

DÁIL ÉIREANN

AN COMHCHOISTE UM SHLÁINTE AGUS LEANAÍ

JOINT COMMITTEE ON HEALTH AND CHILDREN

Déardaoin, 2 Iúil 2015

Thursday, 2 July 2015

The Joint Committee met at 12.15 p.m.

MEMBERS PRESENT:

Deputy Catherine Byrne,	Senator Colm Burke,
Deputy Ciara Conway,	Senator Thomas Byrne,
Deputy Regina Doherty,	Senator Imelda Henry,
Deputy Peter Fitzpatrick,	Senator Jillian van Turnhout.
Deputy Seamus Healy,	
Deputy Sandra McLellan,	
Deputy Michael McNamara,	
Deputy Mary Mitchell O'Connor,	
Deputy Dan Neville,	
Deputy Caoimhghín Ó Caoláin,	
Deputy Robert Troy,	

DEPUTY JERRY BUTTIMER IN THE CHAIR.

Quarterly Update on Children and Youth Issues: Minister for Children and Youth Affairs

Chairman: I remind members and those in the Visitors Gallery that mobile phones should be switched off for the duration of the meeting as they interfere with the broadcasting of proceedings.

I welcome the Minister for Children and Youth Affairs, Deputy James Reilly. I also welcome the Secretary General at the Department of Children and Youth Affairs, Dr. Fergal Lynch, as well as Ms Bernie McNally, Mr. Dermot Ryan, Ms Michele Clarke and Mr. Alan Savage. This is our regular quarterly meeting with the Minister on issues concerning the Department of Children and Youth Affairs. In advance of the meeting members submitted written questions, to which the responses have been circulated. On behalf of the joint committee, I thank those who facilitated our recent visit to the National Children Detention Facility at Oberstown, Lusk, County Dublin. The committee will have an informal follow-up meeting with members of staff there.

By virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of the evidence they are to give to the committee. If they are directed by it to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with these proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any 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 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.

Minister for Children and Youth Affairs (Deputy James Reilly): I am pleased to have the opportunity to update the Joint Committee on Health and Children on the progress made and the key issues on which we have been working since the last quarterly meeting which was held on 19 February. Several issues of relevance to the Department have been raised before the committee in the intervening period. I thank the committee for its ongoing interest in these issues and the value that derives from its active involvement in dealing with them.

On 24 April the Supreme Court delivered a unanimous decision to uphold the result of the referendum on the 31st amendment of the Constitution which explicitly enshrined children's rights in the Constitution. I welcome the Supreme Court's judgment. The Thirty-First Amendment of the Constitution (Children) Act 2012, inserting Article 42A into the Constitution, was signed into law on 28 April 2015. The referendum on children's rights was an important part of the Government's commitment to reorient fundamentally the way we make policy as well as the context in which we provide services for children.

We continue to make progress on important issues in the Government's legislative programme. The Government approved the Committee Stage amendments to the Children First Bill 2014 in April and the Bill is now progressing through the Oireachtas. Subject to availability of time in the Oireachtas, I hope to have this important legislation enacted before the summer recess.

The Children (Amendment) Bill was published on 14 May 2015. It updates the legal frame-

work for the detention of children, including the amalgamation of the three existing children detention schools. Again, I hope to have this Bill enacted before the summer recess and will arrange for commencement as quickly as possible. This will coincide with the completion of the national children's detention facility project at Oberstown, Lusk, County Dublin. We invested a further €13.5 million in 2015 towards the completion of this project which, in line with the commitment in the programme for Government, will see an end to the detention of children in adult prisons. I welcome the visit of members of the committee to see the new facilities in Oberstown on 23 June last, to which the Chairman has referred already. I know that committee members saw at first hand the significant progress made to date and got a sense of the challenges ahead as well as the genuine efforts of all involved to address them.

Intensive work is continuing on the adoption (information and tracing) Bill. I am proposing as progressive an approach as is possible within the significant legal and operational complexities that arise. Recently I gave a set of specific proposals to the Attorney General for her consideration. Following this, it is my intention to have the general scheme and heads of the Bill finalised as soon as possible and submitted for the consideration of Government in advance of referral to this committee for pre-legislative scrutiny.

The Government has recently approved some amendments to the aftercare Bill. Work is progressing with the Parliamentary Counsel in the Office of the Attorney General and I hope to publish the Bill as soon as possible. Work is also continuing with the Parliamentary Counsel to finalise the draft child care (preschool services) regulations, which will strengthen the regulatory and inspection powers of Tusla in respect of early years services.

In accordance with legislative requirements, Tusla has developed its first three-year corporate plan for 2015-2017 in response to my Department's performance framework. The plan includes the agency's key objectives, outputs and related strategies and sets out the agency's medium-term strategy for service delivery and reform. Tusla has continued to work to develop its services and address a number of key concerns regarding child welfare and protection services. As Minister, I am fully supportive of the agency's implementation of a wide-ranging programme in this area. Tusla is progressing the roll-out of national standardised business processes to promote and support consistency in the delivery of services and to improve outcomes for children and families. Tusla will build on these initiatives in 2015 and the further necessary reform of services will continue to be a high priority. In this regard, the committee will be particularly mindful of the issues highlighted by the agency and the Health Information and Quality Authority that arose in some parts of the country, including Laois, Offaly, Louth and Meath. Tusla has worked intensively to address these matters by dealing with the areas of immediate concern and putting in place special measures to support good practice in future. Naturally, there is more work to do and those in Tusla would be the first to say as much. However, in its recent annual overview, HIQA noted evidence of improving services and good practice in children's social care in many regions. Moreover, in the context of concerns raised about child protection services, all urgent cases referred to Tusla are dealt with immediately. It is important to emphasise that point and HIQA has found this to be the case in its inspections.

