

DÁIL ÉIREANN

AN COMHCHOISTE UM SHLÁINTE AGUS LEANAÍ

JOINT COMMITTEE ON HEALTH AND CHILDREN

Dé Máirt, 19 Samhain 2013

Tuesday, 19 November 2013

The Joint Committee met at 5.10 p.m.

MEMBERS PRESENT:

Deputy Ciara Conway,	Senator Colm Burke,
Deputy Regina Doherty,	Senator John Crown,
Deputy Peter Fitzpatrick,	Senator Imelda Henry,
Deputy Sandra McLellan,	Senator Jillian van Turnhout.
Deputy Eamonn Maloney,	
Deputy Caoimhghín Ó Caoláin,	
Deputy Robert Troy,	

DEPUTY JERRY BUTTIMER IN THE CHAIR.

Sixth Report of Special Rapporteur on Child Protection: Discussion

Chairman: I remind members that their mobile telephones must be turned off. We will deal with correspondence and the minutes of our previous meeting at our meeting on Thursday morning. Apologies have been received from Deputy Catherine Byrne and Deputy Billy Kelleher.

I welcome to our meeting Dr. Geoffrey Shannon, the special rapporteur on child protection, who is here to discuss his sixth and most recent report on child protection and related matters. The report has been circulated to members and it makes for an interesting and challenging presentation. I reiterate my thanks to Dr. Shannon for the sterling work he does and his promulgation of children's rights and causes. We are fortunate to have a person of his calibre before our committee and I thank him for attending. He has shown great leadership and has been in the vanguard of the promotion and articulation of rights. His report covers vast areas in terms of developments in international law, the many facets of bullying, guardianship of children, domestic issues and cross-Border co-operation on the fight against bullying.

Before we commence I remind people regarding privilege. Witnesses are protected by absolute privilege in respect of the evidence they give to the committee. However, if they are directed by it to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected to the matters under discussion should be given and are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against a person or an entity by name or in such a way as to make him, her or it identifiable. Members are reminded of the long-standing parliamentary practice and ruling of the Chair to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official by name or in such a way as to make him or her identifiable.

I call Dr. Geoffrey Shannon to make his opening remarks. I will allocate half an hour to Dr. Shannon to make his remarks to cover the wide scope of the presentation.

Deputy Caoimhghín Ó Caoláin: Before Dr. Shannon commences, we have come directly from a meeting with the Minister for Children and Youth Affairs. I do not have a copy of Dr. Shannon's report. Is there a copy of it available or a copy of his intended remarks?

Chairman: The opening remarks.

Deputy Caoimhghín Ó Caoláin: The opening remarks would be fine.

Chairman: We can get that for the Deputy.

Deputy Caoimhghín Ó Caoláin: I thank the Chairman.

Dr. Geoffrey Shannon: I thank the committee for the invitation to address it in my role as special rapporteur on child protection. Much progress has been made in the area of child protection over recent years and we have been made aware of other positive changes that are to come. The adoption by the people of a new Article 42A of the Constitution concerning children and children's rights is a development I hope will remove several roadblocks that remain in the legal system that stand in the way of children having the best possible family life. It is one for which the Minister for Children and Youth Affairs, Deputy Frances Fitzgerald, deserves

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particular credit. In April 2012, the Government announced its decision to end the practice of detaining 16 and 17 year olds in St. Patrick's Institution which is also to be welcomed. I reassure members that it is not my intention to read my entire script that I have prepared. It is a roadmap on the key issues. Given the length of my report, I felt my script might be a resource and might prove helpful. I will ensure ample time is set aside for questions.

One of the biggest challenges facing society is the adverse consequences for the welfare of many children posed by alcohol. Recent reports have identified alcohol as a contributing factor to children being exposed from their earliest years to poor parenting, neglect, abuse and psychological trauma. The failure on the part of society to address the alcohol problem comprehensively leaves the child protection system to deal with insurmountable consequences. In this regard, it is my opinion that we should impose a complete ban on alcohol sponsorship of sporting events. It is incumbent on the Oireachtas Joint Committee on Health and Children to show leadership. As the person who chaired with my colleague and good friend, Ms Norah Gibbons, the child death report, one of its striking features was a prevalence of alcohol and alcohol abuse. We need to send out a strong message to society that alcohol can have profound implications and can place very significant burdens on the child protection system. It is an issue to which I hope the committee will give serious consideration.

Inter-agency communication and co-operation continues to be an obstacle in ensuring care is provided to children at risk. I hope the Children First Bill will resolve the issue and provide a much-needed framework for the identification and reporting of child abuse. The Bill is to be welcomed because it reflects a commitment by Ireland to comply with its international child protection obligations.

The Minister for Justice and Equality has indicated recently that the issue of the disclosure of counselling records of child complainants in sexual abuse cases will be incorporated into the forthcoming sexual offences Bill. I hope the Bill will provide a legislative basis upon which judges, in limited and defined situations, may order counselling records of child complainants to be disclosed.

The establishment of Ireland's first child and family agency is to be commended. I hope it will serve to harmonise the sometimes disparate aspects of the child protection service here. It should be used as an opportunity to review current practice, think imaginatively and question whether existing practice serves the best interests of a child. For example, should we consider other models of support for the large number of foster parents caring for children in long-term foster care? Should we consider whether it is necessary, given resource constraints, to allocate a social worker to every foster family where a child has an allocated social worker. The issue is whether we should have multiple professionals involved. I think we need to stand back and examine the objective of having multiple professionals involved given that we are in a period of a decreasing availability of resources. I suggest the establishment of the agency is an opportunity to review these practices. I am a person who has a long history of working with the Irish Foster Care Association and has been involved with IFCA for more than two decades. I know we have foster parents who are ordinary people who do extraordinary work on behalf of the State. I would prefer if we re-imagined how we provide the service and ensure the people who benefit from the service are the foster children and foster parents.

As a society we have a mandatory positive obligation to prevent harm to the most vulnerable sector of our society - children. Prevention, as always, is better than cure. It is imperative in all child protection and welfare situations to intervene at the earliest possible opportunity. The right service at the right time is crucial and we must get it right for every family and every

child. For example, the provision of a public health nursing service to all families provides immeasurable support by working upstream with families experiencing difficulties to prevent serious problems emerging later. We sometimes forget the role of the public health nurse. If we want early intervention, we must invest in the public health nursing service because if we manage to identify problems at that stage, we will save the Exchequer a significant amount of money downstream. When problems occur later, invariably they are more entrenched and more difficult to solve. Investment not only makes sense in terms of the right thing to do but, in my opinion, it makes financial sense that we continue to invest in the service.

When we look at the new child and family agency, we should not lose sight of the fact that the public health nursing service performs extraordinary work on behalf of every family in the State. Links between extremely vulnerable individuals and the appropriate professionals, forged at the earliest possible opportunity, provide invaluable support. Adequate housing for families in difficulty goes a long way to ameliorating or preventing other difficulties that may arise when accommodation is uncertain or in some cases non-existent.

The early identification by teachers in schools of difficulties facing children is vital. In many cases, teachers may be better placed to identify problems than family members, friends or neighbours. Inter-agency communication and co-operation is essential to ensure children do not slip through the cracks. What I mean by early intervention and inter-agency co-operation is a broad-based multi-agency response involving social services, health and education. They all play a vital role in ensuring the welfare of children.

The failure to recognise mental health issues at an early stage can have a profound impact on a child. Warning signs need to be treated with sufficient seriousness and referrals need to be timely and appropriate. Greater links between child welfare and protection services and child and adolescent mental health services are required. Proactively supporting parents is key to the vindication of the rights of the child. If we support parents, we support children. Parents are the best advocates for their children and that is why I am a strong supporter of family support. It is my view that for too long family support has ranked as a poor third to child protection and alternative care in the battle for resources and professional time. I hope the new agency will provide us with an opportunity to invest strongly in family support. The hope for the future is for a robust family support service. It is my view that when we talk about early intervention in this country, we are really talking about crisis intervention. We need to re-examine and re-imagine what early intervention is about, and that is why I have talked about public health nursing services and identifying mental health issues at an early stage. It is not just the mental health issues that affect children but more profoundly the mental health issues that affect parents. That is why the agency has a key role to play in ensuring we tackle these problems.

