

DÁIL ÉIREANN

AN ROGHFHOCHOISTE UM LEANAÍ AGUS GNÓTHAÍ ÓIGE

SELECT SUB-COMMITTEE ON CHILDREN AND YOUTH AFFAIRS

Déardaoin, 24 Deireadh Fómhair 2013

Thursday, 24 October 2013

The Select Sub-Committee met at 3 p.m.

MEMBERS PRESENT:

Deputy Catherine Byrne,	Deputy Dan Neville,
Deputy Ciara Conway,	Deputy Caoimhghín Ó Caoláin,
Deputy Regina Doherty,	Deputy Robert Troy.
Deputy Robert Dowds,*	
Deputy Frances Fitzgerald (Minister for Children and Youth Affairs,	

* In the absence of Deputy Eamonn Maloney.

In attendance: Deputy Simon Harris.

DEPUTY JERRY BUTTIMER IN THE CHAIR.

Child and Family Agency Bill 2013: Committee Stage (Resumed)

Chairman: I have received apologies by Deputy Eamonn Maloney. Deputy Robert Dowds is substituting for him today.

I remind members not to name officials or organisations that are not present and to confine their remarks to the Bill.

SECTION 9

Debate resumed on amendment No. 17:

In page 13, lines 33 to 36, to delete subsection (3) and substitute the following:

“(3) The Agency shall consult when planning and reviewing the provision of services in connection with the performance of functions under *section 8(1)(a), (b) or (c)* where relevant, and ensure that due consideration is given to the views of children as part of any consultation processes undertaken.”.

-(Deputy Caoimhghín Ó Caoláin).

Chairman: Amendments Nos. 17 to 21, inclusive, are being discussed together. I realise Deputy Caoimhghín Ó Caoláin has a Topical Issue to raise in the Dáil. I propose, therefore, we suspend the sitting for the period of that debate and then reconvene. Is that agreed? Agreed.

Deputy Caoimhghín Ó Caoláin: To explain to the Minister, I have tabled as a Topical Issue the tragic case of the Roma children.

Chairman: That is fine. The Deputy will be able to discuss it in the Dáil.

Deputy Caoimhghín Ó Caoláin: The grouping list that was circulated only has amendments Nos. 17 and 18 grouped together.

Chairman: That is a mistake.

Deputy Caoimhghín Ó Caoláin: Amendments Nos. 19 and 20 should be in this group.

I am concerned that the Minister is not disposed to accepting amendment No. 17 which would introduce the word “consult” to the requirement on the agency when planning and reviewing. It is critically important to do so. I note that in amendment No. 20 the Minister proposes to delete the reference to consultation from this subsection. We are dealing with section 9(3). That amendment proposes to delete the last seven words, “as part of any consultation processes undertaken”. I had not envisaged that being removed and instead I argued that the agency should consult. In this instance, it appears that all the agency is required to do is ensure consideration is given to the views of children as part of any consultation process undertaken, but, with the Minister’s amendment, the provision will be that the agency ensure consideration is given to the views of children, which is very weak. The measurement “shall ensure that consideration is given” leaves much to be desired. There will be situations where less than what should have been employed will be accepted as an easy course and a quick means to a decision or an answer. It is very important that the agency understand from the outset that it is required to consult and that not only consideration but due consideration be given to the views of children. I feel strongly about this matter. I hope that in the couple of days since we last addressed

this amendment on Tuesday the Minister has given further favourable consideration to it. I commend the amendment to her for the reasons I have explained.

Minister for Children and Youth Affairs (Deputy Frances Fitzgerald): We have had a discussion on this amendment previously in which I made a number of points. Clearly, this Bill is a major part of the reform of children’s services we are undertaking. For the first time, there will be very strong provisions in legislation relating to the abuse of children and the best interests of the child. The fact that preventive family services will be included is spelled out clearly in the amendment I have tabled. With regard to amendment No. 20, the opposite of what the Deputy said is the case. In fact, a number of non-governmental organisations, NGOs, approached me about this issue. They considered that that phrase should be removed because they believed it narrowed where the views of children would be heard. However, we will discuss that amendment shortly.

Obviously, consultation will be part and parcel of any new agency and its approach. Any well functioning organisation will take decisions based on the evidence available to it. Much of that evidence will emerge from client feedback and the increasingly key ways in which we take young people’s views into account. We will be informed by audits undertaken internally and externally. To suggest that, by law, an organisation will be required to consult on all aspects of planning and reviewing the provision of services could have the unintended effect of paralysing management decision-making, diffusing responsibility for decisions and delaying a great deal of change where responsiveness is critical. Of course, consultation is important, but it must be bedded in performance management at both organisational and individual senior management level. I do not believe the amendments, by including the provision in this statutory way, would have the desired effect. Therefore, I am not accepting them.

Deputy Caoimhghín Ó Caoláin: Whatever about the arguments any voice might have put regarding the closing seven words of the subsection that the Minister proposes to delete, I come back to the obligation to consult in section 8(1)(a), (b) and (c), where relevant, and to ensure due consideration is given. That is critically important when planning and reviewing the provision of services which is what the agency will do, certainly in its opening period. Navel gazing is not acceptable. It should, of course, consult. If one wishes to review services, one must be involved in external engagement because nobody will do it better than those who are looking from an independent position. Those in the middle of the forest will not see the trees. Consultation is critical in arriving at the best results and the best possible approaches for planning and reviewing the provision of services. Clearly, we are of two minds in this regard. I believe the amendment would strengthen public confidence in the agency’s role. Certainly, if we were to change it to “shall consult”, it would give me confidence that the agency would be getting off to the right start, the start I expect of it.

Deputy Robert Troy: Not to rehash the argument, I support what Deputy Caoimhghín Ó Caoláin has said. Inserting the word “consult” would give legal certainty. The Minister has said it is best practice to consult and that all properly functioning organisations would consult, but, unfortunately, that has not always been the experience. If we wish to provide legal certainty and clarity to ensure this new organisation will consult, we must insert that word. I will, therefore, support the amendment.

Deputy Frances Fitzgerald: Section 9(3) states: “The Agency shall, when planning and reviewing the provision of services in connection with the performance of functions under *section 8(1)(a), (b) or (c)*, ensure that consideration is given to the views of children as part of any consultation processes undertaken”. That is groundbreaking and has never before been

included in legislation. It is all about hearing views and consulting parties. Any good organisation will consult and listen to the views of stakeholders all the time. Inserting the amendment as a mandatory legislative requirement in every situation which is what its effect would be would not work and there is a real danger that it would begin to paralyse decision-making. Consulting parties and hearing the views of young people and children, while working with stakeholders, is key to the work of the agency. We have very strong provisions in the Bill regarding the workings of the agency and the amendments would not have the desired effect.

Deputy Caoimhghín Ó Caoláin: This is not something that of itself would hamper the new agency in carrying out its functions. It would not unduly burden it. It is not about dealing with the individual cases that will present in the daily work of the agency; it is, of course, proposed in the context of planning the performance of functions under section 8(1)(a), (b) and (c) and reviewing services. The planning would take place at the outset and services would be reviewed as time dictated and needs demanded. It should not be carried out in any other way than with consultation to seek a variety of views and experiences, not least with non-governmental organisations that have been very much to the fore in addressing the needs of children for many years and which would have a significant contribution to make in any such consideration. I hold strongly to the view that the amendment I have tendered is worthy of the Minister's support for the reasons I have mentioned.

Amendment put.

The Committee divided: Tá, 2; Níl, 7.	
Tá	Níl
Ó Caoláin, Caoimhghín.	Buttimer, Jerry.
Troy, Robert.	Byrne, Catherine.
	Conway, Ciara.
	Doherty, Regina.
	Dowds, Robert.
	Fitzgerald, Frances.
	Harris, Simon.

Amendment declared lost.

Deputy Robert Troy: I move amendment No. 18:

In page 13, subsection (3), line 33, after "shall," to insert "consult,".

Amendment put and declared lost.

Deputy Robert Troy: I move amendment No. 19:

In page 13, subsection (3), to delete lines 35 and 36 and substitute the following:

"section 8(1), to ensure that due consideration is given to the views of children as part of any consultation processes undertaken."

This relates to the voice of the child and is an area we believe could be strengthened in line with best practice to ensure that we capture all the administrative processes dealing with children across a number of settings and agencies. This would strengthen the legislation and I ask

the Minister to give it due consideration.

Deputy Frances Fitzgerald: I have already referred to the section that I believe is very strong in respect of this. It is ground-breaking and is the first time there has been a provision in any legislation stipulating that when planning and reviewing the provision of services in connection with the performance of functions under section 8(1)(a), (b) or (c), the agency will ensure that consideration is given to the views of children. That is there in terms of ensuring that the agency listens to the views of children. It is the first time it has been in statute in this way, which is extremely important. I believe that broadening the focus to all the functions of the agency would dilute the intended focus of this provision, which is to ensure that wherever there are changes planned in service provision, part of the evidence base for decisions must be a consideration for the views of children. Therefore, I will not be accepting this amendment.

Deputy Robert Troy: I am slightly disappointed because this amendment is quite similar to the previous two that we have just discussed and is about giving legal certainty to ensuring the views of the child are taken into consideration as part of any consultation process. The Minister has quite rightly said on a number of occasions that this is new and ground-breaking provision that we never had before, but that does not mean it cannot be strengthened. This is the opportunity in its initial stages for the provision to be strengthened. That is why we are here and that is what Committee Stage is for - to look at how we can strengthen that. This amendment provides legal clarity and ensures that we capture all the administrative processes with which the agency must deal. I believe it would strengthen the legislation rather than dilute it. We would not submit it if we thought it would dilute the powers of the agency. We disagree on a number of amendments here but we all fully support the establishment of the agency. We just want to ensure that we get it right from day one.

Deputy Ciara Conway: I understand the sentiment behind Deputy Troy's argument. However, we must focus not just on legal certainty but the fact that what has happened and is happening relates to practice and how we involve children in the assessment process and planning stages of care plans. Unfortunately, this has not happened to date. It must be about practice because that is where the real work will happen with children and families and where their voices will truly be heard. It is about invoking new techniques to ensure we can engage with children in an age-appropriate way, be they toddlers or in secondary school. That is the really ground-breaking element. The legislation as it stands allows us to do that and I hope and am sure the practice will be supported by the Department to ensure that social workers will be able to engage with children and that they will have their voices heard.

Deputy Frances Fitzgerald: Just as the courts examine how they can best hear the views and voices of children and give much consideration to that, I agree with Deputy Conway when she says that practice will be the critical issue here, as it always is. I would also say that there is a strong legislative base. I understand the point that Deputy Troy is making. However, in respect of the intent of his amendment, if he looks at my amendment - amendment No. 20 - he will see that it addresses what he is looking for here.

Amendment put and declared lost.

Deputy Frances Fitzgerald: I move amendment No. 20:

In page 13, subsection (3), line 36, to delete "as part of any consultation processes undertaken".

This amendment proposes to delete “as part of any consultation processes undertaken” in section 9(3). Section 9 appropriately requires the best interests principle and the views of the child to be applied in all of the agency’s external functions. The effect of the amendment is to broaden the effect of section 9(3). It will mean that when the agency is planning and reviewing the provision of services in connection with the performance of functions under section 8(1)(a), (b) or (c), to which both Deputies referred, the agency is obliged to ensure that consideration is given to the views of children more broadly and will not limit the consideration to the context of any consultation processes undertaken.

In response to Deputy Ó Caoláin, that was the point I was making earlier. My point was that I was not trying to narrow the space where the views of children would be heard. Rather, I was trying to broaden it. I made that change because quite a number of the NGOs that have taken an interest in this Bill have made the point to me that the way it was worded - “as part of any consultation processes undertaken” - could limit where one would use the best interests principle and the views of the child. This aims to broaden rather than narrow it. It will extend it from where there is consultation to all services.

Deputy Caoimhghín Ó Caoláin: I do not intend to argue against the Minister’s position, but I could offer her a sustained argument against it. It is open to interpretation. Who will determine the views of the child? If there is no consultation, where will the views of the child be taken into account? How will they be accessed? Where will its genesis be? If the Minister takes away the consultation, and she was not prepared to accept amendment No. 17, perhaps she would explain how the views of the child will be ascertained. I am not going to oppose her amendment but I wonder which lobby argued for it because we all engaged with the NGOs, a variety of individual interests and our own research, and it was not run past me. I am asking the Minister to explain how the views of the child will be obtained if she is to remove even the notion of engaging in consultation.

Deputy Frances Fitzgerald: I make it very clear that the views of children can be heard in a variety of ways. The Deputy has asked where, but what is intended is that the agency will provide services for children, through which services the views of young people and children can be heard and taken into account. For example, their views can be canvassed in the drawing up of individual care plans. Complaints can be made, too. Children in care, for example, have hugely improved opportunities to be consulted and have their views heard. The only reason I am taking this out is I want to broaden the opportunities for consideration to be given to the views of children when the agency is up and running. The Deputy must acknowledge that this is the first time this intention has been included in legislation worded in this way. The aim is to ensure that what the Deputy wants to see happening, namely, the views of children being given due consideration, does happen in practice. The views of children will form part of decision-making by the various services run by the agency. That is provided for in legislation for the first time and the Bill is quite strong in that regard.

