Neutral Citation Number: [2007] IEHC 459

THE HIGH COURT

2005 No. 484 SP

IN THE MATTER OF AN APPLICATION PURSUANT TO ARTICLES 40 AND 42 OF THE CONSTITUTION AND IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 3 OF THE GUARDIANSHIP OF INFANTS ACT, 1964

BETWEEN

HEALTH SERVICE EXECUTIVE (SOUTH EASTERN AREA)

PLAINTIFF

AND

W.R. (A MINOR BORN ON THE – DAY OF – 1990 REPRESENTED BY HIS SOLICITOR --)

DEFENDANT

AND

L.R.

NOTICE PARTY

AND

HEALTH SERVICE EXECUTIVE (SOUTH WESTERN AREA)

NOTICE PARTY

Judgment of Mr. Justice MacMenamin delivered the 18th day of July, 2007.

Background

1. On 19th December, 2005 the plaintiff initiated proceedings by way of plenary summons for the detention of W.R., a young person at risk, and his placement in Ballydowd Young People's Centre. Subsequent to that order, W.R. was detained in Ballydowd and thereafter was placed in a high support unit from which he absconded on 29th April, 2006 and refused to return there.

2. Efforts were made by the care workers engaged in his case to persuade him to return but this he refused to do.

3. The Gardaí were asked to assist on a number of occasions in apprehending W.R. While this had the effect of ensuring that he was placed back in the high support unit, he continued to abscond to his family home in a large provincial centre.

4. On 18th May, 2006 an application was made to the District Court in his home area for a full care order. This order was granted by Judge William Hartnett of the District Court with certain conditions attached thereto. Despite this order being in place, W.R. continued to abscond from the unit in which he was placed.

5. The matter was re-entered in the District Court on 8th June, 2006 by the Health Service Executive to inform that court that its order was being continuously breached, and that W.R. was refusing to remain at the high support unit in question. W.R. was brought to the Court on that date by the Gardaí and was returned to the unit by them. He again absconded on 9th June, 2006.

6. W.R. faced criminal charges for an assault on a staff member while he was in the support unit. When he absconded and went home he engaged in extremely violent and intimidating behaviour. This necessitated his sister moving out from the home. W.R.'s mother, L.R., was extremely fearful of being assaulted by him. She feared for her life.

7. In June, 2006 W.R. had returned home. He was refusing to co-operate or engage with the Health Service Executive or indeed any of the authorities. Consideration was given to placing him again in Ballydowd where he had resided from 23rd September, 2005 onwards. As of July, 2006 there was no place available for W.R. in Ballydowd. All avenues had been exhausted in trying to obtain a place for him. He had in fact built up relationships with staff in that young people's centre and furthermore, that unit could afford him the safe and therapeutic environment in which to address the issues which were causing his challenging conduct.

8. An affidavit was sworn by Richie Nolan, a social worker employed by the H.S.E., indicating the necessity that W.R. be placed in Ballydowd. It should be pointed out that the unit in question is run under the aegis of the plaintiff who is the H.S.E. There was at the time an admissions policy whereby a committee, and an appeals committee would determine the issue of whether young persons should be admitted to the unit. For reasons which had to do with space allocation and staffing the application was declined on 12th July. Both the H.S.E. and his guardian *ad litem* wrote to appeal that decision. This appeal was allowed on 28th July, 2006. However, even by then there was no space available for W.R. but he was offered a placement as and from 9th August, 2006.

The position in July, 2006

9. By late July, the home situation was critical. W.R. was continuing to live at home which he had effectively taken over. He was drinking, using drugs and threatening and menacing his mother, and had disengaged from any services provided by care workers. He had come to the attention of the Gardaí. He was suspected of being involved in a racist-motivated petrol bombing of a car belonging to an ethnic family in his community. He was keeping company with other young adolescents and adults known to the Gardaí to be involved in criminal activity. He was engaged in unruly behaviour. His mother was genuinely, and with good reason afraid for her life. Her son's behaviour was spiralling out of control. He had not been stopped from engaging in this behaviour. It was continuing on what was described by the guardian *ad litem* in one report as a "downward slope of destruction". He had no regard for others or himself. He had no boundaries. He had no capacity to self-regulate at any level. As a matter of high probability his conduct was either going to lead to W.R.'s own life being placed at serious risk or, more probably, the lives of others being placed at risk.

