with extensive access for the mother, while alternative care is being explored. Foster or residential care for both mother and baby should be the first option considered.

The Child Care Act (as amended) presents the bringing of proceedings seeking a Supervision Order or a Care Order as a last resort, following other measures to promote the welfare of the child, except in the case of an Emergency Care Order where such an order must be sought when the risk to the child is "serious and immediate". In cases involving neglect, applications should be brought when other interventions, including the provision of family support, have failed to bring about a reduction in the risk to the child, and this should be demonstrated in court. This is not always the case. In addition, a Supervision Order should generally be considered before an Interim or full Care Order is sought.

Sometimes such support has been offered but has not been successful. This may be because the parent, usually the mother, suffers from cognitive disability and this was not recognised or diagnosed and the support tailored appropriately. In many cases where the issue of the mother's cognitive disability arose, there was no evidence of an up-to-date cognitive assessment and of an attempt to provide appropriately-tailored parenting support. In the absence of specialised support such a parent will inevitably fail a parenting capacity assessment. We examine this issue further below.

Recommendation 1.2: In cases involving neglect evidence should be given of the supports offered to the family prior to seeking Supervision or Care Orders, so that the court may make a "proportionate" order.

2. Case preparation

Cases are often prolonged and plagued by adjournments due to inadequate preparation. The thresholds for the various orders being sought need to be clearly understood and then applied to the individual case. Social work reports need to be tailored to the order being sought, focusing on why, for example, a Care Order rather than a Supervision Order is necessary, and outlining why supports provided did not reduce the risk to the child's "health, development and welfare". They should be balanced and avoid the use of loaded language. Where both parents are identified, the parenting ability of both parents needs to be evaluated and no care order should be sought unless both parents are found to be unable to parent their child.

The parents' legal representatives need an opportunity to see such reports well in advance and discuss them with their clients, so that they can prepare a detailed response, acknowledging the aspects of the report they agree with and contesting those they do not. We have seen multiple examples of reports being produced at the last minute, with little opportunity for the parents' representatives to examine them. This is all the more difficult when the parents suffer from illiteracy, linguistic difficulties or cognitive disabilities.

If reports were focused on the requirements of the thresholds for the various orders, and if the respondents (who should always be legally represented) obtained them well in advance of the court hearing, there should be an opportunity for discussing options other than a Care Order, including a Supervision Order or a short order accompanied by agreed changes to the parents' behaviour. The possibility of the non-custodial parent becoming the child's main carer should be considered and the order only sought if this is judged inappropriate.

In one case Judge Conal Gibbons outlined the way in which he required a case to proceed: "There is a Practice Direction where the CFA sets out the parties of the case in numbered paragraphs, setting up the precise basis on which the order is being sought, on which the judge makes a finding of fact, including a list of witnesses, experts, etc.

"Then the respondent sets out a response, his or her own version of the facts, also in numbered paragraphs, indicating what is agreed and what is in dispute.

"There should be a care plan furnished to the court. Reports from experts should be exchanged 10 days before, and an application to lift the *in camera* rule to allow that. The GAL and the respondent should prepare a booklet of their own responses, bound, tagged etc, as appropriate. There should be a recent photo of the child. That is crucial. The birth certificate of the child should be filed automatically.

"Then there would be a call-over to ascertain the number of witnesses, whether there is legal representation, whether an interpreter or advocacy service is required. If all that is adhered to it would be a good use of court time." We endorse this view.

Recommendation 2.1: Social workers should be trained in the law relating to applications under Sections 12, 17, 18 and 19 of the Child Care Act. Social work reports which form the basis of a court application should be tailored to the order being sought, matching the evidence to the threshold laid down in the legislation for the specific order. They should outline the conditions needed for reunification to occur.

Recommendation 2.2: The Practice Direction drawn up by the President of the District Court, as described above by Judge Gibbons, should be used in all child care applications.

Once a hearing commences, various issues can make them more difficult, which we detail below.

3. Intellectual disability

Mild cognitive disability is often diagnosed late, sometimes when the individual concerned (usually the mother) becomes a parent. Even if diagnosed earlier, having a diagnosis of mild cognitive disability does not trigger any supports from the disability service. Yet such a disability can affect a person's ability to meet the challenges of parenting, especially if parenting alone and without the support of an extended family. Without appropriate supports such a person's parenting is likely to be defective. This frequently leads to care order proceedings, which can become very contested and adversarial.

In 2014 the National Disability Authority organised a Round Table on parents with intellectual disabilities, attended by a wide range of organisations, including Tusla and the CCLRP. It published a report of the meeting, available from the NDA. The NDA has also published a research paper, *Literature Review on Provision of Appropriate and Accessible Support to People with an Intellectual Disability who are experiencing Crisis Pregnancy*. This found that in a number of countries parents with an intellectual disability were many times more likely than

parents without such a disability to have their children taken into care, and up to 48 per cent of children of parents with this disability were likely to be in care.

Yet it also stated: "A consistent finding from the literature is that maternal IQ is not systematically correlated with parenting competence (Tymch UK & Feldman, 1991; Booth & Booth, 1993; Dowdney & Skuse, 1993). There is no point on a scale of intelligence below which a person becomes a bad parent, just as there is no point on a scale of intelligence above which a person becomes a good parent (Gates, 2007). Research does, however, suggest that people with learning disabilities may have difficulties in bringing up children, and may be at greater risk of becoming involved with child protection services. (Feldman 1994; Sheerin, 1998)" It also said that a substantial body of work demonstrates that parents with an intellectual disability can adequately care for their children given appropriate support and identifies the critical dimensions of effective support and training. The removal of children from intellectually-disabled parents has been the subject of an adverse ruling from the European Court of Human Rights, which found that no adequate supports were given to the parents and their children. (*Kuznter v Germany*, [2002] 46544/99)

We found that parents with an intellectual disability who came to the attention of social services often did not receive an early cognitive assessment. Parenting capacity assessments were not tailored to their ability to understand what was required of them, and they frequently failed these tests. Support services, while often offered, were also not always tailored to their specific needs and it did not appear that service providers were consistently or adequately trained to recognise and respond to their specific difficulties. The UN Convention on the Rights of People with Disabilities stresses the need to oppose all discrimination against people with disabilities, and the need to recognise their family rights. Resources exist within the state National Disability Authority and non-governmental organisations like Inclusion Ireland which could help social workers recognise the specific needs of parents with intellectual disabilities and tailor support services to meet them.

Recommendation 3.1: Where any concern about a parent's ability to engage with services arises, a cognitive capacity assessment should be carried out prior to a parenting capacity assessment, and any subsequent parenting capacity assessment tailored to the parent's cognitive ability. The services of the National Disability Service, Inclusion Ireland, the National Advocacy Service and other support bodies for people with disabilities should be engaged in designing and providing tailored supports.

4. Mental health problems

Similar issues arise in relation to mental health problems on the part of parents, which can pose a risk to children. Yet parents, especially mothers, with mental health problems live in fear that their children will be taken away, as a conference on the subject organised by Barnardos in 2014 was told. Speakers at that conference, which again was attended by representatives of the DCYA and the CFA as well as the CCLRP, were told of the lack of

supports from mental health services specifically targeted at parenting needs. In many cases the need for such supports is likely to be episodic.

We know from a number of tragic deaths of children at the hands of parents and siblings with mental health problems that those treating people with such issues need to be aware of the possibility of child protection concerns. Greater liaison between mental health services and the CFA is necessary to promote child protection awareness and to provide support for people with mental health difficulties who experience problems with parenting.

Recommendation 4.1: The CFA should establish a framework for consultation and coordination with the mental health services and mental health advocacy groups in order to obtain assistance in diagnosing the parenting support needs of parents with mental health difficulties, and the design and provision of such supports.

5. Children with mental health and behavioural problems

Many of the cases we have attended have centred on the provision, or lack of it, of suitable therapeutic services for children with mental health or behavioural problems. We also know from the national media that adolescents are often held in adult psychiatric hospitals. Some children have problems for which there is no treatment available in Ireland, and they are sent abroad to specialist units, at very great expense. At the moment this is provided for by Special Care Orders in the High Court, which we describe in Chapter 2 above.

At the other end of the spectrum are the children with behavioural problems who do not meet a diagnosis of mental illness and therefore cannot access child and adolescent mental health services. Yet their behaviour is highly challenging and, if not attended to, could lead them into the criminal justice system. There is a need for a national strategy to deal with children with a wide spectrum of behavioural and mental health disorders, along with the provision of appropriate services for them.

Recommendation 5.1: A national strategy for the provision of appropriate services for the whole range of children with mental health and behavioural problems, including the range of options and likely costs, should be developed and brought forward for public consultation, so that a consensus can be reached on provision of the appropriate services and an action plan developed to implement it.

6. Special Care Orders and jurisdictional issues

As outlined in Chapter 3, Special Care Orders are dealt with by the High Court under its inherent jurisdiction. The 2011 Child Care Act, providing a statutory basis for such orders, has never been commenced. The need for such orders is rarely disputed by the respondent child or his or her parents in such cases. The main issue is the availability of suitable places for the child, and whether or not it might be necessary for him or her to be sent to a unit outside the country. There is no doubt that an order detaining a person, especially a child,

against their will, is a very serious order, and this is the basis for the matter coming under the jurisdiction of the High Court. But these orders are usually made for a relatively short period, normally a matter of months. An order removing an infant or child from its birth family for up to 18 years is also a very serious order, yet this comes under the jurisdiction of the District Court. It is difficult to see why secure care orders are so much more serious that they can only be heard in the High Court.

The other main matter discussed in the High Court is the appropriate jurisdiction to hear a case where the parents have left another jurisdiction and come to Ireland on the eve of the birth of their child, where child protection proceedings are planned in the original jurisdiction. These cases often have simultaneous child protection orders from the District Court, which are subject to renewal. This has been the subject of a ruling in the Court of Appeal, which ruled that the District Court, rather than the High Court, was the appropriate court to decline jurisdiction in such cases (Article 17 of the EU Regulation), and suggested that the same may be true of Article 15 (requesting another court to assume jurisdiction). This is currently under appeal to the Supreme Court.

Given the duplication of work involved in the current system, where children can be simultaneously before the District and the High Court on the same facts, and the fact that the 2011 Act has not been commenced, there is an opportunity to re-consider the jurisdiction under which all these matters are dealt with and ensure that a policy of "one child, one judge" applies.

Recommendation 6.1: Consideration should be given to withdrawing the 2011 Act and amending the Child Care Act so that all child care orders are dealt with under a single jurisdiction.

7. Ethnic minorities and cultural differences

Irish child protection services are not alone in facing the challenge of protecting children from ethnic minorities without falling into the trap of discriminating against them. Hoyano and Keenan have written: "The difficulty now is to strike the right balance between recognising that child-rearing standards may be different in different societies, and apply a nationally and universally accepted standard of child welfare to prevent harm." (Hoyano and Keenan, 2010, page 11).

We know from international research that members of ethnic minorities are more likely to face child protection proceedings than the general population. This is particularly true of members of indigenous minorities, like Aboriginal people in Australia and Native Americans in North America, and can be seen here from our statistics in the case of Travellers (see Tilbury, 2009; Cox and Ephros, 1998). This is not just a problem for the CFA. Irish society generally has long tolerated the exclusion of Travellers.

It was also ill-prepared for the challenges immigration brings. Not only is this revealed in the cultural gulfs often revealed during child care court proceedings, increasingly it is also demonstrated in ancillary proceedings, when the children are in care but cultural issues continue to be contested between the birth family and the CFA because they are in foster care outside their culture. It is likely that some care proceedings could be averted by better and more consistent integration policies for immigrants, which is a matter for national policy and not just the CFA, and that difficulties when such proceedings are commenced could be reduced by better cultural awareness and by cultural mediation. (For an outline of best practice, see Boyd Webb, 2001) While cultural mediators exist in Dublin, and are regularly engaged by the courts, there is little evidence that this resource exists outside of Dublin.

The Migrant Family Support Service is providing valuable guidance and support for migrant families, including those in direct provision, and has recently sent its leaflets into schools, churches and mosques, and is now collaborating with the CFA in seeking migrant foster families. This work needs to be built on and expanded.

There is a particular issue in Ireland related to the Direct Provision system, to which we referred in previous reports. We have reported on cases where mothers in Direct Provision suffered from severe episodes of mental illness, leading to their children being taken into care. We are aware of children who were born in 2007 in Direct Provision, are still living there and the only time period they have spent outside it was when they were in foster care while their mother received treatment for mental illness. We endorse the recommendations of the Working Group on Direct Provision in this regard.

The cases we have attended illustrate, not only the cultural differences between immigrant parents and wider Irish society, in which their children become involved through school and social contact, but also the challenges of ensuring that the children, if taken into care, retain close links with their religion and culture, including the ability to communicate with their birth family in their own language. This is the stated policy of the CFA, but it is not clear that the CFA has the facilities and resources to make sure this happens.

