

Introduction

Youth Work Ireland is the largest youth organisation in Ireland. We are made up of 21 Local Member Youth Services and a national office. We support our members to deliver an Integrated Youth Services Model to young people in their communities. This means that young people around Ireland can avail of a whole range of services and supports if and when they need them.

We actively engage with over 76,000 young people every week. Over the years we have developed highly innovative services, supports and programmes for young people between the ages of 10-25 years, including mental health supports, resilience building, anxiety programmes, drug and alcohol supports, LGBT+ youth work, club development, employability programmes, counselling services, rural outreach and fun safe spaces for young people to gather.

Clearly there has been a lot of change in the almost 30 years since the Childcare Act was passed. Ireland has ratified the UN Convention on the Rights of the Child and introduced some of its provisions at a constitutional level in 2012. We have also seen the establishment of a cabinet ministry with responsibility for children and a dedicated agency focussed on child protection. It is clearly high time to review the main piece of child protection legislation which covers the most vulnerable children and young people.

Youth work and youth workers, both voluntary and professional, can play a major role in child protection and critically in early intervention and preventative work. Youth Work thrives on the quality of the relationship with the young person and often a young person facing immense problems will “open up” much more in a community youth work setting. Thus, youth workers and volunteers can play a crucial and trusted role in assisting young people who are experiencing many of the difficulties covered by the Act. Youth work can provide a community-based intervention ranging all the way from a listening voice and a chance for peer association all the way to formal involvement in case conferences and care scenarios depending on the situation the young person faces.

Guiding Principles

The need for guiding principles is clear and well-articulated in the consultation document. Legally these should be meaningful and as with constitutional principles they can be utilised in judicial and quasi-judicial situations. Their greatest value would be in acting as guidance when there is lack of clarity or certainty about any given situation. The rights and best interests of the child are the most obvious principles, and these have been articulated elsewhere. Given the opportunity provided by introducing guiding principles they should further develop these concepts and flesh out how they operate if and when they come into conflict with other rights and interests. It should also be noted that the 2012 referendum wording did not give full legal effect to the UNCRC in Irish law so there is ample opportunity here to provide further guidance on using it's broader provisions thus making it more persuasive in legal and quasi-judicial situations.

Parental participation is extremely important but should not be placed higher than that of the welfare of the child. This not only needs to be made explicit it needs to be understood and enacted daily. Whilst wider family support is often a crucial supportive factor in the care and well-being of a lot of children it cannot be simply an alternative to adequate parenting and consistent parental care. If it is deemed appropriate and suitable that a child receives more care from wider family members adequate resources, support, and oversight by Tusla must be maintained.

Interagency coordination and collaboration

Youth Work by its nature crosses the boundaries and silos of state provision. While the former DCYA supports much of the core work frontline services can deal with a number of Departments and agencies such as the Departments of Justice, Social Protection, Education, ETB's, TusLa, HSE, local authorities and many more. We have first-hand experience of the challenges this presents and how difficult it is to keep the focus on the needs of vulnerable young people. Many other policy documents reference this issue which at least shows the state is aware and the answer must primarily come from the state sector

Whilst it is obvious that CYPSC should replace the old/defunct CCAC's the necessity for interagency co-ordination and collaboration may not be fixed by just making this amendment. Currently Tusla and the agencies funded by/through them have a legitimate and agreed role governing their participation on CYPSC and the various subgroups. However other voluntary & community organisations are more limited with their time and their funders may not recognise the legitimacy of their involvement on an on-going basis. All Departments (possibly through the Children First IDG) would need to clearly give permission and legitimise the value of this work going forward. Also the voice of services working closely on the ground with vulnerable children and young people need to be heard, acknowledged and have an impact on direct actions.

For years the community & voluntary sectors have worked collaboratively, crafted and fostered inter-agency relationships and ensured they knew the agencies/organisations/key people that a child/young person may need support from. At the same time the bigger agencies such as Tusla (but not only) often worked in silo's. A lot of work has taken place where Tusla recognises the need to hear children and young people's voice and link in with key community stakeholders but at some level it can still be very tokenistic. We have seats at the table (under pressure from funders to not get too involved) but ultimately decision-making powers rest beyond us.

In the spirit of true interagency and partnership work all sectors input must be valued of course with due consideration and weight given to those with key responsibilities. Otherwise already overstretched and under-resourced voluntary & community organisations are wasting time just for the optics of being involved or worse still to maintain some level of connection in case future funding depends on it. In real time In some respects there may not be any negative impact to children/young people if the voluntary & community organisations ceased participation in the (internally necessary) Tusla fora's such as CYPSC, PPFS etc

The proposals here are good as is often the case but delivery would be key. We also need to examine the interaction with adult services.

Early Intervention and Family Support

It would be essential to include on a more firmer footing the importance of early intervention measures in the lives of children and young people. While Tusla has tried its best to communicate that it is there for a much broader range of support services not just Child Protection the overwhelming consensus still is that it has mainly to do with Child Protection and Safeguarding concerns only. Also, evidence would show increased better outcomes for children/young people when early intervention measures are accessed.

There is currently no entitlement for a child or parent to receive support or access a service if a child is at risk of going into care, this needs to be addressed. There is an argument to put all child protection conferencing on statutory basis.

Whilst it may be necessary not to define certain elements of family supports and be constrained by them if they are in the legislation, a firm commitment to identifying needs, provision of funding and on-going oversight and support would need to be explicit in the act. Ad hoc and piecemeal funding for such vital services is not good enough.

