

Molly One Year On

Have Tusla and the HSE
delivered on commitments
to children with a disability
in the care of the State?



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Molly's Case Summary

In 2018 the Ombudsman for Children's Office published Molly's case, a report detailing a complaint we received about a child with a disability who is in foster care. Twelve months on we are returning to this case and tracking the progress made by the HSE and Tusla on commitments made in response to last year's report.

Molly was born with Down Syndrome and severe autism. She was abandoned at birth by her biological parents and has grown up with her foster family after being placed there when she was four months old. Molly is dependent on her foster carers in all areas of her care, including feeding, toileting, bathing, and dressing.

Molly's foster carer made a complaint to us about the level of supports and services being provided by Tusla and the HSE to meet Molly's needs and support her placement.

We found that there was a lack of co-ordination between Tusla and the HSE which meant that services and supports provided by both organisations were insufficient. Neither agency saw Molly as a child in care and also a child with a disability. Instead Tusla recognised her protection and welfare needs, but made no distinction with regard to her disability requirements. The HSE recognised her disability needs but made no distinction with regard her protection and welfare vulnerabilities as a child in care.

We also found that this is a problem facing many children with disabilities in care. We were told by Tusla that in 2015 there were 472 children with a diagnosed moderate to severe disability in foster care placements in Ireland. These children represented approximately 8% of the foster care population.

We found that neither Tusla nor the HSE had a good enough system in place to ensure adequate supports were being provided to these vulnerable children and to their carers. We were concerned that this meant these children were not provided with every opportunity to reach their full potential.

2019 Update on Recommendations and Commitments

As a result of our investigation, both the HSE and Tusla made a number of significant and ambitious commitments. If implemented these commitments would greatly improve Molly's standard of living, and they would also positively impact the other children with disabilities in the care of the State who until our report, were unidentified.

Since publication of Molly's Case in 2018 we have been engaging with Tusla and the HSE. We requested quarterly updates on progress made towards fulfilling the commitments made in response to our recommendations. In early 2019 we met with the Tusla and HSE National and the local teams responsible for the implementation of the recommendations. We also met with Molly's foster carers.

Below we have outlined the main recommendations made in Molly's case, the commitments made by the HSE and Tusla, and what has happened since.

OCO Recommendation 1:

Both Tusla and the HSE formally engage with their respective government departments with regard to the findings of this investigation. Formal engagement with their respective government departments would determine how the current gap in the provision and co-ordination of services and supports to children with a diagnosed moderate to severe disability in foster care can be addressed by legislative, regulatory, policy and/or budgetary means.

2019 Update

At the time of the publication of the report Tusla told us they had submitted a Business Case to Government to explore the introduction of an enhanced support payment for vulnerable children in our care. They told us they were fully committed to formal engagement with the DCYA to discuss and determine both the current and future service delivery for this cohort of children.

Despite this commitment Tusla has not made any business case to government as regards enhanced support payments for foster carers of children with a moderate or severe disability. As discovered in Molly's case, extra financial payments are at the discretion of Area Managers and approved through the care-planning process. In addition, the Foster Care Allowance continues to be classified as income for the purposes of means tests for Housing Adaptation Grants for People with a Disability scheme.

The HSE told us they successfully obtained an extra €10 million to develop respite services across the country and this enabled them to open 10 new purpose designed respite centres in 2018. They were also able to provide more in-home respite hours as well as respite sessions in the evenings and during holidays. However they were unsure of how much of this budget was allocated to expand children's respite services. They estimated this figure to be approximately 20% or €2 million. Both HSE and Tusla told us that they could not make joint submissions together for additional respite services for these children. However Community Health Organisation (CHO5) is being actively supported by their local Tusla social work team for improved respite services for children in care with a disability for their area. If successful this could be used as an example for other areas. Tusla told us that there is an inequitable distribution of respite services for children between HSE CHO areas and that it would like to develop more foster care respite services within its own remit.

OCO Recommendation 2:

Tusla and the HSE should systemically review the current supports and services being offered to Molly to ensure she reaches her full physical, cognitive and educational potential.