Deputy Caoimhghín Ó Caoláin: I did not expect to have to make the remarks I made at the outset of this debate which I will not revisit. I am deeply offended with regard to what I recounted to the Minister and the committee last Tuesday afternoon about remarks external to all of us but made in the context of the agency and its future. The evidence of the past 48 hours suggests very little has changed in terms of the views of the child being taken into account. All of the legislative changes we will make will come to nothing, unless they are applied in the performance, training and oversight of those charged with responsibility in this area. It is a very unfortunate start to the processing of this legislation which I fully support. I hope it will make the critical difference, but I am not convinced the Minister is taking the right approach to

the matter of consultation and the deletion of the reference to it. I will not dispute that she has been lobbied, perhaps by wiser and better informed heads than mine in this regard. However, I do not like the idea that people are going to decide what are the views of children without the necessary engagement and consultation. I do not want anybody to make presumptions. I would not have had presumptions made for me in my time or for my children and do not expect them to be made for anybody else but particularly the cohort of young people on whom this legislation will most definitely impact during the course of their lives. We differ on this issue, but I will not put an obstacle in the way of the Minister. I take what she has said in good faith. Is I have the highest regard and respect for her and her position, I will not oppose her amendment. However, I am signalling that I am not comfortable with it.

Deputy Robert Troy: I do not have legal qualifications or a legal background, but from a layman's point of view, I would have thought it would be better to include the word "consultation" to ensure it happened. I have engaged with various NGOs and interested parties on this legislation and no one has brought it to my attention as being problematic. Taking the word out seems to make the legislation more restrictive than it is. However, as the Minister has a Department with officials and eminently qualified people advising her, we will have to take her word for it that this will widen the process, as opposed to narrowing it.

Deputy Frances Fitzgerald: I believe the Deputies are underestimating the strength of this provision and the importance of its inclusion in the legislation. Deputy Caoimhghín Ó Caoláin referred to the best interests of the child in the context of actions taken by an arm of the State under section 12. The Bill is very strong on the views of children and this is the first time it has been included in legislation. It applies to the services in which the agency will be involved. The practice, as Deputies know, is moving towards ensuring the views and voices of children, depending on their age and maturity, are listened to and acted upon.

Amendment agreed to.

Chairman: Amendments Nos. 21 to 23, inclusive, are related and will be discussed together.

Deputy Caoimhghín Ó Caoláin: I move amendment No. 21:

In page 13, lines 37 to 42, to delete subsection (4) and substitute the following:

“(4) The Agency shall, in performing its functions in respect of an individual child under *section 8* ensure that the views of that individual child, where that child is capable of forming his or her own views, be ascertained and given due weight with regard to the age and maturity of the child.”.

Chairman: I propose that we now suspend the sitting to allow Deputy Caoimhghín Ó Caoláin to speak on Topical Issues in the Dáil.

Sitting suspended at 3.50 p.m. and resumed at 4.30 p.m.

Chairman: Amendment No. 21 in the name of Deputy Ó Caoláin has been moved. I remind members that if amendment No. 21 is agreed, amendments Nos. 22 and 23 cannot be moved. The amendments are related and will be discussed together.

Deputy Caoimhghín Ó Caoláin: At the outset I apologise to you, the members and the Minister and her colleagues because of the time taken for Topical Issues. The amendment seeks to substitute what appears in the legislation at section 9(4) with a new formulation of wording.

The critical focus of this is removing the reference to “expressing”. The wording as presented in the draft legislation states “(4) The Agency shall, in performing its functions in respect of an individual child under the Child Care Act 1991 or the Adoption Act 2010, ensure that the views of that individual child, where that child is capable of forming and expressing his or her own views, be ascertained and given due weight having regard to the age and maturity of the child.” It is also particular to the two Acts as mentioned in the text of section 9(4) as presented.

My amendment seeks to remove the referencing or the caging of the requirement with regard to the two specific Acts, and the provision would apply in all aspects of the work of the agency under section. Very importantly, it deals with cases where the child is capable of forming his or her own views. It does not limit the provision’s application to where the child is capable of forming and expressing his or her own views. It may be argued that expression can apply or imply a variety of means of communication but I fear its most simple understanding is the one that could apply, namely, that the child should orally give voice. Children will employ a range of means of communication and it is critical that those entrusted to establish their views, where they are capable of forming view, would look at the full ambit of how the child can communicate. It is therefore important we delete the reference to “expressing” and accept that where the child is capable of forming his or her own views, those views be ascertained by whatever means or expertise and function that can be employed. That should be given due weight with regard to the age and maturity of the child.

The subsection within section 9 is too limiting in that it refers to two named Acts and I am also fearful that the requirement of the wording with regard to “expressing” a view could work against what I would expect to be the Minister’s own disposition and intent. That is where the child is capable of forming views, they should be ascertained and given due weight, irrespective of whether the child is orally competent.

Deputy Robert Troy: Is my amendment being taken with this?

Chairman: Yes.

Deputy Robert Troy: Restricting section 9(4), relating to the voice of the child, to proceedings under the Child Care Act 1991 or the Adoption Act 2010 is a wasted opportunity to ensure that consultation with children could become standard practice for all professionals within the agency. As Deputy Ó Caoláin said, this is far too limited. If we want to be true to and reflect Article 12 of the UN Convention on the Rights of the Child, to which the State is committed, we need to open this up to a broader remit. Our proposed amendments would do that and would reflect Article 12 better.

Deputy Frances Fitzgerald: Careful thought has been given to the phrasing of the legislation here. We want to ensure that the views of the individual child, where that child is capable of forming and expressing his or her views, are ascertained and given due weight, having regard to the age and maturity of the child. I am satisfied that the principle of hearing the views of the child is clear in this provision. We are not saying anything about the form of expression here and it need not be limited in any way. We are talking about ascertaining the child’s views where the child is capable of forming and expressing his or her views. There is plenty of scope in the provision to cover the points made by Deputy Ó Caoláin with regard to how the views will be ascertained by the individual worker or whoever has regard to the child or is making decision. The legislation does not limit in any way how those views can be expressed or understood, but includes the provision as a strong principle. It is not clear how the Deputy’s amendment might be interpreted across the full range of the functions of the agency and it is not sufficiently clear

in intent. I accept the broad principle in the amendment, which is already in the legislation, regarding ensuring we listen to the views of the child.

I accept the point made by Deputy Troy that it would be preferable to broaden this provision, rather than limiting it to the Child Care Act and the Adoption Act, as drafted originally. That is what my amendment will do. It will broaden the provision to cover other functions of the agency and other legislation. I will explain that when I discuss my amendment.

Chairman: The amendments are being discussed together, so the Minister should address her amendment now.

Deputy Frances Fitzgerald: Amendment No. 23 to section 9(4) broadens the operation of this section to provide that when performing its functions in respect of an individual child under other specified Acts - not just the Child Care Act 1991 and the Adoption Act 2010 - the agency will get the views of the child and give them due weight, having regard to the age and maturity of the child. At individual level, it is considered good practice to obtain the views of children on service provision. This is no more than any service user should expect.

This amendment will give statutory expression to good practice. This is particularly important in respect of children. The amendment recognises the importance of hearing their views and giving effect to their voice in matters that relate specifically to them as service users in the agency. The amendment will ensure that when the agency is exercising functions, for example functions under the Education (Welfare) Act 2000 and functions related to supporting and encouraging the effective functioning of families under the Act, family support services aimed at promoting the welfare of children, the care and protection of victims of domestic, sexual or gender based violence and services related to the psychological welfare of children, it will be obliged, where the child is capable of forming and expressing his or her views, to ascertain the views of the child and give them due weight, having regard to the age and maturity of the child.

This is an extension and strengthening of the legislation and means the provision will now apply to a broad range of services the agency is responsible for providing to children. This includes the Education (Welfare) Act also. People had concerns we were excluding that Act, but it is now included. Therefore, I am taking on board the points made by the Deputies with regard to broadening the scope of the legislation, perhaps not to the degree suggested by Deputy Ó Caoláin, but I feel his issues are covered well here.

Deputy Caoimhghín Ó Caoláin: In response to my arguments, the Minister used the phrase “listen to the child”. The dictionary definition in regard to “expressing” a view relates to communication. Expressing an opinion is a physical performance, whether using a keyboard or any other means by which a child can offer a view. There are different ways of expressing a view, but expressing is a physical act that requires certain attributes. These will not always be evident to all concerned. Different situations will apply, not only with regard to a child that has not been able to formulate a voice communication. There will be other ways through which even children who have the capacity to speak may communicate their particular views, perhaps because of the difficulties that may present in a situation of great trauma. There is a range of ways children’s views can be noted, taken on board and shared.

The purpose of going through the legislation is to ensure we do not limit its application nor draw boundaries to the practice of taking on board the views of the child. I believe the use of the word “expressing” provides for this. Committee Stage of a Bill is about teasing out the possible interpretations. I believe the interpretation the proposed wording offers is the one the

Minister, unthinkingly perhaps, used in reply to me. The word she used was “listen” and that is as it is understood. I believe that is too limiting and that if the child is capable of forming his or her views, those views must be ascertained, whatever the means or circumstances, and given due weight and taken into account. That is my case and it stands on its merit. I have no doubt there would be no shortage of experts who could confirm my concerns. This should be taken into account and I ask the Minister to accede to the deletion of the particular reference in section 9(4).

With regard to the extension in the Minister’s amendment of the provision to other areas of legislation, it should not be limited to any of these, but should include all of them and more besides. Therefore, there are two prongs to my address of this subsection.

Deputy Robert Troy: I wish to reaffirm what I said already. As my colleague has said, this is about listening to the views of the child. When dealing with child care issues, professionals should always be concerned about listening to the child’s views when making decisions that will affect the children directly. I acknowledge the Minister’s amendment has broadened the scope of the original provisions, but not to the extent my amendment would. Setting out clearly that the legislation applies whether an issue is before a court or not provides a broader approach. This is important.

As I said initially, we are committed to Article 12 of the UN Convention on the Rights of the Child. This amendment gives clear expression to those rights. In light of the fact the Minister has introduced an amendment that partially meets what Deputy Ó Caoláin and I have proposed, I hope she will give our amendments further consideration.

Deputy Frances Fitzgerald: The words are formulated to ensure that we hear the views of the child. I am satisfied that this is broad enough to take account of the points made by Deputies. If the child is capable of expressing a view these should be ascertained and employed in a variety of ways. It does not limit the hearing of those views to an oral expression of them. It is quite inclusive and will ensure that the views of children are heard. My amendment will extend the application and this will make quite a difference. The legislation is very inclusive and it applies to the agency, to those working in child protection or education and welfare who must ensure that the views of the child are given due weight, having regard to the age and maturity of the child. The phrase, “the views of the child” is very important and should be included in the legislation.

Deputy Caoimhghín Ó Caoláin: I will press the amendment. I appeal to the Minister to reconsider it on Report Stage.

Amendment put and declared lost.

Deputy Robert Troy: I move amendment No. 22:

In page 13, subsection (4), lines 38 to 42, to delete all words from and including “under” in line 38 down to and including “child” in line 42 and substitute the following:

“under section 8(1)(a), (b) or (c), whether in proceedings before a court or otherwise ensure that the views of that individual child, where that child is capable of forming and expressing his or her own views, be ascertained and given due weight in accordance to the age and maturity of the child”.

Amendment put and declared lost.

Deputy Frances Fitzgerald: I move amendment No. 23:

In page 13, subsection (4), lines 38 and 39, to delete “or the Adoption Act 2010” and substitute the following:

“, the Education (Welfare) Act 2000, the Adoption Act 2010 or section 8(1)(c) or 8(3)”.

Amendment agreed to.

Question proposed: “That section 9, as amended, stand part of the Bill.”

Deputy Caoimhghín Ó Caoláin: I sought to, as I see it, strengthen sections 9(1), 9(2), 9(3) and 9(4), but without success. It is very demoralising because a lot of work has been done. I am most unhappy with the situation.

Question put and agreed to.

Sections 10 to 12, inclusive, agreed to.

SECTION 13

Deputy Caoimhghín Ó Caoláin: I move amendment No. 24:

In page 15, subsection (2)(f), lines 31 and 32, to delete all words from and including “the” where it secondly occurs in line 31 down to and including “Skills” in line 32 and substitute “any Minister”.

This amendment seeks to ensure this subsection 13(2) is not limited. The subsection states that the annual report shall include other particulars that the agency considers appropriate or as the Minister, after consulting the Minister for Health and the Minister for Education and Skills, may require. It is reflected in a number of other sections of the Bill which we have also sought to amend that limiting it to the Minister for Health and the Minister for Education and Skills does not take into account the broad reality of children’s issues reflecting across several Departments and not solely the preserve of the Minister for Children and Youth Affairs. Children’s issues and needs and the wider responsibilities span multiple Departments. I argue that any Minister should apply here and that we should not be restricting it in the annual report to consultation with the Ministers responsible for health and education. The amendment is very straightforward and I hope the Minister will accept it.

Deputy Robert Troy: I have nothing further to add. It is written plainly. It is not restricted to those three Departments, albeit that the new Department has been established and is responsible for the core functions. Many areas extend across the remit of other Departments. The amendment would delete “that” and substitute “any Minister”. I support Deputy Ó Caoláin’s amendment.

Deputy Frances Fitzgerald: It is not limiting. This provision is intended to focus on the special and unique relationships between the service delivery systems in the education and health areas with the effective functioning of the child and family agency. Services under the remit of the Departments of Health and Education and Skills must work in tandem with the agency’s functions and may, in fact, depend on one another. Hence the focus on these two Departments.

In the case of the Department of Education and Skills, for example, there are important

synergies between schools at operational level and the NEWB. In the case of the Department of Health, a very important shared service arrangement is intended to operate between the child and family agency and the HSE. Ongoing consultation between the Department of Health and the Department of Children and Youth Affairs will be a feature to ensure that this shared service arrangement works well. There will be an ongoing important relationship between the agency and the Department of Health. In addition, I already consult with my ministerial colleagues in the context of general Cabinet business. Where the development of legislation may have an impact on a range of Departments, the Minister for Children and Youth Affairs must ensure, in accordance with Cabinet procedures, that a memorandum for Government is prepared and that adequate time is allowed by the Departments potentially affected for consideration of the potential impact and the return of considered views. This is then followed up at Cabinet level.

