

**Joint Submission to the Office of the Minister for Children
on the Implementation of the Ryan Report Recommendations
by
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Introduction

The publication of the Commission to Inquire into Child Abuse report affords us the opportunity to acknowledge the great failings of the Irish State in its past protection of children placed in its care. It is essential that all steps necessary are taken to recognise the experiences of the survivors of institutional abuse and to ensure continued support and solidarity with those who had their childhoods shattered and lives damaged by these experiences.

In common with all those who joined the March of Solidarity, we fully support the demands for justice made by the Survivors, and especially their demands for the establishment of an independently-managed Trust, funded by significant additional contributions from the Congregations, to continue to make reparation to survivors and their families.

However, we must act also in the interests of ensuring that the children of today and tomorrow are respected and protected from abuse and neglect. In the implementation of the Commission's recommendations, the Government has an opportunity to improve the current child protection systems and services to ensure that the State never again fails children so comprehensively. Both legislative and systemic reforms are needed if we are to ensure that children in Ireland are adequately protected and never again left so vulnerable to the horrendous abuse and neglect suffered by those abandoned in the institutions of the past.

Commission to Inquire into Child Abuse Recommendations:

7.03 The lessons of the past should be learned.

Constitutional Amendment

The lessons of the past must be learned from and used to progress the systems in place for children in Ireland now and into the future. Until the Irish Constitution expressly recognises the rights of children as individuals, legislation and policy in Ireland will continue to fundamentally fail in respect to children and childhood. Children cannot be placed at the centre of all decisions affecting them until the Constitution recognises their rights categorically and unequivocally.

Recommendations:

We call for an immediate re-commitment to holding a referendum to achieve the insertion of children's rights into the Constitution, and for the publication of a timetable stressing the urgency of the matter.

We intend as a group of organisations to continue to engage proactively with the Oireachtas Committee that is dealing with this matter and to continue to contribute to public debate on the need for a referendum on children's rights. We hope ultimately to be in a position to make a detailed proposal to the Oireachtas Committee.

We believe the wording of an amendment should be based on the following proposals, which owe their origins among other things to the United Nations Convention on the Rights of the Child:

- The inclusion of an express reference to the rights of children, and to the special and vulnerable nature of childhood, asserting that all children must be treated equally.
- The assertion that a child's family, founded on marriage, adoption or otherwise, is the natural and usual environment for his or her upbringing and development.
- All children should have the right to an identity, the right to be reared as members of a family, the right to have their voices heard and to be represented in any proceedings affecting their welfare, the right to be protected from abuse and exploitation and in times of armed conflict, the right not to be detained except as a measure of last resort.
- Special regard should be had to the rights and interests of children in all matters of law and public policy.
- As an alternative to the existing Article 42.5, in exceptional cases, where the interests of a child would not otherwise adequately be protected or where it is necessary to protect a child from physical, mental, sexual or emotional harm, he or she should have the right to appropriate alternative care outside the family; and the State as guardian of the common good by appropriate and proportionate means shall supply that care, but always with due regard to the rights and welfare of the child, and with the aim of reuniting the child with his or her family when that is practicable.
- In the interests of cherishing all its children equally and seeking to promote their welfare equitably, the State should pledge to safeguard with special care the interests of children who are disadvantaged by economic, social or cultural exclusion, or by disability, and to support parents as far as practicable who cannot meet their children's needs unaided.

Commission to Inquire into Child Abuse Recommendations:

7.21 'Children First: The National Guidelines for the Protection and Welfare of Children' should be uniformly and consistently implemented throughout the State in dealing with allegations of abuse.

7.10 It is important that rules and regulations be enforced, breaches be reported and sanctions applied.

7.11 A culture of respecting and implementing rules and regulations and of observing codes of conduct should be developed.

Children's First: National Guidelines for the Protection and Welfare of Children.

The well-reported inconsistent implementation of the Children's First Guidelines across Ireland highlights the ongoing failure of the child protection system to adequately protect children at risk of abuse and neglect. While appreciating that identifying child abuse is never easy and finding the right solution in each case requires everyone involved working closely together, the protection of Ireland's children must be our priority as a society.

