



IRISH FOSTER CARE ASSOCIATION
SUBMISSION TO THE JOINT
OIREACTAS COMMITTEE ON
CHILDREN, EQUALITY, DISABILITY,
INTEGRATION AND YOUTH

May 16th, 2023

IRISH FOSTER CARE ASSOCIATION

1.0 Introduction

Chairperson, committee members, on behalf of the Irish Foster Care Association (IFCA), I would like to thank you for the invitation to address the Joint Committee on Children, Equality, Disability, Integration and Youth this afternoon, on the pre-legislative scrutiny of the Child Care (Amendment) Bill, 2023.

I am accompanied by Karen Cahill, Co Ordinator , IFCA Helpline.

The Irish Foster Care Association is the national organisation that supports foster families and the wider fostering community. We advance and promote best practice in foster care through support, learning and advocacy. We believe in a society where the importance of fostering is recognised, valued, and supported. We support foster families and the fostering community through the provision of a spectrum of supports, namely:

- National Helpline, Advocacy and Counselling services.
- Learning and Development, including publications on research and best practice in foster care.
- Support to foster carers involved in local branches, and hubs.
- An Annual National Conference which brings together, the wider fostering community, including children in care and the children of foster families.

At the outset I would like to acknowledge and commend the Department of Children, Equality, Disability, and Integration on the extensive consultation process engaged in, beginning in 2017, to which IFCA provided a written submission in 2018. It is encouraging to see the value placed on hearing and including the voices of those involved in the lives of children requiring safety and protection. On reviewing the proposed changes, I note:

- The child is consciously being placed front and centre in the decision making process. This enables children to be more visible and supports their engagement and participation.
- Learning from policy and practice developments since the introduction of the Child Care Act 1991 has been identified and integrated into the Bill.
- The value being placed on transparency , accountability , inclusivity in the delivery of practice.

2.0 Understanding the Fostering task - what fostering means to children and the families who care for them

At the end of January 2023¹ there were:

- 5,597 children in care
- 3,597 (64%) of children cared for by general foster carers,
- 1,452 (25.9%) cared for by relative carers.
- Currently there are 4 ,124 foster carers comprising of general and relative carers².

Caring for children who have experienced harm, neglect and abuse within the context of their primary and formative relationships, is extremely challenging. The fostering task is often made more complicated and stressful by structures and practices within the care system which at times are experienced as at odds with the 'care' philosophy. When we think about the supports and changes required to meet the needs of children in care, we also need to have in our mindsight, the families who open their hearts and homes to children with traumatic life stories and complex needs. Although foster carers are not directly involved in the processes whereby children are received into care, the child's entry into the system, and their experience of this travels with them into the home of the foster family and can influence the child's readiness or capacity to engage with the foster family. If their entry experience has been poor then this can be an added complicating factor impacting on the stability of the placement.

Today I offer a practice perspective which will help us think about the proposed changes from the viewpoint of children in foster care and foster families. When considering the effectiveness of services, we often ask what difference has the service or supports made. This helps us to evaluate and determine impact. I will apply this measure in my assessment of the most significant changes identified within the Child Care Amendment Bill.

3.0 Head 4 -The insertion of a set of Guiding Principles:

The insertion of a set of 'Guiding principles' into the Act is to be welcomed. These will ensure that the decision making process adheres to the 'best interest' principle where the voice of the child is sought and **heard** and where the child is visible in proceedings. IFCA believes the involvement of children will improve the quality of decisions made.

The naming of the factors to be taken into account by the courts in assessing and making a determination on the basis of the child's best interest, and which must be applied by those working with children, is important in developing a shared language and understanding amongst the network of professionals and services working with and advocating for children.

¹ Data.tusla.ie

² www.tusla.ie

IFCA welcomes the requirement for decisions relating to children to include a consideration of the capacity of the placement to meet the child's needs. This is very important in light of the current shortfall in the availability of foster families. With the pool of foster carers decreasing, the ability to match a child, to have the best fit possible with the 'right' foster family for the child is a real challenge.

IFCA supports and values decision making which is informed by a questioning of the impact on the child of professional decisions made regarding their placement with a foster family. This is extremely significant and to be welcomed. Our experience, from supporting foster carers dealing with placement breakdowns leads us to have concerns that the impact of a change in placement on children is not always fully considered. We know that with every experience of placement moves, the chances of success in subsequent placements diminish, leading to poorer outcomes for children.