I turn to the problem of homelessness. Progress has been made in the area and it would be disingenuous to suggest it has not. Further work remains to be undertaken to ensure young people do not get trapped in a downward spiral from which they cannot be released. Many young people leaving the care system do so equipped to live as independent adults. A small number of young people emerging from the care system, however, represent a particularly acute sector of homeless people. These are young people who may have spent their whole life, or part of it, in care and are ageing out, so to speak.

When a child reaches 18, he or she is no longer technically deemed to be in care. The Health Service Executive is empowered, should it see fit, to make continuing provision for persons formally in its care. Section 45 of the Child Care Act 1991 allows the HSE to assist such persons until they have reached the age of 21 or until they have completed a course of education, should

it be satisfied that such assistance is needed. The provision is discretionary and not mandatory.

Young people who have spent time in care, be it voluntary or court ordered, are by nature extremely vulnerable and in need of support and protection. When those same young people reach the age of 18, they are sometimes faced with an often daunting and isolated future. Evidence has shown that young people need information and support in advance of independent living.

Recently the Government approved a policy proposal to strengthen legislative provisions for aftercare. The Child Care Act 1991 will be amended to incorporate a statutory right to the preparation of an aftercare plan. In my opinion, the development is to be welcomed and should be met with action.

The right to aftercare needs to be put on a legislative footing. In so doing, Ireland should take the opportunity to incorporate the right to housing into domestic law and place special emphasis on this right for children because it is about joined up thinking. When we talk about child protection, we look at it in isolation but family support, proper housing and child protection are all linked and need to be reviewed together.

Article 27 of the Convention on the Rights of the Child sets out the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. Although the Convention on the Rights of the Child has been ratified by Ireland, mechanisms should be put in place to ensure this right is implemented in practice. A holistic reappraisal of the causes of homelessness is required. Services need to be put in place or expanded on to support very poor or homeless families so as to avoid the need to take children into care in the first place. A targeted response is required to deal with those who are highly represented among the homeless - for example, lesbian, gay, bisexual and transgender, LGBT, young people and migrant children. Services need to be put in place to support young people emerging from the mental health system or care system to ensure that the necessary help is available to these particularly vulnerable young people.

A study should be undertaken by the Department of the Environment, Community and Local Government of the approach of other jurisdictions to the problem of homelessness. I was particularly struck by the experience of the Supported Accommodation Assistance Act 1994 in Australia which legislates for the provision of transitional supported accommodation and related support services to help homeless people achieve the maximum possible degree of self-reliance and independence. The Department of the Environment, Community and Local Government should examine the feasibility of introducing a similar system in this country.

Prevention services must be examined and implemented to address the root causes of homelessness. Supports such as mediation, family support and financial assistance can alleviate certain difficulties at an early enough stage to prevent homelessness occurring. An early intervention and preventative spending approach has as its objective the finding of long-term solutions.

I now draw members' attention to the issue of the disclosure of confidential records concerning children, an issue I highlighted in several of my reports. Each person who confides in a counsellor or therapist about a certain issue does just that - confides. It would, without doubt, discourage many people from engaging in such a service if they thought that their utterances would be disclosed to a third party. A difficulty, however, arises when it comes to children who have made allegations of sexual abuse and have confided in a counsellor or therapist. Ireland urgently requires legislation to address the worrying gap in the law governing the issue of non-

party disclosure regarding confidential records concerning children.

The disclosure of confidential records concerning children is sometimes required to ensure the effective reporting of incidents of child abuse. Equally, however, there is a need to ensure that such disclosure does not cause a chilling effect on the reporting of incidents by victims of child abuse and that such a disclosure is a proportionate interference with the child's right to privacy.

The disclosure of therapy notes for the purpose of a criminal investigation or trial needs to be regulated by way of legislation and it should be judges alone who decide whether or not it is necessary to do so. The legislation should further specify the criteria or factors which the judge should take into account in reaching a determination and I understand that these issues are to be addressed in legislation proposed by the Minister for Justice and Equality in the Seanad, which is to be welcomed.

Further measures also need to be put in place. For example, a national protocol for the exchange of information in regard to the investigation and prosecution of cases of abuse would be an important development in child protection. This approach has been taken in Canada and the Canadian experience is worth noting. It provides for the appointment of a children's advocate is permitted which can assist the court in balancing the competing privacy rights and public interest inherent in this issue.

When making their determination, judges need to understand the nature of a therapy record together with the fact that, because it may contain hypothetical thinking on the part of the therapist, it is of limited probative value. Accessing therapy notes should be the exception rather than the norm and should only be requested in those situations wherein it is considered that their production is essential to ensure a fair trial of the accused.

The potential negative impact on the child needs to be considered. Disclosure of children's therapy records should never be sought for the purpose of assessing the strength of a case. Such an approach conveys a mind-set that children's therapy notes are regarded as cannon-fodder in the criminal justice system and stems from a wilful lack of understanding of the nature of such notes and the impact on the child if his or her very private material talked about in therapy cannot be afforded the protection it deserves.

The unintended consequences of the disclosure of therapy records need to be considered. Will clinicians be more cautious regarding what they write in notes? Moreover, will children be more cautious regarding what they confide in their therapist? There then results a fundamental erosion of the therapeutic process.

Enough has been done to children who have been sexually abused. If we cannot create a set of responses in all agencies to deal with child sexual abuse victims in a manner that is sensitive to their developmental stages or needs, then, as a society, we are failing them. When child sexual abuse emerged as an issue in the 1980s adult survivors spoke most poignantly about how they were unable to tell about it at the time it was happening. Thankfully, we have now created a climate wherein we actively encourage children to report their abuse. Would it not be a sad indictment of our society if, in another 30 years, an adult survivor were to say "I told about it at the time and I am sorry I did"? The current lacuna in Irish law must be addressed as a matter of priority.

I turn now to the issue of bullying. Bullying has always been an unfortunate aspect of our

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society and cyber-bullying has grown exponentially in recent years. Cyber-bullying has created a readily accessible forum for bullies to target children and young people with little or no regulation or sanction. While there are some legislative provisions that could potentially be used to tackle this problem, a focused response is required.

The Law Reform Commission has been tasked with examining this issue. A clear system of legal recourse is required to provide for an offence of cyber-bullying and to encourage victims to come forward, anonymously if needs be, without fear of retribution. The UN Secretary General, Ban Ki Moon, in 2011, called homophobic bullying “a moral outrage, a grave violation of human rights and a public health crisis”. The programme for Government 2011 tackled this issue and the report of the anti-bullying working group published in January 2013 emerged from that. The working group recommends that the definition of bullying in the new national procedures for schools should include identity-based bullying, such as homophobic and transphobic bullying. Homophobic attitudes begin among children at primary schoolgoing age. If we are to fundamentally change these attitudes, which in turn can lead to homophobic bullying, that is a profound child protection issue and can have devastating effects on LGBT young people, we need to start working with primary school children. LGBT young people are realising their identities and coming out at an ever earlier age - on average at 12 years old but often younger. This means that supports should be put in place to support these young people and their families.

There is a very important role here for the Child and Family Agency to work in partnership with BeLonG To, an NGO which does extraordinary work on behalf of young people and I salute its work. I suggest the Child and Family Agency works with BeLonG To to provide vital supports to LGBT young people and their families.

In the context of homophobic bullying, I draw members’ attention to section 37(1) of the Employment Equality Act 1998. In summary, section 37(1) contributes to the invisibility, bullying, and mental health difficulties experienced by LGBT young people and students and, as such, urgently requires to be removed.

The extent of the liability of schools must be examined in order to tackle the problem of cyber-bullying. The most effective means of preventing bullying may be to adopt a whole-school approach. It is not just about the law; it is about everything that surrounds the law. Legislation should be introduced compelling schools to have a strong disciplinary code.