Recommendation 7.1: Training programmes on cultural diversity, especially as it relates to child-rearing, should be developed in consultation with migrant support groups and community leaders and rolled out across the CFA. When child protection concerns arise among ethnic minority families, they should be dealt with by appropriately trained social workers. The services of cultural mediators should be engaged at an early stage, as well as during court proceedings. Foster families should actively be sought from among ethnic minorities.

Recommendation 7.2: In relation to Travellers, the CFA should delegate a team to liaise with leaders of the Travelling community in devising a child protection strategy specifically aimed at Travellers.

8. Substance abuse

Many of the parents facing child protection proceedings abuse alcohol or drugs, sometimes both, with negative effects on their ability to parent. However, in some cases the mere fact of abusing drugs is taken as evidence of inability to parent and not all parents who abuse alcohol or drugs are unable to parent. The proceedings need to hear clear evidence on the impact of the abuse on their parenting ability, particularly in the case of drug abusers, who may be stable on methadone or other drug-reduction programmes.

During the year the CCLRP organised an international conference on child protection and the law, which heard Sophie Kershaw describe the pilot Drug and Alcohol Court in England, which has had considerable success in helping people with drug and alcohol problems overcome them and avoid their children being taken into care, with addiction therapy and peer support services built into the court decision-making process. There is a Drug Court in this jurisdiction, but the issue of potential child protection concerns is not dealt with by this court. This is an area which could be explored.

There needs to be greater integration of drug and alcohol treatment programmes with the welfare needs of children and parenting programmes. Drug and alcohol treatment centres should consider providing parenting support, and mother and baby residential units should consider including the provision of addiction services. The model of the Bessborough Centre in Cork, which provides psychotherapy and addiction counselling as well as parenting programmes, should be used elsewhere in the country.

Recommendation 8.1: The Courts Service should give consideration to extending the remit of the Drug Court to include child protection issues, liaising with the existing child care courts.

Recommendation 8.2: The State should consider the provision of centres like Bessborough in other parts of the country, so that comprehensive and integrated supports can be provided to very vulnerable families, including those with addiction issues.

9. Young parents and parents in care

A considerable proportion of the parents facing child protection proceedings were themselves in care, and are usually very young. By definition, they will have received poor parenting themselves, especially if they entered the care system late. This means they have no models on which to base their own attempts to parent. If they are to succeed as parents they need intensive support, and this should start before they become parents. This could come from intensive parenting programmes, from co-parenting arrangements with foster families or from special units like Bessborough in Cork. Consideration should be given to the establishment of centres providing the comprehensive service offered by Bessborough

on a national basis. In addition, preparation for leaving care and after-care programmes should include birth control information and provision, and preparation for parenthood.

Recommendation 9.1: After-care provision should include preparation for parenthood. The identification of foster carers and the use of foster or residential care for young and vulnerable parents along with their children should become a priority of the CFA.

10. Voice of the child

As outlined in chapter 4, the "voice of the child" can be invoked in a wide variety of circumstances without a clear evaluation of the weight to be given to it in the light of the child's age and maturity. We have seen the views of teenagers dismissed as not being in their best interests, while the reactions of toddlers are held to demonstrate the "voice of the child" when that accords with the position of the social worker in question. There should be clear guidance as to the weight to be given to the views of children depending on their age and level of maturity.

As we have pointed out previously, there is no consistency in the manner in which the child care courts hear the voice of the child. This will have to be addressed in the light of the recent Children's Amendment, and we will not attempt to pre-empt this discussion. However, it must include consideration of how and when guardians *ad litem* are appointed and a definition of their role; consideration of the point and the circumstances in which it may be appropriate to hear the child directly, and whether that should always mean the child is legally represented; and whether psychologists should be engaged by the courts to assess the level of maturity of the child.

Recommendation 10.1: The CFA should ensure guidelines for social workers in obtaining the views of children should assess the weight to be given to them in the light of their age and maturity.

Recommendation 10.2: The courts should develop a consistent policy concerning hearing the voice of the child, setting principles for the judge directly hearing the child, appointing a guardian ad litem and/or a solicitor for the child.

11. Guardians *ad litem*

The issue of the role of guardians *ad litem* is currently under discussion. Valuable contributions to that discussion have been made by, among others, various members of the judiciary in their District Court judgments (on www.courts.ie), solicitor Colm Roberts in the Law Society *Gazette* and Fianna Fáil spokesman on health and children, Robert Troy, in his recent Private Members Bill. We may contribute to that discussion at a later date. Already we have observed that it is rare to see a GAL taking an opposing view to that of the CFA and their evidence is often very similar to that of the social workers, though it may be more

nuanced. While GALs are regularly critical of the CFA for failure to provide proper supports for the child they generally support the application for the Care Order.

However, it is very evident from our attendance at court that the present situation, whereby GALs and their legal representatives are paid but not employed by the CFA, is both undesirable and unsustainable, both from the point of view of the CFA and the GALs. It is highly unsatisfactory for the CFA that there exists a substantial area of its expenditure over which it has no control. From the point of view of the GALs, their payment by the CFA can give rise to the perception, even if ill-founded, that they are not independent, which they are required to be. Such a view may be exacerbated if the nomination of a particular GAL is suggested by the solicitor for the CFA, as sometimes happens.

Guardians *ad litem* are appointed by the court to advise it as to the views and welfare of the child. It seems obvious, therefore, that the cost of the GAL service should be borne by the courts, which should be adequately resourced to do so, based on the cost of the GAL service over recent years and an estimate of any additional cost the recent Child and Family Relationships Act may bring.

Recommendation 11.1: As part of the overhaul of the GAL system, the Courts Service should assume responsibility for maintaining a list of accredited GALs and payment for GALs when they are appointed by the court, and be adequately resourced to do so. The courts should decide on when it is appropriate for the GAL to have legal representation.

12. Child sex abuse

Child sex abuse is a highly emotional issue and allegations of child sex abuse have featured in the most contested cases we have seen. They raised difficult issues about the requirement to assess risk on the basis of "proven facts". The two sources of the evidence, apart from the social workers, were the children themselves and expert witnesses, usually experts in physical or sexual child abuse or in the assessment of the credibility of children's allegations. When allegations or indications of abuse are made by children it is possible for this to pass through a number of people – foster parents, fostering link worker, social workers – before it reaches court, with all the attendant dangers that can bring.

In Ireland the rules of evidence still exclude hearsay evidence, though there is an exception in relation to allegations made by children in Section 23 of the Children Act, 1997. But this does not exhaust the matter. Certain CFA applications for orders contain the phrase: "pursuant of S. 23 of the Children Act 1997 the Child and Family Agency intends to rely on all hearsay statements, together with particulars of same, contained herein, for the purpose of all applications made and the context of the ongoing child care proceedings in this case" However, while Section 23 of this Act does permit the admission of indirect or hearsay evidence from children if it is not in the interests of the child to give direct evidence, it is clearly envisaged that the admissibility of this evidence must be considered by the court.

The section states: "In considering whether the statement or any part of the statement ought to be admitted, the court shall have regard to all the circumstances, including any risk that the admission will result in unfairness to any of the parties to the proceedings."
This has given rise to a series of legal arguments in different cases, and has been the subject of a number of recent written judgments in the District Court, available on the Courts Service website.

In many cases where child sex abuse is suspected, there may not be disclosures or allegations from the children themselves, for various reasons. The suspicion of child sex abuse may be based on the child's behaviour, and the assessment of this is frequently done by experts in the field of child sex abuse, though the absence of specialist child sex abuse units in many parts of the country means they are not always available and social workers give evidence of suspected child sex abuse. In the absence of disclosures this is usually based on sexualised behaviour on the part of the child.

However, experts now point out that this is not a reliable indicator of child sexual abuse. In a lecture to TCD's MSc in Child Protection students in 2013, Dr Rosaleen McElvaney, clinical psychologist lecturing in DCU, said that, while such behaviour had previously been considered a strong indicator of abuse it no longer was, and could be attributed to a number of other reasons, including a child seeing sexual behaviour on television or the general social atmosphere. It is also known to feature in the behaviour of children with cognitive disabilities, especially when they are under stress. Hoyano and Keenan warned that phrases like "consistent with" abuse are problematic, unless accompanied by evidence of the frequency of the behaviour among abused, as against non-abused, children.

Thus expert evidence is needed where child sex abuse is alleged. However, it is rare that experts in this area are called on behalf of parents, due to a lack of resources on their part and that of the Legal Aid Board, though parents have every right to contest such expert evidence. The courts themselves have, on a number of occasions, sought evidence from independent experts on child sex abuse and on the credibility of children's allegations.

Another contentious area is the admission of DVDs of interviews with children from sex abuse experts or the Gardaí. The latter are obtained for the purpose of criminal prosecutions, not for use in child protection proceedings. This is further complicated by the possibility of a number of interviews. While there is a protocol between the Gardaí and the CFA on carrying out joint interviews with children who allege sexual abuse, this is not always implemented. In addition, the Gardaí may resist disclosing their DVDs in the child protection proceedings. This issue is likely to be repeatedly litigated. If there are separate interviews by social workers or sex abuse experts there are dangers associated with repeated interviewing, which may also cause additional trauma to the children. In addition there is a danger that making DVDs of sex abuse allegations available to parents could expose their child or foster parents to risk.

In one case cited above the judge ruled that, before a full Care Order hearing took place, three assessments should be carried out: a forensic risk assessment of the parents;

a credibility assessment of the child's allegations; and a credibility assessment of the information gathering process, all by appropriate experts who, to date, appear to exist only in the UK. This approach would guarantee a sufficiently rigorous assessment of the evidence in such cases, which are the most serious child protection cases to come before the courts.

It would be very useful if a uniform template was drawn up for use in all District Courts for the admission of various types of evidence in child sex abuse cases, including expert and DVD evidence, and also including guidance as to who may see such evidence. In his Seventh report as Government Rapporteur on Child Protection, Dr Shannon states: "Section 23 of the 1997 Act needs to be reviewed in the context of care proceedings whereby the evidence of the child should be admissible, but with safeguards built in as to the weight to be attributed to it and an assessment of the particular circumstances of the disclosure."
We endorse this proposal.

Recommendation 12.1: In all cases where allegations of child sex abuse are made, the CFA should have prompt access to specialist child protection interviewers. In order to minimise challenges to their evidence, their training needs to be reviewed and brought to whatever the known gold standard is. The Garda/CFA protocol for joint interviewing of children suspected of having been abused should also be implemented consistently.

Recommendation 12.2: While not encroaching on the independence of the judiciary, it would be very useful if the judges of the District Court were to agree on guidelines for use in all child protection proceedings where sex abuse is alleged on the admissibility of evidence from children, including DVD evidence.

13. Reducing adversarial aspects of proceedings

It is inevitable that some care proceedings will be contested by the parents. It is also undeniable that families facing child protection proceedings will have some problems. Sometimes these will be acknowledged and the order will be consented to. This is especially the case with Supervision Orders and the continuation of orders already made. However, parents are likely to be readier to accept Care Orders where there is clarity about the reasons for them and what needs to be done for reunification of the family to take place. As we said in our Second Interim Report, the conditions for reunification should be spelled out in applications for Care Orders, though there must be exceptions where serious abuse is alleged. It is also likely that these conditions often may not be met, but they would give parents hope and something to aim for, and could prompt changes in behaviour. It bears repeating that the jurisprudence of the European Court of Human Rights stresses that reunification should generally be an objective when children are taken into care.

For reunification to take place the relationship between children and their parents must be maintained. This requires regular and meaningful access. Apart from the care applications themselves, disputes about access, particularly supervised access, are among the most

contentious we have seen. As we stated before, at the moment if access is supervised by social workers it must take place in office hours, which is unlikely to be easy for parents who work or children who are in school. The use of reports from access meetings in on-going court proceedings is also a source of increased conflict between parents and the CFA. Even if reunification is not in prospect, maintaining a child's relationship with his or her birth family (outside of grave ill-treatment) will generally be a positive factor in their future sense of identity and mental health.

However, children also suffer if there is a lack of stability in their family circumstances, and moving in and out of care, or changes in placement, have a very negative impact on the outcomes for children in care. For reunification to work, it needs to be carefully planned, based on specific changes taking place, with the necessary supports in place for the family. As the study *Achieving successful returns from care* by Farmer *et al* points out, "there were increased levels of stability when conditions had been set." (Farmer *et al*, 2011, page 200)

Recommendation 13.1: In applying for Care Orders, the CFA should outline the conditions that need to be met for reunification to take place.

Recommendation 13.2: In making Care Orders, except in exceptional circumstances, the courts should set minimum levels of access, at sufficient levels for the children to maintain a meaningful relationship with their parent or parents and extended family. Every effort should be made to ensure supervised access takes place outside of CFA offices and supervised by independent agencies, at times and in places that suit parents and children.

