Submission from the

HSE Children First National Office

1. Brief introduction to the person or organisation making the submission

The Health Service Executive (HSE) Children First National Office (CFNO) was established in order to support and monitor consistent implementation and compliance with the Children First Act 2015, and its associated Children First National Guidance 2017, across HSE and HSE funded services. The office is responsible for supporting the HSE and HSE funded services to promote and cultivate child-centred practice and to safeguard children through the effective implementation of Children First.

This submission is limited to that of the HSE CFNO (based on professional knowledge and/or anecdotal information of the impacts of sections of the Act on HSE services and child protection) and a small number of HSE professionals and sectors within acute and community settings. The attached feedback is indicative of either the individual or collective views of these contributors, however, they will be presented as the views of the HSE CFNO in the interest of being clear and concise. Where the brief information and recommendations made highlight an area that the department consider important to consider further, the HSE CFNO will be happy to support any further information gathering or consultation processes to progress the review of the Act.

2. Proposals (NEW Part of Act)

We welcome the proposal of the inclusion of a list similar to that contained in the Children and Family Relationships Act 2015, identifying the principles to be considered in determining the best interests of the child. This is a step in the right direction in relation to promoting equity and consistency of decision making in both public and private law proceedings in relation to children.

Healthcare professionals welcome the broadening of the principle that it is generally seen to be in the best interest of the child to be brought up in their own family. Acknowledgement of the diversity of family types and forms is progressive and necessary.

3. Promotion of welfare of children (Part II)

a. Interagency coordination and collaboration

- Proposed role of Children and Young People's Services Committees (CYPSC) in this and of the Interdepartmental Group (IDG)

This is a welcome proposal - it will be good to have a legislative underpinning for the requirement for interagency coordination and collaboration in relation to promoting the welfare of children, and in service provision. Having a reporting line to the Children First IDG is also welcome so that there is oversight and responsibility for all departments.

However the current function of the IDG under legislation is specific to the Children First Act 2015 – will its remit be expanded and what will this look like?

b. Early Intervention and Family Support

- Role of CYPSC
- "…requirements concerning cooperation among organisations may be supported via emerging national policy or set out by the Minister in statutory guidance or protocols"
- "Tusla and its partner organisations will collaborate consistently in promoting the well-being of children through co-ordination, and where necessary, the joint delivery of measures….."

Again this is a welcome proposal. However, as this will be a Tusla led approach and HSE services work with many vulnerable children and young people who are not known to Tusla – consideration needs to be given to how service delivery to these children is not adversely impacted by legal requirements to provide services to vulnerable children known to other services including Tusla.

In the assessment of child protection concerns, frequently the concern does not meet the criteria for sending a report to Tusla. Where these concerns do not meet the threshold for a report there should be an alternative pathway whereby a healthcare professional can send a referral directly to Meitheal/Family Support Services with consent of the parent/guardian.

It has been our experience as professionals referring to Tusla, where the threshold for child protection or welfare intervention is not met by Tusla, this leaves the referrer in a difficult situation whereby they may have no ongoing role with the child or no power to intervene, yet the concerns remain.

c. Voluntary Care Agreements

We welcome the proposed reforms on Voluntary Care Agreements, however there still appears to be no independent oversight of such agreements (ie court service, Guardian Ad Litem (GAL) provision) and the care arrangements for children. This may lead to a situation whereby children in statutory care receive a greater or more timely level of service provision by having certain assessments/interventions provided or funded, as directed by court orders, with such options being less available to children on Voluntary Care Agreements.

Furthermore, children are often left in voluntary care for extended periods of time. At times the process of acquiring parental consent can be difficult and can have an impact on the child being able to attend everyday events and/or appointments; eg. when a parent is incapacitated in hospital.

4. Protection of Children in Emergencies (Part III)

a. Emergency Care Orders

The proposals here don't reference the Section 12 issues – place of safety. Perhaps this isn't the place for them, however, given this is about the protection of children in emergencies, references to Section 12, as well as clarity around it may be pertinent.

Furthermore, careful consideration should be given to emergencies whereby the Gardaí or Tusla cannot meet the mental health needs of a child. The emergency department in an adult hospital setting should not be the first point of call for a child suffering a mental health emergency. As per the recommendation given, there is a need for a fully resourced out of hours service that can provide appropriate emergency placements to children presenting with mental health needs.

5. Jurisdiction and Procedure (Part V)

a. Voice of the Child

The proposals are welcome that Sections 25 and 26 of the Child Care Act 1991, will no longer be mutually exclusive, i.e. the child cannot be both a party to the proceedings with their own legal representation, and have a guardian ad litem appointed. However they are lacking, as in practice it is very rare that a child becomes party to the proceedings. This will likely have the effect of still leaving the child without their own legal representation?

Alternatives could be explored, such as the UK model of practice. This ensures that the child has their own legal representation, as standard. The solicitor for the child appoints the GAL, the GAL then consults with the child and advises the child's solicitor on the best interests of the child. The current situation in Ireland is that in the majority of cases, the GAL is appointed by the court, the GAL appoints their own solicitor and the child is still not independently legally represented.

6. Children in the Care of the Child and Family Agency (Part VI)

a. Corporate Parenting

While there isn't a proposal to include this at this point the document refers to Better Outcomes, Brighter Futures – this document is dated 2014-2020. Is there a plan to review/revise this to take into account the proposed changes re CYPSCs, interagency collaboration – what will this look like and what is the plan to 'cultivate' shared public values to improve outcomes for children in care?

7. Additional Comments on the proposals

- The proposals don't explicitly mention 'child safeguarding'. As child safeguarding is a term that is being used by Tusla, and is used in the Children First National Guidance, there is an opportunity for providing a legal definition and also guiding principle about child safeguarding being everyone's responsibility.

- Data Protection clarity around information sharing between professional services and allowing for the sharing of relevant child and parent information - in relation to care orders, voluntary agreements, supervision orders will support provision of clarity as to what information can and can't be shared between agencies.

- The legislation does not take into account those who are or have been married before the age of 18 as these young persons have the right to be safeguarded from abuse.

- Under current legislation Tusla is obligated to have an aftercare plan for a child in care however the delivery of this aftercare plan is not legislated for if the young person is no longer in education. More emphasis needs to be placed on supporting a young person's transition from care to avoid this young person transitioning from care to homelessness. Every young person leaving care should have an aftercare worker. This would allow interagency collaboration to support that young person on their admission and discharge from hospital. Currently there is heavy reliance on homeless services for a large proportion of those leaving care.