We believe youth work can play a critical role here and is often used in many parts of the protection and care continuum but increasingly pressure on our services mean we have to look more and more at the bottom line and “are we funded for this” in responding, while this is a shame it follows inevitably from the more recent approaches to Government contracting and commissioning

Voluntary Care Agreements

The use of voluntary care agreements is very common, some might say too common as they are so frequent. It may also be worth establishing the state of mind and competence of the parties at both the outset and continuation of these agreements. It must be clear that there is informed consent at all stages.

We would also ask where is the voice of the child in this? Usually voluntary care agreements happen at times of crisis etc... but the past few years Tusla have launched campaigns and websites based on hearing children and young people’s voices. Is it proposed to ask the child’s view here?

There are issues around informal care arrangements (as distinct from Relative Foster Care where a formal agreement is in place). These also require oversight but a hands-off approach is taken on the ground and this appears to be to minimise cost implications for the State (for allowances and access to aftercare) rather than taking the best interests of the child into account.

Unaccompanied children seeking asylum and taken into care

A definition is important here, the immigration status is not very relevant if a care solution is envisaged. A broader definition including suspected victims of trafficking, abandoned and orphaned children. A child with no parent or legal guardian residing in Ireland no person in loco parentis willing to provide care meets the definition. This is a sizeable group, and many have suffered considerable trauma which should be allowed for.

Accommodation for homeless children

There has been a significant increase in older teenagers being homeless and couch surfing from day to day. The wording should be stronger than enquire, to “check” what the circumstances are and then provide access to short time accommodation while supports are put in place to rectify the family home situation (If possible). Experience on the ground shows (especially if the young person is 16 or over) that this issue is widespread but little to no interventions take place.

The proposals may not be an improvement on the current position. Consideration should be given to the introduction of ministerial regulations.

Emergency Care Orders

An Emergency Care Order is generally extreme. There have of course been issues about out of hours responses here, but courts can sit in these circumstances and it may be a case of the system being more flexible in order to prioritise the best interests of the child. Overall while these orders are necessary, we need to have an holistic analysis of the continuum of orders and examine if poor practice has grown up because of pressure on social work services and courts and other areas. The best interest of the child would suggest the service should adapt rather than the child missing out.

We believe there may be scope for a more nuanced and tailored approach to orders with greater use of assessment orders for example.

Interim Care Orders

The interim nature of these might be questioned if they can be renewed over and over. This could be problematic and lead to a de facto lower threshold for care. These orders must be strictly temporary. There should be a dedicated accessible panel for the most common assessments as this is where drift and delay often happens

A short care order and assessment orders could play a role here.

Care Orders

This entire system should operate on written reasons and maximum transparency for all concerned

Supervision Orders

Similarly, to the above a more flexible and bespoke system of orders is needed overall

Private Foster Care

This is clear and welcome

Jurisdiction – operation of the courts and hearing of proceedings

These proposals are very welcome

Voice of the Child

The Department should more than “consider” making it explicit in the Act. The child should absolutely be made aware of the options to have their voice heard. And whilst we would welcome the Family Court system being proposed and the relevant training for Judges, solicitors, Gardai etc... there should be options of personal support available to each child with respect to sharing their view/opinion on matters concerning them.

The Guardian Ad Litum legislation needs to be prioritised but there are many other forms of methods to hear and amplify children’s and young people’s voices. Youth groups and NGO’s are doing more and more of this type of work. They are also working with the most vulnerable who may not be actually in the care system but could be at risk of becoming so or have other issues such as offending or addiction. We need the voice of children and young people from the most disadvantaged backgrounds and well advance of court appearances.

Youth participation is still not embedded at CYPSC Committee Level although the TOR allow for young people to be engaged at Steering Committee and Working Group level. We feel young people are still being kept at arms’ length. This still speaks to the attitude that the service providers are the experts in the lives of young people.

In short the youth sector and local youth services have a huge amount to offer here

Corporate Parenting

There is a long way to go from ensuring successful and effective and mutually regarded interagency collaboration at this point, so it is the correct decision not to introduce corporate parenting into legislation at this time. Also, the term itself is awful and does not lend itself well to that nurturing/caring wrap around care that it is meant to facilitate. It would take a long time to make

this cultural shift in Ireland, if possible, at all. Whilst on the surface it may seem a lofty and noble idea, the fact that deeply personal experiences could become the “responsibility” of local authorities, relevant agencies etc... seems so far removed from the delicate, sophisticated and robust work which must place when caring for vulnerable children and young people. The language really does matter here.

Other Comments

While a lot of attention is given to when and how people enter in to care the law needs to say more about what happens when young people and children are in care and how their voice will be heard at all stages.

We should consider if the court can make supervision orders, interim and care orders on its own motion where no order is being sought by Tusla, or the court considers the threshold has not been met for a care order but has been met for a supervision order

The response to the situation of 16-18 year olds is currently very poor in our view and appears to be approached with the idea if we drag our heels long enough they will age out of Tusla/Social Work remit as well as keeping numbers of young people in care system and costs down.

There still remains a need for greater collaboration between the Gardai and Tusla and social workers.

We would also wonder if young people in detention should be considered as ‘in the care’ of the State within this proposed legislation or are they a special category under the Justice remit with potentially less rights and less supports?