

2019.06.04

12 Deputy M.R. Higgins of the Minister for Health and Social Services regarding the implementation of Court Orders in relation children in the care system: (OQ.149/2019)

Will the Minister advise Members what steps he takes to ensure that court orders relating to children in the care system have been complied with; and state what action would be taken under existing policy against any staff found to be ignoring such Orders?

The Deputy of St. Ouen (The Minister for Health and Social Services):

My Assistant Minister, Senator Mézec, will answer this question.

Senator S.Y. Mézec (Assistant Minister for Health and Social Services - rapporteur):

There are a range of Public Law Orders made under the Children's Law 2002 on the application of the Minister for Health and Social Services and these include care and supervision orders, emergency protection orders and contact orders. A care order places a child in the care of the Minister and the Minister has a duty to ensure that a child in care has reasonable contact with their parents, subject to any order, which the court has made in relation to contact between the child and a named person. When considering whether, or not, to make a care order, the court is provided with a care plan, which sets out the plans for the child's placement and for contact with parents. A child's care plan is reviewed periodically, to ensure that it remains appropriate to a child's needs and this is done through the looked-after children's reviews, which are chaired by an independent reviewing officer. Each allocated social worker has a monthly supervision, in which the team manager ensures that the care plan of a looked-after child is being met and that it still meets the needs of the child. Non-compliance with a court order would be treated very seriously, with the appropriate procedure being used to investigate and deal with that matter, such as a disciplinary procedure. Consideration would also have to be given to whether the issue should be referred to the regulatory body for social workers, the Healthcare Professions Council, which would determine whether to take any action.

4.2.1 Deputy M.R. Higgins:

The reason this question was asked is because a situation did occur where staff were ignoring a care order of the court and attempts had been made to draw it to the attention of the department, including the Minister for Children and Housing and no action had been taken. The care order, by the way, the person concerned has been told, since the question was asked, that they will be allowed to do what they are supposed to be able to do under the care order. Will the Minister look at the whole procedure and make sure that this type of incident should not happen again?

Senator S.Y. Mézec:

I can be absolutely unequivocal and make this basic point that it is fundamental to democracy and the rule of law that every public official obeys court orders; that is no ifs, no buts, it is fundamental to the rule of law. Where there is an incident where that has not occurred, it must be treated seriously, not just by senior public officials, but by Ministers and if the Deputy is concerned about a particular instance, where that has not occurred, then I am absolutely more than happy to sit down with the Deputy, either by ourselves, or with any other officers who he may think would be helpful to be in that situation, to discuss it. If he does not want to do that or, as well, would like to do that, then I would also recommend speaking to the Children's Commissioner, as well, to get an independent view on that.

4.12.2 Deputy M.R. Higgins:

Yes, when I asked this question it was referred to the Minister for Children and Housing. He is answering the question as an Assistant Minister. Will the Assistant Minister tell me whether he has full legal powers to act in this area, or is it still under the Minister for Health and Social Services, because it is very confusing at the moment?

Senator S.Y. Mézec:

I can totally understand where the confusion arises and this will be something we will need to look at in the legislation, now that there is a Minister for Children and Housing that has not existed previously. The power under the Children's Law rests with the Minister for Health and Social Services, but I am an Assistant Minister for Health and Social Services with delegated responsibility for this. The reason I have that is because I also hold the position of Minister for Children and Housing. It is something we are going to have to look at, but the current arrangement works fine under the current law.