



Protect Children Now Response to Justice Oversight Consultation Phase 1

Protect Children Now is a community organisation of approximately 20 members mostly in the east of Ireland. Our goal is to achieve transparency in the child protection and family law courts for children who allege sexual abuse by their own parent.

The group uses this infographic to show our work: <https://www.broadsheet.ie/2020/02/20/the-silencing/>. We advance our agenda through advocacy on [Twitter](#), through parliamentary questions, by engaging with non-government organisations and by meeting politicians.

In this document we respond to the question **“How can the proposed new system of family justice be made more child friendly”** under three headings:

1. Data Collection on outcomes of allegations of child sexual abuse
2. Create regulations in respect of section 47 reports
3. Parental alienation

Our group is grateful for your work to reform the system of family justice and hope you can take our submission into account.

Response to consultation question: [How can the proposed new system of family justice be made more child friendly.](#)

1. Data collection on outcomes of allegations of child sexual abuse

Our group, with others, have submitted over 14 parliamentary questions and 3 freedom of information requests asking:

what percentage of allegations of child sexual abuse are deemed unfounded each year by Tusla.

On each occasion Tusla have said, they do not collate that data. The new system of family justice can be more child friendly, by registering all allegations of child sexual abuse and publishing the total outcomes on an annual basis. Publishing that data would bring transparency and make children and parents aware of what type of protection they are likely to get from child sexual abuse in the new system of family justice.

This article by [Kitty Holland in the Irish Times](#) suggests that after some protective parents relay allegations of sexual abuse on behalf of their child, when the allegations are deemed unfounded, the protective parents are referred for psychiatric assessment. Some even lose custody of their child, and the child is given to the parent against whom they made the allegation. Data on referrals for psychiatric assessment and custody outcomes after an allegation of child sexual abuse is made within a family would help children and their families to understand what type of protection they are likely to get from child sexual abuse in the new system of family justice.

Our group has prepared a list of questions to be asked by TDs with whom we're working at the [Oireachtas Committee on Children, Disability, Equality and Integration](#) in May/June 2021. Please see document accompanying this submission entitled “(2) Oireachtas Committee Questions Justice

Submission.docx.” Capturing and publishing data as requested in that document would make the new system of family justice more transparent and usable for children.

2. Create regulations in respect of section 47 reports

In October 2019, the Houses of the Oireachtas Joint Committee on Justice and Equality published its report on Reform of the Family Law System¹. It made 38 recommendations including recommendation number 29 which states:

Greater clarity is also necessary in relation to the specific criteria for appointing an expert, including the area of specialisation, where the person would fit in terms of accountability, the professional body and the qualifications he or she would have to have, and how this expert would be resourced.

The new system of family justice should implement this recommendation.

Why is it important to legislate to create regulations in respect of Section 47 reports?

Lack of specialist training

Lack of specialist training in family law amongst judges is repeatedly raised as an issue in the Oireachtas (2019) report. e.g.:

- p.18 Most family and child law cases in Ireland are heard by judges from the general courts system who are not required to have specialist qualifications or specific training or experience in family law matters and are not appointed as “family law” judges. In the context of private family law proceedings, procuring an expert report is the most commonly utilised mechanism for hearing the voice of the child.
- p.21 Delays, excessive case loads, inadequate facilities and lack of specialist training for judges are consistent issues across the various courts
- p.22 Judges are not required to have specialist qualifications or specific formal training for child and family law proceedings, and concerns were raised by stakeholders as to whether judges with no particular expertise in this area are qualified to provide judgement on cases of such a sensitive nature. Given that specialisation is not required, there is no common judicial approach to family law cases, which has created a lack of consistency in both the approach and decision-making process of such proceedings, as well as conflicting public information about how the system works. Stakeholders have argued that family law proceedings should be staffed by judges who have been trained or have specialist family law knowledge, and they should be supported by other specialist services
- p.35 hearing directly from children is very challenging, particularly when judges and lawyers are not obliged to have specialist training

Issues with experts

In a system where judges lack specialism in Family Law, there is a reliance on ‘experts’ about whom concerns have been raised e.g.

- p.38 Some Members of the Committee expressed concern regarding section 47 reports and the lack of regulations applicable to those considered ‘experts’. The Committee noted that some unregulated professions could be authorised to compile reports where, should parties

¹ Houses of the Oireachtas Joint Committee on Justice and Equality (2019) *Reform of the Family Law System* available from https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2019/2019-10-24_report-on-reform-of-the-family-law-system_en.pdf

involved disagree with the report, there is currently no mechanism to allow for complaints regarding the conduct of that professional.

What should the legislation include?

Dr. Geoffrey Shannon, Special Rapporteur on Child Protection stressed that similar regulations to those issued around section 32 reports need to be issued for section 47 reports to ensure that those who prepare the reports are properly qualified and given specific terms of reference for engagement. (Oireachtas 2019, p.38)

Recommendation 32 of the Oireachtas (2019, p.50) report states that consideration should be given to providing regulations in respect of section 47 reports that is similar to the recent Child's View Expert Regulations. Such regulations would ensure that those who prepare the reports are properly qualified and given specific terms of reference for engagement.

3. Parental alienation

The World Health Organisation briefly added Parental Alienation to their International Classification of Diseases in 2019 but removed it again in February 2020. [A memo of concern](#) submitted to the World Health Organisation by experts in the area highlighted that Parental Alienation has limited support in scientific research on children, deflects attention from scrutiny of child risk and safety factors in family violence cases, is associated with the silencing of children and women such that evidence of family violence and of negative parenting is not presented and can result in failure to protect children from parental abuse.

Our group would like the new system of family justice to focus on coercive control, not parental alienation as outlined in the memo of concern above.

Contact

For questions/queries on this submission please email: 