

Putting Children First



Promoting and
Protecting the Rights
of Children.



DEPARTMENT
OF HEALTH
AN ROINN



Putting Children First

Promoting and Protecting the Rights of Children

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
4 - 5 BÓTHAR FHEARCHAIR, BAILE ÁTHA CLIATH 2,
(Teil: 01 - 6613111 — fo-líne 4040/4045; Fax: 01 - 4752760)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased directly from the
GOVERNMENT PUBLICATIONS SALE OFFICE,
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2,
or by mail order from
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,
4 - 5 HARCOURT ROAD, DUBLIN 2,
(Tel: 01 - 6613111 — ext. 4040/4045; Fax: 01 - 4752760)
or through any bookseller.

© Government of Ireland 1997

Table of Contents

	Page
1. Introduction	5
2. The Promotion and Protection of Children's Rights	6
3. Ombudsman for Children	8
4. The Reporting of Child Abuse	10
5. Response to Consultative Process	12
6. Proposed Initiatives	14
7. Details on Proposed Initiatives	15
8. Conclusion	24

1. Introduction

The debate on mandatory reporting and the reporting of child abuse needs to be understood in the wider context of the attitude of Irish society to children. For too long children have been seen as an adjunct to their parents and not as individuals with rights and needs of their own. Societal attitudes to children have hampered not only the reporting of child abuse but also the development of a co-ordinated and comprehensive response to children in general who may be deprived, in trouble with the law or suffering from a disability.

2. The Promotion and Protection of Children's Rights

The Government has undertaken a series of initiatives to co-ordinate the response of Government Departments to the wider needs of children. These initiatives included the appointment of Austin Currie T.D., as Minister of State at the Departments of Health, Education and Justice with special responsibility for children. In addition, a Cabinet Committee, chaired by Austin Currie T.D., has been established to co-ordinate the provision of services for the care, protection and nurturing of children. The Child Care Act, 1991 has been fully implemented. The Children Bill, which deals with the area of juvenile justice, has been published and a School Attendance Bill will be published in early 1997.

The Government has ratified the United Nations Convention on the Rights of the Child. The Convention imposes legally binding commitments on the Government in relation to the rights of children generally. The key principles of the Convention are that:—

- all of the rights enumerated should be ensured for each child without discrimination;
- the best interests of the child should be the primary consideration in all actions concerning children; and
- the right of children to express views freely and to have such views given due weight, according to age and maturity, should be assured.

Implementation of the Convention requires action by a wide range of institutions and agencies in society, both statutory and non-governmental.

The Minister of State with special responsibility for children has brought forward a series of initiatives designed to improve the responsiveness of the care services to the needs of children. These include the commitment to establish a Social Services Inspectorate which will facilitate improved service provision and child care practice. It is also intended to establish a National Children's Council which will facilitate active co-operation between the voluntary and statutory sector in identifying the needs of children and responding to those needs. The Minister of State has received Government approval in principle to a programme of child care developments for the period 1997 to 1999. Details of the developments to take place in 1997 will be announced early in the New Year.

3. Ombudsman for Children

The Minister of State is conscious of the need to continue to promote the rights of children and, in particular, to ensure that the spirit of the United Nations Convention on the Rights of the Child is honoured. There is a need to constantly challenge attitudes to children and to confront those attitudes which might tolerate an environment in which the abuse or mistreatment of children can take place. In the past, we as a society had difficulty confronting some of the harsh realities of the way we treated the vulnerable and marginalised sectors within our society. This climate of secrecy fostered an environment which allowed the abuse of children to take place. The Minister of State is concerned to ensure that children in general have a voice to ensure that their rights and needs are not overlooked. The Minister is committed to the development of a mechanism for the advocacy of children's rights. Such a mechanism would ensure not only the responsiveness of services to the needs of children but would also actively promote the rights of children. The Minister of State supported research undertaken by the Children's Rights Alliance on the issue of the effective protection of children's rights. The Alliance published the outcome of that research project in a report entitled *Seen and Heard — Promoting and Protecting Children's Rights in Ireland* in August, 1996. It recommended the establishment of a new office of Children's Commissioner or Ombudsman to promote and protect children's rights.