It is also standard practice in my Department for the Minister and departmental officials to consult with a range of ministerial colleagues and Departments to ensure an exchange of views and a sharing of experience and knowledge. The Department of Justice and Equality is one such example in the context of vetting and other relevant legislation.

The proposed amendment risks diluting the focus on the agency's core partners. The purpose of this section is to promote the special strategic relationships which are absolutely key to the functioning of the agency in the health and education area. It does not in any way rule out the kind of contact with other Departments which is essential. The key focus is on annual reporting.

Deputy Caoimhghín Ó Caoláin: The Minister talks about her role as Minister at the helm of a Department. This Bill is about establishing a new agency; it is neither about the Minister nor the Department of Children and Youth Affairs. It deals with the board of the agency preparing its annual report. I presume it will do that independently of the Minister's office. It is important that this is clear to all concerned, that the agency is not restricted, as this particular subsection restricts, in my view, in any understanding of the English language. It is beyond me to understand why it can be interpreted to apply to any Minister because it does not. A very simple change will accommodate what is required. I will not cite all the other Departments whose decision-making needs to be - I do not wish to use the word "confronted" but "consulted" would be fine - consulted with regard to the decisions they take which impact on the lives of children. I refer to the Department of Social Protection as one such Department.

The amendment is fairly straightforward. It is tedious to hear the continual, "That is out and that is out". I have heard all that before.

Deputy Robert Troy: I concur with Deputy Ó Caoláin. This amendment deals with the annual report of the agency. I recently tabled a parliamentary question about the annual report of the government rapporteur and whether the Department of Children and Youth Affairs would implement the recommendations of the report. The Minister in her reply said it could not be done because the recommendations span over so many Departments. That is what will happen with the agency because it will span various Departments such as justice, social protection, education and health. I do not see it as a dilution. In fact, it should be the case that any Minister can engage with the agency.

Deputy Frances Fitzgerald: It is very clear that any Minister can engage with the agency. There is no question of that. This is a specific requirement in an annual report relating to health and education because of the care pathways of children and the service issues that arise in those two areas. It is obvious that the agency will engage with a variety of Ministries. The statement

that the Minister for Health and the Minister for Education and Skills ought to be included is a minimum requirement. There is nothing limiting in the provision. It is clear that the agency will engage with a range of Departments.

Deputy Caoimhghín Ó Caoláin: Is the Minister arguing what she believes herself? I find there is a tedium here. The Minister is the elected person. I wonder are they her views throughout from the very start to where we are at this particular point. Is the exercise of any value whatsoever or was Deputy Troy correct at the start? With respect-----

Deputy Frances Fitzgerald: That is unacceptable.

Deputy Caoimhghín Ó Caoláin: It may be, but it is also-----

Deputy Frances Fitzgerald: I have already responded. I find it unacceptable-----

Chairman: Could we have one speaker at a time? I will chair the meeting and advise when speakers can contribute. Debate should be specific to the Bill rather than straying into other areas that are not related to it. The Minister can reply to Deputy Ó Caoláin.

Deputy Frances Fitzgerald: I find Deputy Ó Caoláin's comments unacceptable because I have clearly considered in detail the range of amendments proposed. I have already indicated that I am prepared to consider some amendments and to revert to Members on Report Stage. I could equally make the same comment but I will not. I have given reasons for each of the amendments we have discussed. They are logical reasons and they have been thought about and examined from a legal perspective. That is what I am setting out for Members. In a number of areas I have said I will reconsider. I have already introduced a number of amendments which take account of points that have been made on the original draft of the Bill.

Amendment put and declared lost.

Section 13 agreed to.

Sections 14 and 15 agreed to.

SECTION 16

Chairman: Amendments Nos. 25 and 41, in the name of the Minister, are related and will be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 25:

In page 17, subsection (3), line 34, to delete "*sections*" and substitute "*section*".

Amendment No. 25 to section 16(3) corrects an error in the first print of the Bill and replaces the word "sections" with "section". Amendment No. 41 to section 54(1)(a) corrects an error in the first print of the Bill and also replaces "sections" with "section". They are very straightforward technical amendments.

Amendment agreed to.

Section 16, as amended, agreed to.

Sections 17 and 18 agreed to.

SECTION 19

Deputy Caoimhghín Ó Caoláin: I move amendment No. 26:

In page 18, between lines 16 and 17, to insert the following subsection:

“(5) The Board shall always include three individuals with experience or knowledge of the legal environment as it pertains to children and families; the disciplines of child protection, psychology, family support and therapeutic services.”.

We seek to include a new subsection to section 19, namely, subsection (5). The subsequent subsections would all have to be renumbered. It would read: “The Board shall always include three individuals with experience or knowledge of the legal environment as it pertains to children and families; the disciplines of child protection, psychology, family support and therapeutic services.”

It is important that the make-up of the board does indeed reflect these areas of expertise. The requirement is that the individuals have experience or knowledge of the legal environment as it pertains. That does not mean that they must be legally qualified or have been legal practitioners but that they have experience of the legal environment or a knowledge of the legislation as it pertains to children and families. We specify the disciplines of child protection, psychology, family support and therapeutic services.

In this particular instance I wish to place my view again on the record. My understanding is that the Minister may indeed have sought to ensure that there is knowledge or expertise among the cohort of people who have given years of service through the family resource centre network. I do not know whether the Minister has progressed the appointment of the entire board at this point but I acknowledge that she has made efforts in that regard. They might not all have been successful but I wonder whether she continues to pursue someone with experience or knowledge in the area of family support. I am specifically concerned with the family resource centre network where there is huge experience and knowledge and wherein there remains significant concern regarding the dropping of the reference to support in the title of the new agency. It is just a fact of life; the dropping of the word “support” from the originally intended name of the new agency, which was the child and family support agency. I still hear concern expressed time and again at the loss of the reference to “support” in the title of the new agency. I have endeavoured as best I can, through my understanding and the Minister’s assurance, to ensure that we are not losing that intent.

I again commend to the Minister the employment of all effort to secure someone to serve on the board with the necessary knowledge and experience. I know she is not seeking to have people who are representative only of particular areas of interest but there is an experience and knowledge in the area of family support which incorporates so much else in terms of child protection, psychology and therapeutic services within the ambit of the entire network and it would be tragic if we were to lose that critical input. I commend the amendment to the Minister. I would appreciate if she would elaborate a little on the areas to which I referred.

Deputy Robert Troy: It is self explanatory that the purpose of the amendment is to ensure that we have a board composed of professional, competent personnel who have experience of the legal environment pertaining to children and families, the disciplines of child protection, psychology, family support and therapeutic services. We wish to ensure that in filling the board any Minister does so with the best qualified board members. We do not wish to have a situation, which was previous practice, including by Ministers who were members of my party, that

boards were filled as a reward to political cronies. We wish to be sure that the best people are chosen to be on the board. I support the amendment in order to ensure that we have professional, competent and experienced members of the board from the relevant fields. It is worth ensuring that this is clearly outlined and explicitly laid out in the legislation.

Deputy Frances Fitzgerald: I certainly approached the appointments to this board in the spirit of appointing the very best people to do the job of managing the agency with the CEO while being a strong board. I have looked for expertise that is appropriate to the running of an agency that has 4,000 staff who have transferred from other sections of the public service. This is a significant transition and a significant piece of public sector reform. I have certainly approached the appointment of the board in a manner that will lead to the very best expertise being available to the CEO and the staff of that organisation.

I refer to what the legislation says about the board. It states that the board shall be appointed from among persons who, in the Minister's opinion, have experience of and expertise in matters connected to the functions of the agency - in other words, the services that the agency is supplying.

Deputy Ó Caoláin makes the point about family support. I reiterate that I have put into the functions of the agency now, with one of the amendments I brought here last week, preventative family support services aimed at promoting the welfare of children. That is a strong statement about the agency - that it has a function in preventative family support services. That is now spelt out clearly in the legislation. I appreciate there was some anxiety because the Family Support Agency is now part of a bigger agency. I note the significant volume of work done by the Family Support Agency and the support it has given to family resource centres, whose work I hugely appreciate. The family resource centres are doing an extremely strong job around the country in different communities where there are significant needs at present. That is now copper-fastened in the functions of the agency. It is really important that it is there.

Going back to the board, I believe that those whom I have appointed and who should be appointed to this board are those who have the relevant experience in the range of areas the Deputy outlined. Effectively, we want board members who have experience of family support services, who understand large organisations and who can deal with the governance issues that will arise. For that reason, I have made the decisions on the basis of persons who have those skills. Anybody looking at the members of the board will appreciate their range of family support experience. I am reluctant to name individuals whom I have appointed in terms of the particular experience they bring. However, for example, the chairperson, Ms Norah Gibbons, has a significant record of experience in the areas mentioned - child protection, family support, therapeutic family support services. She certainly brings all of those skills. Quite a number of the other appointments I have made to the board are persons who have the experience that Deputies Ó Caoláin and Troy state ought to be on the board.

I am of the view that the amendment is too prescriptive and could create inflexibility. The function of the board is to oversee the activities of the agency. As such, the suggestion that the composition of the board should reflect each function of the agency is unnecessary and restrictive. One wants the correct balance of persons to be involved in the board at any given time and to run and work with the agency in an effective way. It is not necessary to be as prescriptive as the Deputies are being in their amendment.

At this stage, I have appointed eight of the nine members of the Family Support Agency board who will oversee the transition to the child and family agency and become the new agen-

cy's board upon establishment. I repeat that I am pleased with the calibre of the board membership. It brings together highly qualified and experienced members with a range of high-level skills, not only in the areas of child protection, family support and education and welfare but also in critical areas such as public sector reform, corporate governance, financial management, communications and change management, all of which are important when one is creating a new agency with this considerable staff of 4,000 which is separate from the HSE.

I will not be accepting this amendment. My bona fides in this matter have been well demonstrated. I conclude by saying that the Bill does not prevent the Minister from appointing board members from particular professional backgrounds if that is desired. Obviously, as I have said, some of the members of the board bring some of those professional backgrounds to their membership of the board.

Deputy Caoimhghín Ó Caoláin: First, to the Minister's credit, nobody questioned her bone fides in this regard, but let me also remind her that we are all only here for the time being - FTB. We may be TDs but we are all FTB. It is not that I am forecasting the Government's demise any time soon, although I would welcome it-----

Chairman: The Deputy's statement should be relevant to the Bill.

Deputy Caoimhghín Ó Caoláin: It is relevant. There will be a signalled shuffle at some point in time.

Chairman: That is not relevant to the Bill.

Deputy Caoimhghín Ó Caoláin: There is no guarantee that the Minister, whose bona fides we do not question, will remain the Minister.

The amendment states, "The Board shall always include three individuals with experience...". A little bit of fair dues to Deputy Troy for his opening remarks at the outset of this particular amendment's discussion. That is the spirit we need in terms of guaranteeing for the future that the highest standards will apply to the appointments to this and other boards of State agencies.

It is not about the Minister and it is not about the appointments now; it is about always. It is about setting down the standards that we require. It is important that we affirm that from day one. That has been my view on so much that I believe is deficient within the legislation, although not to the point that it renders the legislation unworkable. However, I want to the legislation to be the strongest it can possibly be.

This amendment affirms absolutely the standards we require and the expertise and knowledge that I also believe is essential to the make-up of that board. I again commend it to the Minister for all the right reasons, not as a reflection on the Minister's intent or approach to this particular responsibility. At this critical time, there is a need to ensure that there is knowledge and expertise represented on the board from the traditional family support background. I refer to someone with knowledge and experience of the family resource centre network and national office. That is my view. Whatever the outcome of this amendment, I commend the latter to the Minister.

Deputy Robert Troy: I will be brief and will not keep rehashing the arguments.

Deputy Ó Caoláin hit the nail on the head. I do not question the Minister's bona fides in

this regard. I often question the pace of reform but I do not question her commitment to it. As Deputy Ó Caoláin stated, none of us is here for infinity. We are all only passing through and this is about legislation that will govern the future running of the agency.

The Minister quite correctly alluded to the fact that she has appointed persons from the disciplines that are clearly specified in this legislation, and that is to be commended. However, their positions are not indefinite either. Their position involves a time restriction and there will be subsequent appointments. We merely want to ensure that in appointments there is always a wealth of experience and appropriate knowledge at the disposal of the staff and of the CEO, whoever they may be at any time. There is no good reason not to have this amendment included. I commend and support this amendment.

Deputy Frances Fitzgerald: The board is not a large one; it is a small board. I am talking about the future, not merely the current time. If I were to accept this amendment, it would be too prescriptive. The part of the Bill that deals with the role of the board is such that the kind of experience and expertise that are regarded as needed have to be in matters connected to the functions of the agency. It is inevitable, therefore, that there will be people with the skills outlined in the amendment. There have certainly been instances in which legislation on the composition of other boards was too prescriptive. As Deputy Troy said, some boards have not worked. The outlines we give on the experience and expertise people should have will serve the agency well, not only now but also in the future.

Amendment put and declared lost.

Section 19 agreed to.

Sections 20 and 21 agreed to.

SECTION 22

Chairman: Amendments Nos. 27 and 28 are related and may be discussed together by agreement.

Deputy Frances Fitzgerald: I move amendment No. 27:

In page 21, subsection (6), line 17, to delete “5 ordinary” and substitute “4 ordinary”.