A review of the law on harassment under the Non-Fatal Offences Against the Person Act 1997 must be undertaken to ensure it unequivocally provides for the offence of bullying and cyber-bullying. Currently, there appears to be very few criminal prosecutions under the 1997 Act despite the apparent suitability of that Act.

While issues relating to cyber-bullying may potentially be captured within existing legislative provisions, the fact there is at the very least uncertainty as to whether prosecutions would be successful under these statutes is reason enough to bring clarity to the area and unequivocally provide for an offence of cyber-bullying. In the past number of years, we have seen some very tragic cases. The time is right to look at putting in place robust legislation providing very clearly for the offence of cyber-bullying because the law must keep pace with technology, protect vulnerable young children and must exist as an accessible recourse for those who are victims of abuses such as cyber-bullying.

The law on guardianship is another area I touch on in my report and that has not kept up with

societal changes in recent years. Current guardianship law ignores the social reality of modern family life. Even in circumstances where biological parents or guardians are in favour of conferring guardianship on a step-parent or a civil partner, there is no provision for the appointment or recognition of such rights and obligations. Special guardianship rights for step-parents are particularly important. As somebody who has been involved in this area, also in the adoption context, it provides another tool in the child protection tool kit and another option for a child. It should be provided as it offers an alternative to adoption as a child care option where a birth father has an ongoing role in the life of a child. The Government recently committed to holding a referendum on same-sex marriage, which I warmly welcome. A referendum is not necessary to provide for the extension of guardianship rights for step-parents and civil partners. I welcome the decision by the Minister for Justice and Equality to introduce amending legislation in this area later this year or early next year.

I hope the Minister also considers extending certain rights and obligations to members of a child's extended family in circumstances where that person is *in loco parentis* in respect of that child. I cite, for example, a situation where a grandparent is looking after a child over a lengthy period of time. That grandparent, apart from getting access rights, effectively is treated as a legal stranger. The family relationships Bill provides an ideal opportunity to update not only our guardianship laws, but also our laws in respect of custody and access.

I have made some public comments on the area of surrogacy, an area that causes me great concern. Currently, surrogacy is unregulated in Ireland and has been the focus of case law and of substantial media attention. The rights and obligations attaching to surrogacy present us with serious challenges in respect of how to adequately protect the human rights of all the parties involved, primarily those of the children born as a result of such arrangements. The challenges are all-encompassing as they involve profound social, legal and ethical issues. The debate to date has focused on the adults. There has been very little discussion on the rights of children and consequences for children involved.

I note the Minister for Justice and Equality has said he intends to develop legislative proposals in the area of surrogacy. Any legislation must address the best interests of the child and the right of a child born through a surrogacy arrangement to obtain information in respect of his or her genetic parents.

If we look at adoption information and tracing rights in that area, there are powerful lessons to be learned. The courtroom should not become the battleground for the vindication of rights for new family law. I hate to say it but the failure to legislate in the assisted human reproduction area is a failure on the part of the Oireachtas to ensure that the law keeps pace with advances in medicine and science.

The right of children to be heard has been incorporated as part of our Constitution as a result of the recent amendment. There are multiple mechanisms by which the voice of the child can be heard in the judicial process. We need to develop these mechanisms to ensure we have a streamlined procedure that works across the board. The current system for hearing the voice of the child is unsatisfactory, with significant variations as to the operation of the provision throughout the country. There is a type of geographical injustice because the outcome for a child will depend on the District Court in which the case is heard. That must be remedied, and we need greater uniformity to ensure that every child gets the same chance, regardless of where the child lives.

Children with disabilities are among the most vulnerable young people in society. EU Di-

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rective 2011/93/EU prescribes minimum sentence lengths for certain sexual offences against particularly vulnerable children such as those with a disability. It should be transposed into Irish law without delay. I draw the members' attention to General Comment No. 13 of the Convention on the Rights of the Child, the right of the child to freedom from all forms of violence, which should be implemented also. A national co-ordinating framework on violence against children should be formed in Ireland to tackle adequately the matter of violence against children.

Ireland should ratify the UN Convention on the Rights of People with Disabilities without delay. There is a real opportunity for the Government to make explicit in the next budget the way the needs and rights of children were taken into account, in particular, children with disabilities.

The need to ensure that children attend school on a consistent basis throughout their primary and post-primary education is of perpetual importance. Absence from school at early stages of a child's education has been shown to have significant effects in later years in terms of literacy and numeracy levels of competence.

As the person who chaired the child death report, one of my abiding memories was reading over 500 case files of children who died in State care, many of whom experienced difficulties attending school. School attendance is sometimes linked to mental health issues. Many of those children had problems such as dyslexia or dyspraxia; therefore, we must examine how we can keep children with emotional or behavioural problems engaged in our education system.

I suggest that the ultimate sanction should only be bringing forth criminal proceedings against parents. I advance in the report that there should be an intermediate step of enforcement such as education supervision orders, which have worked very effectively in the United Kingdom, and I believe would have a positive impact in this jurisdiction. We should use the court only as a measure of last resort when all other avenues have been explored. I urge the Oireachtas to consider introducing an intermediate step such as the education supervision order, which would direct parents and the child to co-operate with plans to ensure the child is appropriately educated.

In recent weeks we have seen an increasing focus within the media on cross-border cases. Our increasingly mobile and multicultural society has resulted in a considerable increase in applications for relocation coming before the courts. Nowadays, 13% of marriages across the European Union are bi-national. Where one parent seeks to relocate from Ireland to another country with a child, that can only occur with the consent of both parents. If both parents do not consent, it requires a court application. However, there is no legislative guidance on the manner in which such applications are to be determined save for the guiding principle that the welfare of the child is paramount. Greater clarity would be welcome in the form of legislation which would regulate applications for relocation. Legislation should be enacted, which would include the factors that the court should consider when determining the best interests of the child.

The Minister for Justice and Equality has raised the possibility of establishing a specialised family courts structure. As far as children are concerned, we must consider how we can keep child care cases out of court for as long as possible, and the initiative by the Minister for Justice and Equality provides a real opportunity to do that. There is a need to create an alternative to a formal court hearing, otherwise known as alternative dispute resolution, that can be embedded into the Irish family justice system. The advantages of embedding alternative dispute resolution into the Irish family justice system are very considerable and the savings to clients in terms

of cost, time and emotional expense are immeasurable.

The protection of children in the context of business and industry is an enduring requirement. A number of recent publications stress the need to verify the source of goods imported into Ireland to ensure that improper child labour has not been utilised in the production process. By December of this year, Ireland is required to transpose into domestic law EU Directive 2011/93/EU dealing with child sexual abuse, exploitation and pornography. It should do this without delay. I have outlined on page 19 of my presentation the key aspects of that directive which I will leave for the members to consider.

Regarding victims' rights, over the weekend the Minister for Justice and Equality announced the setting up of a victims rights alliance. I warmly welcome that but it must be followed up with legislation to transpose the directive into domestic law. As well as having the victims rights alliance, we need the necessary legislation to implement the EU directive.

The UN Convention on the Rights of the Child has been a core standard setter in the area of children's rights, yet there remains no formal mechanism for overseeing its operation and functioning. An institutional oversight mechanism should be established in Ireland to take responsibility for monitoring the implementation of recommendations of treaty bodies such as the Convention on the Rights of the Child.

There have been very significant developments in recent years, which I warmly welcome. However, many challenges remain that must be identified and resolved before we can say that we live in a society where our children's rights are fully vindicated.

Chairman: I thank Dr. Shannon for concluding well within the 30 minutes allocated. I thank him for what members will agree was a fascinating and persuasive presentation. I compliment him again on the work he does and his advocacy. We are all the better for his attendance this afternoon.