14. Legislative reform

The Department of Children and Youth Affairs has announced the review of the Child Care Act 1991, as amended. This is very welcome, as it has been in existence for almost 25 years. Without pre-empting that review it is obvious that the range of orders in the current Act is not sufficient to meet the needs of families in crisis. We have already referred to introducing a "Holding Order" for new-borns at risk. The requirement that Interim Care Orders are renewed every 29 days can interrupt assessments and parents' engagement with services. If the initial Interim Care Order contained a detailed timetable for assessments and parents' engagement with services the parents would be likely to consent to a longer Interim Care Order, with provision for return to court if the timetable was not adhered to. Alternatively, or in addition, short Care Orders could be used.

The variation in the application of the Act around the country is itself evidence of the inadequacy of the existing range of orders. In particular, the use of short Care Orders in some cities and towns in Munster, accompanied by regular reviews of these orders, demonstrates the need for a shorter order than that provided for in Section 18 of the Act ("for so long as he remains a child or for such shorter period as the court may determine").

The experience of short Care Orders shows their usefulness when accompanied by a requirement that the child and/or the parents receive therapies or engage with services.

Recommendation 14.1: Any review of the Child Care Act should include a review of existing practice and wide consultation with social work and child law experts and legal practitioners.

15. The court system

As referred to in our previous reports, over-crowded lists outside Dublin militates against cases receiving the attention they may require, and leads to frequent adjournments. Both in Dublin and elsewhere the physical circumstances of many courts, with crowded and public waiting areas, undermines the dignity of the parties, causes additional stress and militates against calm and focused discussion between the parties. The unavailability of legal representation for respondents can cause adjournments and further delay.

As we have said before, the establishment of a dedicated Family Court to hear both public and private family law, with provision of appropriate waiting and meeting facilities in a number of dedicated court-houses, is a matter of urgency.

In the meantime, the situation could be ameliorated by prioritising family law, and especially child care cases, in the allocation of resources in the District Courts and by ensuring that all cases likely to be contested are heard by a judge who can set aside the required number of days to hear them. In some Districts this will require the use of a "moveable judge". The Courts Service should ensure that these judges are facilitated in prioritising these cases.

Recommendation 15.1: The establishment of a dedicated Family Court, as promised in the Programme for Government, should be prioritised.

Recommendation 15.2: In the meantime, in Districts where there is no dedicated child care hearing day, moveable judges should be asked to hear cases likely to be contested.

Recommendation 15.3: In all child care cases respondents must have an opportunity to obtain and instruct legal representation in a timely way. The Legal Aid Board must ensure that it can provide such representation when requested.

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Appendix 1: Glossary

Access: Meetings between a child and members of his or her family, usually parents and siblings, when the child or children is in care. Access may be supervised when contact with the parents is considered to be a risk to the child's welfare

ADHD: Attention deficit hyperactivity disorder is a neurodevelopmental disorder where the child has significant problems of attention, is hyperactive and acts impulsively. It can be associated with neglect and abuse in childhood and often results in problems in school

Alternative dispute resolution: This is a term used to describe ways of resolving disputes outside of court, and includes mediation, conciliation, arbitration and collaborative law.

Attachment disorder: This is a disorder arising in children who have had very disrupted care in their infancy, where they have been unable to form a secure attachment to a parent figures, affecting their emotional development and ability to form relationships.

Brussels II: This is an EU Convention which seeks to regulate family law where two or more EU member states are involved, for example, if two people in dispute live in different countries. It also arises if parents move from one jurisdiction to another.

Care Order: An order, either interim or long-term, made by the courts permitting the State to take a child into care where the court decides the child is in need of care and protection.

Case conference: Conferences concerning children and families considered at risk where the various professionals can co-ordinate their approach and make recommendations. Parents are not entitled to attend, but may be invited to.

Children First guidelines: *Children First: National Guidance for the Protection and Welfare of Children* outlines how child protection should be at the centre of all organisations working with children, including educational and recreational organisations.

Emergency Care Order: This is an order made taking a child into care where he or she is considered to be at immediate and serious risk. Unlike in other care applications, the application can be made without notifying the parents if the safety of the child requires it.

Foster care: The great majority of children in State care are in family homes in the care of foster parents, either contracted directly by the CFA or working for private organisations.

Guardian ad litem: Section 26 of the 1991 Child Care Act allows the court to appoint a guardian *ad litem* for a child in child care proceedings where it is necessary in the interests of the child and in the interests of justice. No criteria are laid down for who can act as a guardian *ad litem*, though in practice they are usually qualified social workers.

High support units: Residential units for children in need of special care and protection who are unlikely to receive it in a foster care placement or ordinary residential unit. The child is not detained there, however, and can leave, unlike when he or she is detained by order of the High Court in a Special Care Unit.

Non-accidental injury: This is the term used to describe injuries sustained by a child while in the care of his or her parents, and which cannot be explained by an accident. They are usually inflicted deliberately or through negligence concerning the danger posed by actions of the parent towards the child.

Placement (of child): This refers to the placement of a child in foster care or residential institution.

Risk assessment: Risk assessment involves assessing the probability of a particular adverse event happening to a child within a specific period or in specific circumstances, and requires evaluating the circumstances known to create such a risk.

Section 47 application: This section of the Child Care Act enables the District Court, on its own motion (own initiative) or on the application of any person, to give directions or make orders affecting the welfare of the child. It is often used by guardians *ad litem* or parents to obtain specific services for a child or change aspects of the child's care.

Seisin (of a case): A court is "seised" of a case when documents are lodged with that court. If different judges sit in a particular court, sometimes a specific judge will be "seised" of a particular case, meaning he or she, and not one of the other sitting judges, will hear it. The issue of "seisin" is also often discussed in the context of the Brussels II Regulation, when the jurisdiction of different courts is in dispute.

Special care units: These are units where children with severe emotional and behavioural problems may be detained for therapeutic purposes. Children can only be detained in them by order of the High Court.

Supervision Order: This is an order made by the District Court under Section 19 of the Child Care Act where the court has reason to believe that a child's health, development or welfare are at risk, and authorises the Child and Family Agency to visit the child in his or her home to ensure the child's welfare is being promoted.

Unaccompanied minor: These are children under the age of 18 who are found entering Ireland or in Ireland without a responsible adult.

Welfare of the child: This is not defined in the 1991 Act, though the courts have defined it to include health and well-being, physical and emotional welfare and moral and religious welfare, as well as being materially provided for. The "best interests of the child" is often used in the same context.

Appendix 2: District Court Tables

1 Overview: December 2012 – July 2015

1.1 Court Order Applications

1.1.1 Type of application

1.1.2 Reason for application

1.2 The Applicant

1.2.1 Applicant represented by

1.3 The Respondent

1.3.1 Respondent

1.3.2 Respondent representation

1.3.3 Respondent details

1.3.4 Respondent ethnicity

1.3.5 Present in court

1.4 The Children

1.4.1 Number of children subject of application

1.4.2 Age of children

1.4.3 Children with special needs

1.4.4 Guardian *ad Litem*

1.4.5 Employment of Guardian *ad Litem*

1.4.6 Guardian *ad Litem* representation

1.5 The Foster Carers

1.5.1 Foster carers

1.5.2 Residential unit location

1.6 The Court Hearing

1.6.1 Length of hearing

1.6.2 Other witnesses

1.6.3 Outcome of case

1.6.4 Outcomes by application type

2 Regional Analysis: December 2012 – July 2015

2.1 Regional Divisions

2.2 Court Order Applications

2.2.1 Type of application

2.3 The Respondent

2.3.1 Respondent

2.3.2 Respondent representation

2.3.3 Respondent details

2.3.4 Respondent ethnicity

2.4 The Children

2.4.1 Children with special needs

2.4.3 Guardian *ad Litem*

2.4.3 Employment of Guardian *ad Litem*

2.4.4 Guardian *ad Litem* representation

2.5 The Foster Carers

2.5.1 Foster carers

2.5.2 Residential unit location

2.6 The Court Hearing

2.6.1 Length of hearing

2.6.2 Other witnesses

2.6.3 Outcome of case

3 Reasons for Court Orders

3.1 Reasons for Court Order

3.1.1 Reasons for Court Order by Respondent Background

3.1.2 Reasons for Court Order by Respondent Status

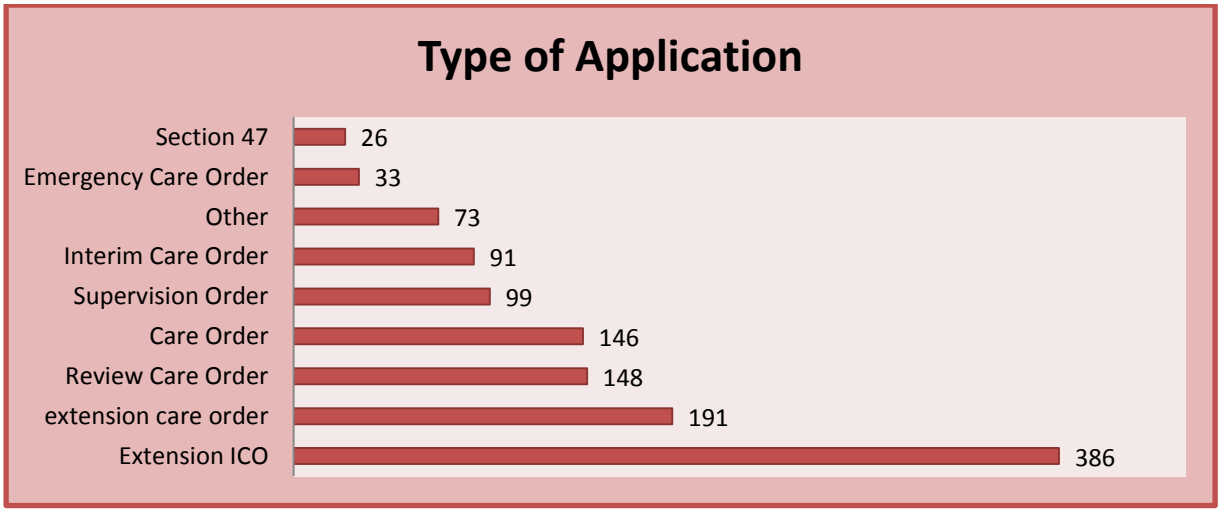
1 Overview: December 2012 – July 2015

1.1 Court Order Applications

1.1.1 Type of application

Where an order is granted, it may be for a Care Order for a limited period, typically one or two years. If the problems in the family are resolved in that time, the order lapses and does not feature in the statistics as a discharged order. The statistics capture a relatively small number of Emergency Care Orders as they do not normally feature in scheduled family law days.

Type of Application	Number	% of all applications
Extension ICO	386	32.3
Extension care order	191	16.0
Review Care Order	148	12.4
Care Order	146	12.2
Supervision Order	99	8.3
Interim Care Order	91	7.6
Other	73	6.1
Emergency Care Order	33	2.8
Section 47	26	2.2
Not applicable	1	0.1
Total	1194	100.0
Other includes:		
Access	14	19.2
Approve after-care plan	11	15.1
See comments	9	12.3
Extend CO	9	12.3
Discharge order	7	9.6
Review supervision order	7	9.6
Not recorded	5	6.8
Circuit Court appeal	4	5.5
Re-entry	3	4.1
Placement issue	1	1.4
Case management	1	1.4
Jurisdiction	1	1.4
Serve outside jurisdiction	1	1.4



1.1.1a Secondary Matters

During a number of applications other matters arose and were sometimes the major issue in contention during the proceedings – where this occurred we noted it below.

Primary Application	Secondary Application	Number of cases
Extension care order	Review Care Order	67
	Section 47	40
	Discharge Order	14
	Approve after-care plan	7
	Access	7
	Review Supervision Order	4
	Pregnant minor	1
Extension ICO	Section 47	6
	Access	3
	Review Supervision Order	1
Supervision Order	Review care order	1
Interim Care Order	Section 47	1
Care Order	Section 47	1

1.1.2 Reason for seeking order

Reasons	Number	% of all applications
Parental disability (intellectual, mental, physical)	184	15.4
Neglect	183	15.3
Multiple	177	14.8
Parental drug abuse	144	12.1
Parental alcohol abuse	118	9.9
Physical/emotional abuse	78	6.5
Parent absent/deceased	56	4.7
Other	51	4.3
Abuse (before split into sexual and physical)	46	3.9
Childs risk taking	40	3.4
Sexual abuse	38	3.2
Not recorded	31	2.6
Domestic Violence	27	2.3
Not applicable	12	1.0
Trafficked/abandoned	9	0.8
Total	**1194**	**100.0**

1.2 The Applicant

In the vast majority of cases the applicant is the Child and Family Agency/Tusla. In a very small number of cases the applicant is the parent or the guardian *ad litem*, for example, when seeking the discharge of an order, or making a Section 47 application to modify the order or obtain services. However, the CFA always features in these tables as the applicant, to avoid confusion in relation to the statistics relating to representation.