10. The difficulty of the situation was emphasised by the fact that all parties, including the H.S.E. were ad idem that W.R. should be placed in Ballydowd. While the court order required was obvious, there were no means necessary to implement that order or to ensure that there was a place available for this young person whose way of life had become a profound risk to himself and others.

11. On 31st July, 2006 the court ordered that W.R. be detained by An Garda Síochána and placed in Ballydowd Young People's Centre. However, it was necessary to make an order staying the effect of this order until 9th August simply because of the absence of spaces in that centre. The court directed that there be made available further reports so that there should be available up to date information on the progress of the minor in the meantime. The position was the cause of considerable anxiety, sufficient to warrant consideration by the H.S.E. of actually asking that W.R. be placed in St. Patrick's, a penal institution, despite clear issues which might arise regarding the invocation of inherent jurisdiction in this context and questions as to the propriety of such procedure in the absence of a criminal conviction.

12. The care worker in question, Mr. Nolan, involved himself to an unusual degree in the case. He managed to maintain a level of contact with W.R. W. refused to acknowledge any responsibility for any of his actions. He knew he had been engaging in serious criminal behaviour. He was aware that the H.S.E. had been looking for him to place him in a care unit. He stated furthermore, that if the Gardaí came to collect him he would blame his mother for putting him in care again and would kill her.

13. This type of threat had been made previously by W.R. when he had threatened to kill both his mother and himself and to leave a letter explaining his reasons for doing so. He alleged that his mother was a "bad mother". He verbally abused her. These allegations were entirely without substance. At all times W.R.'s mother sought to protect her son, despite what might be regarded as his intolerable conduct.

14. W.R. considered himself "untouchable", that he could avoid criminal responsibility and that he could frustrate the efforts of the H.S.E. and of those who were involved in his care to take steps for his own protection and that of his family.

15. Matters were rendered more difficult because W.R. was aware of the making of the court order. There were real risks because it could not be implemented forthwith. Even were W.R. to be placed in Ballydowd there was a further risk of a breakdown in any relationship which he had with Richie Nolan, the care worker.

16. The genuine problems which existed in the implementation of the order of 31st July were not the fault of any one person. It was certainly not the fault of the director of Ballydowd who had taken up office in May of 2006 . What occurred was the result of many historical factors, a number of which were already being addressed, even at that time, and others which have been the subject of a review by the H.S.E. outlined later. This judgment records these steps.

17. On 11th August, 2006 this Court made an order directing that the Special Residential Services Board be joined as a notice party to these proceedings in an effort to outline and understand the problems underlying this situation.

18. The situation which arose in this case was by no means unique. On a significant number of occasions in the last two years applications seeking to invoke the inherent jurisdiction of the court were made for the detention of minors whose lives or welfare were at risk. It was undisputed that in this, and other cases the constitutional rights and interests of the minor required that such orders not only be made, but brought into effect immediately. This arose particularly in cases where the conduct of the minor constituted a threat to his or her life, whether by suicidal ideation, self harm, or substance abuse or in circumstances where such young person was exposed to sexual assault or abuse. Yet on a number of occasions such orders could not be implemented by reason of absence of space in any special care unit designed for the care of such minors. Those involved in such applications were faced with a number of options. First, to make no application despite clear constitutional and statutory entitlements, with the result that the young person remain in the community and in circumstances of high risk. Second, that he or she be detained in a unit designated for persons under the age of seventeen who had committed offences (that is penal units) despite the fact that such young person had not been convicted of an offence. A further possibility was that, despite the urgency of the requirement and the risks involved, a court might decline to make any order because of these legal concerns as identified.

19. The fact that such court orders could not be effectively or lawfully implemented was properly a source of concern to those affected by what had evolved. The situation resulted in not infrequent applications from the Minister for Education (who had charge of such penal units) and the Attorney General, to the effect that such order for detention, or its continuance in such penal units, may have been unlawful, contrary to the European Convention on Human Rights Act, 2003 and article 6 of the Convention. The H.S.E., who hold statutory responsibility for such minors, confronted with historical problems as identified in this judgment sought to respond as and how it could. What was clearly evident was that a new approach, or a new admissions policy was necessary. It is now necessary to describe what the H.S.E. did, in co-operation with another statutory body, the Special Residential Services Board.