Deputy Robert Troy: I echo the Chairman's words and compliment Dr. Shannon on his comprehensive presentation today. One can see his dedication to the cause. We are fortunate to have someone in his position with his experience and of his calibre. I also compliment Senator van Turnhout on suggesting that we invite Dr. Shannon to discuss his most recent report with us. My understanding is that this is the first time his report has come before the Oireachtas Joint Committee on Health and Children. It is a very positive development. When someone of Dr. Shannon's experience and calibre makes the effort to put together a report it is important that the Oireachtas debate it.

It is even more important to have a mechanism to implement the proposals brought forward because it makes no sense whatsoever for a report to gather dust. Unfortunately, key recommendations of previous reports have not been implemented. We should learn from that experience. I call on Government to put in place a mechanism to implement recommendations. It is a very comprehensive report which goes into many areas in great detail. In light of the recent incidents involving Roma children, does Dr. Shannon feel that the Child Care Act 1991 needs to be amended? Has the Department or any agency consulted Dr. Shannon about that? He spoke of the important role of public health nurses and of mental health. These are extremely important issues. Does he have reservations about the fact that they will not fall within the remit of the new child and family support agency, the legislation for which is being debated in the Oireachtas now?

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I brought forward a proposal for legislation on cyberbullying, based on Dr. Shannon's previous report. As he says, our legislation has not kept pace with advances in technology and cyberbullying is having an awful impact on the psychological well-being of our children and teenagers. We have seen horrific examples of teenagers taking their own lives. Has Dr. Shannon had a chance to read that legislation? If not, we can forward a copy of it to him.

Some months ago there was a report in *The Sunday Business Post* to the effect that the HSE, at a time when resources were at a premium, was spending in the region of €30 million per annum for the guardians *ad litem* to ensure the right of the child to be heard. Would Dr. Shannon comment on that and advise how resources might better be spent or how we could do this better?

A fundamental principle of law is that court proceedings should be held in public. That does not apply to family law, in order to protect the identity of the child. In fact, however, it not only protects the identity of the child, it also protects poor practice and inconsistency. The Minister for Justice and Equality is bringing forward proposals in the Courts Bill 2013 to open that out. Dr. Shannon might make some suggestions about that. The Government should make explicit in the next budget how the needs and the rights of the child are taken into account, in particular those of children with disabilities. Unfortunately the past few budgets have targeted children, if one considers the cuts to child benefit and the abolition of the career guidance counsellor post, a service that is critically important to teenagers. I would like to hear how Dr. Shannon believes children's rights could be taken into account in the budget. I do have other questions and hope that I will have an opportunity to speak later on.

Deputy Caoimhghín Ó Caoláin: I join my colleagues in once again welcoming Dr. Shannon for appearing before the committee. I thank him sincerely for the publication of his sixth report. His presentation here this afternoon was significant in itself, apart from the report. At the end one is moved to say "Wow!". There is so much here. I will not try to deal with all the points I will simply try to tease out a few. Dr. Shannon poses a question about social workers which is very interesting in the current circumstances, namely, whether it is necessary to have a social worker appointed to every foster family while the child also has a social worker. Would Dr. Shannon like to elaborate a little on that? Does he think that would stand up? He puts it in the context of the resource constraints but would that have been his view, irrespective of these economically challenging times?

Deputy McLellan and I have just come from a meeting with the Minister for Children and Youth Affairs about the Child and Family Agency Bill 2013 which will reach Report and Final Stages this week. We dealt with Committee Stage over the past couple of weeks here in this room. I tabled a few amendments, all of which were ruled out of order, because as a lowly Opposition Deputy I should not dare to suggest anything that might be a charge on the Exchequer. I am happy to note, however, that since Committee Stage, Cabinet has approved the introduction of legislation to provide for the statutory right to the preparation of an after-care plan.

Would Dr. Shannon view the phraseology of the Minister's statement on the Cabinet decision as indicative of fulfilling the case for which several of us have consistently argued, year on year? Can I read a statutory right to the preparation of a plan to mean a statutory right to after-care, where the need exists or where the child, now a young adult to be, over the age of 18, wishes? I would appreciate if Dr. Shannon could tease that out with me because we will engage with the Minister on this next Thursday. I want to be able to welcome it if it is exactly what I understand it is and I want to be able to withdraw my amendment, even though it will be disallowed but that is technical. I want to be positive. It is very important that Opposition

voices are positive when the right decisions are being made. That is responsible politics and I want to be a party to that.

I commend the Vice Chairman of the committee for organising an event on cyberbullying, in the audio-visual room, which is no longer open to us for such events, but I am sure that collectively we will open that door too. Young people from Waterford presented such an impressive case that I want to commend them again here. I have raised the issue of bullying, not just cyberbullying, with schools and colleges. There is an automatic defence immediately that is so obvious. Dr. Shannon rightly commended teachers earlier in his presentation as perhaps being even more important in identifying issues than a range of other people who engage in the life of a child but there is an almost automatic defence mechanism - it is not applicable across the board but it is still there - that in some way it is a reflection on the school. It is no such thing, and it requires a change on the part of people in education. I would like Mr. Shannon to comment on that.

I have a final brief question on Dr. Shannon's point about the voice of the child. We do not have a uniform system operating across this State. It is sporadic where it is being accepted, and there are other situations where the voice of the child is not considered at all. What is Dr. Shannon's view on how to get uniformity and ensure that the voice of the child is respected and taken on board in every situation across the land? I thank the Chairman for his forbearance.

Chairman: A vote has been called in the Dáil.

Senator Jillian van Turnhout: Do I start or do I-----

Chairman: We will suspend and I will call the Senator when we return.

Sitting suspended at 6.02 p.m. and resumed at 6.18 p.m.

Senator Jillian van Turnhout: We all have a very strong opinion on the alcohol sponsorship.

I fully agree with Dr. Shannon on the aftercare issue. Deputy Ó Caoláin has asked those questions. I will move to the child and family agency. The main issues that Dr. Shannon raised were alcohol, child and adolescent mental health, the role of the public health nurses and children with disabilities but none of those is foreseen in the first phase of the agency. How will we ensure that those essential services will be connected? Dr. Shannon talked about re-imagining. I remain concerned about the referral pathways for families. Given Dr. Shannon's experience of child death reports does he have any advice? I do not see all families entering this new agency through social workers because the upstream role of public health nurses that Dr. Shannon mentioned is essential.

Given his legal background Dr. Shannon understands well the difference between "in care of the State" and "cared for by the State" but I choose to not fully comprehend it because I believe that children in direct provision are not living in a standard, normal family environment. I am very concerned about them. In his reports Dr. Shannon has written about its detrimental impact on children and has called for a report to examine that. I also wish to raise the problem of lesbian, gay, bisexual and transgender, LGBT, asylum-seeking children. I know that BeLonG To Youth Services, which Dr. Shannon mentioned, is doing excellent work in that area but I remain concerned about it.

Dr. Shannon spoke about transposing the EU directive on the child abuse material, which I

wholeheartedly endorse. I have produced a report on the issue that Dr. Shannon supports. Ireland should have a system of filtering websites containing child abuse material.

Dr. Shannon talked about courts not being the battleground, about surrogacy and adoption. Has he been consulted on the Children and Family Relationships Bill that the Minister for Justice, Equality and Defence is drafting? The Minister made quite a good statement on the Bill. Dr. Shannon also mentioned the alternative dispute resolution. These will be very critical areas for our development. I endorse everything that Dr. Shannon said. In discussions on adoption all too often we hear only from the perspective of the parents. We hear about Irish parents bonding with children of foreign adoptions but these children have a right to an identity and we very often lose sight of that right. I am concerned that in drafting this legislation there should be no confusion with the rights of the adults. The rights of the children must be got right first and foremost then the rest will fit in soundly.

Deputy Ciara Conway: I thank Dr. Geoffrey Shannon for taking the time to speak to the committee today. More important, I thank him for giving voice to things that have been unspoken for so many years. Some of the issues that he has highlighted are systemic ones on which we can put new tags or names. As Deputy Ó Caoláin said, bullying has been around for a long time and we know that it has a detrimental impact on children's well-being. Unfortunately, cyberbullying is only another platform for bullies. The issue is the same.