The committee will be aware that for some time I have been concerned about the number of cases awaiting a dedicated social work service. At my request, Tusla has carried out an audit of these cases and is finalising its report to me on the matter. Action in this area along with its work on developing caseload management, standard business practices and a quality assurance strategy will help Tusla identify fully the demands on the service to enable it to meet the needs of all vulnerable children in the right way and at the right time. It will also give Tusla and my

Department strong evidence to support our efforts to secure resources in the annual Estimates process and ensure the services continue to meet the protection and welfare needs of children and families.

I am pleased to report on a number of important developments in the area of children and youth affairs policy over the past quarter. I realise the joint committee is undertaking independent work in the area of affordable child care costs and that it has met all the key stakeholders. I know officials of my Department met the committee last week to outline the approach being taken by the interdepartmental group I established on the matter and to listen to the views of the committee. The group will report shortly and I will bring the document to Government in the next few weeks. I will then deal with the matter as part of the Estimates process for 2016.

The committee may also be aware of the work in progress to agree and cost a model to meet the requirements of children with special needs in mainstream schools. The group responsible, which includes representatives of the Departments of Children and Youth Affairs, Health and Education and Skills as well as relevant specialist agencies, will report in early September. I will also deal with the associated proposals in the context of resources for 2016.

Since our last quarterly meeting I have launched a number of important initiatives. On 4 June, I launched phase two of Growing Up in Ireland: The National Longitudinal Study of Children. This second phase of the study will run from 2015 to 2019 and will be implemented by a team of researchers led by the Economic and Social Research Institute and Trinity College Dublin. The purpose of the study is to understand the factors that contribute to or undermine the well-being of children in contemporary Irish families. Through this, it will contribute to the setting of effective and responsive policies relating to children and to the design of services for children and families. My Department will continue to fund and oversee this important study in association with the Central Statistics Office and the Department of Social Protection. I am pleased the Government will continue to invest in Ireland's research and data infrastructure relating to children. It is critical that this study is continued. It has been invaluable in terms of the information it has given us and many researchers. It will absolutely inform our policies in future and will assist in realising what I have always sought, that is, evidence-based policies.

On 17 June, I launched the National Strategy on Children and Young People's Participation in Decision-Making 2015-2020. It is the first national strategy to give children a role in making decisions. The strategy is intended to ensure children and young people have a voice in decision-making that affects their lives and I am proud that we are the first country to take this initiative.

I hope to be in a position to publish our new youth strategy soon. An extensive process of consultation has been completed. I know this will be an important supporting strategy as part of the national policy framework, Better Outcomes, Brighter Futures. I also hope to publish a new early years strategy later this year to build on the extensive commitments already contained in Better Outcomes, Brighter Futures.

We have made good progress in the initial year of implementation of Better Outcomes, Brighter Futures. We have a comprehensive implementation structure in place and it is working well. We have developed an implementation plan and I look forward to presenting shortly the annual report on the first year of implementation. A key element of implementation arises under the children and young people's services committees or CYPSCs, as they are known. I was pleased to launch the blueprint for the development of the children and young people's services committees recently and to note the progress being made.

Last week, I launched Comhairle na nÓg's Let's Go Mental campaign. This is a major new nationwide campaign designed by young people - a critical factor - to promote positive mental health among young people. The campaign involved 31 separate events in every local authority area throughout the country, using music, sport, the arts and other activities to stress the value of positive mental health.

On the same day that I had the pleasure of celebrating the exuberance of youth in launching this important initiative, sadly, we stopped to commemorate the loss of six young Irish people who died in such tragic circumstances in Berkeley, San Francisco. I imagine the committee members share the nation's sadness in this tragedy. I offer my condolences to the families of those who lost their lives and reaffirm the support of the Government for those who were injured.

On a different theme of remembrance, on 26 May, along with the Minister for Arts, Heritage and the Gaeltacht, Deputy Heather Humphreys, I met a group of primary school children to hear their ideas on how the children of the 1916 Rising should be remembered next year and to hear their view on the future of Ireland beyond 2016. This meeting was part of a series of children's consultation events led by my Department as part of the youth and imagination strand of the Ireland 2016 Centenary Programme. The children will explore what life was like in 1916, imagine what they would like for Ireland in the future and consider ways to honour the children who died during the Easter Rising.

On a separate note, I attended the EU Council of youth Ministers meeting in Brussels on 18 May last. Ministers adopted the Council's conclusions on enhancing cross-sectorial policy co-operation to address effectively the socio-economic challenges facing young people and reinforcing youth work to ensure cohesive societies. Along with the other youth Ministers, I participated in a public policy debate entitled Empowering young people for political participation in the democratic life of Europe. Luxembourg presented its upcoming EU Youth Presidency programme in the field of youth for July to December 2015. It will focus on youth empowerment, including encouragement of young people's rights, autonomy, participation and active citizenship.

We have had a busy and productive period of work since our last quarterly meeting. I am pleased with the progress made but, as always, there remains much to be done. I will press ahead with my priorities in the coming months. I look forward to the committee's support, involvement and encouragement to get as much done as possible in the interests of our children.