20. The Special Residential Services Board was established pursuant to Part 11 of the Children Act, 2001. Section 227(1) of that Act outlines the then functions of that Board. These included, *inter alia*, advising the Ministers having responsibility in this area on the policy relating to the demand and attention of children and to ensure that efficient, effective and co-ordinated delivery of services to children in respect of whom children detention orders or special care orders were made. The S.R.S.B. also had a special role concerning special care orders. Under Part III of the Children Act, 2001 it was provided that the District Court might make a special care order after taking into account the views of the Special Residential Services Board. However, the function of the District Court concerning the making of such orders, perhaps for many reasons, was not commenced. Consequently the role of the Board in this area was primarily to provide information to the High Court and to identify aims and methods whereby, having regard to administrative problems, young persons could be placed in care.

21. From prior to July, 2005 negotiations had been taking place between the S.R.S.B. and the H.S.E. so as to ensure that criteria were adopted for the appropriate use of and entry to special care units. It is unnecessary to describe these issues here as they are matters outside the ambit of this case. What was clear, however, was that there were very substantial regional divergences in the criteria for admission to special care units. This in turn was contributing to the problems in space allocation.

The office of Minister for Children

22. A further step of bringing order to the situation was the creation of the Office of the Minister for Children. This was announced on 13th December, 2005. The inception and actions of that office, and its officials, permitted a greater centralisation of services for troubled children, speeded administrative and legislative change and very considerably improved direct access and representation in relation to such children.

23. With its inception on 1st January, 2005 the Health Service Executive as successors of each of the health boards had inherited a position of very considerable administrative complexity derived from each of the health boards.

24. Mr. Aidan Brown, the National Director for Primary Community and Continuing Services in the H.S.E. swore an affidavit for these proceedings outlining this background.

25. Units for the care of adolescents at risk are divided into those known as 'special care' and 'high support'. The purpose of a special care unit is to provide a very secure environment for young people who are in need of special care or protection with the explicit objective of providing a stabilising period of short-term care to enable that young person to return to a less secure environment as soon as possible.

26. By contrast, the purpose and function of high support units was to provide additional support to children with complex and often long-standing needs, i.e. a non-secure environment where the therapeutic relationship with staff was the main means of providing a secure setting for young people's care. The essential difference between special care and high support lay in the level of security

with special care units being the placement of last resort.

28. The development of special care and high support units was a direct response to a number of rulings of the High Court in 1994 and 1995 by Geoghegan J. (one referred to later in this judgment) and more latterly Kelly J., to the effect that a child declared to be 'out of control' … might be detained in their own interests under a regime established according to psychiatric and medical advice for the protection of that child's constitutional rights

29. Three special care units were ultimately opened. These were Ballydowd, Glen Ailin, and Coovagh House. The effort to establish these units was hampered by a number of further factors. These included difficulty in attracting suitably trained and experienced residential managers and staff; the pace of restructuring of training for social care workers who wished to work with more challenging children; the pace at which it had been possible to develop the range and provision of community interventions to prevent children coming into care or to support them when they left, and the absence of a national manpower plan.

30. It was only in January, 2005 when the H.S.E. was created, that it took on the responsibility of dealing with these issues, inheriting the staff structures, the allocation of resources, (not an issue in this case), and the cultures of the many former health boards.

Managerial role
31. A critical administrative problem identified by the H.S.E. was the absence of any one person who would operate as a national manager for special care and high support units and to take on the task of the development of a national management framework for these care and support units. The absence of one person having such responsibility and charge of the functioning of these units contributed substantially to the situation which had evolved.

Coovagh House
32. One of the units, Coovagh House, opened in 2003, had provision for the placement of five young people. It ceased operating on 26th April, 2004 due to staffing difficulties. In the total period October, 2003 to April, 2004 that unit had cared for a total of three young people. Since April, 2004 there had been attempts to recruit staff for a full complement, including sending recruitment teams out of the jurisdiction. The H.S.E. had undertaken a number of recruitment campaigns to secure child care staff and five campaigns to secure managers since October, 2003. The 26 staff out of the required 42 who had been engaged to run Coovagh House had been redeployed in other facilities.

Ballydowd
33. The position with regard to Ballydowd Special Care Unit was that it had been originally designed for 24 children. The unit was composed of three separate sub-units, each with eight bedrooms. Early on, a decision was made to restructure some of those, and redeploy two of the bedrooms in each of the buildings as offices for staff, managers, psychologists and psychiatrists, so that they could carry out their business on site

34. The net consequence of the provision of needed office space and facilities was that this unit, originally designed for 24 children, had a reduced capacity of 15 children.