2019 Update

Both the HSE and Tusla told us at the time of the investigation that the Joint Protocol for Inter-Agency Collaboration between the HSE and Tusla would greatly assist with a systemic review of the current supports and services being provided to this child and Tusla expressly stated their commitment to ensuring that she reaches her potential. We found that the social work department has made significant progress in re-assessing

Molly's needs and working with the HSE in order to put in place the therapeutic supports and services which might enable her to reach her full potential. This is very much to be welcomed and must be commended.

Amongst other actions Tusla arranged for an independent two-week residential assessment of Molly's needs, and a National Educational Psychologist Service (NEPS) assessment with respect to Molly's educational needs. A dietician was also assigned to Molly's school and helped develop a new dietary plan for Molly.

Care plan review meetings were held and notably Tusla invited a wide range of professionals involved in Molly's life to attend her care plan review meeting along with her foster carers. This meant that all adults providing services to Molly sat down together and agreed what needed to happen to help Molly reach her potential.

The HSE confirmed that a disabilities case manager had also been assigned to Molly to help co-ordinate her care with her foster carers, the various HSE services and with Tusla. We are very pleased at this level of action and cooperation between services and hope to see this as a model for how all cases like Molly's can be managed.

However, Molly's foster carers continue to face financial challenges. For example, when Molly was placed in a residential centre for two weeks for an assessment her carer's Foster Care Allowance was deducted for these two weeks. This was despite the fact that they transported her to and from the residential unit, and visited her there. There are also still issues in relation to funding for child-minding services. Tusla reduced funding for child-minding services from €150 to €100 on the basis that six hours Home Support hours and additional respite had been assigned by the HSE although the family were not receiving these supports as the HSE were unable to identify a service provider.

While there has been improvements in how all adults involved with Molly are working together, Molly's foster carers told us that they did not always feel listened to about Molly's education and her new feeding programme, and that further engagement on these issues is required.

OCO Recommendation 3:

If, as proposed, this child is moved to another care placement, Tusla and the HSE should put in place the necessary supports so that she experiences a stable transition from her current to her future home.

2019 Update

Tusla told us that they remained fully committed to their statutory responsibility to this child and this includes ensuring that all care planning decisions (including placements) are guided by the best interest of the individual child. This includes a commitment that any placement moves would be underpinned by stability and minimum disruption to the child's life through the provision of identified appropriate supports and joint professional liaison where necessary.

Molly remains living with her foster carers and we understand that everyone is committed to help support Molly and her carers with this placement.

OCO Recommendation 4:

Tusla and the HSE should systemically review the supports and services being offered to approximately 471 other children with a moderate or severe disability in foster care in the State within 12 months of the date of issuance. The output of this review should inform the development of the local case management model, currently proposed in the Joint Protocol. The review should also inform the development of specific performance metrics and outcome measures for this cohort of children, as well as wider inter-agency and departmental engagement.

2019 Update

Tusla told us that they intended to issue a communication to all staff to ensure that they are fully aware of the Joint HSE/ Tusla protocol and of the undertaking given to the Ombudsman for Children to ensure systemic review of the supports and services being offered to children in their care with a moderate to severe disability. They told us that these systemic reviews would occur under their statutory care planning functions as per the Child Care Act 1991. They undertook to collate the data from the systemic review to inform any future development of specific performance metrics and outcome measures for this cohort of children. In addition, they told us they would identify these children to their colleagues in the HSE in order to facilitate the preparation for involvement in care planning and joint working for these children.

Notable progress has been made in implementing the Joint Protocol for Interagency Collaboration, which has been in force since March 2017. Tusla told us that its Chief Operations Officer and the HSE's Head of Operations for Disability Services now meet quarterly under the National Joint Protocol Oversight Committee. Every area now has an Area Joint Working Group, and the relevant HSE Head of Service from each Community Healthcare Organisations (CHO) area meets with the relevant Principal Social Worker monthly, to review the cases of all children in care with a diagnosis of moderate or severe intellectual disability.

Tusla has stated that there is an expectation that decisions regarding the provision of access to appropriate, available services will be made at local team level. However, there is now a clear escalation policy for complex cases that cannot be resolved at local level. According to Tusla, Joint Protocol workshops have been held at local level and a directive has been issued by both Tusla and the HSE that the protocol must be used. Furthermore, all social work team leaders have been informed that HSE staff members involved in a child's case must be invited to Child in Care Reviews.