There is an obligation on Ireland, having ratified the United Nations Convention on the Rights of the Child, to take steps to ensure compliance with its provisions. One mechanism for doing this is to establish an independent body for the promotion and protection of children's rights. The United Nations Committee on the Rights of the

Child (which monitors the implementation of the Convention by national governments) has recommended that an Ombuds-type body be established at national level to further the implementation of the Convention. The Report of the Children's Rights Alliance, published in August 1996, indicated that the promotion of the Convention is one of the key roles of the Children's Ombudsman in most of the countries examined in the report.

The Parliamentary Assembly of the Council of Europe has also recommended that member states of the Council of Europe appoint a commissioner for children (ombudsman) or create an appropriate structure, at local or national level, which could inform children on their rights, counsel them and intervene on their behalf.

The Minister of State is fully committed to the principle of the establishment of an Ombudsman for Children to ensure the responsiveness of services to the needs of children and to promote the rights of children. The role and function of the Ombudsman needs to be explored in greater detail with other Government Departments, the voluntary sector and all those dealing with children. The Minister of State is developing detailed proposals on the establishment of such a body to promote and protect children's rights. It is intended that the detailed proposals developed by the Minister of State will be referred to the Cabinet Committee on Children, as soon as possible. The preparation of The First National Report of Ireland on the United Nations Convention on the Rights of the Child showed that fifteen Departments have responsibilities in relation to children. It is important that a body for the protection and promotion of children's rights can deal effectively and comprehensively with all issues affecting children. The Cabinet Committee on Children will ensure that there is a co-ordinated approach across Government Departments to any proposals developed by the Minister of State on an Ombudsman for Children.

It is important that the issue of the reporting of child abuse is not seen in isolation. Other areas such as health, education and poverty need to be addressed as well as freedom from abuse and exploitation. It is important that society does not consider that it has discharged all its obligations towards children by the introduction of measures on the reporting of child abuse. The Minister of State is committed to meeting, in a comprehensive and effective manner, all the needs of children and to giving them an effective voice and advocate to promote and protect their rights in Ireland.

1. The Reporting of Child Abuse

The consultative process on mandatory reporting was initiated by the Minister of State at the Departments of Health, Education and Justice with special responsibility for children, with the launch, in February, 1996, of **Putting Children First — A Discussion Document on Mandatory Reporting**. This consultative process culminated in *The Reporting of Child Abuse — The Contribution of Mandatory Reporting*, a consultative forum hosted by the Minister of State in the Grand Hotel, Malahide on the 16th September, 1996.

Over two hundred submissions, from groups and individuals, were received in response to **Putting Children First**. The submissions examined, not only the question of mandatory reporting, but also provided a useful commentary on other aspects of our child protection services. Every person or group who made a submission was invited to the consultative forum. The submissions reflected a wide diversity of views on mandatory reporting and this divergence of opinion was also in evidence at the forum.

The majority of submissions, by a ratio of over two to one, did not agree that the introduction of mandatory reporting, would provide greater protection to children or improve the child care services. **Putting Children First** had identified most of the reservations concerning mandatory reporting. The new arguments against its introduction came from groups concerned with its practical effect on the provision of their particular service.

At the consultative forum in September 1996, the majority of participants expressed reservations or opposition to mandatory

reporting. There was widespread agreement that further development of our child care services is required to ensure that children and professionals can report abuse in the knowledge that appropriate investigation, treatment and support services are available to victims. The idea of improved co-operation and co-ordination between professionals and agencies as a means of addressing the problems that currently exist in relation to the reporting of child abuse received much attention and support.