The objective in the amendments is to amend section 22(6) to provide that the quorum for a meeting of the board shall be four ordinary members and the chairperson or deputy chairperson. It is a drafting amendment to bring clarity and precision to the subsection on the constitution of the board and on what is deemed to be a quorum. It is technical.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 28:

In page 21, subsection (6), line 18, to delete “of whom one shall be” and substitute “and”.

Amendment agreed to.

Section 22, as amended, agreed to.

Sections 23 to 39, inclusive, agreed to.

SECTION 40

Deputy Frances Fitzgerald: I move amendment No. 29:

In page 31, subsection (2), line 30, to delete “*subsection (2)*” and substitute “*subsection (1)*”.

This is to correct an error in the Bill.

Amendment agreed to.

Section 40, as amended, agreed to.

SECTION 41

Deputy Caoimhghín Ó Caoláin: I move amendment No. 30:

In page 32, subsection (3), lines 12 and 13, to delete all words from and including “the” where it firstly occurs in line 12 down to and including “Skills” in line 13 and substitute “any Minister”.

I will not rehearse what we have already argued in this regard. As I said, the principle is reflected throughout and it may arise once or twice more. I do not believe the measure should be confined to the specified Ministers. In this instance, the provision is specific to the Minister for Children and Youth Affairs. On the last occasion, it was down to the agency. Here it states the Minister may consult the Minister for Health or the Minister for Education and Skills before developing a performance framework which includes matters that relate to the functions of those Ministers. Arguably, there is a stronger case for the Minister conceding in this instance. She is more than conversant with the fact that issues will present across other portfolios also. There is no point in her telling us that the legislation implies “any Minister” as it is specific. With regard to children, all too sadly, it is far too limiting.

Deputy Robert Troy: I have already made the point on the agency. This amendment concerns the Minister and I fully support it. The proceedings are becoming disheartening at this stage after our having done all the work and made point after point. Without pre-empting what the Minister has to say, I must contend that the discussion on every amendment, bar two, has been merely for show.

Deputy Frances Fitzgerald: I have made my points on this. It does not preclude consulting and working with other Ministers in other Departments.

Deputy Caoimhghín Ó Caoláin: Let us be clear about this, we are considering the inclusion of “any Minister”. In this instance, circumstances are different because the phrase “may consult” is used. This is unfortunate but we have no prospect of changing the Minister’s mind or the minds of those who work around her.

Amendment put and declared lost.

Section 41 agreed to.

Sections 42 to 45, inclusive, agreed to.

SECTION 46

Deputy Frances Fitzgerald: I move amendment No. 31:

In page 35, subsection (8), line 13, to delete “chief executive officer” and substitute “chairperson”.

This replaces the words “chief executive officer” with “chairperson”, which reflects the appropriate governance relationship.

Amendment agreed to.

Section 46, as amended, agreed to.

SECTION 47

Deputy Caoimhghín Ó Caoláin: I move amendment No. 32:

In page 35, subsection (1), line 23, after “to” where it firstly occurs to insert “the Board of”.

We accepted the Minister’s amendment to section 46 to substitute “chairperson” in favour of “chief executive officer”. I hope that the same spirit will apply now. With regard to the board and chairperson, section 47(1) is unclear on the power of the Minister to give direction to the agency. It states:

Notwithstanding *sections 41 and 44* and directions issued under those sections, the Minister may give an additional direction in writing to the Agency for any purpose relating to this Act and concerning—

I seek certainty. The Minister has acknowledged that “chief executive officer” was wrong in subsection (8), line 13. We have now agreed unanimously to substitute “chairperson”. In this instance, we need clarity and certainty. Our proposition is that section 47(1) requires the insertion of “ the Board of”. In other words, the Minister may give an additional direction in writing to the board of the agency for any purpose relating to the Act. It is important because it is about the line of authority, line management and the line of communication. It is most certainly a case of the Minister to the board and the chief executive to the board, not the Minister to the chief executive. It is important in this instance that we make it clear that the Minister’s engagement with the agency is with the board of the agency and with Ms Gibbons as the chairperson designate to the board. I commend the amendment to the Minister.

Deputy Robert Troy: I support the amendment. In line with good practice, the board will be accountable to the Minister and the chief executive will be accountable to the board, with corresponding lines of communication. In one section in the Bill this relationship is not clear and in another it is inconsistent.

On this basis, I recommend section 47(1) should be amended to clarify that the Minister may issue guidelines to the board of the agency as opposed to the current wording of “to the agency” which may imply the guidelines could be issued to the agency’s chief executive.

As Deputy Ó Caoláin said, this side of the House has been more than accommodating in bringing this legislation forward. We afforded the Minister additional time to bring forward her amendments. It might be time to give our amendments a little more consideration.

Deputy Frances Fitzgerald: Section 21(1) clearly states, “the board shall be the governing body of the agency with authority, in the name of the agency, to perform the functions of

the agency.” Section 21(3) states, “the board of the agency shall be accountable to the Minister for the performance of its functions”. The Minister’s relationship to the agency will be to the board of the agency.

Sections 41 and 44 both provide for engagement between the Minister and the agency. I will have that engagement with the incoming chair of the board, Ms Norah Gibbons. In this connection, both the performance framework, as per section 41, and a performance statement, as per section 44, shall be developed by the Minister and provided to the board of the agency. It will be then for the board to develop a corporate plan and a business plan, respectively. I am satisfied that references to the agency in this context are to the board of the agency. It is an unnecessary amendment as it is clarified in earlier sections and I will not accept it.

Deputy Caoimhghín Ó Caoláin: With all due respect, the Minister should listen to herself. I have been very supportive of this. It is beyond belief that the Minister is making a case not to bring in this clarity. She claims it is contained in earlier sections but it is not contained in section 47. What is the point in seeking to improve this legislation as well as creating clarity and certainty when something as menial as clarifying this section is rejected? I cannot believe the Minister has adopted such an obstinate position to reasonable amendments. Is there any point in us working to a common end if the Minister considers our amendments a nuisance? Why is there any need to consult the committee?

Chairman: Sorry, but can we stick to the amendment?

Deputy Caoimhghín Ó Caoláin: It is very important and the Chair will have to give some credit.

Chairman: The Chair is being very fair.

Deputy Caoimhghín Ó Caoláin: We are being fair.

Chairman: Some of the remarks are bordering on being personal and unfair.

Deputy Caoimhghín Ó Caoláin: It is undermining our respective roles as shadow spokespersons on children and youth affairs that the most menial of amendments are rejected on the basis that it is stated somewhere else. It is not stated in this section, so that is why we have sought to give clarity to it. If the Minister is not prepared to accept this amendment, there is hardly any point in this exercise.

Deputy Robert Troy: I concur with Deputy Ó Caoláin. On so many occasions the Minister has spoken about the need for a cross-party approach to this area, most recently at the launch of the Early Years strategy. We have worked with the various non-governmental organisations, NGOs, and interested groups to bring forward amendments to strengthen this legislation. If this amendment made a material difference to the Bill or a change to policy, then we can argue the merits of it.

However, not to accept an amendment of a technical nature which does what it says on the tin is very much adopting an attitude of “my way or the highway” to the very people the Minister asked to work with her in the area of child welfare and protection. It is demoralising and disheartening just to go through the motions on Committee Stage. We could easily have sent our amendments to the Department and the Minister could have got her officials to send a note to us to explain why she was not accepting them.

Deputy Frances Fitzgerald: My responses are not intended to undermine the work the Deputies are doing in this area. If I believe an amendment is not going to improve or clarify the text, then I cannot accept it. If I accept this amendment, it will have implications for many other sections where we have not inserted the term “board of the agency”. It is understood my relationship to the board of the agency is as per section 21. I have amended other references such as the relationship of the Minister to the chairperson.

The Deputies cannot have it both ways. On the one hand, they are claiming it is a minor amendment which makes no material difference. Then, they argue it must be accepted. The provision is already clearly understood. One does not repeat terms in legislation if they are not necessary. This amendment could also cause confusion in other sections where “board of the agency” is not inserted. I am not refusing for the sake of it. I am refusing for the reasons I have outlined.

I have introduced clear amendments to the family support area and the agency’s governance. These were follow-ups to points made by the Deputies on Second Stage or by NGOs.

Chairman: Can we get back to amendment No. 32?

Deputy Frances Fitzgerald: Many of my amendments reflect the development of the Bill from the time it was first published.

Deputy Caoimhghín Ó Caoláin: The Minister indicated she was only considering amendments which would make a material difference or give clarity to the text. This amendment does the latter. It is not a small thing. It relates to the power of the Minister to give direction to the agency when it should be the board of the agency.

Amendment put and declared lost.

Deputy Robert Troy: I move amendment No. 33:

In page 35, subsection (2), line 30, after “section” to insert “insofar as practicable”.

I put forward this amendment to ensure the board can act in an independent, transparent manner and that no Minister, whether the current one or future incumbents, can exert undue political pressure on the board. That is my rationale and the legal advice I got on it.

Deputy Frances Fitzgerald: This is an unnecessary amendment. It would not be possible for the Minister to give a direction that is inconsistent with the agency’s functions, as the agency can act only within the parameters set out in section 8. It is important that directives issued by the Minister are clear, realistic, capable of being implemented and achievable. It is reasonable to expect that a ministerial direction would arise from a process of consideration, consultation and discussion in the context of the day-to-day business of the Department and the child and family agency and any changing or emerging requirements.

Amendment put and declared lost.

Chairman: Amendments Nos. 34 and 35 are related and will be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 34:

In page 35, subsection (4), line 36, to delete “chief executive officer” and substitute “chairperson”.

Amendments Nos. 34 and 35 to section 47(4) correct an error in the first print of the Bill, replacing the words “chief executive officer” with the word “chairperson.” These amendments will clarify that the line of accountability between the Minister and the board of the agency is through the chairperson in respect of matters related to the business plan under section 46 and relating to directions given by the Minister to the agency under section 47. This amendment is consistent with the role of the board as set out in section 21. That section provides that the board is the governing body of the agency. There will be no change to the direct line of accountability between the chairperson and the accounting officer regarding the provision of information to the accounting officer and the Minister may be requested by either of them under section 29.

The functions of the chief executive officer are set out in section 29. The chief executive officer is responsible to the board for the performance of his or her functions and the implementation of the agency’s corporate plan and business plan. The chief executive officer will carry on, manage and generally control the administration and business of the agency and perform such other functions as may be assigned to that officer by the board. The chief executive officer will provide support with information including financial information relating to the performance of his or her functions and the implementation of the board’s policy as the board may require.

Notwithstanding the role of the chairperson and his or her accountability to the board, there will also be a direct line of accountability between the chief executive officer, the accounting officer and the Minister in particular circumstances as provided in section 29(2). The chief executive officer will assist in providing the accounting officer with information, including financial information and records, within such time and in such format as may be requested by the accounting officer from time to time. The chief executive officer will supply the Minister with such information relating to the performance of his or her functions and the implementation of the Minister’s policies and priorities, as the Minister may require. All of these provisions are intended to work together to provide clear and very defined structures of accountability.

Deputy Robert Troy: We are at one here.

Deputy Caoimhghín Ó Caoláin: If the word “chairperson” is adequate rather than “chairperson of the board”, I will accept that.

Amendment agreed to.

Deputy Robert Troy: It is easy when the Minister agrees with us.

Deputy Frances Fitzgerald: Likewise.

Amendment No. 35 not moved.

Chairman: Amendments Nos. 36 and 37 are related and will be discussed together.

Deputy Caoimhghín Ó Caoláin: I move amendment No. 36:

In page 35, subsection (5), line 41, after “functions” to insert the following:

“and must be in accordance with *section 8* and *section 9*.”.

I seek to add the words “and must be in accordance with *section 8* and *section 9*” to the end of section 47(5), which currently reads: “A direction given by the Minister under *subsection (1)* shall not interfere with the exercise of professional judgment in a particular case in the performance by the Agency of its functions.” Sections 8 and 9 are the functions of the agency and

the best interests and views of the child. This is the critical context - that they must be in accordance with sections 8 and 9. The direction given by the Minister shall not interfere with the exercise of professional judgment in a particular case or in the performance by the agency of its functions and must be in accordance with section 8 and section 9. It is very straightforward.

Deputy Robert Troy: This empowers the Minister to give direction to the agency concerning any matter relating to this Act or other enactment and any policy or objective of the Minister or the Government. The agency shall comply with such a direction. The chief executive is mandated to inform the Minister of the measures taken by the agency to comply with the ministerial direction. A provision should be added to section 47 to provide that the direction must be in accordance with sections 8 and 9, which relate to the functions of the agency and the best interests and views of the child.

Deputy Frances Fitzgerald: These are unnecessary amendments. It would not be possible for the Minister to give a direction that is inconsistent with the agency's functions. The agency can act only within the parameters set out in section 8. It is also inconceivable that the Minister would issue a direction that goes against best interest principle, so I will not accept those amendments.

Chairman: How stands the amendment?

Deputy Caoimhghín Ó Caoláin: I could be invited to say something I would not want to put on the record.

Chairman: I am so relieved.

Deputy Caoimhghín Ó Caoláin: The amendment is done and dusted.

Amendment put and declared lost.

Deputy Robert Troy: I move amendment No. 37:

In page 35, after line 46, to insert the following subsection:

“(7) Any direction under this section must be in accordance with *sections 8 and 9* of this Act.”.

Amendment put and declared lost.

Section 47, as amended, agreed to.

SECTION 48

Chairman: Amendments Nos. 38 and 40 are related and will be discussed together.

Deputy Caoimhghín Ó Caoláin: I move amendment No. 38:

In page 36, between lines 10 and 11, to insert the following subsection:

“(4) A direction given by the Minister under *subsection (1)* shall not interfere with the exercise of professional judgement in a particular case in the performance by the Agency of its functions and must be in accordance with *section 8* and *section 9*.”.

