

27th September 2019

Dear Minister Katherine Zappone,

I write in reference to previous correspondence concerning the application for registration regarding children who receive education in a place other than a recognised school as per s14(4) of the Education Welfare Act 2000.

As you will be aware TUSLA rejected our application and the consent for a preliminary assessment contained within, stating that such was invalid on the basis that an application must be made via the Agency's R1 form only, and, that consent for both preliminary and comprehensive assessments must be provided at the outset on the R1 form only.

As a result, the Agency issued a School attendance notice, on foot of which summons were issued under s25(4) of the Education Welfare Act alleging we had failed to comply with said notice.

Consequently, we were prosecuted and found guilty by the District Court, however upon appeal, the Circuit Court found in our favour, issuing the attached judgement on September 26th 2019.

The judgement sets a precedent for all future applications for registration and as such, TUSLA are required to alter their policies surrounding this process.

To fail to do so would not only mean the Agency is wilfully continuing to act in violation of the Law, but also demonstrating, what some parents may perceive as a disregard for their, and their child(rens) constitutional rights as well as a blatant and intentional decision to mislead the public with misinformation.

I therefore ask you, in view of yesterday's judgement, that you cause TUSLA to amend all communications to and with the public, which are electronic, written or otherwise, to reflect the position adopted by the Court on this matter.

The Court concluded the following:

1. **The R1 form is NOT compulsory.** Up to this point the Agency has maintained that the full completion and signing of the consent/declaration (section 13) of the form is a prerequisite for applications under s14. Now, it is necessary for the

Agency to desist in asserting this to the public and be transparent in conveying to parents that this form is totally optional. Furthermore, the cover page of the form entitling the document as "*Application Form for Registration*" should be amended, as again, this conveys to (a) parent(s) that such a document is mandatory and the only means by which a parent may apply for registration.

2. **Consent may be given via other written means.** Previously the Agency has required consent to be provided to them from parents by way of signing the R1 form, rejecting consent offered in any other fashion. It is now explicitly clear that written consent offered to the agency via any other written document is sufficient for the agency to proceed with a preliminary assessment. Therefore, the agency should make clear that if parents still choose to complete the R1 form (after clearly explaining it is an optional step in addition to the application process) that they do not have to provide consent to a preliminary assessment on that form, and, that consent need to be provided at the time of submitting an application, but may be supplied at any stage prior to the commencement of a preliminary assessment.
3. **Consent is necessary for a preliminary assessment only.** The Agency stated that parents must provide consent for both a preliminary and comprehensive assessment to take place at the commencement of the application process. This has been rejected by the Court and as such only consent for a preliminary assessment is necessary to begin the assessment process. Note as above, that an application is valid without consent. Therefore, the Agency should amend the consent/declaration section of the R1 form to reflect this, as well as informing parents who choose not to use the R1 form about the specific consent required and how this may be submitted to the Agency.
4. **A preliminary assessment does not need to take place in person.** The Court did not place a requirement on the parents to meet with an Agency appointed assessor in person, in order to facilitate a preliminary assessment. It is perfectly acceptable for a parent to engage with the assessment process via written means only. The R1 form section 12 should be amended to reflect this.
5. **Providing a birth certificate is not mandatory.** The Court recognised that the Agency had no justification for demanding the parents provide an original birth certificate in order to make an application. The Agency should inform parents that supplying this document is optional and that parents can still submit a valid application without it, which the Agency will accept and process.
6. **An application in accordance with s14(4)a-c is sufficient.** The Court accepted that our application, which was simply a letter produced in accordance with the aforementioned section, was a valid and sufficient application for registration. The Agency must direct parents to this section explaining to them that they may apply in this manner, simply with a letter detailing to whom the application relates and where the child is or will be primarily receiving education.

I would at this juncture strongly suggest that the R1 form in its entirety be removed from use. It appears to be defective in so many areas that the formation of a new document reflecting the above points would serve both the Agency and parents better.

To summarise the Agency need to make public that applications for registration may be submitted to them in writing via written means containing the particulars of s14(4)a-c from the parent(s) and that this is a valid application in its own right; that the R1 form is not mandatory, nor the supplication of a birth certificate, nor meeting an assessor in person for the facilitation of a preliminary assessment. Further the agency must convey that consent for the initial, preliminary assessment, only, is needed and such may be offered in any written manner, and, that such consent is not required in order for the agency to accept an application, but only, after the agency have accepted the application and seek to commence a preliminary assessment.

We trust that in light of this letter and you now being fully aware of the judgement that steps will be taken immediately to address the points raised to ensure that never again is a family subjected to such an ordeal as we have been, simply for following the law.

The responsibility now lies with the relevant department(s) to enforce TUSLA's compliance with the Law and I look forward to receiving a detailed reply which is transparent and explanatory in nature detailing what and how changes will be made.

I wish to thank you in advance for your attention and prompt action concerning this matter.

Please be advised this letter has also been sent by registered post and email to Minister for Education and Skills, Joe McHugh and Attorney General, Seamus Woulfe for their consideration.

Most sincerely

A handwritten signature in black ink, appearing to be 'Catherine Sunshine', with a stylized, overlapping loop at the end.

Mrs Catherine Sunshine