Deputy Robert Troy: I welcome the Minister and his officials to the meeting. I will commence by analysing his presentation. The Supreme Court's decision to uphold the result of the referendum on children's rights is welcome. I am someone who actively participated in the campaign and actively campaigned. Now that the decision is final, I want to know who will take responsibility, or be held accountable, for the fact that material was published, at a cost of €1 million, which did not concur with the McKenna principles and, as a result, has delayed implementation of the result from the vote that was held in November 2012. Someone must pay the consequences for the publication of that material. When we have the decision, I want to know where the legislation is to give effect to, for example, the new adoption regime for children in foster care long-term. These children have lost two years because of a decision taken by someone, whether it was the Minister's predecessor or a senior official in the Department, to publish the document in advance of the referendum.

The adoption (information and tracing) Bill has been ongoing for a long time. In October

2013, the committee held a quarterly meeting with the Minister's predecessor, Deputy Frances Fitzgerald. On that occasion it was stated that the legislation would be published shortly and the heads of the Bill would be sent to the committee. Unfortunately, we have never received the heads of the Bill. Today the Minister used the phrase "as soon as possible" when discussing the Bill. Can he guarantee that the legislation will be published before the term of this Government ends? Can he guarantee that the legislation will deal with both prospective and retrospective adoptees? Can he guarantee that all adult adoptees will have access to their birth records?

The draft child care (preschool) regulations were promised in the aftermath of the television programme "Breach of Trust" being broadcast in July 2013. It is almost two years since the programme was broadcast and almost two years since the Minister's predecessor, Deputy Fitzgerald, issued her eight-point plan. Unfortunately, we are still awaiting the publication of the regulations and the enactment of the new registration process. Why? Will the Minister give a definitive update on when this work will be done?

The Minister said: "The committee will be aware that for some time I have been very concerned about the number of cases awaiting a dedicated social work service." In fact, when I highlighted this matter over the past 12 months, and since the Minister assumed his portfolio, he and his predecessors said there was no issue with the number of social workers and claimed we have a full complement of social workers. I welcome that he has belatedly come around to the fact we do not have a sufficient number of social workers. An RTE programme that was broadcast in February 2015 identified the fast rate at which people were leaving the service. The Minister indicated that a pilot 12-month contract was being introduced to deal with people in the service on maternity leave. I ask him for an update on how the pilot scheme is going. I also want to know the following, which is something I have sought in written parliamentary questions and it is very difficult to get a confirmed answer. What target figure does the Minister have in mind for the number of social workers?

The next issue that the Minister mentioned was special educational needs. Another group has been set up despite that a report entitled A Framework for Action on the Inclusion of Children with Special Educational Needs was commissioned by the Department of Education and Skills in 2012. The report has not been implemented. We have another group looking at a problem we already know exists. It is amazing and bamboozling to hear the Minister say that the Secretary General of the Department of Children and Youth Affairs, along with the Departments of Health and Education and Skills, will seek to gain agreement. Have the Departments kicked responsibility for this issue from one Department to another? I thought the formation of the Department of Children and Youth Affairs would mean responsibility for piloting and spearheading issues related to children, specifically early childhood care and education, would belong to the Department. At this stage it is not good enough for the Minister to say he will seek to gain agreement.

I will revert back to the quality agenda. Two years ago it was announced that by September 2015 all staff working with children in early years services should have a minimum level 5 qualification, and team leaders in the free preschool year should have a level 6 qualification. I asked a parliamentary question two weeks ago in reply to which the Minister said that of the staff working in the early years sector, 87% were qualified to level 5 and 50% were qualified to level 6. If that is the case, why have we decided to kick the increased requirement under the quality agenda out by a further 12 months? It is wrong that we have decided to do so. There was sufficient time for this measure to be introduced. Again, it is another stream of the eight-point plan that has yet to be implemented. If we want quality then we should adhere to the goals

and timelines, not set down by me, but by the Minister and his Department. He has failed to adhere to the guidelines.

The next issue is child protection. Unfortunately, the legislation to put a proper structure in place, despite the Government being four and half years in office, has yet to be enacted. The national vetting legislation has yet to be commenced. The Children First legislation has yet to go through all Stages in the Oireachtas. Can the Minister give a guarantee that the Children First legislation will have gone through by the summer recess? When will the national vetting legislation be commenced?

The Minister mentioned the campaign called Let's Go Mental. Last week Dr. Muldoon was here and he described mental health as being disjointed, having a lack of co-ordination or being unco-ordinated with calmness. Will the Minister give an update on his opinion of the subject? He also said that the reduction in staff in his office was inhibiting the work he does in ensuring children's concerns are met. Will the Minister give an update on this?

Deputy Sandra McLellan: I welcome the Minister and his team. I agree with the conclusion to his opening statement, "We have had a busy and productive period of work since our last quarterly meeting." While we have had the Children First Bill and the Children (Amendment) Bill, the adoption (tracing and information) Bill has still not been published. The Minister and his predecessor stated it would happen shortly. Will we see it before the end of the Dáil term?

Tusla has developed its first three-year corporate plan for 2015 to 2017, which is to be welcomed. Tusla worked intensively to address issues that arose in Laois-Offaly and Louth-Meath. Did the re-allocation of resources and the redeployment of staff to deal with these matters mean services in other areas suffered as a consequence? The Minister stated he is concerned about the number of cases awaiting a dedicated social work service. The committee has been concerned about this for some time too. Tusla has carried out an audit of these cases and is finalising its report for the Minister. When will he have the report?

I am concerned about Tusla's response to parliamentary questions, which is slow. I tabled questions in early April but I still await responses to them. Tusla is not operating to its potential and this is an indication of some of the shortcomings in the agency.