1.2.1. Applicant represented by

Representation	Applications	% of all applications
Solicitor	1173	98.2
Barrister	16	1.3
Senior Counsel	3	0.3
Not applicable	2	0.2
Total	**1194**	**100.0**

1.3 The Respondent

1.3.1 Respondents

Respondents	Number	% of all respondents
Both	689	57.7
Mother	366	30.7
Father	56	4.7
Other	37	3.1
More than one father	36	3.0
Not applicable	7	0.6
Not recorded	3	0.3
Total	**1194**	**100.0**

Note: 'Other' includes grandparents and foster parents, 'more than one father' also include mother, where the children have different fathers.

1.3.2 Respondent representation

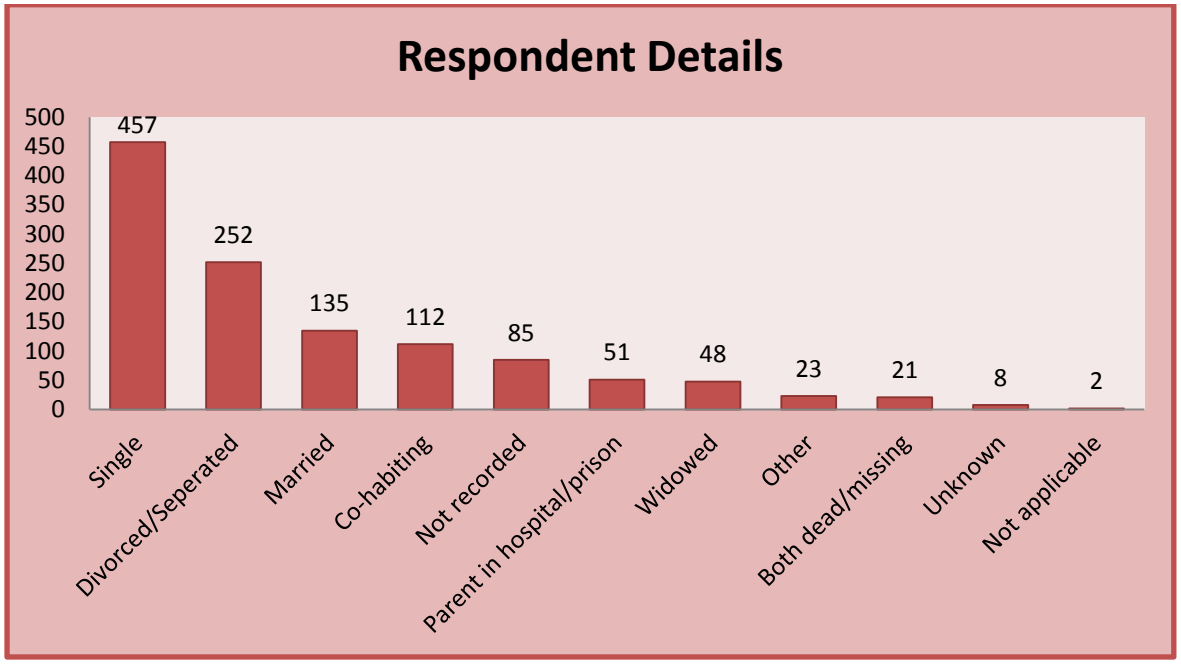
Representation	Number	% of all respondents
Legal Aid Board	622	52.1
No legal representation	305	25.5
Private Solicitor	97	8.1
Barrister	82	6.9
LAB barrister	41	3.4
Both LAB and Private	20	1.7
Not recorded	15	1.3
Not applicable	12	1.0
Total	**1194**	**100.0**

In a number of cases respondents had not obtained legal representation and were urged to do so by the judge, who adjourned the case. In others the respondent stated that they did not want representation or they were not present.

1.3.3 Respondent details

Respondent details	Number	% of all respondents
Single	457	38.3
Divorced/Separated	252	21.1
Married	135	11.3
Co-habiting	112	9.4
Not recorded	85	7.1
Parent in hospital/prison	51	4.3
Widowed	48	4.0
Other	23	1.9
Both dead/missing	21	1.8
Unknown	8	0.7
Not applicable	2	0.2
Total	**1194**	**100.0**

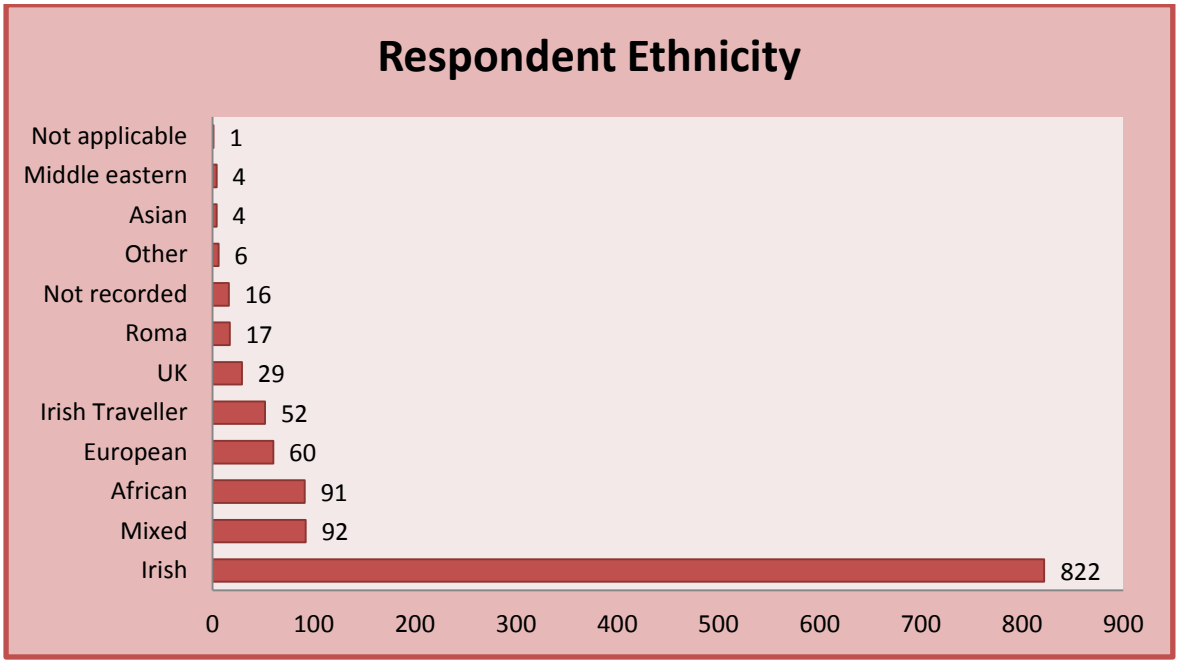
Some respondents came under more than one category. The category most relevant to the case was noted. The majority of 'divorced/separated' are couples who previously co-habited and no longer do so. A minority were married and later separated or divorced. .



1.3.4 Respondent Ethnicity

Respondent ethnicity	Number	% of all respondents
Irish	822	68.8
Mixed	92	7.7
African	91	7.6
European	60	5.0
Irish Traveller	52	4.4
UK	29	2.4
Roma	17	1.4
Not recorded	16	1.3
Other	6	0.5
Asian	4	0.3
Middle eastern	4	0.3
Not applicable	1	0.1
Total	**1194**	**100.0**

Note: 'Mixed' includes all cases where at least one parent was not Irish. In some cases one parent was Irish, in others both were from different non-Irish backgrounds.



1.3.5 Respondents present in court

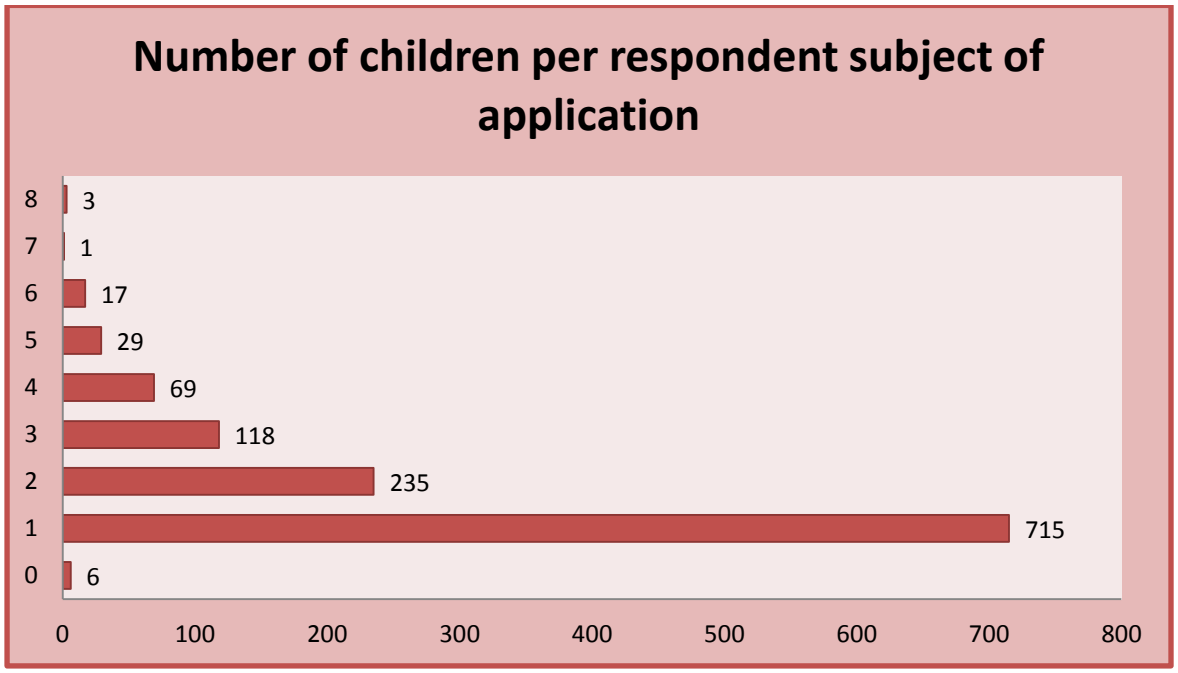
Present	Number	% of all respondents
None present	441	36.9
Both present	382	32.0
One present, one not	318	26.6
Not recorded	45	3.8
Not applicable	8	0.7
Total	**1194**	**100.0**

In some cases where the respondent was not present in court, he or she was represented by a solicitor and consented to the application. In other cases, for example, reviews of existing orders, there was no pressing need for the respondent's presence.

1.4 The Children

1.4.1 Number of children per respondent subject of application

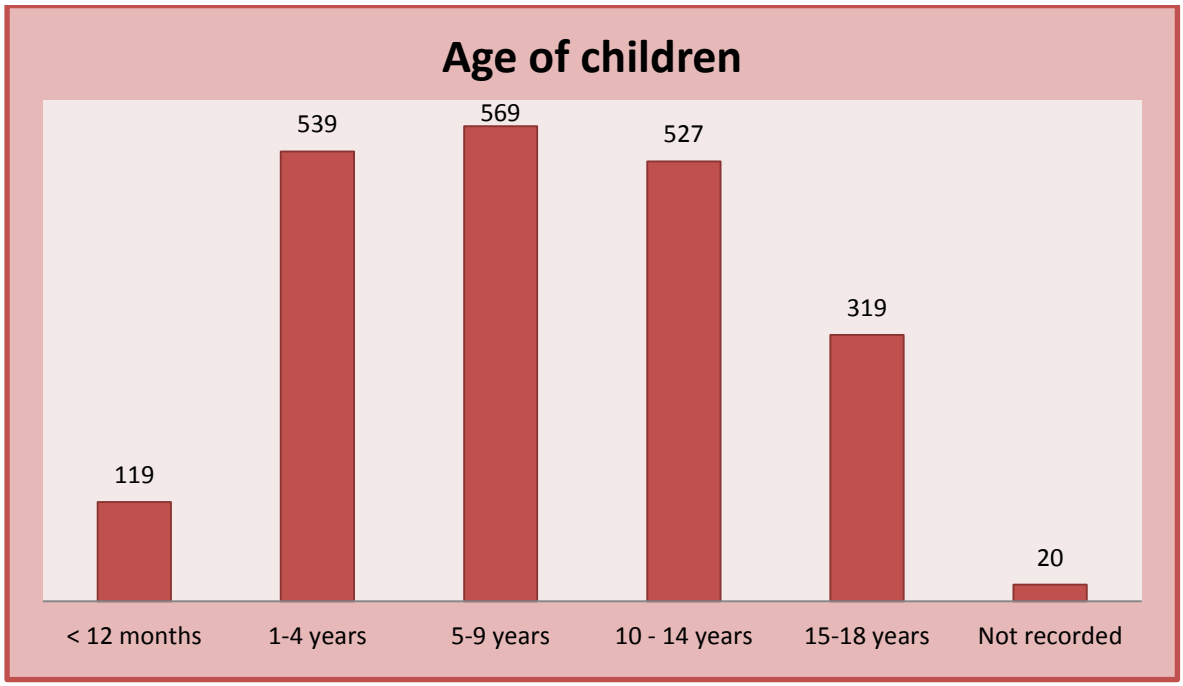
Children	Applications	% of applications
0	6	.5
1	715	59.9
2	235	19.7
3	118	9.9
4	69	5.8
5	29	2.4
6	17	1.4
7	1	.1
8	3	.3
Not recorded	1	.1
Total applications	1194	100.0
Total children	**2093**	



1.4.2 Age of Children

Note: We added an extra category 'Under 12 months' to our data collection sheet in October 2013, eight months after we started collecting data, following a suggestion at our stake-holders meeting in September. Previously the category 0-4 was undifferentiated. This means that the under 12 months category is under represented in these figures, which covers all cases attended from December 2012 to July 2015.