We are taking section 47(5) and positioning it here at 48(4) with the addendum of “and

must be in accordance with *section 8* and *section 9*.” Deputy Troy has already referred to the arguments for this, so it is a new paragraph under the Minister’s powers to issue guidelines to the agency. We have already explained the reason for this.

Deputy Frances Fitzgerald: Section 48 deals with the power of the Minister to issue guidelines, not directions, to the agency. Directions are dealt with in section 47 of the Bill. Guidelines do not have to be complied with, unlike directions, although the agency must have regard to the guidelines. I am satisfied that the scope of this provision is entirely reasonable. Although the proposed amendment regarding professional judgment is not necessitated here, there is no intention to interfere with the exercise of professional judgment in any particular case that falls within the agency’s functions, nor is it implied anywhere that this is what is intended.

I am fully aware of the range of professionals who must exercise their professional judgment in very complex and challenging scenarios on a daily basis. That judgment is informed by years at the coalface and is crucial to both intervening and assisting in an appropriate manner. Guidance, by its nature, allows for and expects the application of judgment in its application. In the context of individual cases guidance is and will be subject to professional judgment on any matter relating to an individual child or family. I am not accepting the amendment.

Amendment, by leave, withdrawn.

Amendments Nos. 39 and 40 not moved.

Section 48 agreed to.

Sections 49 to 53, inclusive, agreed to.

SECTION 54

Deputy Frances Fitzgerald: I move amendment No. 41:

In page 39, subsection (1)(a), line 5, to delete “*sections*” and substitute “*section*”.

Amendment agreed to.

Section 54, as amended, agreed to.

Section 55 agreed to.

SECTION 56

Deputy Frances Fitzgerald: I move amendment No. 42:

In page 41, subsection (1), line 3, after “services” to insert the following:

“or services provided pursuant to *section 8(3)(b)*”.

Part 8 of the Bill sets out the procedures the agency must use when arranging for services to be provided by a variety of service providers and making grants for this purpose. Section 56(1) enables the agency, within certain parameters, to enter into an arrangement with a person for the provision of child and family services. The amendment inserts the words “or services provided pursuant to *section 8(3)(b)*”. While it is technical, it clarifies that the agency may enter into an arrangement with a service provider for the provision of services related

to care and protection for victims of domestic, sexual or gender-based violence, whether it is in the context of a family or involves others. Services provided by HSE child and family services include domestic and sexual violence services. They will be provided by the CFA.

Policy and service delivery responsibility for the sexual assault treatment units located and managed within acute hospitals will remain with the Minister for Health and the HSE, respectively. The amendment clarifies that an arrangement may be entered into by the agency with the service provider for the provision of services related to care and protection for victims of domestic, sexual or gender-based violence, whether it is in the context of a family or involves others.

Amendment agreed to.

Chairman: Amendment Nos. 43, 46, 47 and 58 are related and will be discussed together.

Deputy Caoimhghín Ó Caoláin: I move amendment No. 43:

In page 42, between lines 25 and 26, to insert the following subsection:

“(16) A service provider shall operate in compliance with *section 9* where applicable.”.

The section deals with the arrangements with service providers. There are a number of references in its 15 subsections to requirements on the service provider to comply with requests under section 56(8), but there is no reference anywhere to section 9. That is the genesis of the amendment which proposes a new subsection that states: “A service provider shall operate in compliance with *section 9* where applicable”. That would mean the best interests and views of the child would be implied. This is not referred to in the 15 subsections regarding service providers and should be reflected in the section.

Deputy Robert Troy: This is self-explanatory. From time to time the agency will have to engage third parties to provide services it will be unable to provide. The amendment would ensure that when this happened, the third party would operate in accordance with the provisions applying to the agency. The rationale behind the amendment is clear. It sets out clearly what would be expected of third parties engaged to provide a service in operating in accordance with the provisions applying to the agency. This is important.

Deputy Frances Fitzgerald: Under section 56(13), the Minister may prescribe requirements which could include requiring service providers to take into account the best interests of the child where the provider was engaged in relevant services. In addition, under section 56(15), a service provider is defined as a person providing child and family services which are similar to activities carried out by the agency and consistent with its functions. The agency, in the performance of its functions, will be required to observe the best interests principle and, therefore, it is entirely reasonable that any service provider engaged in the provision of child and family services on the agency’s behalf must adhere to the same principle. The agency will have overall responsibility for the delivery of services, whether directly provided or commissioned. I will re-examine section 9 and if the Deputies are willing to withdraw the amendments and retable them on Report Stage, I will consider them in the context of that re-examination, as agreed at the previous committee meeting.

Deputy Caoimhghín Ó Caoláin: The subsections referred to by the Minister do not sug-

gest that they will do what she claims or believes. Section 56(13) states:

The Minister may prescribe requirements in respect of—

(a) the expenditure incurred by the Agency in the provision of services by service providers, and

(b) the provision of those services by service providers”.

Section 56(15) states:

In this section “service provider” means a person involved in the provision of child and family services otherwise than for profit, which services, in the opinion of the Agency, are services that are similar to activities carried out by the Agency and consistent with its functions.

The functions are as I have referenced in the context of other sections and none alludes to the subsections which refer to the functions of the agency. If I had been blessed with the same opportunity to read between the lines, like the Minister or others, I would have known at the beginning that the best interests and views of the child were implied but I was not.

Deputy Frances Fitzgerald: Is the Deputy prepared to retable the amendment on Report Stage? I will examine section 9. That is my suggestion on this group of amendments.

Deputy Caoimhghín Ó Caoláin: We will resubmit the amendment.

Amendment, by leave, withdrawn.

Deputy Robert Troy: I move amendment No. 44:

In page 42, between lines 25 and 26, to insert the following subsection:

“(16) In performing its functions under this section the Agency may not interfere with the independence or general business of a voluntary body.”.

The amendment is important, given the significant contribution made by the community and voluntary sector in achieving the agency’s objectives. Many of the services provided for children and families are provided on behalf of the State by this sector which is wholly or partly funded by the State. The sector has been a voice and an advocate on behalf of the groups they represent. It has done Trojan work throughout the years, as acknowledged by all parties on Second Stage. However, it is imperative that voluntary bodies retain their independence in order that they can continue to be the strong voice they are on behalf of the people they represent and can highlight area of concerns without fear that funding could be cut or contracts might not be renewed.

The independence of voluntary bodies must be maintained. I, therefore, ask the Minister to give the amendment serious consideration.

Deputy Frances Fitzgerald: The agency will not interfere in the business of an outside organisation and any attempt to do so would rightly be rejected. The agency can only attach conditions to funding as provided for in the Bill and in accordance with the guidance approved by the Minister. I do not intend to rule out something which the agency has neither the power nor the motivation to do. There is no such provision in existing grant or commissioning arrangements under the Health Act or other legislation relevant to the functions of agencies. As it

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is not considered necessary or appropriate in this case, I will not accept the amendment.

Deputy Robert Troy: The Minister has stated she will not interfere with the independence of voluntary sector bodies. What is the problem with having a clear and explicit provision in the Bill? I fail to see the rationale behind it. As the Minister agrees with me that it would be inappropriate to interfere, I ask her to show me the negative aspects of the proposal. It is only right and proper that it be clearly and explicitly written into the legislation.

Deputy Frances Fitzgerald: The legislation contains provisions on the conditions the agency can attach to funding. That is all it can do in accordance with the guidance provided. That is the reason I will not accept the amendment. There has never been any suggestion or example of the interference suggested by the Deputy. It would be rejected if there was.

Deputy Robert Troy: Just because it has never happened does not mean it can never happen.

Amendment put.

The Committee divided: Tá, 7; Níl, 2.	
Tá	Níl
Buttimer, Jerry.	Ó Caoláin, Caoimhghín.
Byrne, Catherine.	Troy, Robert.
Conway, Ciara.	
Doherty, Regina.	
Dowds, Robert.	
Fitzgerald, Frances.	
Neville, Dan.	

Amendment declared lost.

Chairman: Amendment No. 45 has been ruled out of order as would cause a potential charge to the Exchequer.

Amendment No. 45 not moved.

Section 56, as amended, agreed to.

Amendment No. 46 not moved.

Section 57 agreed to.

Amendment No. 47 not moved.

Section 58 agreed to.

SECTION 59

Vice Chairman: Amendments Nos. 48, 51 and 53 to 56, inclusive, are related and will be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 48:

In page 44, subsection (1), lines 5 and 6, to delete “voluntary body” and substitute “person”.

Part 8 of the Bill sets out the procedures the agency must use when arranging for services to be provided by a variety of service providers making grants for the purpose of providing services. The effect of amendments Nos. 48, 51 and 53 to 56, inclusive, will be to bring greater clarity to the persons to whom assistance may be given under section 59 for the purposes of providing a service supplemental to services provided by the agency.

The amendments will clarify that persons who provide, or propose to provide, otherwise than for profit, services supplemental to services provided by the agency, may receive a grant or contribution in kind from the agency. The amendments will delete references to “voluntary body” and replace them with “person”. This change is consistent with the definition of “person” in the Interpretation Act 2005, section 18 of which provides a “person” shall be read as importing a body corporate, whether a corporation aggregate or a corporation sole, and an unincorporated body of persons as well as an individual and that the subsequent use of any pronoun in place of the further use of the word “person” shall be read accordingly.

Deputy Caoimhghín Ó Caoláin: I seek clarification. We are speaking in section 59 about assistance for voluntary bodies. The understanding legally and in other legislation is the word “person” has the same equal understanding in law. Will the Minister cite other legislation particular to this understanding, either in the area of children’s interests or any other the Minister can share with us?

Deputy Frances Fitzgerald: The change is consistent with the definition of “person” in the Interpretation Act 2005. The word “person” shall be read as importing a body corporate such as a voluntary body. I do not have any other examples.

Deputy Caoimhghín Ó Caoláin: We can only accept the Minister’s assurance this is the case.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 49:

In page 44, subsection (1), line 6, after “provide” to insert “, otherwise than for profit,”.

This amendment is to insert the phrase “otherwise than for profit” to clarify the category of persons to whom assistance may be given by the agency under section 59.

Amendment agreed to.

Deputy Robert Troy: I move amendment No. 50:

In page 44, subsection (4), to delete lines 15 to 17 and substitute the following:

“(4) The Agency may make arrangements, decided by an independent panel established by the Agency in accordance with specified criteria, including the imposition of requirements on a voluntary body, as it considers appropriate to monitor—”.

This amendment is about ensuring an element of transparency in how contracts are awarded to voluntary bodies. The amendment would ensure openness and transparency. The volun-

tary sector plays a pivotal role in this area and it is only right and proper there is transparency in how Government funding is awarded to these bodies. The amendment would do just this.

Deputy Frances Fitzgerald: To refer back to Deputy Ó Caoláin's earlier question on amendment No. 48, section 38 of the Health Act also uses the approach with regard to the word "person".

Section 59 relates to small-scale funding, and possibly one-off funding, to provide support to organisations providing services supplemental to the agency's function. For example, funding granted under this section could be used to purchase art materials or to hire a room for an activity. The agency should be in a position to use its best judgment on how it will decide upon and disburse these funds and not be restricted to the use of panels. The agency must be empowered to meet all of its own obligations upholding the financial accountability requirements imposed by corporate governance arrangements. I will not accept the amendment.

Deputy Robert Troy: Section 59 relates to small grants. It is not about large-scale grants. What will be the maximum amount of these small grants?

Deputy Frances Fitzgerald: We have not set a limit on it. It will be decided by the agency. It is supplemental and will not be the main grant or funding the agency will provide. I do not accept the principle of panels but I will come back to the Deputy with the detail.

Deputy Robert Troy: I am happy to withdraw the amendment on the basis the Minister will provide more detail.

Amendment, by leave, withdrawn.

Deputy Frances Fitzgerald: I move amendment No. 51:

In page 44, subsection (4), line 16, to delete "voluntary body" and substitute "person".

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 52:

In page 44, subsection (4)(b), to delete lines 19 to 20, and substitute the following:

"(b) where the person provides services directly to a child or family, the provision of those services by the person concerned."

This is a drafting amendment to bring greater clarity and precision to the nature of the services which may be the subject of a monitoring arrangement. It is intended to bring greater clarity to what is meant by direct services. It will refer to services being provided directly to a child.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 53:

In page 44, subsection (5), line 21, to delete "voluntary body" and substitute "person".

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 54:

In page 44, subsection (6), line 24, to delete “voluntary body” and substitute “person”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 55:

In page 44, subsection (7), line 27, to delete “voluntary body” and substitute “person”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 56:

In page 44, subsection (7), line 29, to delete “voluntary body” and substitute “person”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 57:

In page 44, subsection (8), to delete lines 31 to 36 and substitute the following:

“(8) In this section “service supplemental to services provided by the Agency” means—

(a) the provision of a community development resource to promote child and family support services, or

(b) activities which are ancillary to child and family support services provided by the Agency or by a service provider on its behalf.”.

This amendment will bring greater clarity to the meaning of the phrase “service supplemental to services provided by the agency”. It will enable providing assistance to a person to provide a service supplemental to services provided by the agency, including the provision of a community development resource, for example, to promote child and family support services in family resource centres, and activities ancillary to child and family support services. It spells out in greater detail where services can be given.

The agency has the power to make grants to such services.

Deputy Caoimhghín Ó Caoláin: The Minister is proposing to delete section 59(8), which refers to “voluntary body” as meaning a person who is involved in a “service supplemental to services provided by the Agency”. This is to contract out the function, or is that the same net understanding?