We met the interdepartmental group on child care last week. However, the meeting was more about how the group was constructed. We got no indication as to budgets. It is difficult to make recommendations when one does not know what type of budget one has.

Regarding provisions from the Government for survivors of child abuse who lived under State-paid foster care during the period 1953 to 1967, abuse which was reported by social workers and the National Society for the Prevention of Cruelty to Children to the Government of the day, the Minister has stated the Government has no plans to carry out any further systemic historical reviews at this time. He referred to the Garda Síochána having a role in investigating historical abuse. We must recognise these individuals have been failed by the State. Accordingly, the State has a duty to investigate these acts as they happened under the State's watch when they were children. It is not good enough to close the book on it.

Chairman: We will suspend the meeting until after the vote in the Dáil.

Sitting suspended at 12.45 p.m. and resumed at 1.30 p.m.

Chairman: I apologise to the officials and staff for the delay as this was due to votes in the

Dáil.

Deputy Sandra McLellan: I have a final question, on mother and baby homes. Are we meeting our targets and deadlines and reaching our milestones? Has the Minister any concerns? When can we expect an update?

Senator Jillian van Turnhout: As always, the Minister is very welcome, as are his officials. I appreciate the work of all the staff in the Department who supported and helped the young people in organising Comhairle na nÓg and ensuring their voices got heard in their campaign Let's Go Mental. It was very good to be part of something so positive regarding mental health. I congratulate those concerned.

With regard to Oberstown, I thank the Department for facilitating the committee's visit. The Children (Amendment) Bill is progressing. I thank the Minister for taking my amendment on board and keeping his word on bringing forward the subsequent amendment earlier today on Committee Stage.

I have a concern following our visit to Oberstown in regard to the educational attainment of children there. Some of the figures provided to Oireachtas Members were stark. There are children who enter with a cognitive age of 14 and a literacy age of nine. This points to wider failings in our educational system. Perhaps we need to examine what is occurring not only at the point when children enter Oberstown but also at the steps that lead up to that point.

I am concerned about decisions at judicial level on where children are to be sent. I am going to do some work on this personally. There is anecdotal evidence that girls tend to be sent into special care rather than Oberstown. There are only six places in Oberstown for girls. I am concerned that if only one girl is sent there, she is effectively put into solitary confinement. I am also concerned about the number being sent on remand. It is an issue we might be able to explore further.

The Children (Amendment) Bill must be applauded. I hope it will come into law very soon. We had very constructive engagement with Dr. Fergal Lynch last week on child care. I will not go back over the points made and the work of the interdepartmental group.

I was very concerned to hear on the news earlier in the week that the Government is considering increasing child benefit by €5. This is an incremental increase. I would like to be giving out lots of money everywhere but believe that if there is a priority, it is to invest in services that lead to better outcomes for children. When the cuts were being made, we were lectured — I will use that word wisely — to the effect that all the evidence proves investment is the answer. I acknowledge that what is occurring is not in the hands of the Minister but I am concerned.

With regard to special needs, is the interdepartmental group considering an anticipatory model for special needs? All the evidence shows that we should be considering this model for child care.

I would also like to raise the issue of child abuse material, particularly on the Internet. I produced a considerable report on this and was delighted to see that many of my recommendations have been taken on board in the Criminal Law (Sexual Offences) Bill. Thanks to this committee, I attended the European Forum on the Rights of the Child. The Bill uses the term “child pornography”. I ask the Minister to suggest to the Minister for Justice and Equality that we call the phenomenon what it is, child abuse material, as requested by Interpol and Europol. In some ways, the term “child pornography” makes one believe there is consent whereas “child

abuse material” names it for what it is. I ask the Minister for his support on that issue.

I thank the Minister for his answer in regard to question No. 6, on guardians *ad litem*. I very much welcome the reform he is proposing and look forward to seeing the heads of the legislation. With regard to my question on the constitutional amendment on children, I very much welcome the Minister’s interpretation. On a side note, perhaps he or somebody else can give me advice. The President signed the legislation into law on 28 April but the Statute Book information in the Attorney General’s office, with which I had been in touch, states the legislation is “subject to legal challenge”. The office stated we have to wait for a reprint of the Constitution. For that reason, I contacted the OPW, which tells me that it does not intend to reprint the Constitution for some time, or basically until the marriage equality legislation is sorted. I have determined that we reprinted the Constitution after every other referendum, yet we decide we can wait where children are concerned. I know this is outside the Minister’s hands but I am being sent from one party to the other on the matter. The Attorney General’s statement on the website that the legislation is subject to legal challenge sends a wrong message. It is not subject to legal challenge, it is in law and the changes need to be reflected.

I am very happy with the Minister’s response to me on the issue I raised. Can I presume the interpretation he has given us is shared by all Departments? He said the amendment sets certain standards relating to determining the views and best interests of children in specified proceedings which both comprehend existing provisions and require that all future legislation must comply in the areas concerned. My question for the Minister is on the Department of Social Protection and the Gender Recognition Bill and the issue of the voices of those under the age of 16. During the pre-legislative scrutiny of the Bill, children asked to be heard. They were told by an Oireachtas committee that we do not hear from children. I have all the documentation to show that. The Norwegian Government announced earlier this week in heads of a Bill that it is to allow children from age seven to have their gender and identity recognised where there is parental consent. There is a missed opportunity. It is our first opportunity to give life to the amendment on children but we seem not to be doing it.