The most salient matter raised by Dr. Shannon is one that never gets enough attention or recognition, alcohol. This is by far the most serious social issue facing Ireland on many fronts, including health, family relationships, and mental and physical well-being. It costs the Exchequer billions of euro each year, yet our Ministers find it difficult to stand up to sporting organisations on alcohol. This committee produced a very strong report on alcohol and spoke about an outright ban on sponsorship. I concur with Dr. Shannon's comments because even in media reporting we hear about heroin which is a difficult drug and has major social consequences for communities and families, and we hear about the misuse of hash and crack cocaine but we never really face up to the problem that alcohol poses, particularly for children. I worked as a child protection social worker and the underlying issue in 95% of cases was alcohol abuse. It is used as an excuse for domestic violence and for child abuse, and as an excuse for physical or criminal damage but the issue is the abuse of alcohol and people's access to it. Unless we really start to face up to that we are at nought because the issues are all the same when it comes to trying to protect our children. If Dr. Shannon analysed child protection cases that come before the courts, as I am sure he has done at some stage in his career, he would find that alcohol is prevalent in the majority of cases. We talk about prevention and support but we do not talk about tackling alcohol. Dr. Shannon is right, it is not just up to this committee or to him, or to the authors of reports, there has to be a whole Government approach to it. We need to decide for once and for all that this is something we have to face up to.

I have a brother training to be a doctor in Galway and we talked about this over the weekend. He has the pleasure of the company of people from many countries in his class so his experience of college is very different from mine because now there are many alternatives to alcohol for young people but the Irish do not see them. Until we face up to that all these issues will remain the same for adults and children.

Even more harrowing is the fact that alcohol is prevalent in all of the child death reports by Dr. Shannon and Norah Gibbons. Is it really worth losing children's lives for the sake of alcohol abuse? I have been saying this for years and I am so glad that somebody else is saying it. I hope people will listen to Dr. Shannon if they will not listen to us. I hope that people outside

this room will take on board the fact that somebody of Dr. Shannon's calibre and experience has seen this and highlighted the issue. We can have all the child and family support agencies in the world but until we face up to alcohol issue we are at nought. I thank Dr. Shannon very sincerely for highlighting this because it is a problem for so many children and families up and down this country. Until we take it seriously we will back here again and again talking about the failings of systems because we have not lived up to our responsibilities in respect of what is a social and a public health problem.

Chairman: I also join with Deputy Ó Caoláin in thanking Dr. Shannon for his briefing and raising these issues today in the Oireachtas.

Deputy Sandra McLellan: I welcome Dr. Shannon here today and thank him for the report, which is so comprehensive. I compliment him on the amount of work that he has put into it. I agree with everything in it. I also agree totally with what Deputy Conway said about alcohol. In 95% of cases it is the root cause of all the problems. I will not go into it because Deputy Conway has aired it pretty well.

We do not have any legislation on surrogacy but every day people go out of the country for this service and we need to implement legislation soon. Dr. Shannon stated that 13% of marriages across the European Union are bi-national and child custody battles between an Irish parent and one from another country, be it in Europe or elsewhere, come to our attention regularly. This is becoming a major issue. The Hague Convention comes into play quite often but people say it does not apply, decisions are overturned. A great deal of money, time and effort is wasted but the child is at the centre of all this. There is no legislative guidance on the manner in which such applications are to be determined, so that is something on which we need legislation. I thank Dr. Shannon for the report, which makes fascinating reading.

Chairman: Yesterday I attended the Cork city joint policing forum. The Cork city coroner, Dr. Myra Cullinane, put a very strong emphasis on the issue of alcohol being a gateway drug and the way it was becoming the pathway introduction for young people. At a later stage, when we see the heads of the sale of alcohol Bill, announced recently by the Minister of State, Deputy White, the committee should come back to this issue. It is important that we not only dwell on the issue of alcohol but that we take the points being made today at this committee meeting and articulate them strongly when we discuss that Bill. I call Deputy Troy.

Deputy Robert Troy: The first point I wanted to make was about the position of alcohol. I echo what has been said by previous speakers. I compliment Deputy Conway on having the courage to admit that, unfortunately, people at the very highest level of Government, the Ministers, are not prepared to take on what is a very powerful lobby, the alcohol lobby-----

Chairman: In fairness, that is not what she said.

Deputy Ciara Conway: I kind of did.

Deputy Robert Troy: She agrees.

Chairman: We have the sale of alcohol Bill. The Government is tackling it. Deputy Troy's party in government did not do a whole lot with the vested interests, if he wants to play a particular game.

Deputy Robert Troy: I am just making the point that the ban on sports sponsorship by the alcohol companies has not been brought into play. It needs to be looked at, in conjunction with

the issue that is being looked at, that of below cost selling, and a wider range of issues. Dr. Shannon has rightly outlined that it is the root cause of many of our social problems.

Chairman: Your own party leader played a good role in that.

Dr. Geoffrey Shannon: I will answer each question individually but I will start with what I would see as my key recommendation, which was summarised by Deputy Conway. My key recommendation revolves around the imposition of an absolute ban on alcohol sponsorship of sports events. I share Deputy Conway's views, as I do those of Deputy Troy and Senator van Turnhout, on the issue of alcohol.

In the context of chairing the child death review with my colleague, Ms Norah Gibbons, a key concern is that alcohol was not seen as a risk indicator. Children were left in highly vulnerable environments because social workers failed to act. What I found most troubling about the child death review was that, at the outset, I thought the most troubling cases were going to be the children in the care system, but it was not them but the children who were known to child protection services. It was the failure of the State to act.

This ties in to Deputy Troy's first question on the Roma case. I publicly defended the role of the Garda and the HSE at the time, and I was unapologetic about it in that I feel our history is a chequered one in terms of the failure of the State to act. What I thought was the major shortcoming following the review of in excess of 500 files was a failure on a part of social workers to act. Deputy Conway mentioned the word "systemic" and I think this is systemic. It comes back to social work training. Social workers need to be told that alcohol is perhaps an even more corrosive substance than heroin.

I accept the Chairman's remarks not just on alcohol but on general substance abuse, which we need to tackle. It is easy to blame Government when, in fact, it is a society-wide problem that needs to be addressed. My experience is not just in this jurisdiction but also in the UK. If we look at the difference in approach in this jurisdiction versus the UK, and Deputy Conway will have seen this, alcohol would immediately be perceived to be a risk indicator in the local authority system in the UK. I hope this new agency will prioritise education because, when we try to change practice, education is the gateway to achieving that change of practice. I hope that, if there is anything the committee members listen to today, it will be the clear message that, having reviewed in excess of 500 files, there has been a failure to tackle alcohol at an early stage. That will remain with me as the abiding message from all those reports.

To come back to the questions, I will begin with those of Deputy Troy on the Roma children. His first question touched on whether there was a need to change the legislation. I often feel that, as a society, there is a knee-jerk response and, in any case, the immediate response is that we must change the legislation. Sometimes the problem is more nuanced. In this case, we do not know. Rushing to judgment or to blame the Garda and the HSE would be a mistake. What I will say on the record is that there are 700 notifications under section 12 of the Child Care Act. To explain briefly the pathway of a child coming into the care system, the Garda has the power in exceptional circumstances to take a child to a place of safety where there is an immediate threat to the safety or welfare of the child. That power is absolutely necessary. To come back again to the child death report, there are many instances of cases where I felt gardai should have acted and did not act. There is nothing to suggest we should remove that power in the context of two cases, when there are 700 cases a year, which is 7,000 notifications over ten years and 14,000 notifications over 20 years. We have yet to receive a report from the Ombudsman for Children on the matter and I have absolute confidence that she will be in a position to identify

these issues.