Deputy Frances Fitzgerald: Yes. To be clear, it has the same meaning as was there before, but it provides greater clarity. This can be done by the agency.

Deputy Caoimhghín Ó Caoláin: I accept the amendment.

Amendment agreed to.

Amendment No. 58 not moved.

Vice Chairman: Amendment No. 59 has been ruled out of order, as there is a potential charge on the Exchequer.

Amendment No. 59 not moved.

Section 59, as amended, agreed to.

Sections 60 to 68, inclusive, agreed to.

SECTION 69

Deputy Robert Troy: I move amendment No. 60:

In page 49, subsection (1), line 43, after “Children” to insert “or the Health Information and Quality Authority”.

This is self-explanatory. As I stated on Second Stage, I have believed for some time that HIQA should be charged with the responsibility for inspecting services within the child and family agency. Currently, it inspects many of the services to be delivered by the agency, such as the family support services for children in care, but it does not inspect work undertaken by the preschool inspectorate, the National Education Welfare Board or psychological services. If we want to ensure the maintenance of high standards across the service and that we can restore confidence in an area where confidence has been eroded over a number of years, having an independent watchdog such as HIQA would instil such confidence and allow for regular scrutiny of standards in the services provided by the agency. I hope the Minister will take that on board.

Deputy Frances Fitzgerald: To clarify, is the Deputy speaking on amendment No. 60 or 61?

Deputy Robert Troy: It is amendment No. 60.

Deputy Frances Fitzgerald: This amendment concerns individual referrals. Section 69 states: “Nothing in this Part prohibits or prevents any person who is dissatisfied with a recommendation made or step taken in response to a complaint under this Part or with a review under this Part from referring the complaint to the Ombudsman or the Ombudsman for Children.” Is it correct that the Deputy wants to add a reference to HIQA?

Deputy Robert Troy: Yes.

Deputy Frances Fitzgerald: HIQA does not deal with individual complaints.

Amendment, by leave, withdrawn.

Deputy Robert Troy: I move amendment No. 61:

In page 50, between lines 5 and 6, to insert the following subsection:

“(3) The Health Information and Quality Authority shall have an oversight role in the performance of the Agency and its functions as set out in *section 8* of this Act.”.

I apologise, as my comments should have referred to amendment No. 61.

Deputy Frances Fitzgerald: The Health Information and Quality Authority, or HIQA, has a monitoring and inspection function under the Health Act 2007. It also has the power to make recommendations in respect of how services are provided and follow up on implementation of its recommendations. As the Deputy knows, I asked HIQA to take responsibility for child welfare and protection services and we have had several very useful reports from HIQA relating

to children and family services around the country. It is extremely important that we continue to have them. From HIQA's reports we have seen that great improvements are being made in some areas and standards are being met. In other areas there are gaps and work still needs to be done. I am absolutely stunned by HIQA's work, as I know the Deputy is, and it is excellent that it is now taking in children and family services.

Given that HIQA was established under health legislation, any expansion of its remit, such as that proposed in this amendment, would fall to my colleague, the Minister for Health. I am satisfied that HIQA is examining child and family services, which is really important, and if there are other areas coming under the function of the child and family agency, HIQA could be asked to take that responsibility rather than having an automatic involvement. That is a preferable approach. The proposed amendment would involve changes to the remit and I would have to link with the Minister for Health to consider it as it is primarily his responsibility. Nevertheless, I have the authority to seek for HIQA to be involved in a range of areas, as appropriate.

Deputy Robert Troy: Correct me if I am wrong, but is the Minister agreeing with the good work done by HIQA and the fact that it is an independent body? It has identified areas of weakness or potential improvement that should be addressed. HIQA should be involved with the new agency because of its independent nature and the good work done to date. It would help restore confidence in a sector in which it has been eroded over a period due to one issue or another.

I am happy to withdraw the amendment if the Minister could commit to speaking to the Minister for Health, Deputy Reilly, and see if it is possible to give HIQA a role in the services provided from day one. From the Minister's comments, she has acknowledged the good work done by HIQA and it could restore confidence in a sector where it has been eroded.

Deputy Caoimhghín Ó Caoláin: I will comment before the Minister responds. The Minister has already indicated that because HIQA is directly responsible to the Minister for Health and the HSE, she would not be able to incorporate it in the responsibility *vis-à-vis* children's services, in whatever manifestation that may be. Would the Minister for Health not also have a difficulty in the crossing over of certain areas of service provision under the agency after it is established? Is this not one of the needs we must overcome when it comes to cross-departmental operation? I could anticipate the Minister for Health saying the same as what the Minister before us has relayed to Deputy Troy. It seems this is a problem, particularly as all the areas of concern regarding children are not confined to the Department of Children and Youth Affairs; they take in several Departments and we need some mechanism for joined-up thinking so Departments can address shared concerns. This is just one example.

Deputy Frances Fitzgerald: With regard to the amendment, it is not a good idea to give HIQA an overarching role in all the functions of the agency and that is not the way to progress. My Department and the Department of Health has given HIQA responsibility for certain areas, including the sectors I mentioned in child protection and children's services, and that is the way to progress. It is doing very effective work and it will shortly take over responsibility for residential services for children with disabilities and other areas. It is preferable to progress that way instead of immediately saying it has an oversight of all of the functions. Its functions are set out in legislation and, of course, I can be involved with the Department of Health as regards changing that. There is no question about that. We have already brought it into the children and family services, the first time it has done that.

I will not accept the amendment. It is not the way to go regarding a future role for HIQA in

respect of the agency.

Deputy Caoimhghín Ó Caoláin: I might not have put it very well, but I do not agree with Deputy Troy’s amendment. I do not believe it should have the oversight for which he argues, for the reasons outlined by the Minister. My particular concern is not the specific argument Deputy Troy presents in terms of an oversight role, but that I believe HIQA has a cross-over role in respect of the various service providers that will come under the child and family agency’s remit once it is established. There is a cross-over situation in that regard and I wonder how we can overcome the difficulties in terms of bringing HIQA under this legislation. It will have a future involvement in this. As children come under a range of departmental considerations and given the range of decision making that affects them, we must find a mechanism whereby legislation need not be specific to one Department but will impact cross-departmentally. It is not the specific point Deputy Troy was arguing. Oversight should certainly be vested in the Minister’s office and Department. That should not be changed.

Deputy Frances Fitzgerald: There is a mechanism to do that. The reason we can ask HIQA to do the work it is doing in respect of child protection services is that it is already in the HIQA legislation under the Health Act, under which it can get involved in anything to do with the Child Care Acts of 1991 and 2001 and in a range of other areas as defined in that Act. Clearly, if there were other areas it was precluded from at present, the mechanism would be to change the Health Act 2007 in which its functions are outlined. We can certainly do that. If that arose with regard to the agency, it would be a question of amending the Health Act. For example, with regard to what was the National Educational Welfare Board, if there was an area which we believed should be examined by HIQA and it had previously been under the remit of that board and was now under the remit of the agency, an amendment to the Health Act would be the way to proceed.

I do not agree with the approach outlined in the amendment so I will not accept it.

Amendment put and declared lost.

Section 69 agreed to.

Sections 70 and 71 agreed to.

SECTION 72

Acting Chairman: Amendments Nos. 62 to 64, inclusive, are related and amendment No. 77 is consequential on amendments Nos. 62 and 63. Amendments Nos. 62 to 64, inclusive, and 77 will be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 62:

In page 50, subsection (1), lines 34 and 35, to delete “*subsections (2) and (3)*” and substitute “*subsection (2)*”.

Amendment No. 63 provides for the deletion of section 72(2) of the Bill as published and amendment No. 62 is consequential on the deletion of subsection (2), which will effect a re-numbering of the subsections within section 72. When subsection (2) is deleted there will be only two subsections in section 72 and it is therefore no longer correct to refer to subsection (3) and subsection (1). Amendment No. 62 gives effect to the change necessary to subsection (1). This is a technical description of the changes and the impact of the change on other sections of the Bill.

The functions contained in the Family Support Agency Act 2001 are particularly prescriptive as to the precise schemes and programmes to be put in place to deliver family support. It is considered that these are too rigid. An element of the reform is to allow for the consolidation and integration of FSA functions within existing HSE family support functions within the new agency. Therefore, it is considered necessary to amend the Bill to ensure that the flexibility required for the consolidation of all grant giving arrangements under Part 8 of the Bill is achieved. The insertion of the new subsection (3) in section 8 will give acknowledgement to family support. I have spoken a number of times of how important it is that we have an acknowledgement and statement in the Bill of the importance of family support. One of the functions of the agency will be to work on preventative family supports. Preventative strategies to help families are part and parcel of the work of the agency in the context of child welfare and protection.

The policy intent in the framing of the new agency has been to broaden the scope of the agency beyond the traditional concept of child welfare and protection to emphasise family support as an essential area of activity. The intention, in effect, in section 8(1)(c) is for a broad enabling provision to encompass all existing HSE and FSA functions which are transferring into the agency in addition to child welfare and protection. While these functions are encompassed in the general enabling provision contained in section 8(1)(c), it is acknowledged that the absence of an explicit reference to family support might have caused undue concern, which is why it is being changed. For that reason, it is proposed, together with the deletion of section 72(c), to introduce an amendment to section 8 to substitute a new subsection (3). The amendment will provide for the more explicit expression of family support services, the blend of Family Support Agency Act and Child Care Act functions and give acknowledgement to family support as a preventative strategy in the context of child welfare and protection.

Amendment No. 64 is consequential on the amendment being made to section 72. The effect of the amendment is to provide for anything commenced but not completed by either the Family Support Agency or the National Educational Welfare Board before establishment day so they can continue after establishment day. Section 81 is a transitional provision. It will only apply to anything commenced and not completed. The amendment being made to delete the reference to “insofar as it relates to a function transferred to the agency under section 72” is a consequential amendment related to the deletion of section 72(2), which transfers the functions of the Family Support Agency to the child and family agency.

Amendment No. 77 is necessary to delete the reference in the Long Title to the transfer of functions from the Family Support Agency to the child and family agency. These functions will no longer transfer following the deletion of section 72(2) which is being provided for in amendment No. 63.

This is about bringing the Family Support Agency into the child and family agency and outlining how that work is now being integrated by being described explicitly in the functions regarding family support.

Deputy Caoimhghín Ó Caoláin: That was very convoluted exposition. It was the most technical we have heard yet. I am concerned because all of that gobbledegook could be-----

Deputy Frances Fitzgerald: It is technical, but I had to outline the details.

Deputy Caoimhghín Ó Caoláin: -----to make it more difficult for some of us to understand exactly what is at play here. The bottom line regarding amendment No. 63 is that the Minister is proposing to delete subsection (2), lines 36 to 39 which state: “The functions vested

in the Family Support Agency by or under section 4, with the exception of the paragraphs (i) or (j) of subsection (1) of that section, of the Family Support Agency Act 2001 shall, on the establishment day, stand transferred to the Agency.” What has the Minister replaced that with? Nothing in the other amendments in this grouping replaces the intent. Let us be clear: this is the dissolution of this section. It is about the dissolution of the Family Support Agency and the National Education Welfare Board and the transfer of the functions of both to the new child and family agency. From what I read, this provision provides for the deletion of the Family Support Agency, the entity within the HSE. It states that the functions vested in the Family Support Agency, as we have known it, shall, on the establishment day of the new child and family agency, not be transferred. If the Minister is going to delete it, it needs further explanation. I am not at all clear and I am concerned because the Family Support Agency is the critical element within the HSE. It is one of the three component parts of the new agency, as we have understood heretofore, to be established. I do not see in this grouping or in any other reference that this is being provided for. I would like the Minister to clarify the situation.

Deputy Frances Fitzgerald: I have brought forward an explicit reference to family support in section 8, which is the key section outlining the functions of the new agency. I have done that, as I discussed here a number of times, to bring greater visibility, to give clarity and assurance and to allow for consolidation of the opportunities to do family support work. I am approaching that by way of putting it into the general functions of the agency. Family support is outlined as a key part of the new agency in section 8.

Deputy Caoimhghín Ó Caoláin: In which subsection?

Deputy Frances Fitzgerald: It is in subsection (3), as amended. That is the amendment I brought forward previously. It is the one that references family support and preventative services. I am not bringing forward the specific format which applied previously to the Family Support Agency - for example, the format of grant giving and the detailed description of that, which is outlined if one looks at the Family Support Agency Act. I am not transferring that, but rather the broad function of family support, without specifying it in the way it is specified in the Family Support Agency Act. I am bringing the work of family support to the functions of the agency but I am not prescribing it in the kind of detail that is in the Family Support Agency Act. Obviously, I had to deal with some of the technical issues with regard to the transfer, but that is the meaning of what we are doing.

Family support will be under the general functions of the agency as a key function, but it is not given that very detailed prescription there already. If one looks at the Family Support Agency Act, one will see there is a lot of spelling out in detail in regard to particular grants. I am not transferring that but rather putting in the general provision, which is more appropriate. The Family Support Agency Act was enacted in 2001 and it is very prescriptive in terms of who gets what grants and in what areas. Instead of doing that, I have introduced an amendment that outlines that family support is key to the new agency, which I think is more appropriate to the work of the agency and the kind of developments we have seen in family support.

Deputy Caoimhghín Ó Caoláin: What will be the status of the Family Support Agency on the establishment of the child and family agency? What areas of responsibility of the Family Support Agency as currently constituted will not be transferred to the new child and family agency? Where will those responsibilities rest into the future?

Deputy Frances Fitzgerald: I have introduced a very broad amendment.

Deputy Caoimhghín Ó Caoláin: Will the Minister indicate to which amendment she is referring?