While I welcome the Minister’s answer on adoption, I am waiting to see the Bill. There are approximately 50,000 to 60,000 people who are waiting for the relevant information. Complex constitutional issues continue to be raised but the reality, which I can state as a hobbyist genealogist, is that I can actually find out an individual’s identity if I have enough money. With enough money I can order enough birth certificates under a certain name for a given period and area to allow me to work out a mother’s identity. One could end up on somebody’s doorstep asking her whether she is one’s mother. Senator Averil Power and I have been trying to prevent door-stepping, unless one has a very common name. However, if one has a not-so-common name and enough money, one can do as I describe. We saw how Ms Catherine Corless was able to order certificates for the babies buried in Tuam.

For me, the right to identity is the issue. We talk about the right to privacy but it is about a balancing of rights; one right does not trump the other. I continually feel the advice being given is purely accounting for the right to privacy. Very often, if one talks to the groups of parents who gave up children, one learns some gave them up voluntarily while others gave them up without consent in the sense that we would understand “consent” today. We have to push harder on the issue of adoption and ensure people have a choice.

Deputy Mary Mitchell O’Connor: I thank the Minister for his report. I wish to refer to page 3, which refers to the draft child care (preschool) regulations, which will strengthen the regulatory inspection powers of Tusla in regard to early years services. Preschool providers and

other child care providers have complained to us about difficulties that arise for them in regard to two different groups coming in to them, an education-focused group and a group concerned with health. Has the Minister heard the complaint? If so, can he tell us his view on it and why we would be taking that track?

Yesterday in Leinster House a person complained to me that a number of preschool child care providers have refused to take her two-year-old child who has a severe nut allergy and needs to use an EpiPen. There is a policy in primary schools on children with a nut or other allergy and the use of EpiPens. What is occurring is very unfair. The lady is employed in the Oireachtas and has to take Mondays off to bring her child to the preschool. She hopes for a positive outcome. Could we examine this and formulate a policy on it? The Irish National Teachers Organisation, INTO, the boards of management and the Catholic Primary Schools Management Association, CPSMA, all came together to ensure that children in primary school could have the EpiPen administered to them.

Chairman: As the Deputy is aware, an issue has been raised in the committee about that previously. Could I ask the Deputy to place that with the committee as well, in order that we can follow up with the Departments of Health and Education and Skills?

Deputy Mary Mitchell O'Connor: Yes.

Chairman: Were the Deputy to write to the clerk on that, the joint committee will deal with it at our meeting next Thursday. Is that all right?

Deputy Mary Mitchell O'Connor: Yes, thank you.

Finally, I say, “well done Minister” on the work he is doing. I am glad he paid tribute to the young people who died in Berkeley. Young people also were seriously injured, many of whom live in my constituency, and I ask that members think of them.

Deputy Ciara Conway: I have two questions, the first of which is related to a question I tabled about survivors of sexual abuse who fall outside the scope of the Children First guidelines. It is estimated that only approximately 20% of survivors of sexual abuse actually make contact with Tusla. They approach other agencies or organisations to try to get support because as members are aware, they are uncomfortable, afraid, embarrassed or ashamed to make an official report in this regard. What services or plan does the Minister have to meet the needs of people who are survivors of sexual abuse but who fall outside that or who do not make contact with Tusla, when it is known that only approximately 20% of survivors of sexual abuse actually make official contact through Tusla?

My second question pertains to a report commissioned by Tusla. I understand its purpose was to review the transition period as a new agency and the contract to review the working of the agency was awarded to Accenture at a cost of €123,000. I would have thought such a scoping exercise and that kind of planning would have happened beforehand. Why, if this agency is only just up and running, are reports already being commissioned, at a cost of €123,000, from a company I am not sure has experience on how a good model of social care can be developed? Perhaps I am wrong and I seek a response from the Minister. The Minister’s written answer refers to operational and management structures. I had thought Tusla was about doing things differently. It is only in its infancy and already, with all the management structures, the reports, the foresight and whatever we have had, reports now are being commissioned for €123,000. I wish to ascertain what that is all about.

Deputy Regina Doherty: I thank the Minister for the presentation this morning. I wish to ask one or two questions with regard to the information given to members on foot of our visit to Oberstown. It is an outstanding facility, albeit that all members were struck that notwithstanding the great, state-of-the-art school, the state-of-the-art building and the plans to have less segregation, more common areas, more integration and so on, it still is a detention centre. I wish to place on record the enthusiasm, energy and commitment of the staff who were present because their energy for their roles and the jobs they carry out was infectious. They are a great bunch of people. Notwithstanding this, however, one point I kept going over in my head in the days afterwards was that the woman who showed us around told us the vast majority of the young people who are there come back. They do not get rehabilitated and do not go away. She stated it was highly unusual for them to not recognise the name or know of a person who was coming to the facility because they already are being failed in other settings. They then enter Oberstown for three months, six months or sometimes longer; they do come back. For all of the money that is being spent, for all of the programmes in place, as well as the enthusiasm and commitment of staff, we are still not reaching or helping whatever the difficulties are with which the young people are presenting. As there are 90 spaces there at present, is there a long-term plan in place to only have a need for 40 or 20 spaces because of other programmes that are being used to reach people and communities?

In addition, issues were highlighted to members by the chief of staff there, in that there are ongoing human resources issues and rolling staff and roster issues with which he is not getting satisfaction. Are negotiations with senior management from the Department ongoing to assist with those issues? Why is the rate of sick leave still as high as it is in an institution that has such obvious commitment from the staff? Are there ongoing issues in this regard that must be addressed? In addition, I was amazed by the huge amount of money it costs to keep one young person there on an annual basis. The Minister might describe and explain to members why that is, when it does not appear to be having the desired effect of not having recurring visits from some of the younger people, who appear to keep coming back to the facility.