I am not suggesting that everything was done in the correct fashion but that there is a process. I am not privy to all the facts of the Roma cases. In general, the next stage in the process of a child coming into the care system is that the case is brought before the District Court within three days. In terms of checks and balances, a further check is that, under section 13 of the Child Care Act, it is up to the District Court to determine whether an emergency care order should be granted. It is my experience that District Court judges frequently grant an emergency care order for much less than eight days and in some cases for a matter of hours. It is a power that is used very sparingly and the checks and balances exist. One has to bring a case before the District Court and prove to that court there is an immediate and serious threat to the safety or welfare of the child. The District Court judge will then make a determination whether to grant that order where the threshold has been reached. It is not just the Garda and the HSE as one must present the case to the court, which is a further check.

If I am being asked what this and other cases might highlight, while I do not want to preempt what the ombudsman might find, it is the issue of inter-agency co-operation. This is why I feel the Children First legislation will be key, and we have to ensure it works properly. It is very important that the Garda and the HSE work together in a timely fashion. To suggest the problem is in the legislation is a failure to understand the nuances of the child protection system. I would like to put on the record that I think the Garda does a great job, as do social workers in the system. What we have failed consistently to do in this country is to bring ourselves to a position where professions work together. What we have seen is professions operating in silos, without regard to the best interests of children. Nobody has an exclusive preserve in respect of determining a matter for children. The real challenge for the child protection system is to ensure the agencies work together and the real challenge for this new agency will be that case-----

Chairman: Has the penny dropped that this must happen?

Dr. Geoffrey Shannon: To be honest, I am not sure it has.

Chairman: After all we have gone through, including the referendum and the fallout from other issues, are we saying this professionalism gets abandoned for the sake of building an empire or operating in a silo? For what reason?

Dr. Geoffrey Shannon: It is my view in terms of my experience and all I can do is offer a view on that basis. There continue to be difficulties in terms of the professions working together, which is lamentable.

We talk about the number of reports. We have had in excess of 20 reports in this jurisdiction on the failings of the agencies to work together. This justifies the Minister's decision to introduce the Children First legislation, mandating professions to work together. The stronger that legislation, the greater the change. One of the key recommendations in the Ryan report was around inter-agency co-operation. What I have seen is an abject failure on the part of agencies to work together in a consistent way. That failure must be tackled. I commend the Minister on the introduction of the legislation. The task is to ensure it is implemented at the earliest possible date. The problem is that this is still not happening, which is a source of much regret.

Deputy Troy asked whether I had been consulted by the Department on the particular case to which he referred. I received a letter from the Ombudsman for Children seeking my views on the operation of the Child Care Act in contextualising that case. The ombudsman is very clear

in her letter that she is not asking me to discuss the individual case but rather the general issue around sections 12 and 13 of the Act, which I am very happy to do.

Public health nursing and child and adolescent mental health services are two key aspects of child protection. Protecting the welfare of children is not just about the activities of social workers; it is about the endeavours of all relevant professionals. Again, the success of the legislation will depend on all the agencies working together, which calls to mind Deputy Conway's reference to alcohol abuse. What I have found in my work is that mental health issues feature prominently in the majority of child protection cases. As such, there needs to be a clear bridge between the new agency and mental health services. Without such a linkage, there is a real danger of our failing children into the future. It is a significant challenge. I have highlighted on several occasions the need for mental health issues to be mainstreamed within the new structure. How that is achieved is a matter for the Minister, but the evidence is quite compelling in terms of the requirement for child and adolescent mental health services to be part of the main child protection systems. It is vital for the success of our child protection efforts.

The same is true of the contribution made by public health nurses. I do not know why the latter have not been included; I am not privy to that information. Once again, it comes back to the imperative of ensuring all the various agencies work together. Whether that co-operation will take place within the remit of the new agency or outside of it is not something I will dwell on at this stage. The point to emphasise is that such co-operation must happen and is particularly vital in the case of public health nurses and child and adolescent mental health services.

Deputy Troy raised the issue of cyberbullying. I am aware he has published a Bill on this issue and I am on record as welcoming that initiative. My view is that where there is any doubt under the law in this area, we should clear it up by bringing forward legislation. I also accept Deputy Conway's point on this issue. It is a cause for concern that there have been so few prosecutions in regard to this issue. I am also concerned about the number of cases that have entered the public domain. The bottom line is that a clear legislative framework acts as a strong deterrent.

I referred to the work being done by BeLonG To in regard to homophobic bullying. I have had the pleasure of meeting Michael Barron, BeLonG To's director, to discuss this issue. Many of my recommendations are informed by that type of engagement. Before compiling a report I meet all the stakeholders and community representatives locally. For example, I travelled recently to Moyross to meet the local school principal and parish priest as part of my research on the area of disadvantage, in respect of which I intend to issue recommendations next year. We have made significant strides on that issue. My recommendations in general are, in many respects, reflective of meetings with key stakeholders and with communities locally.

Deputy Troy referred to the role of guardians *ad litem*. I have expressed concerns on several occasions in recent years regarding the lack of regulation in this area. Section 26 of the Child Care Act provides for the appointment of a guardian *ad litem* in public law proceedings, but the legislation does not provide details as to the role and function of such persons or the manner in which they are to perform their duties. The uncertainty continues when considering who should be appointed as a guardian *ad litem*. Again, the Act fails to give any details.

I share the Deputy's concern regarding the significant expenditure in this area. I wonder whether it is necessary. In the case of any child care service, our main concern must be to ensure the beneficiary of that service is the child. What has happened, however, is that in the absence of regulation, an entire industry has grown up. Several providers have done a great job,

with Barnardos being an example of an organisation offering and giving a world-class service. Regrettably, however, we simply do not know who the guardians should be, and there are huge variations as to the persons appointed by the courts. My view is that it is inappropriate for a lawyer to be appointed to that role because he or she does not have the skill set necessary to advise a court on the welfare of a child, yet that is exactly what is happening in a number of cases before the courts. The Minister, Deputy Alan Shatter, has undertaken to deal with this issue as part of the family relationships and children Bill, which is welcome. I hope he and the Minister for Children and Youth Affairs, Deputy Frances Fitzgerald, will provide a definition of the role of guardian *ad litem*.

This issue relates to the question raised by Deputy Caoimhghín Ó Caoláin about how we represent the voice of the child. My view is that we should hear the voice of the child directly where that is possible. As a society, we have created a range of intermediaries to the child, whether that is by way of video links, social worker intervention or obtaining an independent report. The evidence suggests, however, that in the majority of cases children are in a position to be heard directly in a court type setting. That should be accommodated whenever possible, with support provided to the child where it is necessary. Where direct representation cannot occur, we need a clear legislative framework to define what should happen. As it stands, in most private family law cases, there will be a social worker report. The problem with such reports is that they concentrate on the adults in terms of how they relate to the children rather than focusing on the children's interests *per se*. We need to step back and consider how best we can hear the voice of the child. Where we have a child with a disability, there will be a necessity to provide support, and the shape of that support can be easily framed. Outside of that, the approach should be to hear the voice of the child directly.

The Deputy also raised the issue of the *in camera* rule, which is addressed by section 5 of the Courts Act. The *in camera* rule represents a sensitive balancing act between the right to privacy, on the one hand, and, on the other, the right to a fair, transparent and accountable system of justice. I acknowledge the Deputy's point that it is sometimes used to cloak bad practice. However, it also shields the public from good practice. We need a system that conveys to the public what is happening within the courts system. We will have to see how section 5 operates in that regard. Where there is secrecy there is also suspicion. The most important consideration is that the public has confidence in our child protection and family justice systems. That is what we should be striving for in terms of the *in camera* rule.

Deputy Ó Caoláin asked why I recommended that we reimagine our engagement in the area of foster care. I speak on that issue from a wealth of experience over the two decades in which I have been involved with the Irish Foster Care Association. Many foster parents have very little contact generally with their social worker. If a named social worker is allocated to foster parents, particularly where the child is in long-term foster care, I wonder whether that is money well spent or whether the allocation of a link social worker would be more useful. It is not about removing that support. To the question of whether I would make the same recommendation were we not in such difficult economic times, the answer would probably be "yes". The allocation of a named social worker can be intrusive in situations where the foster parent is the only parent the child has ever known. We need to support foster parents and change the way we do things. Just because something was done in a certain way in the past should not mean we have to carry on that practice into the future.

