

6th November 2015

Family Functioning & Children's Rights Policy Unit
Department of Children and Youth Affairs
43-49 Mespil Road
Dublin 4
D04 YP52

Dear Sirs,

I refer to the preparation of a policy approach to the Reform of the Guardian ad Litem arrangements in proceedings under the Child Care Act 1991. I realise that the response to the consultation paper was to be returned by 2nd November 2015, but due to work commitments I was not able to meet that deadline. Nonetheless I feel I should make some points even though they "may not be considered".

GALRO (Guardian ad Litem and Rehabilitation Office) is a private company providing a wide range of support and therapeutic services for vulnerable people including children and adults with special needs, ie Intellectual Disability, Autism and Mental Illness. I, the undersigned (Joe Sheahan) am director of GALRO and I have worked as an independent Guardian ad Litem for the past 10 years. I am a rehabilitation therapist (MSc.) by profession and most of my work as Guardian ad Litem involved working on behalf of children who present with intellectual disability and / or autism. The need for this type of professional background is necessary for this profile of child to ensure that (a) the wishes of the child can be understood in the context of their disability and (b) the child's placement and therapeutic needs can be assessed, recommended and executed in a professional manner. My experience of Social Workers who by-and-large come from mainstream child protection services within the HSE / TUSLA is that they lack understanding and practical knowledge of issues relating to this client group, that make up a considerable portion of the children who are the subject of Court action.

I am appointed Guardian ad Litem in the District Court, Circuit Court and High Court. I note at most appointments of a Guardian ad Litem whether by the Courts volition or an application made by the HSE / TUSLA, the HSE / TUSLA tries to have a Guardian of their choice appointed. I was at a District Court recently and when the Court decided that a Guardian should be appointed the HSE / TUSLA vehemently objected to an independent Guardian which the Court identified and stated in Court it was their (HSE / TUSLA) policy to select a Guardian from Barnardos. This approach by the HSE / TUSLA in my view discredits the independent role of the Guardian when the HSE / TUSLA favours taking advice from a "HSE / TUSLA friendly" Guardian appointed by the Court. This view is held by many solicitors working in the family law Courts.

I am also of the view that with regard to the Guardians having legal representation in Court, in my view, this should be only in exceptional circumstances. The role of the Guardian should be to provide the Court with information with regard to the wishes of the child and

the child's current situation, evident risk and to answer questions that are required to make decisions given the evidence before the Court.

With regard to costs for a Guardian there should be an appropriate group drawn from the legal profession, Guardians, the Court Service, HSE / TUSLA and independent accountants to examine the fee structure and have a standardised fee agreed.

Establishing a nationally organised, managed and delivered service:

I do not agree with having a new dedicated public body. I feel as a public body it is likely that Guardians will be put forward who would have transferred from the HSE / TUSLA to this new public body and the independence of the role would be diminished (eg transfer from HSE to TUSLA; transfer to Irish Water, etc). I believe that the costs associated with the Guardian should be financed through the Court Service rather and taken from the HSE / TUSLA. This would help eliminate HSE / TUSLA objections to Guardian appointments on the basis of costs alone, but disguised for other reasons.

- Public procurement may be a good option

Role of the Guardian ad Litem:

The approach outlined is good. However as stated in my introduction narrative, it is of utmost importance that the Guardian understands the issues from the child's perspective and has a thorough knowledge of services to enhance the child's life and address their needs; this is especially relevant in the context of disability and care planning.

I believe mediation as a means to resolving difference between HSE / TUSLA / service providers / family / the child should be considered. A skilled mediator can remove the adversarial approach of the legal system, which I don't believe is in the child's best interest. An opportunity for the parties to agree an approach to disputes relating to the child's situation are always better resolved with the parties taking ownership of actions they require to take to resolve issues rather than having decisions imposed by others.

Provision of the Guardian ad Litem Report to the Child:

I believe given the information in the report which is necessary for the Court, ie family dynamic, issues of concerns and views of others, this may have a negative impact on the child and I would avoid that stress for the child; however I would have no difficulty giving the child access to parts of the report that states their wishes and feelings and also recommendations made in their best interest. Censoring the report for the child is more appropriate and beneficial for the child.

Qualifications:

Please refer to my introduction narrative. In my view social workers usually come from a background of working with the HSE / TUSLA and may be HSE / TUSLA friendly. It is also a consideration that a social worker as a Guardian may have had a bad experience in their

employment with the HSE / TUSLA and oppose the view of the child's social worker within the HSE / TUSLA motivated exclusively by their experience of the past rather than acting at all times in the best interest of the child. Given that children present with many and varied needs including disability, the Court should consider the relevance of the Guardians qualification and experience in relation to the presenting needs. I believe that qualifications in all social sciences, rehabilitation, Occupational Therapy, Speech & Language, nursing, teaching, etc are relevant. However experience working with children is essential.

Role of the Child and Family Agency and Payments:

I believe the Child and Family Agency should not have this role.

Yours sincerely,

Joe Sheahan
Guardian ad Litem