Overall context
35. In 2003 the Special Residential Services Board commissioned a report entitled Definition and Usage of High Support in Ireland – Report of the Special Residential Services Board, April 2003 by Social Information Systems Limited. This provided the Health Service Executive with further evidence that high support should be reconceptualised from a model of residential care, to one which acknowledged that child care could be practised in a variety of settings, whether in a designated unit, in the community, or in mainstream residential settings. In this context thought was given to developing and expanding 'wrap-around' service in community-based settings. Examples of this thinking are now to be found in the Youth Advocacy Programmes and Extern Ireland. These programmes have been developing since 2002 and were designed to address the needs of "out of control" young people who are well known to the social services, the Gardaí and probation services. The term 'wrap-around' refers to a mix of individualised in-home and community-based services which were developed around each young person and their family structure. It is a 24-hour intervention and has operated successfully in a number of different areas in the country.

36. Additionally, steps were taken in the important area of family support in order to target early intervention and prevention.

37. The work involved in caring for young persons at risk is challenging. It involves particular dedication. It requires the employment of a substantial number of highly motivated staff; the provision of adequate facilities and clear lines of administrative responsibility. It is necessary to identify and match need, resources and spaces. It requires administrative will and a clear indentification of objectives. By no means all of these requisites were applied in the decade between 1995 and 2005.

38. Against this complex and difficult background it is necessary to place on record recognition of the approach taken by the authorities, including the H.S.E., in this case, and also in two others which should be read in conjunction with this judgment. Those further two judgments are *In the matter of S.S. (a minor)* MacMenamin J., the High Court, delivered 15th June, 2007 and *In the matter of D.K. (a child)* Record No. 2006/1974 P, MacMenamin J., The High Court, Unreported, delivered on the same day as this judgment. These three cases had a number of features in contrast to other previous hearings of this type in the last decade. In each of these cases the H.S.E., rather than relying on constitutional or legal defences, sought actually to address the underlying problems and to outline the approach which would be adopted to create an improved framework and procedure for the care of young persons at risk, such as W.R. The H.S.E. not only consented to the hearings; they took the role of initiators. No question of mandatory orders arose for consideration. In the absence of such consent the court obviously would not have engaged in this process.

39. Prior to the hearing which took place on 10th and 11th May, 2007, a number of interlocutory applications took place. These were necessitated by the fact that the plans of the H.S.E. were in a state of evolution and it was necessary for them to be fully crystallised before the hearing took place.

40. The Attorney General was invited to participate in this proceeding.

41. The H.S.E. was represented by Mr. Felix McEnroy, Senior Counsel. The respondent, W.R. was represented by Mr. Gerard Durkan, Senior Counsel. The Attorney was represented by Ms. Maire Whelan, Senior Counsel and the notice party, the S.R.S.B., was represented by Mr. Michael Vallely B.L.

Background evidence
42. In an affidavit sworn on behalf of the defendant in these proceedings Mr. Pól Ó Murchú, a solicitor with great experience in this

area, indicated that he had acted in a large number of cases over the past twelve years since the seminal decision in *F.N. v. The Minister for Education* [1995] 1 I.R. 409 (Geoghegan J.), the initial judgment in relation to the obligations of the State and the then health boards with regard to children with special needs.

43. Mr. Ó Murchú stated that, following *F.N.*, plans were put before the High Court by the State and the Eastern Health Board as to how those bodies would discharge their obligations to children following that judgment. During the following years reports had been planned and provided to the High Court to indicate the progress which has been made in dealing with the provision of services for such children. Witnesses from either the health boards or the State had given evidence to the court indicating intended steps in relation to the provision of such services.

44. Mr. Ó Murchú exhibited a book of documents containing a representative selection of reports, plans and transcripts of evidence given to the High Court over those years. The good intentions often outlined in those proceedings were not always realised.