There is, however, much progress to be made from the HSE's perspective, and in the interaction between the two agencies. According to the HSE, disability managers in the various CHOs do not have the capacity to undertake case management roles. The HSE stated that the case manager role, now assigned to Molly's area, is not in every area and that each CHO area is proceeding at a very different pace in terms of Joint Protocol implementation. In addition, the HSE indicated that the Joint Protocol workshops have been challenging in some areas as not all areas and front-line staff members fully understand their roles and responsibilities under the protocol. The HSE stated that not every area is aware of the Molly investigation and the recommendations agreed upon by the HSE. The HSE believes stronger communication is required between the national and local teams.

In addition to the Joint Protocol, Tusla has conducted an internal audit in order to identify children with a moderate or severe disability in foster care and to determine the additional supports required by them. Data returned from the Tusla areas in November 2018 showed that there were 483 children in care with a diagnosis of moderate or severe disability. Of these, Tusla stated that 407 have had their Child in Care Reviews within the statutory time frame. Of the 76 who have not had their Child in Care Review within the statutory timeframe, there are dates set for 69 reviews. Tusla stated that performance metrics and outcome measures were still being developed for this cohort of children, and that specific research into how Tusla measures success is being commissioned.

Tusla has stated that there is now a central national database for this cohort of children, which will allow Tusla and the HSE to plan at an earlier stage for the children's transition to adult care. While we welcome this positive development of a central database we note that HSE could not confirm that each of the local areas have identified these children. According to information submitted by the HSE, only Area Joint Working Groups in CHO5 (South Tipperary, Carlow/Kilkenny, Waterford, and Wexford), CHO6 (Wicklow, Dun Laoghaire, and Dublin South East) CHO7 (Kildare/West Wicklow, Dublin West, Dublin South City, and Dublin South West) and CHO9 (Dublin North, Dublin North Central, and Dublin North West) have identified their cohort of children with moderate or severe disability in foster care. CHO1 (Donegal, Sligo/Leitrim/West Cavan, and Cavan/Monaghan), CHO2 (Galway, Roscommon, and Mayo) CHO3 (Clare, Limerick, and North Tipperary/East Limerick), CHO4 (Kerry, North Cork, North Lee, South Lee, and West Cork) and CHO8 (Laois/Offaly, Longford/Westmeath, Louth, and Meath) Working groups are still 'in progress' in their work to identify these children. The HSE contends that the data received from Tusla is incomplete because there's no consensus between the HSE and Tusla as to what constitutes a moderate to severe disability. The HSE has stated that it is undertaking a validation exercise at CHO level to determine the children's names and conditions.

Moreover, the HSE did not know how many of the children identified have had care plan review meetings or how many of these children have individualised plans to meet their needs from the HSE. The HSE acknowledged that of the nine CHO areas only CHO5 has reviewed the needs of these children through the care planning process. The HSE stated that neither CHO6 nor CHO7 have begun planning for the systemic reviews committed to at the time of publication.

Conclusion:

Overall we have found that some definite progress has been made since the publication of Molly's Case in 2018. In relation to Molly's particular situation, Tusla has worked closely with Molly's foster carers to ensure that the supports she requires are in place. Issues remain however, around finances for Molly's carers and the level of responsibility given to them in relation to her diet and education.

The working relationship between Tusla and the HSE, and the impact that this is having on the care of children with disabilities who are in State care, is still of concern. The implementation of the Joint Protocol for Interagency Collaboration has progressed but there is still a long way to go.

It is not satisfactory that the HSE do not have disability managers to undertake case management roles, or that the HSE has not identified the children affected due to the failure to agree a common understanding of the children with a moderate or severe disability.

Tusla's business case in relation to enhanced payments for foster carers of children with a moderate or severe disability, which they committed to in 2018, is outstanding, and respite for the children affected remains a problem.

While it is important to acknowledge the progress that has been made especially for Molly herself, we feel that not enough has changed since the publication of Molly's case in 2018. As a result we will continue to monitor these issues for the next twelve months, engaging with both the HSE and Tusla.

It is essential that the working relationship between the HSE and Tusla especially, at local level progresses and improves, so that each child in state care with moderate and severe disabilities is helped to reach their potential. This can only be achieved if all of the adults involved in their lives work closely together to agree and plan for their needs now and into the future. This will help both agencies provide resources for each child in a timely and efficient manner, thus alleviating the burden on hard-pressed and exceptionally committed foster carers.