The challenge in meeting the best interest principle will be in its translation into practice. In particular how practitioners engage in meaningful conversations with children and seek their views in a child centred way. The current difficulties retaining social work staff means that for some children in care they experience multiple changes in social workers. This does not allow for the development of a relationship in which children feel safe and trust the adult to communicate their thoughts and wishes. The one constant is often the foster carer who has a relationship with the child. Social workers seeking the views of children need to consider involving foster carers as an enabler to supporting the child participate in the decision-making process. This may be particularly the case for neurodiverse children, who need additional support to be enabled to actively participate in the decision making process.

4.0 Head 7 -Amendment to Section 4 of Principal Act- Voluntary care.

Children enter the care system in one of two ways, namely, via a voluntary arrangement where parents give consent for their child to be received not care or via the court system in the form of an order granted by the courts. In 2021 520 (54%) of all admissions to care (total 962) were voluntary admissions, with the remainder 442 (46%) on foot of an application to the court³. So, we are seeing slightly more children come through the voluntary process.

Of concern is the manner in which voluntary agreements are allowed to drift as there currently is no oversight structure and reviews of these. IFCA's practice experience is supported by research conducted in Ireland by Brennan, O Mahony, Burns, 2021⁴ on voluntary care arrangements. I strongly urge members to review this research as it draws attention to the inherent weakness of the current system- loose regulation, weak mechanisms for ascertaining the views of children and promoting child participation, unlimited duration, and lesser safeguards than provided by court directed orders. The overall message is that children in voluntary arrangements fare worse than children on care orders. This is hugely concerning.

³ https://www.tusla.ie/uploads/content/Review_of_Adequacy_Report_2021_Final.pdf

⁴ Brennan, R, O'Mahony, C, Burns, K (2021) 'The Rights of the child in voluntary care in Ireland: A call for reform in law, policy and practice', Child and Youth Services Review, Vol 25

The current Bill proposes some changes to voluntary arrangements which are to be welcomed. Specifically, the Bill recommends voluntary care arrangements to be reviewed at regular intervals, no less than every 6 months. The Bill however does not go far enough in terms of the safeguards required to ensure good oversight. The Bill could be strengthened in line with the recommendations of Brennan, O'Mahony and Burns (2021)⁵ with a limit being placed on the duration of voluntary care arrangements, a limit on the amount of times the agreement can be renewed, having formal reviews before the expiry of the agreement with a review of the care plan to happen alongside this and for children to have access to independent advocates who participate in the reviews.

It is positive that an information pack is suggested which will assist children and parents understand purpose and proposed duration of the voluntary care arrangements, as well as the roles and responsibilities of the Child and Family Agency. It will be important that this information pack is constructed in such a way that the information is accessible both to children and their parents, that there is a child friendly version and that parents and children are supported in understanding the process they are engaged in.

5.0 Head 25 -Amendment to Section 43A- Enhanced rights

Legal parental responsibility for the child in care is either held with the birth parents or the Child and Family agency but the day to day activity of parenting is carried out by their foster carer. Foster carers have no automatic legal power, irrespective of the child's legal care status, to consent for medical treatment and the ordinary, everyday activities of children's lives, such as school tours, and the making of passport applications. However there are provisions whereby foster carers can apply for enhanced rights where the child has been in the care of the foster carers for more than 5 years.

The current system however is impractical for children in long term care with the same foster family. IFCA welcomes the proposal to reduce the amount of time which a foster carer is required to have been taking care of the child, before an application for enhanced rights is made from 5 years to 3 years. It is imperative that foster carers are made aware by the Child and Family Agency of the steps required to secure enhanced rights and are actively supported to engage in the process.

⁵ ibid

6.0. Head 44 -Amendment of Childrens First Act 2015.

IFCA notes the intention to place the current practice of assessing and managing allegations , as set out in the Child Abuse Substantiation policy (CASP) on a statutory footing. CASP has been in operation since June 2022, and is still being experienced by foster carers as a new and different approach . It is positive to note that an independent review of the implementation of CASP is currently underway . We ask that the learning from the review be taken into account to inform and strengthen best practice around the management of allegations against foster carers.

Conclusion

When we improve the structures and systems around the child, we enable foster carers to do what they do best, namely love, care and attend to the child who has joined their family. Whilst there are many positive improvements embodied in the Bill , to realise their potential it is important to support and enhance approaches to working with children and foster carers , strengthen oversight and have review systems in place to evaluate the continued impact of the changes.

THANK YOU, CHAIRPERSON AND MEMBERS,

Bernadette Neville, Interim CEO, IFCA