45. Thus, the assurance of the H.S.E. that it would introduce procedures and a series of protocols to ensure that such situations should not arise in the future is to be noted, as too is the indication of that body that it will introduce annual reporting and auditing procedures, if requested, to ensure that what is undertaken is actually achieved in concrete form, and that court orders once made, may be implemented in the interests of the minor in question, and in accordance with the statutory duty of the H.S.E. pursuant to s. 3 of the Child Care Act, 1991, to promote the welfare of children who are not receiving adequate care and protection. Because of this assurance it is unnecessary to further describe past events, or to discuss in more detail the observations of Murray J. (as he then was) in *T.D. v. Minister for Education* [2001] 4 I.R. 259 as to the hypothetical circumstances not considered herein, in which a court might consider it appropriate to make mandatory orders in vindication of constitutional rights by reason of "a conscious and deliberate decision by the organ of the State to act in breach of its constitutional obligations to other parties, accompanied by bad faith or recklessness". I am entirely satisfied that such circumstances do not exist on the facts outlined now. The more so and in view of the steps which have been taken by the H.S.E. since September, 2006.

National Manager

46. In November, 2006 Mr. Gerry O'Neill was appointed to the position of Interim National Manager of High Support and Special Care in the Health Service Executive. The national management body under his leadership is to be made up of officials responsible for:-

(a) all quality issues including all the regulatory requirements, policies and procedures;

(b) all operational matters;

(c) management of information, research and communications;

(d) a further post responsible for administration; and

(e) Mr. Roger Killeen, an official with unique experience in this area to which reference will be made later in this judgment.

47. At the hearing the court heard from Mr. O'Neill, Interim National Manager, Mr. Mike Laxton, an eminent Consultant on the Management and Delivery of Child Care Services, who acts as consultant to both the Scots and Northern Ireland authorities as well as previously having advised the authorities in this jurisdiction, and Mr. Killeen, formerly an official in the Department of Education charged with a number of critical areas in child care, subsequently Chairman of the Special Residential Services Board, and now Chairperson of the Special Care Admission and Discharges Committee of the H.S.E. His dedication, experience and expertise in this area are unique. This Committee will now deal with the admission policy for these units for the entire State.

48. In the circumstances, the conclusions from the outline adduced will be simply summarised and recorded.

49. As a starting point it is appropriate to quote from a document entitled "A Report on the Requirement and Necessity for Special Care and High Support Residential Child Care Provision in Ireland" written by Mr. Mike Laxton, in 1998. Mr. Laxton concluded:-

> "There is no quick fix. The creation of specialist residential care will take time as will the development of alternative care models and indeed the enhancement of existing child care services.
>
> It will also require a significant amount of new money to be budgeted for the next six years, in three-year planning cycles. To do all of this effectively and equitably it will require a national plan and the development of an integrated approach to both policy and practice. *Child care policy and practice can no longer afford to be governed by the last judicial review or child care crisis*.
>
> Positive consistent planned action is required. At the same time it needs to be recognised that social work in child care services, however well organised or funded, cannot deal with all social ills of society. Children from families who experience long-term poverty, unemployment, poor housing and inadequate educational opportunities will continue to come into care. Responsibility for the amelioration of these difficulties lies elsewhere.
>
> However, once the child comes into care the State also has the responsibility to provide them with the right kind of help when they need it." (Emphasis added)

50. These conclusions, written nine years ago, appear as apposite now as they were then. The effective allocation of further resources to the provision of special care and high support was hampered by the specific administrative and staffing difficulties which arose for reasons outlined earlier. While resource allocation is no part of this Court's function, the situation which arose in the case of W.R. was a manifestation of precisely those difficulties. In order to deal with these and other problems the H.S.E. have undertaken to evolve over an eighteen-month period a national strategy which, *inter alia*, will deal with the issues of special care and high support. That policy is now being implemented.

51. As a starting point, there is one critical element the issue of identifying the extent of the need for young persons in this high-risk category who are numbered, it is thought, approximately 200 in total. It is indicated that the process of identifying need will be completed by December, 2007.

52. The H.S.E. is to produce a report on an annual basis, in July of each year, dealing with the manner in which the needs of young persons at risk are being fulfilled in the provision of these services.

The range of provision
53. It has been pointed out in the course of evidence that what is at issue here fundamentally is not a particular service but a range of provision. The provision of a special care unit or a number of such units would be incapable of absorbing the complexity of problems that are presented to them. Many of the issues that arise are necessary to be addressed in a community setting by measures such as special fostering. As pointed out by Mr. Killeen, residential provision in secure care or high support is really the end of a continuum to be applied only after all other interventions have been tried.

