TIGALA
The Independent Guardian Ad Litem Agency

APPEARANCE BEFORE THE OIREACHTAS COMMITTEE 16 MAY 2023

Submission on behalf of

The Independent Guardian Ad Litem Agency (TIGALA)

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1. Introduction:

The Independent Guardian ad Litem Agency (TIGALA) welcomes the opportunity to comment on the proposed General Scheme of the Childcare Amendment Bill 2023(The General Scheme). We believe that TIGALA can provide a unique insight into some of the proposals in the General Scheme by outlining issues that have arisen in the cases of our Guardians.

TIGALA is an independent provider of Guardians' ad Litem (Guardian's) for Court proceedings taken under the Child Care Act 1991.Guardians are appointed to children and young people by the Court for the duration of those proceedings. We ensure that the child/young person's voice is heard and advise the Court of our professional opinion on their best interests. This ensures the child/young person's participation in the proceedings and also that the Court has an independent view in relation to their best interests.

TIGALA are the service provider that operate nationally and have 29 Guardians within the service. Our Guardians bring their skills and knowledge of working with children and young people in Court proceeding and insure a consistently high level of practice standards for all Guardians within the agency. All our Guardians have a minimum of ten years of experience, are fully vetted, their qualifications verified and confirmation of ongoing professional standards. We work across the country and strive to work collaboratively with all stakeholders in the Court process to ensure the best outcomes for children and young people.

2. RELEVANT HEADS OF THE GENERAL SCHEME

2A Head Seven: Amendments to Section 4 of the Principal Act (Voluntary Care)

TIGALA supports the amendments to section 4 of the Childcare Act 1991(The 1991 Act). In particular, TIGALA welcomes the intention for voluntary agreements to be the subject of on-going review and monitoring. This is particularly welcome where the majority of children and young people in the care of the State are subject to such voluntary arrangements.

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However, TIGALA believe that further and greater oversight is required to ensure uniformity of service provision for children in the care of the State. In particular, a child or young person's right to be involved in the decision-making process of their care should not be purely contingent upon the decision making of their parents. Children and young people are standalone rights holders and must be recognised as such. The rights of a child/young person must be the same in the care process, irrespective of whether they are the subject of voluntary care or are in Court ordered care. It must therefore follow that all children and young people in care must have access to a Guardian and provision should be made for same. Our Guardians have worked on cases with voluntary agreements of indefinite durations and have therefore experience of cases where a child/ young person has been left without long-term care planning, oversight, aftercare and supports which children in care of foot of a Court Order receive.

TIGALA offer the following example for consideration.

Child A and Child B

Child A is 12, having been in the care of Tusla since she was 4. Child A is the subject of a section 18 order. When the order was made, a number of standard directions sought by the Guardian were made. In particular, that the Court ordered that the case would come back for a Court review if:

i. There was a placement breakdown.
ii. The case has an unallocated social worker for more than 6 weeks.
iii. There was no fostering link worker.
iv. The placement wasn't long term matched within 6 months.
v. The matter would come back before the Court for aftercare review before child A's 17th birthday.

Child A derives the benefit of Court oversight, which ensures that all planning is completed and that the child or young person is safeguarded. In addition, child A's views are considered as part of that planning.

Child B is 12, having been in the care of Tusla since she was 4. She is the subject of a voluntary agreement. There are no Court directions in being. Due to staff shortages, Child B has no allocated social worker from age 13. She is never allocated an aftercare worker and no long-term planning is made for her upon reaching 18.

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Child A and Child B are both in the care of Tusla but, as a result of the different ways they came into care, they are left with completely different service provision. We submit that no part of the 1991 Act should serve to render some children in care at a disadvantage to others.

Recommendation: TIGALA therefore recommend that any child/young person that becomes the subject of a voluntary care agreement has access to a Guardian, even on a review/periodical basis, to ensure that their rights to be heard and for their views to be firmly ensconced in their care planning is enshrined in statute.

2.B Head 27, Amendments to Section 47 of the Principal Act(Application for Directions)

TIGALA welcomes the proposed amendments to section 4 and recognise that these amendments support interagency co-operation. This is welcome. That said, TIGALA believe that the Court requires further powers to ensure that these amendments have the desired effect for children and young people. TIGALA believe that the Court should have the power to make directions for services to additional public bodies to maximise inter-agency cooperation.

TIGALA offer the following example for consideration:

Child C:

Child C is a young person with profound disabilities who is the subject of a full care order. She is non-verbal and requires long term residential care as she approaches 18. Child C will need an inter-agency plan as she transitions into adulthood. Child C's aftercare plan is before the District Court for review and, to date, no long-term planning has been completed. In this instance, the Guardian brings an application pursuant to section 47 to obtain a long-term care plan for Child C. The HSE are joined to this application, but the District Court have no clear statutory jurisdiction to make directions that bind the HSE in the welfare interests of this child. The Court therefore has limited powers and, in some instances, has declined jurisdiction to engage with applications due to the lack of clear statutory authority to act.

Recommendation: Section 47 provides the Court with the jurisdiction to make directions in the welfare interests of a specific child. The Guardian (or a person bringing the application) must show that the direction is necessary and for the welfare of children. The Courts powers should be clearly expanded to public bodies in addition to the CFA, where it is in the welfare interests of the named child. This would

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result in better, more effective service provision for children where inter-agency co-operation is required and would ensure greater accountability through direct Court oversight.

3. Conclusion

TIGALA would like to thank the Committee for the opportunity to attend Today and welcome the opportunity to answer any questions you might have.

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