Deputy Frances Fitzgerald: I refer to amendments Nos. 7 and 8. I spoke about encouraging the effective functioning of families. I stated that the agency would provide preventative family support services aimed at promoting the welfare of children. I referred to care and protection for victims of domestic sexual violence and services relating to the psychological welfare of children and their families. We have outlined the range of work that can be done under family support. It is not a question of excluding any particular work the Family Support Agency did previously but of capturing it in a general amendment encapsulating family support. That is approach I have taken, as opposed to outlining in detail a range of services that can be provided by the new agency. What we have is a broad amendment which allows a range of family support services to be supplied and delivered by the agency.

Deputy Caoimhghín Ó Caoláin: I have some ongoing concerns. This was dealt with when we discussed amendments Nos. 7 and 8, which we supported. We did not link that with the proposition to delete the reference to the transfer. With respect, we are entitled to have sight of exactly what is in the Family Support Agency Act 2001 that the Minister does not envisage being transferred. If these functions are not being vested in any other agency or Department, are they remaining within the HSE? The Minister's replies pose more questions than answers. It is not what we have understood to be her intent heretofore.

To win our support for this, the Minister will have to give greater elaboration. We are entitled to know what is not being transferred and what is to become of it. I expect we will not have a twin-track situation. I presume the Family Support Agency will be done and dusted on the establishment day of the new child and family agency. Will the Minister confirm that is the case? Where does the legislation state that the Family Support Agency's responsibilities, even if it is without some particular areas, are being transferred to the new agency? The Minister is deleting it entirely. It is not even an amendment to be more particular or specific or to say it is less than the whole or all of its parts. What the Minister is actually doing is deleting it entirely, and she changes Part 10 by doing so.

Deputy Frances Fitzgerald: If we look at the functions the Family Support Agency had and at the functions the new agency will have, one will see that the functions outlined in the Family Support Agency Act 2001 are effectively covered by the range of functions the new agency will have, apart from family mediation, which is now elsewhere. The functions described in the Family Support Agency Act of 2001 are effectively covered by the range of functions that the agency has, apart from family mediation, which is now elsewhere. That is not being transferred. It has already been transferred to the Department of Justice and Equality, as Deputies know. The other functions of the agency, include providing family support, relationship counselling, supporting and developing the family and community resource centres, undertaking or commissioning research and so forth are all within the functions of the new agency. The only function not being transferred from those outlined in the Family Support Agency Act is that contained in that detailed section dealing with grants to particular organisations. I do not think it is appropriate to bring that across.

The whole point is that the work of the Family Support Agency is subsumed into the work of the new agency once it is set up. Legally and technically, the Family Support Agency does not exist from the date of the establishment of the new agency. However, I reassure Deputies that the functions of the agency have been captured in the section of the new Bill outlining the range of work that the new agency will do. We felt it was better, from a legislative point of view, to

capture the work of the Family Support Agency in the new agency. That is the mechanism we have used. If Deputies look at the functions of the Family Support Agency and then at the functions of the new agency, they will see that they are spelled out clearly. There is no loss in terms of any area other than the one I mentioned earlier, family mediation. Those functions are all effectively captured in how we have outlined the work of the new agency. That is the intention.

Deputy Caoimhghín Ó Caoláin: I am sorry to labour this point a little, but that is what we must do at this stage. This refers back to what I said earlier about the family resource centres and the feedback I received from them with regard to their concern about dropping the word “support” from the title of the new agency. That concern is out there and is real. I have endeavoured to counter that concern and to explain the issue. However, this only feeds that situation. The Minister spoke about the grants not being transferred. Grants to what organisations, initiatives or services does the Minister refer? Are these grants being axed? Are they to continue? Are there other mechanisms by which they will be paid? Why will they not be transferred to the agency? It is reasonable to ask and to try to understand exactly what is intended here. I ask the Minister to clarify that section 71 stands, as I have sought, so that on the day of the establishment of the new agency the Family Support Agency and the National Education Welfare Board are dissolved.

Deputy Frances Fitzgerald: The Deputy refers to family resource centres, but section 8 has been specifically crafted to deal with that issue. Subsection (d) reads as follows: “maintain and develop support services, including support services in local communities, relating to the functions specified in paragraph (a), (b) or (c).”

The phrase “support services in local communities” clearly refers to family resource centres.

On the grants issue, it is not a question of axing any grants. That is not the intention. The intention is to consolidate all of the grant-giving that the Family Support Agency did and that the HSE does in the area of family support. Rather than specifically bringing over particular descriptions of where money will go, we are simply consolidating the grant-giving function. We decided not to bring over the detailed description of where funds should go but to allow the agency as a whole to make such decisions in terms of funds for family support, child protection and so forth. We did not want to be overly prescriptive about it. It is certainly not our intention to exclude groups that were previously supported by the Family Support Agency.

Deputy Caoimhghín Ó Caoláin: That is very difficult to follow, I must say. I am nervous about it and concerned at the very convoluted presentation of the case. I had noted the proposed amendments but am deeply concerned by what I have heard here, as against what I was expecting to hear. I have serious concerns and I do not think the Minister is going to be able to allay them. I am not at ease with this. That is the bottom line. I do not believe I have a full understanding of the consequences of what the Minister is now proposing. It is a very significant change, in my view - although time may prove me wrong on that - from what I have understood heretofore. I have worked on the basis that the Family Support Agency and the National Education Welfare Board and the other component of the new child and family agency would be dissolved and that their powers and responsibilities would be transferred to the new entity. That is not now proving to be the case.

Deputy Frances Fitzgerald: I point out to Deputy Ó Caoláin that another amendment we agreed today dealt with the provision of a community development resource to promote child and family support services. Also, part of section 8 contains quite a lot of detail about grant-giving. Section 59 goes into some detail about how assistance can be provided by the new

agency under a grant scheme. The Family Support Agency operated a grant scheme. I would be very happy to have a more detailed briefing with Deputy Ó Caoláin on this particular issue, if that would be of help, prior to Report Stage.

Deputy Caoimhghín Ó Caoláin: If a briefing note could be furnished to me with the particular details required, I would appreciate it. I am not trying to be obstructive. That is not my disposition here. It is a fair and reasonable request. Our responsibility in the Opposition is to test what the Minister presents. If we are unhappy or have any concerns, it would be very remiss of us not to voice them.

Deputy Frances Fitzgerald: I appreciate that, but-----

Deputy Caoimhghín Ó Caoláin: I do have concerns because of the potentially significant consequences of what the Minister is now suggesting.

Vice Chairman: Is the amendment agreed?

Deputy Caoimhghín Ó Caoláin: No, because of the reasons I have outlined.

Amendment put and declared carried.

Vice Chairman: Amendment No. 63 has already been discussed with amendment No. 62.

Deputy Frances Fitzgerald: I move amendment No. 63:

In page 50, lines 36 to 39, to delete subsection (2).

Amendment put and declared carried.

Section 72, as amended, agreed to.

Sections 73 to 80, inclusive, agreed to.

SECTION 81

Vice Chairman: Amendment No. 64 has already been discussed with amendment No. 62.

Deputy Frances Fitzgerald: I move amendment No. 64:

In page 52, lines 43 to 45, to delete all words from and including “, insofar” in lines 43 and 44 down to and including “*section 72,*” in line 45.

Amendment put and declared carried.

Section 81, as amended, agreed to.

Section 82 agreed to.

SECTION 83

Deputy Frances Fitzgerald: I move amendment No. 65:

In page 53, subsection (1), line 13, after “day” to insert “or days”.

This amendment corrects an omission in the Bill, to refer to the transfer of staff taking place on one or more days. The effect of the amendment is to enable the trans-

fer of staff from the HSE on such days as may be deemed appropriate, rather than on one particular day. It is a facilitating amendment rather than a substantive change.

Deputy Caoimhghín Ó Caoláin: Are we dealing with the transfer of certain employees of the Health Service Executive?

Deputy Frances Fitzgerald: Yes.

Deputy Caoimhghín Ó Caoláin: I refer to section 83(1), on page 53 of the Bill, which states: “Such persons as are designated by the Minister for Health, following consultation with the Minister, and who, immediately before the establishment day”. This refers to a “day”, or “days”, but surely what we are establishing here is a single entity so why should there be establishment of a “day” or “days”? With respect, we are establishing a child and family agency, something that cannot be done over several different days. It is either to be established or not.

Deputy Frances Fitzgerald: This is about the transfer of staff. As the Deputy knows, more than 4,000 staff have been identified who will transfer to the agency. This measure is to allow for the possibility of other staff, who may also move, for whatever reason. An enormous amount of work, including HR work, has been done in the past year and a half and further validation may be needed in respect of certain employees. There may be a small number who would be identified as needing to transfer after a given date. The amendment is merely to allow some flexibility in that regard. There is nothing else behind it.

Deputy Robert Troy: I made a suggestion which may not refer directly to the amendment but the Minister did not give it favourable consideration. In respect of the transfer of staff from the HSE to the agency, is she confident it is right and proper to transfer staff directly, and that appropriate staff are being transferred? Should staff moving in this way not have to apply for the jobs in the new agency in order to ensure there are appropriate front-line staff from day one, rather than an excess of office or administrative staff? Given the Minister has just stated that a number of days must be factored in for such a transfer, rather than a single day, perhaps an amendment to that effect would facilitate such a request.

Deputy Frances Fitzgerald: To reiterate, an enormous amount of work has been done to identify the staff involved in areas that will henceforth be the responsibility of the new agency. After letters issued in January, the staff identified have been agreed and have agreed. Where necessary there has been a strong HR process; the work has been done and there is continuing validation in regard to some staff. This is obviously a very big exercise. When one disagregates from a very large body such as the HSE clearly a great amount of work is involved. It has gone extremely well and there has been considerable co-operation from staff, on both the administrative side and by social or other care workers. In addition, the HSE has managed to be very supportive. For example, one of the key jobs we must do is to set up new financial arrangements and in this respect the organisation has been extremely supportive. That is all progressing very well to enable a separate payroll to be established on the establishment of the agency, which is essential. A payroll is in place for foster care, for example. There are probably about 27 different mechanisms for paying foster parents and all of them have to be brought together. An enormous amount of work has been done.

I refer to the Deputy’s point about administrative staff. There is no question of transferring an excess of such staff over front-line workers. This has all been looked into very carefully. Letters issued and were agreed much earlier this year.

Deputy Caoimhghín Ó Caoláin: In every preceding section of Part 10, in sections 71 to 81, inclusive, and also in Part 2 of the Bill, in section 82, there was mention of an establishment day. This is beyond me. I will not get hung up further about the phrase “or days” but this makes no sense. The Minister is making a considerable change in this regard. Either there is one establishment day for the new agency or there is not. It is referred to as “establishment day” in every single one of the other sections I mentioned. This is not the only point that has been beyond me during this process. Why has the Minister made this change? One cannot establish something over a number of days. If there had been a desire to make the change in section 83 why would it not have been made in all the preceding sections?

Deputy Frances Fitzgerald: This is not about the establishment of the agency which will, of course, take place on a given date. It is about allowing the transfer of staff to the agency to take place on a number of days.

Deputy Caoimhghín Ó Caoláin: Of course it is about the establishment day of the agency. It is that and nothing else. No amount of playing with it will change it from what it actually is, namely, the establishment day.

Deputy Frances Fitzgerald: No, it does not refer to the establishment day. There was an omission in the Bill in respect of the transfer of staff taking place on one or more days after the establishment of the agency. The effect of the amendment is to enable the transfer of staff from the HSE on such days as may be deemed appropriate, rather than on one particular day. It is not about the day the agency will be established but is intended to give some flexibility to staff who may not have been identified as staff of the agency on the day of its establishment. Those staff will now be identified after the day of establishment of the agency. That is very clear. It is about the transfer of staff and giving some flexibility in that regard. The establishment day of the agency will obviously be a given date.

Deputy Caoimhghín Ó Caoláin: We must disagree on our understanding of the English language. This is frankly bizarre.

Vice Chairman: Is the amendment agreed?

Deputy Caoimhghín Ó Caoláin: No, it is not.

Amendment put and declared carried.

Section 83, as amended, agreed to.

SECTION 84

Question proposed: “That section 84 stand part of the Bill.”

Deputy Frances Fitzgerald: If I may, I will address aspects of sections 84 to 86, inclusive. I am currently engaging with the Office of the Attorney General and the OPC on whether it is necessary to expand sections 84 and 86 to facilitate the sharing of contractual services. If I am advised that such an amendment is required I propose to introduce it on Report Stage.

Question put and agreed to.

Sections 85 to 88, inclusive, agreed to.

NEW SECTION

Vice Chairman: Amendments Nos. 66 and 68 are related and will be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 66:

In page 54, before section 89, to insert the following new section:

89.—(1) A delegation or a sub-delegation made under the Health Act 2004 (amended by the Health Service Executive (Governance) Act 2013), which relates to a function transferred to the Agency under this Act, shall continue to have effect where the employee to whom the function was delegated or sub-delegated is transferred to and becomes a member of staff of the Agency under *section 83*.

(2) The Agency may amend or revoke a delegation or sub-delegation referred to in *subsection (1)*.”.

This is a continuation of delegations and sub-delegations made under the Health Act 2004.
Amendment agreed to.

Sections 89 and 90 agreed to.