Deputy James Reilly: I thank the Deputies for their comments and questions and I will answer them as best I can. Deputy Troy asked who will take responsibility for the material that was published and for the children's referendum. In this regard, I emphasise the court found that the Government acted in a bona fide manner at all times. Moreover, the Department and the Minister of the day entered into the information campaign in good faith. The Government has accepted responsibility for what happened and there are lessons there to be learned for all subsequent referendum campaigns. In addition, the Government made a commitment to work within the parameters of the McCrystal judgment and has done so since. As for delays, that is a matter within the courts and as there is a separation of powers, the Government cannot very well interfere in that. This relates to the delay in the legislation on foster care.

Many people have raised the adoption information and tracing issue. The Department has been working on this highly complex area and I do not wish to repeat everything I have put into the written responses to the questions because I do not believe members would appreciate it. However, I will state that a huge amount of effort, energy and work has gone into this complex area. There is a balancing of rights, as some already have pointed out. I want it to be as progressive as possible and more recently, my Department has put to the Attorney General a new policy position devised by one of the people in the Department. I believe a way forward in this regard may have been found that now will allow me to expedite the Bill. However, I cannot over-emphasise the difficulty that was involved here in respect of trying to achieve an outcome that would accommodate both the retrospective and the prospective situations alluded to.

There also is an adoption (amendment) Bill pertaining to foster care, eligibility for adoption and step-parental adoption. I acknowledge this matter is of particular interest to some members present and it also is being worked on. Clearly, it was also influenced by the children's referendum in some respects and is being worked on and I hope to have something on that by October. In a small Department such as ours, with limited resources available in terms of personnel and expertise, the emphasis has focused on information and tracing.

The Deputy raised other issues like how many social workers are needed. We have the Measuring the Pressure analysis and ongoing work is being done there in respect of quantifying the number of staff we will need. We wish to consider how we use social workers, what supports can be given to them and what work can be done by other people to avoid social workers doing work that is more appropriate to less qualified people or certainly to people with different qualifications.

This relates to something else Deputy Regina Doherty raised recently, namely, the question of turnover of staff. We have, by international standards, a good rate of turnover of social worker staff. One cannot compare the turnover in social worker staff with nurses, doctors or others. It is a very different type of work and is very tough work, which is not to denigrate the toughness of the other professions but when one compares them with international rates, we compare very well, particularly when we draw comparisons with the United Kingdom, America or even Australia. That work goes on and we want to have a business case that we can put from Tusla to the Department of Public Expenditure and Reform when the Estimates process gets under way in order that we can address the issues comprehensively.

The Deputy said that I had said that we have plenty of social workers. I do not have any recollection of saying that.

Chairman: Is the Department actively recruiting social workers?

Deputy James Reilly: We most certainly are and I gave the figures to the committee previously. The number in the recruitment process currently is 128 and staff turnover is 3.57%. There are variations in different parts of the country and the current social worker head count is 1,543. There is no question that we want more social workers.

My Department leads the special needs interdepartmental group. This will not delay the other work, as this group is doing specific work on the needs of children with special needs in both preschool and school and examining how best to meet them.

The Deputy asked whether I will get the Children First legislation through by the summer. It is our intention to so do and it will be subject perhaps to a little co-operation from the members. As I said earlier in the context of the Children (Amendment) Bill 2015 and Oberstown, that are many provisions people want to add to the legislation that might be better dealt with elsewhere and I would not like the issue of perfection to get in the way of a good Bill. I want to get this passed to end the scenario whereby children are sent to adult prisons. Nobody agrees with that.

It is our intention to introduce the adoption information Bill before the end of the Dáil term. We have made a breakthrough, about which I am pleased, over the past few weeks and, therefore, I hope to get the heads of the Bill to the Government as soon as possible.

The Deputy raised the issue of redeployment by Tusla in Laois-Offaly and then Louth-Meath. The officials learned many lessons from the Laois-Offaly experience and they repeated the process in Louth-Meath in a way that does not impact on the other services, from which

they draw members of the special team. In fairness to Mr. Fred McBride, the chief operations officer, he has taken personal control over these two areas and he has gone in on a regular basis. Up until recently, we had fortnightly meetings. We had one only a fortnight ago and we will have one again next week. I asked for that yesterday, although that may come as news to Tusla.

The Deputy is correct that there is no indication of the budget for the interdepartmental group. The group is to put forward a properly thought out plan to address our child care needs and how quickly or slowly we can go on the basis of how much money the Government has. Those matters are beyond my ken.

Deputy McLellan referred to closing the book on Question No. 18. There is no question of the book being closed. The Garda continues to investigate these issues and any other issues that are brought to its attention.

She said Tusla is slow in answering questions. I can take that with up the organisation to her benefit-----

Chairman: Tusla officials are appearing before the committee on 17 July.

Deputy James Reilly: Nonetheless, if that is happening, I want to know why and to see how it can be addressed because it is not in anyone's interest that we do not have full transparency and information for Deputies to base their policies and concerns on.

Senator van Turnhout raised the issue of the educational attainment level in Oberstown. That is something we should examine but it is an indication of "in the past" and I do not wish to upset any group. We mentioned it specifically in the Bill we were discussing earlier. In the past, there may have been a sense that the only way to protect the child was to send him to Oberstown but that is not appropriate. A range of measures need to be taken to develop community support, bail support and so on and they are under consideration at the moment. Measures are also required to support the Judiciary in understanding what is available to them rather than looking at this option because I am sure judges do not want to send people to detention centres if there is an alternative facility or service for them.