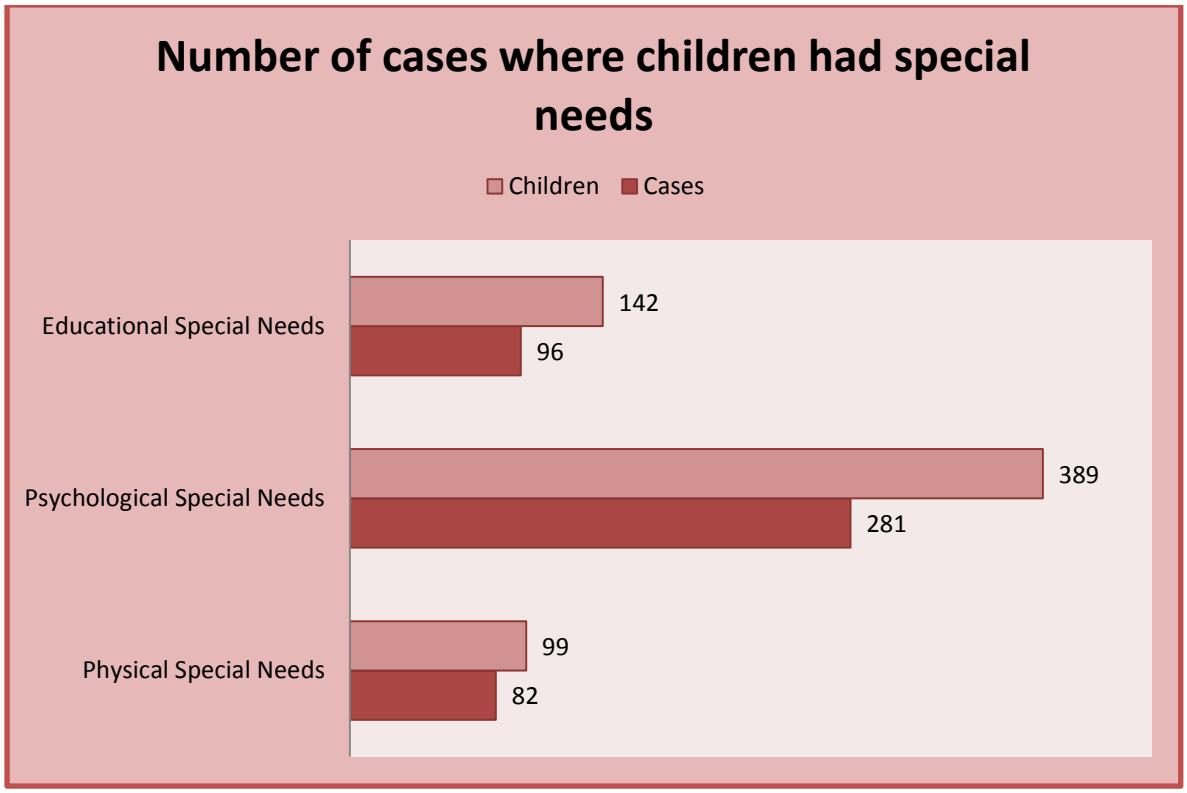
Age of children	Children	% of applicants	% of children
< 12 months	119	9.7	5.7
1-4 years	539	34.2	26.0
5-9 years	569	35.1	27.4
10 - 14 years	527	30.6	25.4
15-18 years	319	24	15.4
Not recorded	20	1.7	1.0
Total applicants	**1194**	**100**	
Total children	**2093**		**100.0**

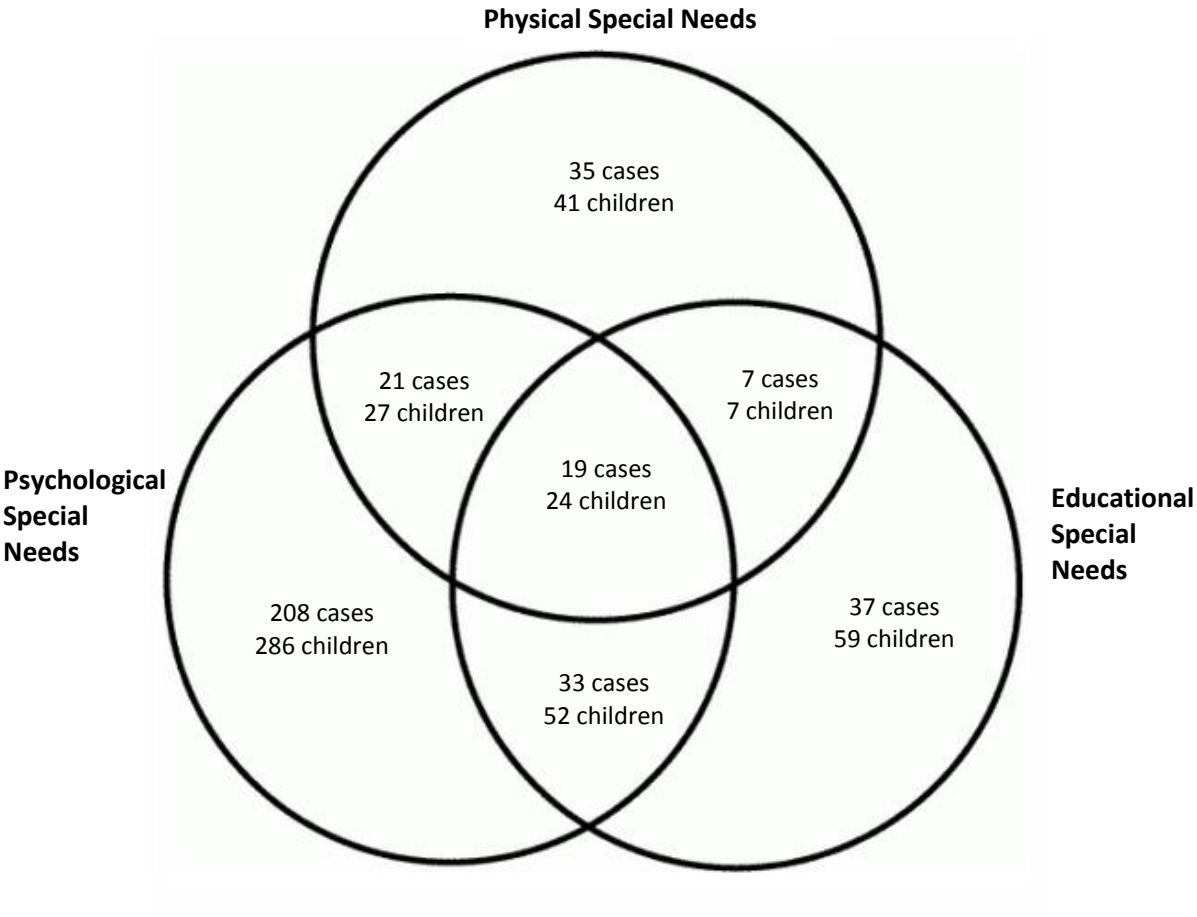


1.4.3 Children with Special Needs

- 360 (30%) cases involved children with special needs (496 children, or 24% of all children)
  - 281 cases involved children with psychological special needs (389 children)
  - 96 cases involved children with educational special needs (142 children)
  - 82 cases involved children with physical special needs (99 children)
  - 80 (7%) cases involved a child/children with more than one type of special need (119 children, or 6%)
  - 19 (2%) cases involved a child with all three types of special need (24 children, or 1%)

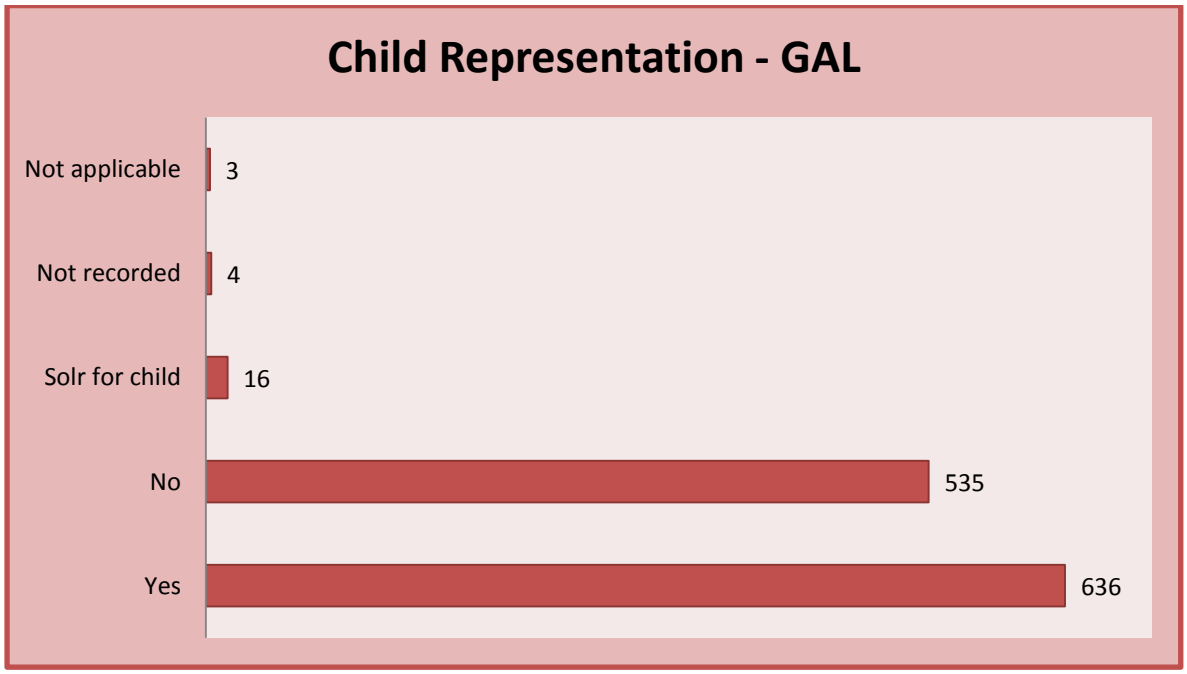
	Physical Special Needs	Psychological Special Needs	Educational Special Needs
1 child	69	217	67
2 children	11	40	20
3 children	1	11	3
4 children		6	4
5 children	1	7	2
Total cases	82 (7%)	281 (24%)	96 (8%)
Total children	**99 (5%)**	**389 (19%)**	**142 (7%)**





1.4.4 Were the children represented by a Guardian ad Litem?

Yes (636 cases, or 53%), No (535 cases, or 45%), Solicitor for child (16), Not recorded (4), Not applicable (3)



1.4.5 Guardian ad Litem employed by:

Of the 636 cases where the child/children were represented by a Guardian *ad Litem* 50% of them were employed by Barnardos. Roughly 40% were independent.

Guardian *ad Litem* employed by:	Number of cases	% of cases were children were represented by GaL
Barnardos	316	49.7
Independent	252	39.6
Not recorded	68	10.7
Total	**636**	**100.0**

1.4.6 Guardian ad Litem represented by:

Of the 636 cases where the child/children were represented by Guardian *ad Litem*, almost 82% of these Guardians *ad Litem* were represented by a private solicitor, with less than 7% represented by a barrister. The cases where a barrister was involved were normally the longer and more complex cases.