I warmly welcome the Minister's announcement on aftercare. It is a huge step forward. Like Deputy Ó Caoláin, Focus Ireland, Senator van Turnhout and other Deputies and Senators,

I have long agitated on this issue, so it is a great day in terms of child protection. I can reassure Deputy Ó Caoláin that I believe what the Minister is proposing meets our international obligations. Last week, I was asked to speak at the European conference on homelessness. The conference discussed young homeless people being the lost generation and I was struck by some of the stories I heard. News of the Minister's announcement had certainly reached Prague, which was the venue for the conference. It was heralded as the way forward to the newer member states, which shows that Ireland can play a strong role in child protection. In that regard, this is something we should warmly welcome. It will be really important for those marginalised young people.

With regard to the children who died in aftercare, when I am writing on this issue I think of them. I do not wish to detain the members for long but given that the question was raised and I have the child death report with me, I will share with them why I think this is really important for those children. It is certainly the bleak stories that Norah Gibbons and I heard about those children and the shattered lives of their families. In some cases a social worker had not been appointed until five years after the child had been received, and when the child reached 18 years of age nothing happened. Again, we recorded in the report that it is worrying that a young person was offered care for only a few days after his 18th birthday. This type of practice really concerns me.

I will refer to one thing which has stayed with me since we wrote the report. It relates to one of the children who died in care. Just prior to his death he had asked his social worker to get him a pair of black pants. They agreed to organise the purchase but the hostel telephoned her to tell her that he had been found dead shortly after his 18th birthday. These are very vulnerable children. I can give the committee several examples. This report documents the lives of children who died. I am not saying they would not have died but the circumstances in which they died without any support left me with the sense that we were hugely failing these children. I believe this announcement is significant and is clearly welcome.

On Deputy Ó Caoláin's point on cyber-bullying, I share his view. My sense has been the same, that when one talks to schools there is a standing back. This requires a whole-school approach and I recommend that in the report I have given the committee today. It is not just about having policies in place. It is about saying to schools that they must engage parents and children. To refer back to the homophobic bullying I mentioned earlier, BeLonGTo and other such organisations will tell one about the isolation felt by children who are subjected to homophobic bullying. We owe it to them to have much stronger policies. I believe this should be put on a legislative footing. We must mandate it and tell schools they must do this, because there is a reluctance. The reason I suggested amending section 37 of the Employment Equality Act is that sometimes we use religious ethos to conceal a very ugly side of prejudice.

Chairman: Is there not a commitment by the Minister for Education and Skills, Deputy Quinn, and the Minister for Justice and Equality, Deputy Shatter, to tackle section 37?

Deputy Ciara Conway: Some of my colleagues and I have published an amendment to that.

Chairman: There was a closing date for submissions on that last week. We should all join you in commending BeLonGTo and Michael Barron. To give him credit, the Minister for Education and Skills, Deputy Quinn, has been very proactive on the issue of homophobic bullying.

Dr. Geoffrey Shannon: In my comments I welcome the fact that this is in the programme

for Government and that it has been followed up with the report earlier this year. I am saying we need to go a step further. I always think there is a discretion in the context of having policies and procedures. Where there is a discretion, there is room for schools to absolve themselves. There is good international practice in this area. In the Massachusetts example, there was a clear, proactive stance on the part of the legislature to tackle both homophobic and transphobic bullying and that was put in legislative terms. That is what I have in mind. I would hate to give the impression that I do not welcome the recent initiatives-----

Chairman: If one takes the work the Minister, Deputy Quinn, has done through having a forum and building on that, could that be piggy-backed on what you are articulating regarding what happened in Massachusetts?

Dr. Geoffrey Shannon: Absolutely. The publication of that report is a very important first step, along with the fact that we are identifying homophobic and transphobic bullying as a form of bullying that must be tackled and addressed. We sometimes talk about living in a democracy but we must create a culture of genuine equality and acceptance. There is, and continues to be, an undercurrent of bias and hostility. Until we tackle that robustly at legislative level, we leave a certain degree of room for bad practice to creep in.

Deputy Ó Caoláin also referred to the voice of the child. I have covered that. It is patchy and sporadic and various practices have evolved. We must have a clear vision of what amounts to the voice of the child.

Coming to Senator van Turnhout's intervention and questions, I do not intend to get into a political discussion on implementation. I produced a report and I hope it is helpful in terms of providing a roadmap. I am delighted to have the opportunity to present it to the committee. The recommendations I bring forward have come from lengthy discussions with key stakeholders in various communities. In many respects I try to frame the recommendations around their experience. These recommendations are rooted not only in my own experience, but also in the experience of communities and key stakeholders.

With regard to the disclosure of records, I made it clear in my presentation that I am concerned about this issue. I welcome the legislation from the Minister for Justice and Equality, Deputy Shatter. It appears from talking to those at the coalface that there is increasing pressure for the disclosure of confidential records. It is a worrying trend and must be addressed. I share Senator van Turnhout's view. My concern is that there would be a reluctance on the part of victims of child sexual abuse to seek therapy. Even if that therapy is accessed, the question I raise in the presentation is whether, if one is a psychiatrist, one is practising in the shadow of those records being accessed and whether, if one is a child, one will be as forthcoming. It must also be distressing for parents. They will have gone through the mill of their child suffering abuse, which must be a parent's worst nightmare, and then there will be the added trauma that somebody could have access to the therapy records. It must be tackled. It is not a problem without a solution. Canada has dealt with it very effectively, as have the Australian jurisdictions. We must deal with it.

My key recommendation today is on alcohol sponsorship. It is putting increased pressure on our child protection system. If we wish to deal with the entry points to our child protection system, one of the key triggers of a child coming into the care system is alcohol and, to a certain extent, poverty. That is where I talk about family support as well. Let us support families and do everything possible to support families who are in crisis before there is a need to take a child into the care system.

In respect of direct provision, I am conscious of the fact that the Department of Justice and Equality might have a different view from mine on this issue, but I see it as a profound child protection issue and I am unapologetic about that. We must look at what happens. I refer the committee to Dr. Carol Coulter's report. I sit on the oversight committee for Dr. Coulter's project. Her recent survey of cases before the District Court is very interesting. Page 27 of that report states that mental illness featured significantly in a number of African cases and in a number of these cases the mother, often parenting alone, was referred from a direct provision centre for asylum seekers to psychiatric services and her children were taken into care. Are we surprised, in light of the conditions in which these families have to live? I am conscious that we are in difficult times. We must not forget that we have a chequered history. I refer to what happened when we went abroad. That is my passion. I know there are people who disagree with me on this. My view is that if one examines this clearly as a child protection issue, one will say this is not a normal family environment. I am not saying the State is *in loco parentis*. I am saying this could not by any standards be regarded as a normal family environment. I think we need to do better for these children. We should look at what we are paying them. I think we pay €19.10 in respect of an adult and €9.60 in respect of a child. My recollection is that approximately 4,600 adults and approximately 1,700 children are living in 34 centres. Most of those children will become Irish citizens. How are we treating these future adults? That is a question we need to answer. I think my role must sometimes involve saying what people do not want to hear. We need to do better for these voiceless people.

Chairman: I know there are diverging views on how we can move forward. What will be the outcome of the significant change involved in the model espoused by Dr. Shannon, as opposed to the current direct provision model?

Dr. Geoffrey Shannon: We have a number of options. For example, we can decide to allow those seeking asylum to access the normal State supports. The numbers have decreased significantly. As a nation, are we going to extend the hand of generosity to these people? They do not arrive here lightly - some of them have come from horrendous war-torn areas and have been subjected to horrendous abuse. Would it not be a great thing if our society was to go the extra mile and say that we care for these people? I include the parents in this regard but I am primarily concerned about the 1,700 children who have to live in this type of environment. That is why I have suggested we should examine what we are spending on the system. I do not deny that the Department of Justice and Equality has a difficult job in terms of maintaining borders and all of that. I am conscious that there are competing interests. I wonder whether there is a better way of dealing with this. When one reads the summaries of the cases of children who happened to arrive into the care system as a result of one of their parents being unable to parent properly, one wonders whether we should be doing better for these children. That is really what I am saying.