The acknowledgement of the systemic as opposed to individual failures must never be forgotten. Therefore, the need for clear structures of accountability is a vital lesson. In light of the recent failed attempt by Louise O'Keeffe to hold the Department of Education and Science accountable for the harm visited on her by a publicly funded teacher in the State's educational system, we recommend an independent audit of accountability structures in relation to all services for children.

Recommendations:

- The Children's First Guidelines must be put on a statutory basis so that child protection is given the highest priority possible and resources are allocated accordingly. Legislation must impose a statutory duty on all relevant bodies to implement and honour the guidelines in force at any given time.
- A single national authority should be established, independently chaired and reporting to the Oireachtas. It need not be a large or unwieldy body, but should have the following functions:
 - to monitor adherence to standards in public and private bodies (including church bodies) and to publish regular reports of non-compliance;
 - to ensure training in child protection is uniform, available and undertaken by all relevant personnel;
 - to initiate action, including legal proceedings where necessary, against bodies that fail to comply with standards, or to make recommendations about the withholding of public grants where bodies fail to comply;
 - to provide a forum where the voices of children can be heard, and to ensure that all complaints are properly investigated by the relevant authorities.

Commission to Inquire into Child Abuse Recommendations:

7.06 Childcare policy should be child-centred. The needs of the child should be paramount.

7.07 National childcare policy should be clearly articulated and reviewed on a regular basis.

7.08 A method of evaluating the extent to which services meet the aims and objectives of the national childcare policy should be devised.

7.13 Management at all levels should be accountable for the quality of services and care.

Social Services

Ireland's social services remain considerably under-resourced to deal with the increasing numbers of children in need of assessment and access to services. A recent HSE report indicated that 6,500 children at risk of abuse or neglect have not been allocated a social worker.

The lack of appropriate resources for social work services means that social workers presently only have capacity to work with cases which have been prioritised as at immediate risk of harm. Early intervention and prevention must be the aim of any good practice social services; children's needs must be prioritised and situations managed before they reach crisis point.

While we welcome Minister for Health and Children, Mary Harney's assurances that 60 social work posts will be filled this year, this remains inadequate. Even if and when those posts are filled, Ireland would still have half the number of social workers per head of population than Northern Ireland and the UK. For as long as vulnerable children await basic assessment of their needs and the risks to which they are exposed, we face the very real possibility that many more children will be irreparably damaged.

Recommendations:

- Provide the resources necessary to put a proper system of child protection in place.
- Ensure that the system is led at national level by appropriately qualified personnel with real decision-making authority, to ensure that practice is of the highest standards.
- Prioritise social work and ensure that social care teams are adequately resourced across the country so that there is a high level of care available to children, wherever they live
- Allocate and ring fence resources for the development of a 24 hour professional social care service that includes both an early response mechanism where concerns are raised and a crisis response to emergency situations as they arise.

Commission to Inquire into Child Abuse Recommendations:

7.09 The provision of childcare services should be reviewed on a regular basis.

7.14 Children in care should be able to communicate concerns without fear.

7.15 Childcare services depend on good communication.

7.16 Children in care need a consistent care figure.

7.18 Children who have been in childcare facilities are in a good position to identify failings and deficiencies in the system, and should be consulted.

7.19 Children in care should not, save in exceptional circumstances, be cut off from their families.

7.20 The full personal records of children in care must be maintained.

Children in care

It was reported to a recent meeting of the HSE Board (and subsequently reported in the media) that at the end of March this year there were 5,529 children in care - just 4,623 or 83.6 per cent of them have an allocated social worker with the majority of these children in the care of foster families. A significant percentage of children in care do not have a care plan; based on the statistical analysis in the Review of Adequacy of Services for Children & Families 2007 (published by the HSE), 35.8% of children in residential care and 34.3% of children in foster care do not have a care plan. This represents a considerable failure of the system to adequately ensure that children in care are given every opportunity to make their voices heard in the decisions that affect them and to have access to an adult care figure who they can discuss issues and areas of concern with.