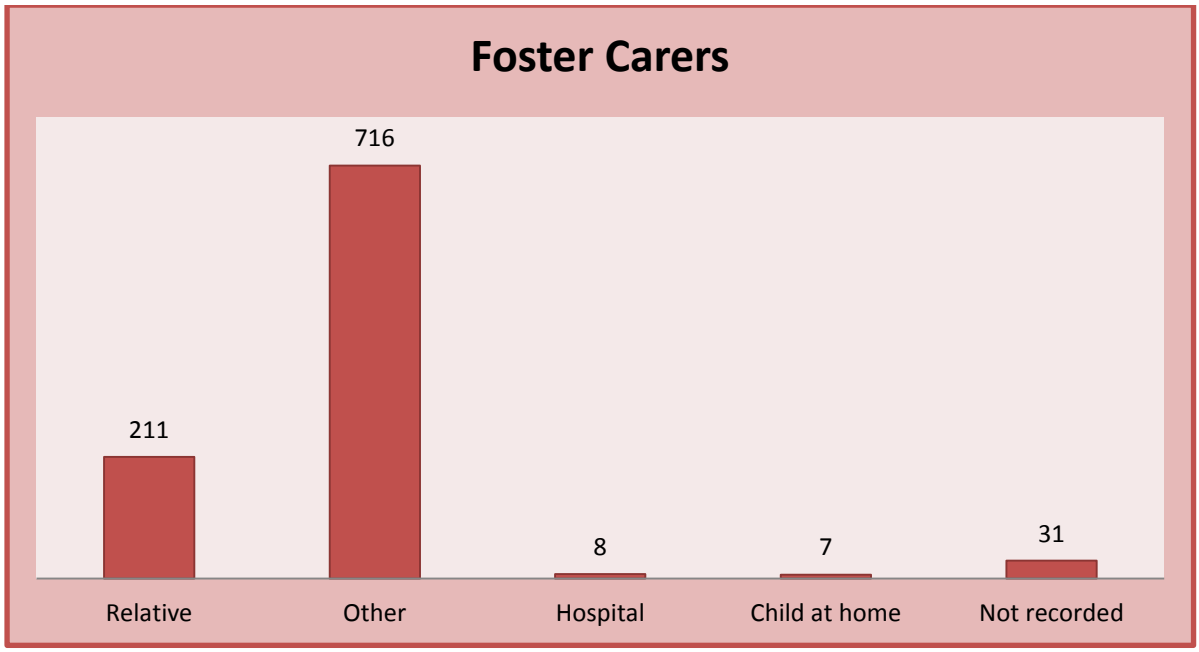
Guardian *ad Litem* represented by:	Number of cases	% of cases where GaL were represented
Solicitor	520	81.8
Barrister	43	6.8
Not represented	35	5.5
Not recorded	38	6.0
Total	**636**	**100.0**

1.5 Care

1.5.1 Foster Carers

Foster carers are:	Cases	% of cases
Relative	211	17.7
Other	716	60.0
Hospital	8	.7
Child at home	7	.6
Not recorded	31	2.6
Not applicable	221	18.5
Total	**1194**	**100.0**

"Not applicable" includes children in residential centres and those at home under Supervision Orders, which made up 8.3 per cent of all cases.

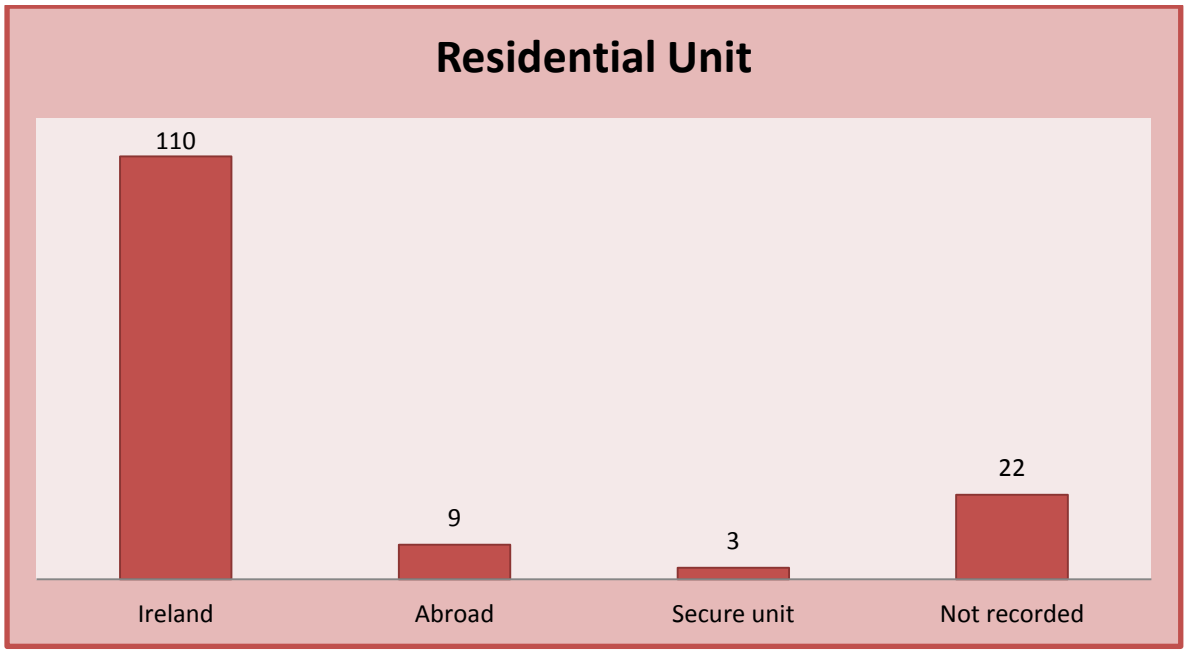


1.5.2 Residential unit location

Children in secure units in Ireland or abroad are usually sent there on foot of High Court orders, though sometimes there are parallel proceedings in both the District and High Courts. See separate High Court statistics for children in secure care.

Residential Unit	Cases	% of all cases
Ireland	110	9.2
Abroad	9	.8
Secure unit	3	.3
Not recorded	22	1.9
Not applicable	1050	87.9
Total	**1194**	**100.0**

"Not applicable" includes children in foster care and those at home under Supervision Orders, which made up 8.3 per cent of all cases.

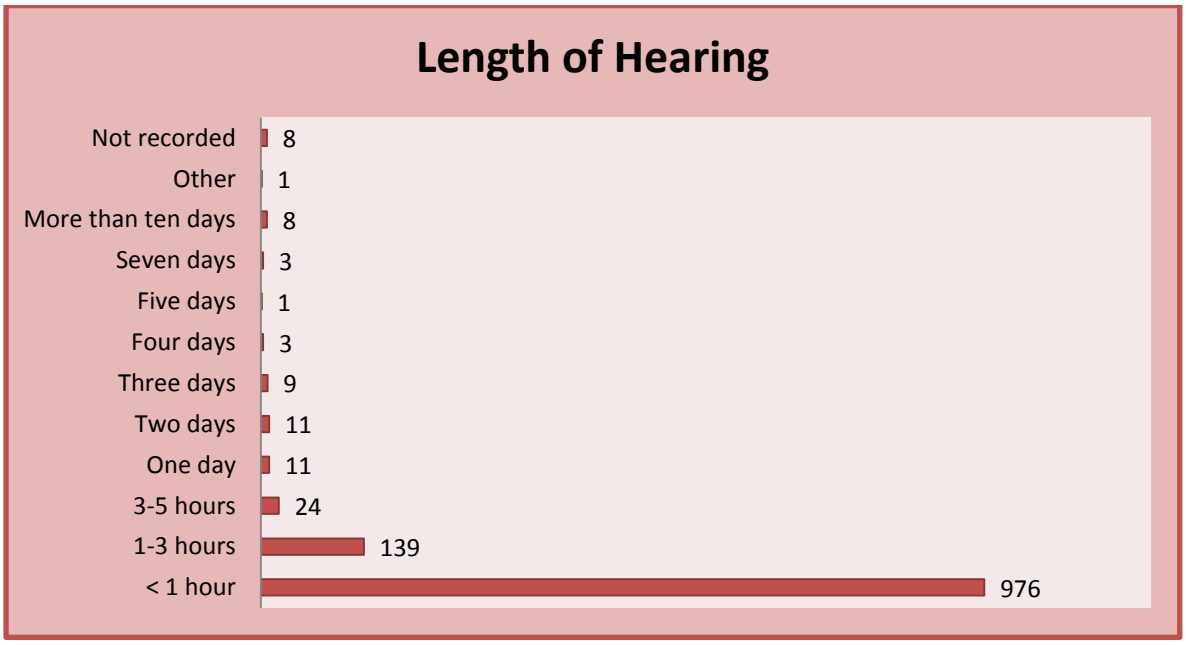


1.6 Court Hearing

1.6.1 Length of Hearing

The majority of hearings were short, as they involved a renewal or a review of an existing order, or because they were adjourned. However, 47 took at least one day, 36 took two days or more, and 13 took over five days. A number of these long cases, particularly where they take place outside Dublin, are repeatedly adjourned.

Length of hearing	Cases	% of all cases
< 1 hour	976	81.7
1-3 hours	139	11.6
3-5 hours	24	2.0
One day	11	.9
Two days	11	.9
Three days	9	.8
Four days	3	.3
Five days	1	.1
Seven days	3	.3
More than ten days	8	.7
Other	1	.1
Not recorded	8	.7
Total	**1194**	**100.0**



1.6.2 Other witnesses

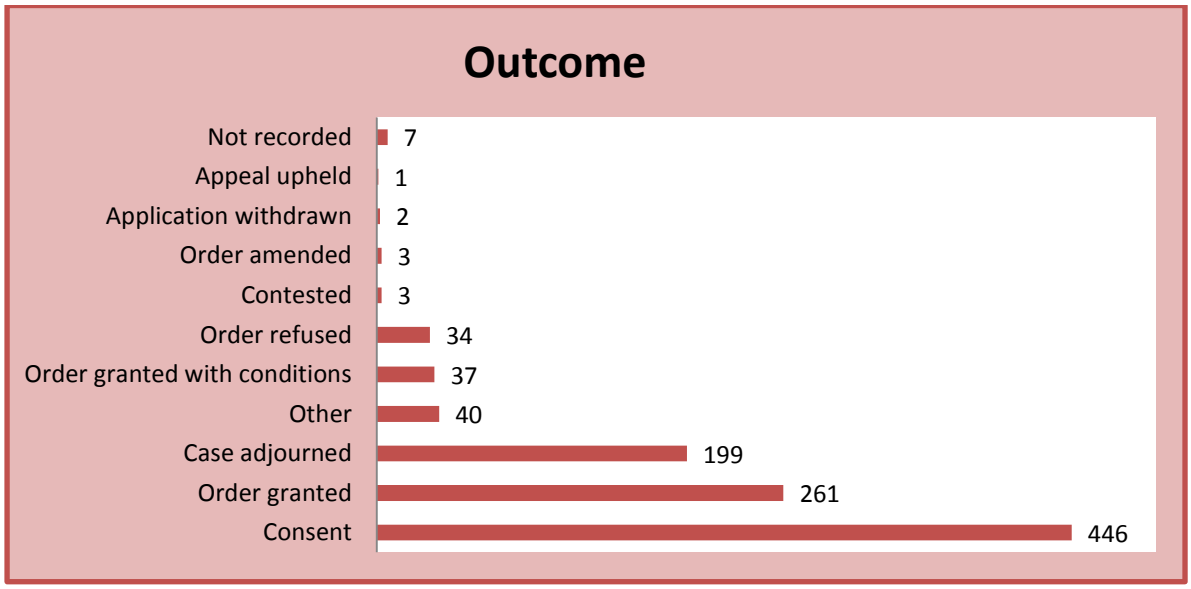
In some cases where 'none' is recorded under 'witnesses' the solicitors in the case update the court on the case. 'Social worker' sometimes includes more than one social worker.

	Cases	% of all cases
Social worker	591	49.5
None	447	37.4
Solicitor only	46	3.9
Psychiatrist/Counsellor	27	2.3
Multiple	20	1.7
Garda	19	1.6
Other	18	1.5
Teacher	7	.6
Public health nurse	6	.5
Doctor	2	.2
Not recorded	8	.7
Not applicable	3	.3
Total	**1194**	**100.0**

1.6.3 Outcome of case

In just over 37 per cent of cases the respondents consented to the order being sought. In some where both father and mother were respondents one might consent and the other contest the order. Where it is stated the order was granted this followed objection by a respondent. "Not applicable" covers cases where orders were reviewed or Section 47 applications were made.