Response to Consultative Process

The Minister of State has given careful and lengthy consideration to all the issues raised during the consultative process on mandatory reporting. He was impressed by the unambiguous consensus amongst those who participated about the duty of the public and professionals to be alert to child abuse and to report abuse to the appropriate authorities. He noted the concerns of many individuals and groups, for a wide variety of reasons, in relation to the introduction of mandatory reporting, and the view of the majority that the introduction of mandatory reporting in the immediate future would not be in the best interests of children. Whilst there may be positive aspects to the introduction of mandatory reporting, he was impressed by the argument that great caution is required in applying a simple, prescriptive legal solution to such a complex care and social problem as child abuse. He is aware of the danger that an overly prescriptive approach might hamper health care professionals in meeting the needs of patients and clients, for example in the provision of counselling services or care for pregnant girls under the age of seventeen. He considered that the development of child care services commenced in recent years needs to be progressed further to ensure that the child welfare system can provide appropriate supports to vulnerable children and families at risk. There is a danger that an excessive reliance on legal obligations could hamper the balanced development of these services. It is his view that arrangements for the reporting of child abuse must be accompanied by a range of services to meet the many complex and varied needs of victims of abuse and families at risk.

The Minister of State considers that the consultative process was of great value in identifying how existing arrangements for reporting child abuse could be enhanced and how a climate which encourages the reporting of

child abuse could be fostered. The Minister of State is convinced of the need to strengthen existing arrangements for reporting child abuse. He is taking the following initiatives in relation to the child care services which will:—

- (i) improve co-operation between professionals and agencies dealing with children in identifying and responding to the needs of children at risk;
- (ii) improve awareness of child abuse among the general public, thereby creating an environment which will help to facilitate the reporting of child abuse and which will encourage people to use the support services available for vulnerable individuals and families at risk;
- (iii) further develop the support services for individuals who may have been abused; and
- (iv) ensure that all voluntary agencies providing services to children have procedures in place for the reporting of child abuse which are consistent with national guidelines and good child care practice.

i. Proposed Initiatives

he proposed initiatives are:—

- (i) Designated Officers in the health boards to co-ordinate inter-agency approaches to child protection at community care level,*
- (ii) Regional and Local Child Protection Committees, operating at health board and community care area level, to enhance inter-agency and inter-professional approaches to child protection,*
- (iii) Multi-disciplinary training, under the aegis of the Regional Child Protection Committees, to increase inter-agency and inter-professional approaches to child protection,*
- (iv) The new Social Services Inspectorate to review the 1987 Child Abuse Guidelines and the procedure for the Notification of Suspected Cases of Child Abuse between Health Boards and Gardai,*
- (v) A public information campaign to heighten public awareness of child abuse and of the system to respond to cases of child abuse,*
- (vi) The provision of support services by health boards for victims of past abuse,*
- (vii) Funding of voluntary agencies dealing with children to be conditional on procedures being in place to deal with allegations of child abuse, and*
- (viii) Evaluation of the impact of the above measures on the reporting of child abuse.*

7. Details on Proposed Initiatives

(i) Designated Officers in the health boards to Co-ordinate the Inter-Agency and Inter-Professional Response to Individual Cases at Community Care level

To ensure inter-agency and inter-professional co-operation at community care level, it is proposed that designated officers be appointed in each community care area by each health board to co-ordinate the response of all agencies, statutory and voluntary, to individual cases of child abuse or protection. The designated officer would be either the Child Care Manager or the Senior Social Worker.

One of the main recommendations of the Kelly Fitzgerald Report was the appointment of a Child Care Manager in each community care area. A number of health boards are already proposing to appoint Child Care Managers at community care level, to co-ordinate child protection services. It is envisaged that the Child Care Manager will act as an assistant, and report to, the General Manager in the community care area. The Child Care Manager will manage and co-ordinate services for children in a specified community care area. Among the more important tasks of the Child Care Manager will be:—

- *receiving all notifications of child abuse,*
- *taking decisions relating to the holding of Case Conferences,*
- *negotiating service agreements with voluntary service providers,*
- *ensuring inter-agency co-operation in relation to child protection and welfare,*
- *ensuring inter-professional and inter-programme co-operation in relation to child protection and welfare,*

- *being a budget holder for child care services, and*
- *supervising staff training programmes.*

Child Care Manager posts have been approved for the South-Eastern, Northern and Western Health Boards. In the development of child care services in 1997, the approval of Child Care Manager, or equivalent, posts in the other health boards will be a priority.