With regard to putting girls into special care instead of Oberstown, I do not know enough to comment on that but I will look into it. I am reminded of the idea of putting people into solitary confinement by bringing into law practices that might be appropriate most of the time but, in certain instances, might be inappropriate. We would then be caught by the legislation and, therefore, we must be careful about that in framing it.

The Senator mentioned the interdepartmental group and the talk about an increase in child benefit. The international evidence points to the fact that subsidies in this regard subsidise places that give children the service, make it more affordable for parents and leave parents with choices and this needs to be examined.

I take her point about child pornography and the terminology and I will speak to Department officials about that. I will have the language changed to "child abuse". It is also a matter for the Minister for Justice and Equality and I will talk to her about that.

The Senator then mentioned the Department of Social Protection and the gender Bill and the fact that the Norwegians are talking about bringing the age threshold down to seven with parental consent and other supports. Given this matter is before the courts in respect of the referendum we had on marriage equality and that impacts on all of this, we have more time

to work on this. However, I made it clear that I was concerned at the lack of consideration of children in the Bill, as drafted. We need to have a proper consultation with young people on this and that cannot be rushed but, on the other hand, we do not want to delay a Bill that is of such importance to so many people and forms part of our EU obligations. We may get this into the Bill if time allows because nobody can predict what the courts will do, which goes back to our separation of powers, but, on the other hand, there are other Bills through which we might be able to accommodate these concerns in the autumn.

With regard to balance and ensuring choice, I touched on the adoption information and tracing Bill and I am much more optimistic than I was when we spoke a number of months ago because we had hit an impasse that would have caused tremendous angst for many people. I think we have found a mechanism to get around that and I look forward to progressing the legislation.

Deputy Mitchell O'Connor referred to education and Tusla inspections. It has been a concern from the outset that officials would conduct the inspections in a way that would cause the least disruption. We do not want inspections every second week with different people coming in; we want to streamline the process and we are working on that.

She referred to a two year old with an allergy who is having difficulty accessing preschool. I acknowledge the Chairman said that can be dealt with this week when the HSE appears before the committee but we could have a look at this. There are enough barriers to young children accessing preschool services, even though we have an excellent ECCE programme. We do not want children like this becoming a problem.

Chairman: I support Deputy Mitchell O'Connor because the State does not have a policy on the issue and there is no cross-sectoral approach to anaphylactic shock.

Senator Jillian van Turnhout: Early Childhood Ireland has a policy in this regard-----

Chairman: I am referring to a joined-up approach. We have had officials before us, separately, from the Departments of Health, Children and Youth Affairs and Education and Skills. If we could do something in this regard, it would be important.

Senator Jillian van Turnhout: I agree with the Chairman's concern, but many child care providers have good policies in place on allergies and they are facilitative to children. I am concerned by the comments made by Deputy Mitchell O'Connor but not all providers are affected.

Deputy James Reilly: Many people are capable. Speaking as a doctor, people can be trained to use an EpiPen. Parents can be trained, for example, and, ergo, child care staff can also be trained to use one.

Chairman: It was not possible to get permission for an EpiPen project in UCC, which is part of the reason I fully support Deputy Mary Mitchell O'Connor. I know that matter is outside the Minister's brief.

Deputy James Reilly: It is both a specific case and a general issue.

In Questions Nos. 21 and 22 Deputy Ciara Conway specifically mentioned the model review. There is a specific reason for it. It is a young agency which brings together three previously separate organisations in one agency and it is a challenge. Tusla is focused on the need to address legacy issues arising from its three parent organisations, including the inherited structure from the HSE and we all know how complex that was. It also needs to address the challenges

posed by the development of new services against a backdrop of an increasing demand for its services. To address these issues and initiate a review project to examine the agency's current structures and how it operates, Accenture was engaged to assist with the project in September 2014. It came to an end in December 2014 with a draft high level operating model review report. Changes are proposed on how the organisation is structured to better support the delivery of services to children and families. I will not read all of the long note I have been given. The bottom line is that it is a new agency which brings three agencies together. There are opportunities to do things in a far more cohesive, coherent and more effective way to better deliver for children and their parents. That is really what the point of the service is.

I am not quite sure what the Deputy's questions were on the survivors of sexual abuse.

Deputy Ciara Conway: Will they fall outside the remit of Tusla? Those who have not yet come forward to make a complaint against the perpetrator but who suffered sexual abuse as an adult obviously will come forward. It is different in the case of a child.

Deputy James Reilly: We have a range of services for those who suffered as children but who do not come forward until they are adults. If they do not come forward, we certainly cannot go chasing them, but I know that the Deputy is not saying that.

Deputy Ciara Conway: I am not suggesting that; I am talking about the support services in place for those who do not feel comfortable to come forward and name because that is one of the requirements, although "requirement" may not be an incorrect word to use. If somebody comes to Tusla, it is in the context of making a report. It is not always about providing support for someone who is a survivor. What is the Minister's vision in supporting the people concerned?

Deputy James Reilly: The issue for Tusla is to receive information on adults against whom an allegation was made to protect children. Adults who suffered abuse when they were younger are dealt with by the HSE through its counselling services. The services available include primary care services, a person's GP and, if necessary, referral to the mental health services. From that point onwards it is a separate issue but it is also the same, if the Deputy knows what I mean, in the sense that under Children First people will be mandated to inform Tusla. There are adults who are suffering because of events that occurred in the past. We have to protect children. We also have to satisfy ourselves, through Tusla, that anybody reported as being an abuser by an adult - if this is not too convoluted - is not a risk to children. That is the responsibility of Tusla. On services for adults, that is a matter for the HSE, mental health and support services.