Outcome	Cases	% of cases
Consent	446	37.4
Order granted	261	21.9
Case adjourned	199	16.7
Other	40	3.4
Order granted with conditions	37	3.1
Order refused	34	2.8
Contested	3	.3
Order amended	3	.3
Application withdrawn	2	.2
Appeal upheld (Circuit Court appeal)	1	.1
Not recorded	7	.6
Not applicable	161	13.5
Total	**1194**	**100.0**


Outcome
Not recorded
Appeal upheld
Application withdrawn
Order amended
Contested
Order refused
Order granted with conditions
Other
Case adjourned
Order granted
Consent
7
1
2
3
3
34
37
40
199
261
446

1.6.4 Outcomes by application type

	Supervision Order		Emergency Care Order		Interim Care Order		Extension ICO		Care Order		Extension care order		Other	
Consent	47	47.5	7	21.2	32	35.6	256	66.8	57	39.3	34	19.9	13	12.4
Contested	0	0.0	0	0.0	0	0.0	2	0.5	1	0.7	0	0.0	0	0.0
Order granted	27	27.3	9	27.3	41	45.6	100	26.1	46	31.7	25	14.6	13	12.4
Order granted with conditions	2	2.0	4	12.1	4	4.4	7	1.8	12	8.3	6	3.5	2	1.9
Case adjourned	16	16.2	4	12.1	9	10.0	13	3.4	23	15.9	70	40.9	64	61.0
Order refused	3	3.0	6	18.2	3	3.3	4	1.0	4	2.8	7	4.1	7	6.7
Order amended	1	1.0	0	0.0	0	0.0	0	0.0	1	0.7	0	0.0	1	1.0
Other	3	3.0	2	6.1	0	0.0	1	0.3	1	0.7	29	17.0	4	3.8
Application withdrawn	0	0.0	1	3.0	1	1.1	0	0.0	0	0.0	0	0.0	0	0.0
Appeal upheld	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	1	1.0
Total	**99**	**100.0**	**33**	**100.0**	**90**	**100.0**	**383**	**100.0**	**145**	**100.0**	**171**	**100.0**	**105**	**100.0**

2. Regional Analysis – July 2014

2.1 Regional Analysis

Between December 2012 and July 2015 we attended 1,194 cases in 37 District Courts, presided over by 43 judges. It is not possible to give statistics for each court, so we publish below statistics for eleven of the courts where we heard the highest numbers of child care cases. Statistics for the remainder are included in 'Rest of country'.

Region	Cases	% of cases
DMD	499	41.8
Cork	187	15.7
Louth	84	7.0
Waterford	72	6.0
Limerick	42	3.5
Wexford	33	2.8
Clonmel	31	2.6
Nenagh	27	2.3
Cavan	24	2.0
Mallow	20	1.7
Galway	15	1.3
Rest of country	160	13.4
Total	**1194**	**100.0**

2.2 Court Order Applications

2.2.1 Type of application

	Supervision Order	Emergency Care Order	Interim Care Order	Extension ICO	Care Order	Extension care order	Other
DMD	5.8	4.8	7.8	40.1	5.0	26.3	10.2
Cork	12.3	1.1	7.0	3.7	12.3	8.0	55.6
Louth	6.0	-	6.0	73.8	7.1	-	7.1
Waterford	15.3	-	16.7	4.2	23.6	9.7	29.2
Limerick	7.1	2.4	9.5	23.8	14.3	19.0	23.8
Wexford	6.1	-	6.1	33.3	42.4	12.1	-
Clonmel	12.9	-	3.2	74.2	3.2	-	6.5
Nenagh	7.4	-	-	22.2	14.8	-	55.6
Cavan	4.2	16.7	4.2	54.2	4.2	4.2	12.5
Mallow	20.0	-	5.0	5.0	35.0	15.0	20.0
Galway	13.3	-	-	33.3	33.3	13.3	6.7
Rest of country	8.1	1.3	8.1	28.1	23.1	12.5	18.8

2.3 The Respondent

2.3.1 Respondents – percentage of cases

	Mother	Father	Both	More than one father	Other
DMD	32.5	5.6	54.3	1.2	4.8
Cork	27.3	3.7	63.6	3.2	2.1
Louth	15.5	3.6	73.8	7.1	-
Waterford	23.6	1.4	66.7	2.8	2.8
Limerick	42.9	2.4	45.2	7.1	2.4
Wexford	24.2	6.1	66.7	3.0	-
Clonmel	54.8	-	38.7	6.5	-
Nenagh	22.2	3.7	63.0	3.7	7.4
Cavan	20.8	4.2	70.8	4.2	-
Mallow	30.0	5.0	65.0	-	-
Galway	26.7	-	60.0	13.3	-
Rest of country	36.9	6.9	50.0	3.8	2.5

2.3.2 Respondent representation – percentage of cases

Where the respondent has no legal representation, this is often because they have not yet sought it and will do so. In a minority of cases the respondent is not present in court and has no legal representation, in others they are not present but are represented.

	No legal representation	Legal Aid Board	LAB barrister	Private Solicitor	Barrister	Both LAB & Private
DMD	29.7	50.1	3.4	4.6	9.2	1.0
Cork	21.4	64.7	0.5	5.3	2.7	1.6
Louth	25.0	33.3	7.1	16.7	13.1	3.6
Waterford	33.3	45.8	4.2	8.3	2.8	1.4
Limerick	23.8	54.8	-	16.7	-	2.4
Wexford	27.3	57.6	3.0	3.0	6.1	3.0
Clonmel	29.0	61.3	-	3.2	3.2	3.2
Nenagh	25.9	63.0	-	-	-	-
Cavan	25.0	41.7	-	12.5	20.8	-
Mallow	5.0	80.0	-	5.0	-	10.0
Galway	6.7	73.3	6.7	13.3	-	-
Rest of country	18.1	46.9	7.5	18.1	6.3	1.9

2.3.3 *Respondent Details – percentage of cases*

	Single	Married	Divorced/ Separated	Co-habiting	Parent in hospital / prison	Widowed	Other	Both dead /missing	Unknown
DMD	35.7	9.6	13.0	9.0	7.4	4.2	3.4	2.2	0.6
Cork	24.6	8.0	45.5	8.0	1.1	6.4	0.5	3.7	0.5
Louth	54.8	16.7	16.7	2.4	3.6	1.2	1.2	1.2	0.0
Waterford	31.9	12.5	36.1	9.7	-	-	4.2	-	2.8
Limerick	35.7	7.1	19.0	23.8	4.8	2.4	-	-	-
Wexford	48.5	27.3	12.1	3.0	3.0	6.1	-	-	-
Clonmel	64.5	3.2	22.6	3.2	-	6.5	-	-	-
Nenagh	59.3	18.5	3.7	11.1	3.7	-	-	3.7	-
Cavan	33.3	20.8	8.3	25.0	8.3	4.2	-	-	-
Mallow	40.0	5.0	50.0	5.0	-	-	-	-	-
Galway	40.0	6.7	26.7	26.7	-	-	-	-	-
Rest of country	46.9	15.0	16.3	10.6	1.9	5.0	0.6	0.6	1.3

2.3.4 *Respondent Ethnicity – percentage of cases*

	Irish	Irish Traveller	UK	European	Roma	African	Asian	Middle eastern	Mixed	Other
DMD	64.9	4.6	1.2	3.6	1.4	14.0	0.4	0.8	6.6	0.8
Cork	81.3	1.6	1.6	1.6	-	5.3	-	-	7.0	-
Louth	44.0	4.8	3.6	16.7	9.5	3.6	-	-	14.3	-
Waterford	63.9	4.2	2.8	5.6	1.4	1.4	-	-	18.1	-
Limerick	69.0	7.1	2.4	14.3	-	2.4	-	-	4.8	-
Wexford	66.7	-	21.2	-	-	-	-	-	9.1	3.0
Clonmel	90.3	-	3.2	-	-	-	3.2	-	3.2	-
Nenagh	77.8	7.4	-	3.7	-	-	-	-	11.1	-
Cavan	70.8	8.3	-	8.3	-	4.2	-	-	4.2	4.2
Mallow	65.0	-	-	15.0	-	10.0	-	-	10.0	-
Galway	73.3	6.7	6.7	6.7	-	-	-	-	6.7	-
Rest of country	76.3	6.9	3.1	5.0	0.6	1.9	0.6	-	5.0	-

2.4 The Children

2.4.1 Children with special needs

	Physical		Psychological		Educational	
	Cases	Children	Cases	Children	Cases	Children
DMD	38	45	153	197	42	56
Cork	6	8	31	52	13	29
Louth	7	8	6	6	3	3
Waterford	4	4	15	24	6	9
Limerick	1	1	11	15	8	13
Wexford	1	1	4	4	-	-
Clonmel	3	4	2	4	-	-
Nenagh	1	1	11	14	6	6
Cavan	2	2	3	4	1	2
Mallow	-	-	1	1	1	2
Galway	-	-	2	4	2	3
Rest of country	19	25	42	64	14	19

2.4.2 Children represented by Guardian ad Litem

	No		Yes		Solicitor for child	
	Cases	% of cases	Cases	% of cases	Cases	% of cases
DMD	141	28.3	350	70.1	3	0.6
Cork	142	75.9	32	17.1	12	6.4
Louth	17	20.2	67	79.8	-	-
Waterford	41	56.9	30	41.7	-	-
Limerick	18	42.9	24	57.1	-	-
Wexford	16	48.5	17	51.5	-	-
Clonmel	25	80.6	6	19.4	-	-
Nenagh	10	37.0	17	63.0	-	-
Cavan	9	37.5	15	62.5	-	-
Mallow	15	75.0	4	20.0	1	5.0
Galway	13	86.7	2	13.3	-	-
Rest of country	88	55.0	72	45.0	-	-

2.4.3 Guardian ad Litem employment

	Barnardos		Independent	
	Cases	%	Cases	%
DMD	156	31.3	140	28.1
Cork	31	16.6	-	-
Louth	43	51.2	23	27.4
Waterford	12	16.7	15	20.8
Limerick	13	31.0	9	21.4
Wexford	1	3.0	12	36.4
Clonmel	4	12.9	1	3.2
Nenagh	16	59.3	1	3.7
Cavan	5	20.8	10	41.7
Mallow	3	15.0	1	5.0
Galway	2	13.3	-	-
Rest of country	30	18.8	40	25.0

2.4.4 Guardian ad Litem representation

Guardians *ad litem* are usually, though not always, represented by a solicitor. Where they are recorded as not being represented it is sometimes because they have just been allocated to the case and have not yet had obtained representation.

	Solicitor		Barrister		Not represented	
	Cases	%	Cases	%	Cases	%
DMD	299	59.9	28	5.6	3	0.6
Cork	20	10.7	-	-	8	4.3
Louth	62	73.8	2	2.4	2	2.4
Waterford	25	34.7	1	1.4	2	2.8
Limerick	14	33.3	-	-	3	7.1
Wexford	12	36.4	3	9.1	-	-
Clonmel	4	12.9	-	-	1	3.2
Nenagh	11	40.7	-	-	6	22.2
Cavan	11	45.8	3	12.5	1	4.2
Mallow	2	10.0	-	-	1	5.0
Galway	-	-	-	-	2	13.3
Rest of country	60	37.5	6	3.8	6	3.8

2.5 The Foster Carers

2.5.1 Foster Carers

	Relative		Other		Hospital		Child at home	
	Cases	%	Cases	%	Cases	%	Cases	%
DMD	86	17.2	298	59.7	5	1.0	4	0.8
Cork	40	21.4	95	50.8	2	1.1	-	-
Louth	5	6.0	69	82.1	-	-	-	-
Waterford	11	15.3	40	55.6	-	-	-	-
Limerick	12	28.6	25	59.5	-	-	1	2.4
Wexford	4	12.1	19	57.6	-	-	-	-
Clonmel	9	29.0	17	54.8	1	3.2	-	-
Nenagh	8	29.6	10	37.0	-	-	2	7.4
Cavan	2	8.3	20	83.3	-	-	-	-
Mallow	5	25.0	10	50.0	-	-	-	-
Galway	3	20.0	11	73.3	-	-	-	-
Rest of country	26	16.3	102	63.8	-	-	-	-

2.5.2 Residential location unit

	Ireland		Abroad		Secure unit		Not recorded/ applicable	
	Cases	%	Cases	%	Cases	%	Cases	%
DMD	61	12.2	6	1.2	-	-	432	86.6
Cork	14	7.5	2	1.1	1	0.5	170	90.9
Louth	3	3.6	-	-	-	-	81	96.4
Waterford	5	6.9	1	1.4	-	-	66	91.7
Limerick	1	2.4	-	-	1	2.4	40	95.2
Wexford	6	18.2	-	-	-	-	27	81.8
Clonmel	-	-	-	-	-	-	31	100.0
Nenagh	5	18.5	-	-	-	-	22	81.5
Cavan	-	-	-	-	-	-	24	100.0
Mallow	1	5.0	-	-	-	-	19	95.0
Galway	-	-	-	-	-	-	15	100.0
Rest of country	14	8.8	-	-	1	0.6	145	90.6