Recommendations:

- Involve children in the design and implementation of their care plans and;
- Ensure adherence to high standards of care in foster homes, in accordance with the National Standards of Foster Care 2003, and in all residential settings, through inspections carried out by the Health Information and Quality Authority.
- Implementation of the 'Amber Alert' system to apply to children in care to ensure adequate responses to children who go missing from care placements.
- The maintenance of an effective central database on relevant childcare in the State will require the enactment of the soft information legislation. We call for the immediate publication of the legislation and its urgent enactment.
- Regular reports and statistical information on children in care, children at risk and childcare services must be publicly available to facilitate transparency and accountability.
- Management at all levels should be accountable for the quality of services and care. Managers of institutions must ensure that the quality of care delivered is in the first instance established on the basis of the needs of the child. Any compromise of that care necessitated by the resource limitations or competing needs of the institution should be transparent. Such compromises should be explicitly reported upon to the Minister for Children, and published by that office.

Commission to Inquire into Child Abuse Recommendations:

7.17 Children who have been in State care should have access to support services.

After-care services

Young people leaving care face significant risks. They are more likely to face difficulties relating to, among others, unemployment, homelessness, social isolation and mental health. Young people leaving care who do not have support are more vulnerable to risks such as alcohol and drug misuse, prostitution and crime. It is vital that young people leaving care are given access to services that allow for a graduated and supported transition from care to ensure that they can move into young adulthood with the best opportunities available.

There are gaps in the availability of specialised services including mental health services and support services for children who have been the victims of sexual violence.

Recommendations:

- Provision of a comprehensive after-care service on a statutory basis for those young people leaving the care system like those in place in the UK and Northern Ireland.
- Models of specialist service delivery for teenage victims of sexual violence need to be extended to ensure availability and access throughout the country.
- Geographical gaps in access to specialist sexual violence services need to be identified and addressed and national standards and guidelines for such services need to be promoted.
- Priority and resources to be given to implementation of “A Vision for Change”, especially in relation to child and youth mental health services.

Commission to Inquire into Child Abuse Recommendations:

7.12 Independent inspections are essential.

Inspections

We must immediately come to a point where standards and inspection, independently operated, must apply to every situation where a child is in care. The Ombudsman for Children has pointed out the areas where there are no standards and no inspection at present – children with disabilities in residential settings, children in St. Patrick’s Institution, and separated children. These situations are scandals waiting to happen.

Recommendations

- Extend the national standards, prepared on a child-centred basis, to cover all children in care, including children with disabilities in residential settings, and all separated children and children under 18 in adult prisons and places of detention and ensure that all such settings are inspected by the Social Services Inspectorate.

- Extend the remit of the Ombudsman for Children to cover every situation in which children are in residential care, including residential facilities for separated children and children in adult prisons and places of detention.
- We propose the enactment of Whistleblower legislation, to ensure that whistleblowers are adequately protected and that codes of conduct are developed to ensure transparency around child protection issues and concerns.

Commission to Inquire into Child Abuse Recommendations:

7.02 A memorial should be erected.

7.04 Counselling and educational services should be available.

7.05 Family tracing services should be continued.

Child and Adolescent Mental Health Services

Recommendations:

- There must be a national therapy and assessment service for children who are currently suffering abuse;
- National treatment facilities for children, teenagers and adults who have exhibited sexually harmful behaviour must be put in place as a child protection measure.

Supports for Survivors of Institutional Abuse

Recommendations:

- Survivors of abuse must be recognised as having an absolute entitlement to well-resourced and independent counselling, support and advocacy services. Any cloud over the future of such services must be removed.
- Education services to alleviate the disadvantage experienced by adults who were children in care must be resourced and supported.

Conclusion

We now know, beyond the capacity of anyone to deny it, that over generations Ireland sent 170,000 of its children to places where abuse, torture and degradation were commonplace. Children today are entitled to one guarantee, if no other: **nothing like this will ever be allowed to happen to any child in Ireland again.**

We must ensure that the child protection system is adequately resourced to ensure this, that child welfare and family support models are extended and operate to best practice standards, and that children are placed at the centre of all legislation and policy that affects them.