The Child Care Manager will have a pivotal role in convening and supporting the Local Child Protection Committee discussed below.

Child Protection Committees at Health Board and Community Care level

There is a need for a close working relationship between social workers, gardai, the probation service, medical practitioners, nursing staff, teachers and other relevant professionals who have a common aim to protect children. Co-operation between the various agencies can be difficult to achieve. The establishment of Child Protection Committees, along the lines of the committees in existence in Northern Ireland, would assist in the development of inter-agency and inter-professional co-operation.

It is proposed that a Regional Child Protection Committee be established at health board level to facilitate co-ordination on a regional basis, and a Child Protection Committee in each community care area to foster co-operation locally. The proposed structure therefore allows for a regional committee, which will develop policies to improve inter-agency and inter-professional co-operation, and a more local committee to provide a forum at a local level for the sharing of knowledge and experience in relation to the protection of children.

The primary functions of the Regional Child Protection Committees will be to develop a strategic approach to child protection. Their main tasks will be to:—

- *promote and review progress on arrangements to prevent child abuse,*

- *develop, monitor and review inter-agency and inter-professional child protection policies and procedures,*
- *monitor multi-disciplinary co-operation and bring any concerns to the local Child Protection Committees,*
- *identify the inter-disciplinary and inter-agency training needs and promote the development of an inter-disciplinary and inter-agency training strategy,*
- *keep under review ways of raising public awareness of child abuse and mechanisms to express concerns about child abuse,*
- *initiate research on the prevention and treatment of child abuse,*
- *review significant issues arising from the handling of cases and reports from inquiries,*
- *develop a strategy for the provision of therapeutic services to perpetrators of child abuse, and*
- *to conduct or participate in case management reviews, as appropriate.*

It is proposed that the Regional Child Protection Committee be established by a direction from the Minister for Health to Child Care Advisory Committees which have been established under Section 7 of the Child Care Act, 1991. The Minister may give general directions to Child Care Advisory Committees under section 7(5) of the Child Care Act, 1991. Given the highly sensitive nature of the issues which will need to be reviewed in detail before such committees, and that their primary focus will be on inter-disciplinary and inter-agency co-operation, it is envisaged that the Regional Child Protection Committees will be composed of health board management and relevant professionals. However, Regional Child Protection Committees will operate as a sub-committee of the Child Care Advisory Committees, focusing on professional and technical matters and reporting to the Child Care Advisory Committee, as appropriate, on matters of general policy.

The Regional Child Protection Committee will issue guidance on inter-disciplinary and inter-agency procedures, review annually the child protection work in the region, develop a work plan for the incoming year

and produce a report to go to the head of each constituent agency and the Child Care Advisory Committee.

The functions of the Local Child Protection Committee will be to:—

- *monitor and review the implementation at community care level of arrangements to prevent child abuse,*
- *implement procedures and policies developed by the Regional Child Protection Committees for inter-agency and inter-professional co-operation at a local level,*
- *review the operation of inter-agency and inter-professional co-operation at local level,*
- *provide a forum for a sharing of knowledge and experience by professionals on child protection at a local level,*
- *keep under review ways of raising public awareness of child abuse and mechanisms to express concerns about child abuse at a local level, and*
- *conduct or participate in case management reviews, as appropriate.*

The membership of the regional committees will consist of representatives of health board management and professional staff, educational interests, the gardai, the probation and welfare service, the Department of Social Welfare, general practitioners and the voluntary child care sector. The membership of Child Protection Committees at community care level will mirror the membership of the Regional Committees to ensure local implementation of co-ordinated initiatives.