Deputy Ciara Conway: Apart from that, it has no role in the matter.

Deputy James Reilly: It is not that we do not have a role; I have explained Tusla's role.

Deputy Ciara Conway: Having a funding role would be a better-----

Deputy James Reilly: The provision of counselling services is a matter for the HSE. We provide counselling services for younger people. That is our remit and role, but there is a cross-over in the case of a person who was abused years ago and where the abuser is still around. Does that person now pose a risk to children?

Deputy Ciara Conway: Yes.

Deputy James Reilly: Deputy Regina Doherty talked about the centre at Oberstown, staff-

ing and IR issues and ongoing negotiations. It is not unexpected that there are staff IR issues when three schools are being amalgamated. That was the reason we brought forward legislation. We want to make the best use of these facilities. We want it to be one school under a principal and to reduce administration costs. Obviously, this means change for those who are working there.

The Deputy mentioned the level of sick leave. I do not have the figure available to me. The work is highly pressured and the staff deal with difficult cases. Let us face it - this is the last port of call for the children concerned who are so disturbed and in so much trouble that the only place for them is a place of detention, everything else having been exhausted, even though we are looking to examine how we can create more community based services to address their needs. We covered this issue in the Children (Amendment) Bill 2015. One can say only 25% of children approximately on remand, although it might be 27%, end up in detention. That speaks to the fact that detention is seen as a last resort and that everything else is tried first, but that is not to say we cannot explore different models and newer community initiatives to try to keep children away from detention where no one wants to see them placed, if at all possible.

Deputy Robert Troy: I accept that there was a long break and that the Minister may have forgotten a couple of the questions asked.

I accept the bona fides of the previous Minister in terms of the publication of the document on the children's rights referendum. Because of this, the outcome was delayed by two years, although I accept that the Minister could not intervene in the judicial system. The legislation to give children with foster families a second chance in terms of long-term foster care was delayed by two years. We should, therefore, prioritise the issue before any more children fall out of the net.

I also asked about the staff shortages in the Ombudsman's office, an issue the Ombudsman raised last week when he appeared before the committee.

On the quality agenda, in the light of the information the Minister supplied to me in the reply to a parliamentary question on the percentages at levels 5 and 6, why was a decision taken to defer meeting the educational requirements by 12 months? Why are we still awaiting publication of the regulations? Why is it that the registration process which was given legal effect more than 12 months ago still has not been initiated?

Deputy James Reilly: Will the Chairman, please, indulge me because it is very difficult to remember all of the questions asked? I have already missed the Deputy's middle question.

On prioritising the adoption (amendment) Bill, we are doing this now that the children's rights referendum has been passed. The Deputy asked why we deferred meeting the educational requirements by 12 months. What was his middle question?

Deputy Robert Troy: It was on staffing issues.

Senator Jillian van Turnhout: Staffing issues in the Ombudsman's office.

Deputy James Reilly: I will begin with the middle question. Approval has been given in the past week to fill all posts in the Ombudsman's office.

On prioritising the adoption (amendment) Bill, we are doing this. Obviously, the key legislation we are pushing is the Adoption (Information and Tracing) Bill.

Deputy Robert Troy: The heads of the other Bill were agreed on a cross-party basis in advance of the referendum.

Deputy James Reilly: I know, but we have limited staff who are expert in this area and they can only do so much at one time. However, we hope to have it done very quickly now that the blockage has been cleared.

The Deputy's last question, which was not an unreasonable one, was why we had deferred meeting the educational requirements in terms of qualifications by 12 months. It was because of problems in and concerns about community facilities, many of which depended on community employment schemes, that staff would all have to be let go before they could finish their training. It takes time to complete the training. Rather than create another problem, we thought the safest thing to do was to defer meeting the requirements by 12 months, although we knew we would be criticised for this. It is reasonable at one level but at another it is a matter of practicalities.

Deputy Robert Troy: I am a board member of a community crèche in my constituency and we put much emphasis on having our staff trained. In fairness, the Department gave us two years and we met the target set. Thankfully, our staff engaged. When targets are set, we should adhere to them because if we do not, we send the wrong message.

Deputy James Reilly: I know that some people who made the effort and managed to succeed will be annoyed. However, these are all community services which often face different challenges. Rather than deprive children of a service because of a target we have set, I prefer to have it available and the target met ultimately. There will, however, be no shifting of the requirement a second time. If an effort is not made, there will be consequences to be faced.

Deputy Sandra McLellan: I again refer to the mother and baby homes. Does the Minister have concerns about how the inquiry is progressing? Is it hitting its targets and timeframes? When can we expect to receive an update on it, if not today?

Deputy James Reilly: If I had an opinion, I would not be expressing it and will tell the Deputy why. The commission is independent in carrying out its work. For me to interfere would be hugely counter-productive and undermine the independence of the entire process. I have great faith in Judge Murphy and her team and the two experts who are fellow commissioners. I have no doubt that she will do a sterling job.

Chairman: I thank the Minister and members for their participation. I also thank Ms McNally, Mr. Lynch, Mr. Ryan, Ms Clarke and Mr. Savage.

The joint committee adjourned at 2.15 p.m. until 9.30 a.m. on Thursday, 9 July 2015.