Senator Jillian van Turnhout: I might add that there is no independent complaints mechanism and no inspection structure. I know Dr. Shannon has called for such a system in his reports.

Dr. Geoffrey Shannon: I am conscious that there are differing views on that. My view is that these are children who need greater protection. If we have nothing to hide, why are we afraid of sanctioning a HIQA-style inspection? If we are claiming that good practice is occurring, why are we pulling down the shutters? What is there to hide? To date, I have not been asked by the Department of Justice and Equality to make an input into the proposed children and family relationships Bill.

Chairman: Would Dr. Shannon be asked to contribute to legislation of that nature as a matter of course?

Dr. Geoffrey Shannon: Not normally. I would be happy to do so. I am never reluctant to offer my views when I am asked for them. I would like to make it clear that I think the Minister, Deputy Shatter, has been very much a reforming Minister. Several of his initiatives, including this initiative and his reform of the family courts system, have been very welcome. I would be happy to feed constructively into any discussion on the future shape of what I would characterise as Irish family life. I think there is a real need for such a discussion. The Minister is to be commended on bringing forward the family relationships Bill ahead of a referendum on same-sex marriage.

I passionately agree with everything Deputy Conway said in her intervention. The issue of alcohol is the key area I am trying to highlight today. If the committee takes nothing else from my attendance at this meeting, I ask it to reflect on the need to examine this significant feature of Irish life. It comes up again and again in the report that was published by Dr. Helen Buckley last week. When I was thinking last week about what I would say to this committee, it occurred to me that I had to say something about this issue in my capacity as the independent State rapporteur on child protection. It is incumbent on us all to do something about it. I commend the Chairman on-----

Chairman: Does Dr. Shannon think this message is resonating with families and those involved in the care and protection of young people?

Dr. Geoffrey Shannon: Undoubtedly, those working at the coalface see this. I think there is a slight degree of ambivalence about alcohol. As a society, we have all become very comfortable with alcohol. I saw it coming alive when I was trying to reconstruct the shattered lives of children who died in State care. It is only when one examines case scenarios to ascertain the root causes and the common denominators that one appreciates this. As Deputy Conway has said, the key common denominator across all the case files was alcohol abuse and the failure to check that abuse at an early stage. It is not just a question for the Government; it is a question for society as well. The Government has a role. It needs to start by sending out a clear message that alcohol is a real problem that needs to be addressed.

Chairman: We get it in here.

Senator Jillian van Turnhout: Absolutely.

Chairman: Those of us in this room get what Dr. Shannon is saying. Does he think civic society outside this committee room is buying into what he is saying? We can examine all of these reports, Dr. Shannon can make his point until he is blue in the face and Deputy Conway can give a fantastic presentation, but that does not mean people will buy into the point that is being made about the harm of alcohol. At a meeting that took place at Cork City Council yesterday, the Cork city coroner made a passionate point about alcohol being a gateway. I regret that today's meeting did not take place before the Private Members' debate a couple of weeks ago on the legalisation of cannabis. The meeting in Cork yesterday was not just about heroin; it was also about alcohol. Those of us in attendance at this meeting have been converted.

Senator Jillian van Turnhout: People who work with children, including those involved with non-governmental organisations and service providers, will have dealt with shattered lives. When I read the Roscommon report, for example, I learned that our service was using part of

the budget we were spending on the family in question to buy alcohol, and did not see that as a risk factor. That is a big issue.

Dr. Geoffrey Shannon: I think the Chairman has raised an important point. I do not think society really appreciates this issue. If our social workers cannot appreciate it, there is a great deal of work to be done. It comes back to the broader societal issue. I am conscious, having listened to the Chairman, that some people hear this argument and do not need any further convincing. I am suggesting we start by targeting alcohol sponsorship of sporting events in order to send a message from a very senior level of Government that this problem is having a corrosive and devastating impact on families and is costing the State substantial sums of money. I sympathise with the Minister for Health as he tries to find money to fund all of the various services. We have spoken about early intervention. I suggest that my proposal would be an early intervention strategy. The Government would be saying “we are not willing to take your money”. When society abuses alcohol, the pressure placed on our child protection system is insufferable. We end up paying for it in our child protection system. I have characterised my real worry in this regard in my report. When we fail to appreciate alcohol as a risk indicator, our child protection system is placed under pressure and has to deal with insurmountable consequences, as we have seen.

Deputy Ciara Conway: Can I make a remark in that regard?

Chairman: Sure.

Deputy Ciara Conway: When I speak out about alcohol abuse and cultural attitudes and beliefs regarding alcohol, the first thing I hear is a suggestion that I am trying to take the “party” out of the Labour Party. Those who accuse me of being anti-fun seem to think it is impossible to have fun in this country without being pissed. That kind of mentality is out there. This is not just about the people in this room or the people who work on the front line. Nobody is saying that alcohol should be banned or anything like that. We are not talking about that. We are talking about alcohol abuse. We are talking about very vulnerable people who have access to a very powerful drug for very little money. This time of year, I always remember a family with whom I worked where the children were removed because the mother had a chronic problem with alcohol. She loved her children very much and really wanted to get better and be a good mother. I remember bringing her on an access visit which went really well. It was coming up to Christmas and the tree was up in the foster parents’ home. We had a really lovely visit but she was really upset leaving her children. She got back into the car and she knew the reason I took her children was because of her alcohol abuse. She asked me to stop at the shop to get a tag for her bin but she went in, bought six cans of beer and got into the car beside me knowing that I would see it and have to make a report. That is the kind of grip that alcohol has on families. I am not saying everybody has to be punished because some people cannot cope with it but there is a prevailing attitude where social workers, gardaí and everybody else is afraid to talk about it because they are afraid people will say “but sure you go to the pub every Saturday night.” It is not about that. It is about the corrosive grip that it exerts on very vulnerable people for very little money but at huge cost. Cocaine, heroin and hash get all the headlines. It is just a convenience for us to ignore alcohol. I again thank Dr. Shannon for his No. 1 message from his report. The cost has been huge. It has resulted in the death of children.

Chairman: What the Deputy said is correct. We would agree with her on that. Could I ask her to take the Chair as I must go to another meeting? Is that agreed? Agreed.

Vice Chairman: Does Senator Crown wish to come in?

Senator John Crown: No.

Dr. Geoffrey Shannon: I wish to respond to Deputy McLellan's question about the Hague Convention. One of the real problems in the area of family law is the fact that children and families move across borders. My mantra would be "Apply to the court, don't fly". The Hague Convention operates where someone wrongfully removes or retains a child out of the jurisdiction. However, we do not have a set of rules in this jurisdiction governing a person's application to the court to legitimately apply to move across a border. I am saying we need to put legislation in place for that to occur because there is a compelling need. We have this general principle that it would be in the best interest of the child and we now need to define that. In my report, I have given considerable thought to this and suggested that we follow the principles in the Washington declaration, which sets out a clear roadmap as to how one would deal with such cases. I think that brings me to the end of all of the questions I have been asked.

Vice Chairman: I thank Dr. Shannon most sincerely on behalf of everybody on the committee for a most challenging and informative presentation. As a committee, we look forward to engaging with him again in the future. We should not only engage with him in respect of his seventh report but on a regular basis over the coming months and years because it is an invaluable exchange. It was stated by some members here that there is nothing in the report with which we do not agree but it is a matter of trying to articulate that further and increase awareness among people and key decision and policy makers. We are committed to doing whatever we can as a committee to ensure that child protection is at the very top of our Government's agenda and I hope Dr. Shannon will join us in that.

The joint committee adjourned at 7.15 p.m. until 9.30 a.m. on Thursday, 21 November 2013.