(i) Multi-disciplinary Training under aegis of the Regional Child Protection Committee

The importance of the promotion of proper inter-disciplinary and inter-agency training has been stressed, irrespective of the introduction of mandatory reporting, throughout the consultative process on mandatory reporting. The Regional Child Protection Committees will be given the task of developing, as a matter of priority, initiatives in relation to inter-agency and inter-professional training on the reporting of child abuse. Joint or multi-disciplinary training initiatives at local level will become

the responsibility of the designated officer assigned to co-ordinate inter-agency responses to individual cases.

(iv) The new Social Services Inspectorate to review the 1987 Child Abuse Guidelines produced by the Department of Health and the procedure for the Notification of Suspected cases of Child Abuse between the Health Boards and Gardai

The procedures to be followed in the management of cases of suspected child abuse are in accordance with the Department of Health's 1987 Child Abuse Guidelines. These guidelines were amended in 1995 by the Guidelines for the "Notification of Suspected Cases of Child Abuse between Health Boards and Gardai" in relation to the circumstances in which the health boards and the gardai are to notify suspected cases of child abuse to each other and in relation to the consultation that should take place between both agencies following such a notification.

It is proposed that the new Social Services Inspectorate, to be established in the Department of Health, will review the content and workings of the Child Abuse Guidelines and the health board / garda notification procedures to take account of the issues raised in relation to child protection during the consultative process on mandatory reporting. These issues include the reporting of cases of pregnant girls under the age of seventeen and the position of health board counselling services providing therapeutic support to victims of abuse.

One of the central recommendations of the Report of the Kilkenny Incest Investigation Team concerned the need for inter-programme collaboration between hospital and community care staff members concerning the identification, notification and follow-up of child abuse. Health boards have improved arrangements for the assessment and management of child abuse cases, with particular importance being attached to co-operation and co-ordination between their hospital and community care programmes.

A number of health boards have formulated regional guidelines for the investigation and management of cases of suspected child abuse based on the Department's guidelines. These guidelines protect vulnerable children by ensuring that staff have guidance on the investigation and management of situations where children are at risk of abuse or neglect.

Any review of the Department's guidelines and procedures would serve as a basis for regional guidelines by the remaining health boards and assist those boards already with guidelines in any reviews which may be undertaken.

Consideration will be given, in the review by the Social Services Inspectorate, of the value of giving procedures outlined in the Child Abuse Guidelines a statutory basis in regulations.

v) Public Awareness Campaign to create an Increased Awareness of Child Abuse

A common understanding and approach to the problem of child abuse will also serve as a basis for a properly co-ordinated public awareness campaign to inform opinion on child abuse prevention strategies and, when abuse has occurred, on how to react to, and the services available, for families and victims. The need for a campaign to heighten public awareness received much support at the consultative forum.

It is important that the issue of reporting child abuse should not be perceived as an issue of concern exclusively for professionals. The role of the public in combating child abuse is of vital importance. Public awareness of child abuse has been heightened by a series of tragic cases such as the Kilkenny Incest Case and the death of Kelly Fitzgerald. However, a systematic and planned approach is required to the fostering of public awareness of child abuse.

One of the arguments in favour of mandatory reporting was that it could change attitudes to child abuse and raise the general awareness of society to what is a difficult issue to confront. A national publicity campaign could achieve the same aim. It has been argued that the secretive nature of Irish society in the past in dealing with difficult issues fostered an environment which allowed child abuse to take place. A public awareness campaign would allow for more open and frank discussion of the realities of child abuse. It would heighten public awareness of the support services available to vulnerable children and to families which may be in difficulty. It would create a climate which would allow victims to come forward in the clear knowledge of the support and understanding available from the health services. AIDS awareness campaigns have fostered an environment which allows for more open

and frank discussion of issues of sexual behaviour. A carefully constructed national public awareness campaign on child abuse may achieve a similar result in relation to child abuse.

