

Opening Statement

Oireachtas Committee on Children, Equality, Disability, Integration and Youth

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Tusla – Child and Family Agency

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Chair, and members of the Committee, thank you for the invitation to appear before you today to discuss *“Pre-Legislative Scrutiny of the Child Care (Amendment) Bill 2023”*.

I am joined here today by Cormac Quinlan, Assistant National Director, Practice Reform, Pamela Benson, Head of Legal Services, and Fiona Mc Donnell, National Service Director, Children’s Services Regulation.

We welcome the opportunity to contribute to this important legislation with many other key stakeholders in this area.

The Child Care Act 1991 has supported Regional Health Boards, the Health Service Executive, and Tusla – Child & Family Agency on its establishment in 2014, to support and promote the development, welfare and protection of children and families. Its strength in promoting the welfare of children and placing their interests as paramount in all matters has been a critical cornerstone of the child protection and welfare system in Ireland.

There are many proposed changes in this Bill that are welcome, including the guiding principles, the increased focus on children’s rights, the changes which relate to care orders, the clarity on Section 3, and the enhanced enforcement powers of the Early Year’s Inspectorate and their ability to share information with parents.

I will address specific observations in the following key areas – Child Protection & Alternative Care, Interagency Working, and Childrens Services Regulation, and reference areas which will need further discussion, and indeed may need to be addressed by further legislation in different areas.

Child Protection & Alternative Care:

We welcome the changes to voluntary care which will support joint work with parents when they require us to assist them in the care of their children, whilst recognising the need to ensure children's and parent's rights are protected and that such arrangements are time-limited and subject to review.

The extension periods associated with the different types of care orders will provide for the Courts consideration of facilitating greater time to develop care and support plans for children. It will also provide the necessary time to support parents and their family network to address concern of possible harm, increase the need for future safety and importantly support children to successfully return home.

The further enhancements to supervision orders and the increased clarity for Section 20 reports will support the Court to facilitate greater assistance for other State bodies in the context of care or special care proceedings.

The reorientation of Section 3 out of the 1991 Act and into Children First is a welcome provision as it clearly sets out the right to assess reports other than mandated reports and will strengthen Tusla's position in promoting the welfare of the child while setting out in more detail the process for those parties affected by the assessment.

We very much welcome the requirement for Tusla to publish general information on our role and responsibilities regarding care proceedings, and to provide an information booklet to parents, and the amendment to Section 25 to strengthen the voice of the child in care proceedings, recognising that some children should actively participate in the care proceedings in their best interests.

In respect of Emergency Care Orders (ECO), we would have welcomed the introduction of a "one off" ECO for a period of 15 days, which could then proceed to Interim Care order.

There are other key areas of necessary discussion and reform to compliment this Bill and support a more effective child protection and welfare system. These include the regulation of Guardians Ad Litem (GALs) and the comprehensive governance and oversight this would bring, the proposed reform of the Family Law Court, and the effective support and implementation of new government policy framework (BOBF).

We believe that there is greater consideration needed to potentially widen the support to young people in aftercare up to the age of 25. Also, given the emergence of work within the international context, Tusla's legislative role and remit in how we care for Separated Children Seeking International Protection/Unaccompanied Minors needs greater consideration within Ireland's core child care legislation.

Interagency Working:

In recent years the demand for our services, and the more complex needs of the children, young people and families that require our services has significantly increased.

Many reports, by a range of stakeholders including HIQA, the National Review Panel, the Ombudsman for Children, the Childcare Law Reporting Project, and our own internal reports, have identified the need for greater and more effective collaboration in meeting children needs, which often cross a variety of services.

While there is often good collaboration, and the development of protocols have improved joint planning and shared governance, sometimes the needs of children and young people can be complex and require greater and active collaboration from a range of specialist services across a range of agencies.

In situations such as these, these powers, used proportionally and only in the child's best interest, will ensure the State can maximise all efforts to meet those childrens' needs. However, further engagement is required in relation to this proposed duty to cooperate and how Tusla can ensure that children rights and best interests are protected when cooperation is absent or not forthcoming.

Childrens Services Regulation:

We welcome the proposed new early years powers that will enable Tusla's Early Years Inspectorate to have a more proportionate intervention where it identifies concerns and significant risk to children.

These measures will ultimately increase our ability to protect children, and empower parents, who will now be advised where there are significant concerns found on inspection. This will support engagement with their provider and inform their decisions. These changes require increased responsiveness from providers where high risk is identified and from any service who operates without registration.

We will support the DCEDIY's plans in the regulation of childminders and believe that the phased introduction of these regulations and the transitional period of three years will be helpful in supporting childminders towards a pathway to registration.

Regarding our residential registration and inspection functions for the non-statutory sector, there is an intention to move these functions from the Agency to HIQA. In the interim period, we would welcome consideration of additional powers being expanded under Part VIII of the Child Care Act 1991. This would permit third party organisations to provide residential care interventions with children on behalf of the state without having to first meet the registration requirement currently prescribed under Sections 59 & 60. Instead, the provider would have to retrospectively register once operational. This would expand the number of providers that could provide appropriate care intervention with young people at risk of having no placement available to them during a crisis period and mitigate against further risk of homelessness in some instances.

Overall, there are many positive proposed changes, some of which I have outlined here, and also some areas that will require further discussion and solutions, but ultimately this represents another positive step forward in how we support children and families in Ireland today.

I would like to conclude by thanking you for giving us the opportunity to be part of this important conversation, and would be happy, with my colleagues, to elaborate further on any of the points raised and to answer any questions you may have.