

## THE HIGH COURT

## SPECIAL CARE

[2018 No. 1972 P.]

IN THE MATTER OF A. B., A MINOR

AND IN THE MATTER OF THE CHILD CARE ACT 1991 (AS AMENDED)

BETWEEN

CHILD AND FAMILY AGENCY

APPLICANT

AND

T. N.

RESPONDENT

AND

N. R.

GUARDIAN AD LITEM

**JUDGMENT of Ms. Justice Reynolds delivered on the 20th day of November, 2018****Background**

1. In the course of the within proceedings, difficulties arose in securing an onward placement for the minor who was transitioning out of Special Care. This was a feature which was becoming increasingly common place in the Minors List and of grave concern to all parties. As a result, the period of detention of minors in Special Care was being unnecessarily extended due to the lack of onward placements.

2. In that context, this Court directed the Child and Family Agency to complete a review of all cases where minors were detained under Special Care orders.

3. The terms of reference for the review were extended by the Child and Family Agency to review all its procedures in light of new provisions relating to Special Care introduced as part of the revision of the Childcare Act on 1st January, 2018. Prior to enactment of the legislation, proceedings in the Minors List had been dealt with under the inherent jurisdiction of the court.

4. The report entitled "Transitioning In and Out of Special Care" has now come to hand and has been distributed to all relevant parties.

5. I do not propose to embark on a full summary of the report but merely to highlight some of this Court's very serious concerns arising from its findings.

**Special Care Placements**

6. Currently there are up to fourteen mixed gender places available in Special Care, for children aged between 11 to 17 years, in four separate Special Care units. One of these units, providing up to two placements, is due to close at the end of the year.

7. What is alarming to this Court is that almost twelve months ago, a brand new specially adapted facility with placements for up to twelve children was opened by the Minister and to date it has operated at less than 50% capacity. At best, five of the twelve placements are being utilised.

8. At a time when there is an ever increasing and unprecedented demand for placements in Special Care, it appears incomprehensible why this facility is not operating at full capacity.

9. However, having heard evidence from the Child and Family Agency on this issue, it is readily apparent that the difficulty is in relation to the recruitment of appropriately qualified staff given the constraints on its financial resources.

10. The Agency has sought sanction from the Department to address the matter by seeking to make the vacant positions more financially attractive. This request was made last August and a response is awaited.

11. In addition, the Agency has put forward proposals for the recruitment of staff from a range of disciplines in circumstances where currently a Social Care Degree is a mandatory requirement. It is anticipated that this would expand the pool for recruitment and assist in improving staffing levels.

12. The staff in Special Care units form an essential cog in the wheel to ensure that extremely vulnerable children who have been placed in Special Care have all the necessary supports that are required to assist in a favourable outcome for them.

13. Indeed in the within proceedings, one of a number of complex cases faced by this Court and the first to be dealt with under the new statutory provisions, the commitment of all professional staff involved has to be commended in achieving a successful outcome in circumstances where it had been envisaged that an out of State placement would be required to meet the particular needs of this child. This has proven to be unnecessary and the case has since been discharged from this list but continues under review by the District Court.

14. For the reasons foregoing, it is imperative that the staffing issue is addressed as a matter of urgency to ensure a continuum of State care to the most vulnerable children in society.

**Onward/Step Down Placements**

15. It is essential that children in Special Care have appropriate onward placements that meet their needs and that these placements

are available for a timely transition.

16. Whilst the report makes numerous recommendations in relation to procedural changes to assist in the early identification of suitable onward placements, the fact remains that there is a distinct shortage of placements available.

17. The Court has been advised that negotiations are ongoing with private providers with a view to more onward placements coming on stream next year. Unfortunately, the reality remains that the situation will continue to get worse before it gets better.

### **Conclusion**

18. It is clear that the Child and Family Agency faces a number of challenges in relation to meeting the needs of extremely vulnerable children who place themselves at significant risk of harm. In light of the statutory duties now placed on it pursuant to the recent enactment of legislation and the very grave issues raised by this Court, I will direct that a copy of this judgment be furnished to the Department so that these matters can be brought to the urgent attention of the Minister.