54. It is accepted that there is a continuing need to ensure that needs and resources are matched appropriately. These are matters for the Executive and not for a court of law.

Additional measures
55. The H.S.E. has embarked on a programme of recruitment so as to ensure that within the present year Coovagh House will be fully operational. A manager has been appointed, a number of young persons are already receiving care and treatment there. By the end of this year that unit will again be fully in operation.

56. Consideration has been given to the most appropriate means of ensuring that high support units can operate effectively both within their own regions and also so as to ensure that there are proper step-down facilities from special care units.

57. There will be a contact point so as to ensure that, prior to the initiation of judicial review proceedings, a guardian *ad litem* or other responsible person may first contact the H.S.E. and will have received a response within a short period indicating its attitude to the need for such application and where necessary the reasons why the H.S.E. does not consider it appropriate to initiate proceedings itself.

58. Mr. Mike Laxton will continue to be a consultant to them in the devising of this strategy which it is accepted may ultimately take three years to fully realise.

59. There will be a central national register which will, on a continuous basis, be updated to provide concise data and information of all placements occupied and/or vacant in special care and/or high support on any given date.

60. The Special Residential Services Board has been reconstituted as the Children's Act Advisory Board whose revised functions will include the promotion of inter-agency co-operation. It is anticipated that these provisions will come into effect in the near future.

Outcome
61. The issue of admission and discharge protocols and procedures is dealt with in the judgment of *D.K.* delivered concurently with this judgment.

62. By the time of this hearing W.R. had been discharged from Ballydowd and was resident in a high support type accommodation. He was receiving one-to-one therapy from a psychologist. This therapy also involved his family. He was engaged in a programme of continuing education with a plan that he should sit the Leaving Certificate in June, 2008.

63. He was staying at home over night on a one night per week basis and had returned on every occasion to the high support unit. The social worker who was deeply involved in his case was unfortunately involved in a car accident. An interim social worker has been assigned to W.R.

64. It has not been necessary to re-enter this matter for any further substantive application before the High Court. While the long-term prognosis can in no way be certain, it is undoubtedly the case that the ultimate intervention and placement of W.R. in short-term detention has met and dealt with the crisis which arose in July and August of 2006.

65. In conclusion, this Court would wish specifically to recognise that the engagement of the H.S.E. constituted a substantial departure. There was a preparedness to initiate, engage in and implement a substantial programme of reform in this critical and frequently neglected area. The role of this Court is to record how this duty will be performed.

66. It would be remiss not to recognise the particular role played by Mr. O'Neill who has embarked on this project. Equally it would be remiss not to recognise the critical role played by Mr. Killeen in a number of different guises. His work and contribution stand as a monument to what can be achieved by a public official.

No separation of powers question
67. The courts are constitutionally enjoined to respect the separation of powers, the division of roles between the Executive and judicial arms of the State. This hearing took place only on consent of the parties as a precondition. No mandatory orders were sought against any State Agency. No issue arose to be resolved here as to any conflict between the Executive and judicial arms of the State. The dominant purposes of the inquiry, which arose in the context of this particular case were to ensure (i) the proper vindication of the rights of citizens of the State; (ii) that orders of the court on this question could actually be implemented; (iii) that a court should not, in the interests of a child or young person at risk be compelled to make orders for detention raising issues of legal or constitutional propriety; (iv) to preclude the possibility that a court might feel constrained to decline to make an order for detention when required, by reason of these former concerns; (v) to provide an opportunity to the H.S.E., to address the manner of performance of its statutory functions, and (vi) to record the manner in which it proposes to address the issues which arose in this and earlier cases. It is unnecessary, therefore, to consider any questions derived from the decision in *Sinnott v. Minister for Education* [2001] 2 I.R. 545 or *T.D. v. Minister for Education* [2001] 4 I.R. 259 which outline precepts which this Court must constitutionally observe, respect and follow.

68. Two immediate indicators that these changes may have borne fruit are that, since the inception of the National Admissions Committee in January, 2007, no situation has arisen where a court has been unable to make an order, by reason alone of absence of space in a special care or high support unit. Further, there has been a very substantial reduction in the number of applications being brought to court by way of judicial review initiated by parties other than the H.S.E. This would appear to indicate that the admissions policy now implemented by the H.S.E. is at present operating effectively in the interest of minors known to be at risk.