A campaign to raise awareness of child abuse without resulting in a flood of unsubstantiated child abuse reports from members of the public will need to be very carefully constructed. It is important that careful consideration is given to the message to be conveyed on such a complex issue. Such a campaign would not only be directed at the personal behaviour of people, as in public health campaigns on smoking, alcohol and AIDS, but also at raising an awareness and understanding of the varied and complex nature of child abuse itself and of the many support services available to victims and families at risk. The Minister of State will engage media consultants and professionals involved in the care and protection of children to assist in the production of a public campaign to increase awareness of child abuse.

The Regional and Local Child Protection Committees will also have a role in promoting regional and local initiatives on raising awareness of child abuse.

(vi) Helpline for Victims of Past Abuse, operated by Health Boards

A heightened public awareness of child abuse and neglect, following some of the recent child abuse scandals, has brought to light new revelations of incidents of child abuse and neglect alleged to have occurred some twenty, thirty or even forty years ago.

The Chief Executive Officers of the Health Boards have accepted that they have a responsibility to respond to the needs of the victims of past abuse and have established a steering group to develop a counselling service for adult victims of past abuse. It is proposed to establish a counselling service in each health board for such victims. On 6 June, 1996 the Minister of State gave a commitment in response to a Parliamentary Question that such a service would be established in the near future.

A full counselling and therapeutic service will be provided by the boards in response to the needs of those who have been abused in the past. The service will be provided by the adult health care service and will respond to the problems which may emerge such as depression, guilt, addiction,

personality disorder and relationship problems. The proposed service will fall under the ambit of the health board's mental health services.

The service will fulfil a dual role:—

Listening and counselling service: The person manning the service will have the necessary experience and training to enable them to offer a sympathetic and patient ear. This in itself can prove therapeutic for some. The staff will have the training and expertise usually associated with the caring professions of social work, nursing and psychology. It is estimated that in the great majority of contacts, this service will be all that is required.

Information and referral service: The service provider will act as a link for clients who require further services. They will help clarify what additional services a client requires and arrange a consultation, where necessary.

Legal difficulties which have emerged in the drawing up of guidelines for the development of this service are being resolved as a matter of priority with the assistance of the Attorney General's Office. As soon as these difficulties have been addressed, the service for past victims of abuse will be established.

(vii) Funding of voluntary agencies dealing with children to be conditional on procedures being in place to deal with allegations of child abuse

The Minister of State is concerned to ensure that all agencies dealing with children have clear procedures in place to deal with allegations of child abuse. Regional and Local Child Protection Committees will ensure more effective inter-agency and inter-disciplinary co-operation. Many voluntary organisations with responsibility for children have well developed procedures in place in relation to allegations of child abuse and work closely with health boards when such allegations arise. However, in order to ensure that all voluntary agencies develop effective mechanisms to respond to allegations of child abuse, each voluntary agency dealing with children will be asked, as a pre-condition of public funding by the health board or the Department of Health, to put in place

procedures to deal with allegations of child abuse which are consistent with national guidelines and approved by the appropriate health board.

(viii) Evaluation of the impact of the above measures on the reporting of child abuse

The Minister of State will commission research to evaluate the impact of the initiatives outlined above over the next three years. The outcome of that evaluation will influence future decisions on arrangements to ensure the effectiveness of the response to children who have been abused. If at that stage it is clear that the introduction of mandatory reporting would be in the best interests of children, or that some other form of statutory basis to ensure co-operation between agencies is required, the necessary legislation will be introduced.

8. Conclusion

The consensus view, following the consultative process and the forum on the reporting of child abuse, was that the introduction of mandatory reporting at this time would not be in the best interests of children and would not improve our child care services. The Minister of State is taking initiatives to strengthen the existing arrangements for the reporting of child abuse, and the response of statutory agencies to reports of abuse, based on proposals made during the consultative process. These initiatives will be evaluated over a three year period. Should the evaluation demonstrate that mandatory reporting would be in the best interests of children, or that a statutory basis is needed to ensure inter-agency co-operation, the necessary legislation will be introduced. In the meantime, and in parallel with the initiatives outlined above, the Minister of State will implement a child care programme to strengthen the child care services and give a high priority to the introduction of an Ombudsman for Children.