2.6 The Court Hearing

2.6.1 Length of Hearing

	Cases	% of cases		Cases	% of cases
Dublin			**Rest of country**		
< 1 hour	380	76.2	< 1 hour	126	78.8
1-3 hours	80	16.0	1-3 hours	17	10.6
3-5 hours	12	2.4	3-5 hours	8	5.0
One day	3	.6	One day	2	1.3
Two days	8	1.6	Two days	1	.6
Three days	4	.8	Three days	2	1.3
Four days	1	.2	More than ten days	4	2.5
Five days	1	.2	**Total**	**160**	**100.0**
Seven days	1	.2			
More than ten days	1	.2	**Waterford**		
other	1	.2	< 1 hour	60	83.3
Not recorded	7	1.4	1-3 hours	6	8.3
Total	**499**	**100.0**	3-5 hours	2	2.8
			One day	2	2.8
Cork			Two days	1	1.4
< 1 hour	177	94.7	Four days	1	1.4
1-3 hours	4	2.1	**Total**	**72**	**100.0**
3-5 hours	1	.5			
One day	2	1.1	**Wexford**		
Three days	1	.5	< 1 hour	26	78.8
Four days	1	.5	1-3 hours	3	9.1
Seven days	1	.5	3-5 hours	1	3.0
Total	**187**	**100.0**	Two days	1	3.0
			More than ten days	1	3.0
Louth			Not recorded	1	3.0
< 1 hour	76	90.5	**Total**	**33**	**100.0**
1-3 hours	6	7.1			
Seven days	1	1.2	**Cavan**		
More than ten days	1	1.2	< 1 hour	19	79.2
Total	**84**	**100.0**	1-3 hours	2	8.3
			One day	2	8.3
Nenagh			More than ten days	1	4.2
< 1 hour	23	85.2	**Total**	**24**	**100.0**
1-3 hours	3	11.1			
Three days	1	3.7	**Mallow**		
Total	**27**	**100.0**	< 1 hour	18	90.0
			1-3 hours	2	10.0
Limerick			**Total**	**20**	**100.0**
< 1 hour	31	73.8			
1-3 hours	11	26.2	**Galway**		
Total	**42**	**100.0**	< 1 hour	9	60.0
			1-3 hours	5	33.3
Clonmel			Three days	1	6.7
< 1 hour	31	100.0	**Total**	**15**	**100.0**
Total	**31**	**100.0**			

2.6.2 *Witnesses*

	Social worker	Psychiatrist/ Counsellor	Public health nurse	Doctor	Garda	Teacher	Other	None	Multiple	Solicitor only
DMD	189	12	6	1	10	7	7	254	3	3
Cork	60	-	-	1	1	-	3	89	5	27
Louth	71	1	-	-	-	-	-	9	1	2
Waterford	34	3	-	-	1	-	2	25	2	4
Limerick	31	-	-	-	-	-	1	9	-	1
Wexford	18	1	-	-	2	-	-	10	2	-
Clonmel	27	-	-	-	-	-	-	3	-	1
Nenagh	22	-	-	-	-	-	-	3	1	1
Cavan	17	0	-	-	1	-	3	3	-	-
Mallow	14	-	-	-	-	-	-	3	-	3
Galway	11	1	-	-	-	-	-	3	-	-
Rest of country	97	9	-	-	4	-	2	36	6	4
Total	**591**	**27**	**6**	**2**	**19**	**7**	**18**	**447**	**20**	**46**

2.6.3 *Outcomes*

	DMD		Cork		Louth		Waterford		Limerick		Wexford		Clonmel		Nenagh		Cavan		Mallow		Galway		Rest of country	
	Case	%	Case	%	Case	%	Case	%	Case	%	Case	%	Case	%	Case	%	Case	%	Case	%	Case	%	Case	%
Consent	186	37.3	28	15.0	56	66.7	27	37.5	12	28.6	16	48.5	23	74.2	6	22.2	10	41.7	11	55.0	5	33.3	66	41.3
Contested	2	.4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	.6
Order granted	116	23.2	27	14.4	17	20.2	17	23.6	7	16.7	13	39.4	7	22.6	6	22.2	6	25.0	1	5.0	5	33.3	39	24.4
Order granted with conditions	12	2.4	5	2.7	-	-	8	11.1	4	9.5	-	-	-	-	2	7.4	2	8.3	-	-	-	-	4	2.5
Case adjourned	105	21.0	29	15.5	6	7.1	7	9.7	9	21.4	3	9.1	1	3.2	4	14.8	2	8.3	4	20.0	3	20.0	26	16.3
Order refused	14	2.8	2	1.1	1	1.2	2	2.8	3	7.1	-	-	-	-	-	-	2	8.3	-	-	-	-	10	6.3
Order amended	-	-	-	-	-	-	-	-	-	-	1	3.0	-	-	-	-	-	-	-	-	-	-	2	1.3
Other	31	6.2	-	-	4	4.8	1	1.4	-	-	-	-	-	-	-	-	1	4.2	-	-	-	-	3	1.9
Application withdrawn	2	.4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Appeal upheld	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	.6
Not recorded	5	1.0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	1.2
Not applicable	26	5.2	96	51.3	-	-	10	13.9	7	16.7	-	-	-	-	9	33.3	1	4.2	4	20.0	2	13.3	6	3.8
Total	**499**	**100**	**187**	**100**	**84**	**100**	**72**	**100**	**42**	**100**	**33**	**100**	**31**	**100**	**27**	**100**	**24**	**100**	**20**	**100**	**15**	**100**	**160**	**100**

3 Reasons for Seeking Order

3.1 Reasons for Court Order

3.1.1 Reason for seeking order / Respondents ethnic background

	Irish	Irish Traveller	UK	European	Roma	African	Asian	Middle Eastern	Mixed	Other	Total
Sexual abuse	20	6	3	2	0	1	0	0	6	0	38
Physical / emotional abuse	34	1	2	7	0	12	3	0	17	1	77
Parental alcohol abuse	96	4	1	7	0	3	0	0	7	0	118
Parental drug abuse	115	10	2	6	0	1	0	0	9	0	143
Parental disability (intellectual, mental, physical)	129	2	3	10	2	19	0	1	16	0	182
Parent absent/deceased	31	4	1	4	4	9	0	0	1	1	55
Domestic Violence	15	0	4	1	2	0	1	2	2	0	27
Childs risk taking	30	1	1	2	0	2	0	0	3	0	39
Neglect	132	9	2	9	3	14	0	0	12	0	181
Multiple	133	12	2	7	0	6	0	0	11	2	173
Other	29	2	3	1	5	8	0	1	1	0	50
trafficked/abandoned	3	0	0	1	0	4	0	0	1	0	9
Abuse (before split into sexual and physical)	21	0	4	2	1	11	0	0	4	1	44
	788	**51**	**28**	**59**	**17**	**90**	**4**	**4**	**90**	**5**	**1136**

*Total 1136 due to missing data in 58 cases

3.1.2 Reason for seeking order / Respondent status

	Single	Married	Divorced/ Separated	Co-habiting	Parent in hospital/ prison	Widowed	Other	Both dead/ missing	Unknown	Total
Sexual abuse	9	11	5	5	0	3	0	1	2	36
Physical / emotional abuse	22	21	22	5	1	1	1	2	0	75
Parental alcohol abuse	53	7	35	8	3	6	0	3	0	115
Parental drug abuse	64	4	18	27	13	5	3	2	0	136
Parental disability (intellectual, mental, physical)	74	22	50	14	6	10	0	0	0	176
Parent absent/deceased	20	2	4	0	4	9	5	7	0	51
Domestic Violence	11	4	4	6	0	0	0	0	0	25
Child's risk taking	13	5	14	2	0	2	1	0	0	37
Neglect	83	13	36	16	6	5	4	0	1	164
Multiple	67	18	40	15	14	6	1	1	0	162
Other	20	12	9	2	1	0	5	0	1	50
Ttrafficked/abandoned	0	0	1	0	0	0	0	4	4	9
Abuse (before split into sexual and physical)	8	13	8	8	0	0	1	0	0	38
Total	444	132	246	108	48	47	21	20	8	**1074**

*Total equals 1074 due to missing data in 120 cases

Appendix 3: High Court Minors' Review List

1. Appearances

Number of cases	78
Number of appearances	332
Number of days attended	18

2. Number and type of application

	Cases	% of all cases
Review/extend Secure Care Order	38	48.7
Article 15/Article17	15	19.2
Secure Care: discharge	8	10.3
Vulnerable adult	4	5.1
Other	4	5.1
Secure Care: Application	3	3.8
Take out of list	3	3.8
Mental Health Act	2	2.6
Adjournment sought	1	1.3
Total	**78**	**100.0**

3. Number of appearances per application

	Cases	Appearances	Average no. of appearances by application type
Mental Health Act	2	13	6.5
Review/extend Secure Care Order	38	195	5.1
Other	4	19	4.8
Secure Care: Application	3	11	3.7
Secure Care: discharge	8	28	3.5
Vulnerable adult	4	14	3.5
Article 15 / Article17	15	47	3.1
Adjournment sought	1	2	2.0
Take out of list	3	3	1.0
Total	**78**	**332**	**4.3**

4. Applicant representation

	Cases	% of all cases
Senior Counsel	68	87.2
Barrister	10	12.8
Total	**78**	**100.0**

5. GAL appointed

	Cases	% of all cases
Yes	64	82.1
No	14	17.9
Total	**78**	**100.0**

6. GAL and type of application

	Yes	No	Total
Review / extend Secure Care Order	36	2	**38**
Secure Care: discharge	8	0	**8**
Article 15 / Article17	7	8	**15**
Vulnerable adult	3	1	**4**
Other	3	1	**4**
Secure Care: Application	3	0	**3**
Take out of list	3	0	**3**
Mental Health Act	1	1	**2**
Adjournment sought	0	1	**1**
Total	**64**	**14**	**78**

7. GAL representation

	Cases	% of all cases
Barrister	38	48.7
Senior Counsel	26	33.3
Not applicable	14	17.9
Total	**78**	**100.0**

8. Outcome

	Cases	% of all cases
Continued secure care	29	37.2
Adjourned	18	23.1
Discharge / struck out	15	19.2
Other app granted	7	9.0
Secure care order granted	5	6.4
Article 15 granted	4	5.1
Total	**78**	**100.0**

9. Type of Care

	Cases	% of all cases
Secure unit in Ireland	27	34.6
Secure/specialist unit abroad	14	17.9
Mental hospital	6	7.7
Step-down unit	4	5.1
Relative	4	5.1
Hospital	2	2.6
Foster care	1	1.3
Not applicable	20	25.6
Total	**78**	**100.0**

10. Issue

	Cases	% of all cases
Psychological	43	55.1
Jurisdiction	16	20.5
Dangerous behaviour	11	14.1
Other	6	7.7
Criminal conviction	1	1.3
Foster Care Breakdown	1	1.3
Total	**78**	**100.0**

11. Special needs and type of application

	Psychological	Educational	Multiple	None	Total
Review / extend Secure Care Order	30	1	6	1	**38**
Article 15 / Article17	1	0	0	14	**15**
Secure Care: discharge	8	0	0	0	**8**
Vulnerable adult	2	0	2	0	**4**
Other	0	0	2	2	**4**
Secure Care: Application	2	0	1	0	**3**
Take out of list	3	0	0	0	**3**
Mental Health Act	2	0	0	0	**2**
Adjournment sought	1	0	0	0	**1**
Total	**49**	**1**	**11**	**17**	**78**

Captions on page 94


Child Care Law
Reporting Project

Photographs on previous pages

All photos by Derek Speirs

Page 92 - clockwise from top left:

- Dr Carol Coulter, Director of the Child Care Law Reporting Project.
- At the launch of CCLRP first interim report in November 2013, (L-R) Ombudsman for Children Emily Logan; the Honourable Mrs Justice Catherine McGuinness; District Court President, Judge Rosemary Horgan; Minister for Children & Youth Affairs Frances Fitzgerald TD.
- Chief Justice Mrs Justice Susan Denham launching first interim report.
- District Court President, Judge Rosemary Horgan launching 2nd interim report in October 2014, pictured with Dr Carol Coulter.
- Dr Geoffrey Shannon, Government Rapporteur on Child Protection and CCLRP Oversight Committee member.
- Michele Clarke of the Department of Children and Youth Affairs and TCD Associate Professor and CCLRP Oversight Committee member Dr Helen Buckley.
- Noeline Blackwell, Director General of FLAC (Free Legal Advice Centres) and CCLRP Oversight Committee member.

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- At the international conference on 'Child Protection & the Law' in April 2015, Minister for Children & Youth Affairs Dr James Reilly TD, Dr Carol Coulter and Dr Geoffrey Shannon, Government Rapporteur on Child Protection.
- Conference speakers Janice McGhee, Edinburgh University and Sophie Kershaw of the Family Drug and Alcohol Court, England.
- Conference speakers Prof Tarja Pöso, University of Tampere, Finland and Dr Conor O'Mahony, UCC.
- CCLRP Reporters Lisa Colfer MA, Meg MacMahon BL and Kevin Healy BL.
- Attendees at the international conference in April 2015.
- Tanya Ward, Director of Children's Rights Alliance and CCLRP Oversight Committee member.
- Member of the CCLRP Oversight Committee, the Honourable Mrs Justice Catherine McGuinness with Dr Carol Coulter.