NEW SECTIONS

Vice Chairman: Amendments Nos. 67 and 78 are related and will be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 67:

In page 54, before section 91, but in Part 11, to insert the following new section:

“PART 12 AMENDMENT OF CHILD CARE ACT 1991

91.—The Child Care Act 1991 is amended by the insertion of the following after Part VII:

“PART VIIIA SUPERVISION OF EARLY YEARS SERVICES

58A.— In this Part —

‘Agency’ has the same meaning as it has in the *Child and Family Agency Act 2013*;

‘arts’ has the same meaning as it has in the Arts Act 2003;

‘authorised person’ means a person appointed under section 58I to be an authorised person for the purposes of this Part;

‘competitive sport’ has the same meaning as it has in the Irish Sports Council Act 1999;

‘early years service’ means a service providing —

(a) a pre-school service, or

(b) a school age service;

‘pre-school child’ means a child who has not attained the age of six years, and who is not attending a recognised school;

‘pre-school service’ means any pre-school, play group, day nursery, crèche, day-care or other similar service which caters for pre-school children;

‘recognised school’ has the same meaning as it has in the Education Act 1998;

‘recreational sport’ has the same meaning as it has in the Irish Sports Council Act 1999;

‘register’ means the register established and maintained in accordance with section 58C;

‘school age child’ means a child who is attending a school age service;

‘school age service’ means any early years service, play group, day nursery, crèche, day-care or other similar service which —

(a) caters for children enrolled in a recognised school providing primary education,

(b) provides a range of activities that are developmental, educational and recreational in manner and which take place outside of school hours, and

(c) the basis for access to which is made publicly known to the parents and guardians of the children referred to in paragraph (a) of this definition,

but excludes those services —

(i) solely providing activities relating to —

(I) the Arts,

(II) youth work,

(III) competitive or recreational sport, or

(IV) tuition,

or

(ii) for whom statutory provision for inspection exists, prior to the commencement of this section;

‘youth work’ has the same meaning as it has in the Youth Work Act 2001.

58B.— (1) The Minister shall, after consultation with the Minister for Education and Skills and the Minister for the Environment, Community and Local Government, make regulations for the purpose of securing the health, safety and welfare and promoting the development of children attending early years services.

(2) Without prejudice to the generality of subsection (1), regulations may —

(a) prescribe any matter or thing referred to in this Part as prescribed or to be

prescribed,

(b) prescribe requirements as to the heating, lighting, ventilation, cleanliness, repair and maintenance of premises in which early years services are carried on and as to the equipment and facilities to be provided,

(c) provide for the enforcement and execution of the regulations by the Agency,

(d) prescribe the fees to be paid to the Agency by persons carrying on prescribed early years services towards the cost of inspections under this Part,

(e) prescribe the minimum level of qualifications for any class or classes of persons working in an early years service, and

(f) prescribe any additional particulars and details required in relation to the register.

(3) Regulations under this section may —

(a) make different provision for different classes of early years services,

(b) prescribe different requirements for different classes of early years services,

(c) provide for exemptions from any provision or provisions of the regulations for a specified class or classes of early years services.

58C.— (1) The Agency shall establish and maintain a register to be known as the register of prescribed early years services (the ‘register’).

(2) The register shall contain the names of persons who provide prescribed early years services (‘registered providers’), the addresses of the premises on which those services are provided, the number of children each service can accommodate, the date of registration and any other details required by regulations made under section 58B.

(3) The register may be established and maintained in paper or electronic form.

(4) The register shall be available for inspection by members of the public, free of charge, at such times and in such manner as may be prescribed.

58D.— (1) A person shall not provide a prescribed early years service unless his or her name is entered in the register as a provider of that service.

(2) The provider of a prescribed early years service or a person who proposes to provide a prescribed early years service shall make an application to the Agency to be registered in the register.

(3) An application under subsection (2) shall be in such form as may be prescribed and accompanied by such fee as may be prescribed.

(4) The period of a registration shall be 3 years from the date of registration.

(5) The Agency may, on application to it in that behalf by a person who is providing

or proposes to provide a prescribed early years service —

(a) register the provider concerned,

(b) register that provider with a condition or conditions attached to that registration,

(c) refuse to register that provider or proposed provider.

(6) The Agency may remove a registered provider from the register.

(7) Where the Agency becomes aware that any particular entered in the register is incorrect it may amend the register to correct the matter.

(8) The Agency shall attach a condition to a registration, refuse a registration, or remove a registered provider from the register where it is satisfied that —

(a) the premises in which the prescribed early years service is, or is proposed to be, provided do not comply with regulations made under this Part, or

(b) the carrying on of the prescribed early years service concerned is not, or will not be, in compliance with such regulations.

(9) The Agency shall refuse to register an applicant and shall remove from the register a registered provider —

(a) who has been convicted of —

(i) an offence under this Part, or

(ii) any offence that in the Agency's opinion renders such person unfit to carry on or be in charge of such service,

(b) who has failed to furnish, within 21 days or such further period as the Agency considers reasonable in the circumstances, the Agency with information the Agency has reasonably required for the performance of its functions under this Part, or has knowingly furnished the Agency with information that is false or misleading in a material particular, or

(c) who has, within the 12 months preceding the date on which registration or removal from the register would take effect, contravened a condition attached to the registration concerned.

(10) The registered provider, not less than 2 months before the expiry of the period of registration concerned, shall apply to the Agency in accordance with subsection (2) to be registered and, where the Agency does not propose to refuse to register or to attach a condition to the registration of the prescribed early years service concerned, it shall renew the registration and the date of registration shall be the day following the day of expiry of the previous registration.

(11) Where the Agency proposes to refuse to register an applicant, to remove a registered provider from the register, to attach a condition to, or amend or revoke a condition attached to, a registration, it shall notify in writing the applicant or the registered provider, as the case may be, of its proposal and of the reasons for it.

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(12) A notification under subsection (11) shall include a statement that the person concerned may, within 21 days of the receipt by him of the notification —

(a) make representations to the Agency, or

(b) appeal to the District Court under section 58F against the decision.

(13) A person who has been notified of a proposal under subsection (11) may, within 21 days of the receipt of the notification, make representations in writing to the Agency and the Agency shall —

(a) before deciding the matter, take into consideration any representations duly made to it by that person, and

(b) notify the person in writing of its decision within 21 days of the receipt of any representations made to it and of the reasons for it.

(14) Where a registered provider ceases to provide a prescribed early years service that provider shall inform the Agency in writing as soon as reasonably practicable of that cessation.

58E.— A person who, before the amendment of this Part by the *Child and Family Agency Act 2013*, gave notice to the Health Service Executive in the manner prescribed under section 51 of the Child Care Act 1991 shall be deemed for the purposes of this Part to be a registered provider for a period of 3 years from the date of commencement of this section.

58F.—(1) A registered provider or an applicant, may, within 21 days of the receipt of the notification of a decision under section 58D, appeal to the District Court against a decision of the Agency to —

(a) refuse to register the applicant under section 58D,

(b) remove the registered provider from the register, or

(c) attach a condition, or amend or revoke a condition attached, to that registration.

(2) The court may, if it so thinks proper, confirm the decision of the Agency under section 58D or direct the Agency, as may be appropriate, to register an applicant, to restore the registration of a registered provider, to attach or withdraw a condition or amend or revoke a condition, of the registration concerned.

(3) The jurisdiction conferred on the District Court by this section shall be exercised by the judge of the District Court for the time being assigned to the district court district in which the premises in which the registered provider provides the prescribed early years service, or the premises in which it is proposed that an applicant shall provide a prescribed early years service, is situated.

(4) A decision of the District Court under this section on a question of fact shall be final.

58G.— It shall be the duty of every person providing an early years service to take all reasonable measures to safeguard the health, safety and welfare of children attending the service and to comply with regulations made by the Minister under this Part.

58H.— The Agency shall cause to be visited from time to time each prescribed early years service in order to ensure that the person carrying on the service is complying with this Part.

58I.— (1) The Agency shall appoint such and so many persons as it thinks fit to be authorised persons for the purposes of this Part.

(2) Every authorised person shall be furnished with a warrant of his or her appointment as an authorised person, and, when exercising any power conferred on an authorised person under this Part, shall, if requested by any person affected, produce the warrant to that person.

58J.— (1) An authorised person may, at all reasonable times, enter any premises in which a registered provider is providing a prescribed early years service for the purpose of ensuring compliance with this Part.

(2) A judge of the District Court may, if satisfied on information on oath that there are reasonable grounds for believing that a prescribed early years service is being provided in any premises (including a private dwelling) by a person who is not a registered provider, issue a warrant authorising an authorised person to enter and inspect the premises.

(3) An authorised person who enters any premises in accordance with subsection (1) or (2) may make such examination into the condition of the premises and the care and attention which the children are receiving in those premises as may be necessary for the purposes of this Part.

(4) A warrant under subsection (2) may be issued by a judge of the District Court for the time being assigned to the district court district where the premises, in which the prescribed early years service is being provided, are situated.

58K.— (1) A person who —

(a) refuses to allow an authorised person to enter any premises in accordance with subsection (1) or (2) of section 58J or who obstructs or impedes an authorised person in the exercise of any of his powers under subsection (3) of that section,

(b) contravenes a condition of registration under section 58D, or

(c) contravenes the requirements of this Part or of any regulations made thereunder,

shall be guilty of an offence and shall be liable on summary conviction to a Class A fine.

(2) Where a person is convicted of an offence under this Part the court may, either in addition to or in substitution for the imposition of a fine, by order declare that the person shall be prohibited for such period as may be specified in the order from carrying on an early years service.

(3) A person who contravenes an order made under subsection (2) shall be guilty of an offence and shall be liable on summary conviction to a Class A fine or to imprisonment for a term not exceeding 12 months or both.

58L.— For the avoidance of doubt it is hereby declared that the provisions of this Part shall not apply to —

(a) the care of one or more children undertaken by a relative of the child or children or the spouse of such relative,

(b) a person taking care of one or more children of the same family and no other such children (other than that person's own such children) in that person's home,

(c) a person taking care of not more than 3 children of different families (other than that person's own such children) in that person's home.”.”.

Vice Chairman: Amendments Nos. 1 and 2 to amendment No. 67 have been ruled out of order because of a potential charge on the Revenue.

Amendments Nos. 1 and 2 to amendment No. 67 not moved.

Deputy Frances Fitzgerald: I am delighted to have the opportunity to introduce amendments to the Child Care Act 1991 to provide for a number of key changes to that Act as part of the wider quality agenda in early years services. I would like to set out the context for committee members regarding some of the key issues affecting the child care sector. As the changes are interconnected, I feel this is the most helpful approach.

It is widely recognised that high-quality early education prior to entry into formal schooling leads to lasting social benefits that persist throughout life, both for the individual and for society. Therefore, improving the quality of child care services is something to which all of us should be committed, whether members of Government, Members of the Oireachtas, child care organisations, service providers, child care professionals or parents. I am particularly aware that, with regard to child care policy in this country, there has for a long time been a focus on bricks and mortar and the building of facilities to provide child care services. What was lacking was a focus on the impact of such services and the people using them, the children. However, some superb services have been developed and huge commitment has been shown by front-line staff in the early years sector, where a range of excellent services have been delivered over the years.

I have constantly highlighted the importance of investing in and supporting high-quality interventions in the early years of children's lives and the work programme of my Department reflects this. During the summer, when the “Prime Time Investigates” programme was aired, there was, understandably, an outcry at the way in which children in certain child care centres were treated. Members will recall that in the immediate aftermath of that programme, I addressed the Dáil on several occasions, as well as this committee, to outline my response to the issues that arose. I committed to the development and progression of a preschool quality agenda in conjunction with the HSE and other key stakeholders. This quality agenda can be summarised by the following points: increasing the qualifications required for all staff in preschool services to a minimum standard of FETAC level 5; improving the quality and curricular supports for preschool services when implementing the Síolta framework and Aistear; implementing the new national preschool standards; introducing a registration system for all preschool services; taking steps to make the inspection system more consistent and robust; publishing inspection reports online; ensuring appropriate action is taken in response to findings of non-compliance; and increasing and widening the sanctions that can be taken for non-compliance.

What we have here before the committee today is another significant step in furthering the provision of quality services within the early years sector. These amendments will provide for increasing qualifications in the early years sector as a whole, the introduction of a registration system for early years service and widening the response options that may be taken in regard to non-compliance with the regulations. The key changes to the Child Care Act 1991 are that a new Part will replace the existing Part 7 and that 12 new sections relating to registration will be inserted. These new sections are modelled on existing provisions contained in Part 8 of the 1991 Act.

I would like to draw the attention of the committee to some key sections of this Bill. Section 58(2)(c) gives the Minister the power to make regulations on qualifications for child care staff. Section 58C establishes the register, section 58D gives details of registration and section 58K sets out offences under the Act. The inclusion of these changes leads to a change in the Long Title of the Act, which is dealt with in amendment No. 78. I believe it is useful to address the overall intention behind the amendments to the Child Care Act 1991 I am introducing here today.

Deputy Caoimhghín Ó Caoláin: I do not wish to cut across Deputy Troy, who put forward two amendments to this section, but I understand they have been disallowed. I share his view strongly with regard to one of these, 58L. Deputy Troy referred in particular to 58B and 58C. I believe 58C is problematic. I know the situation that applies and the difficulties that will present in some settings. However, it is unacceptable that lesser standards will be acceptable where there are only three children involved, in a private home care setting, as against where more than three are involved. The standards should apply across the board and there should be no exceptions in that regard.

I understand how this applies to the situation within a family where we are talking about a grandmother or parental sibling support for children, because these are family arrangements. However, when we go outside that and a commercial proposition is organised, where a person is paid for the service, it is not right to exempt these from the terms of this amendment to the Child Care Act. We must grasp the nettle and apply the highest standards across the board. Nothing less is acceptable.

The Minister should not proceed with 58L(c), which refers to “a person taking care of not more than 3 children of different families (other than that person’s own such children) ...” The person could have one or two of their own children already and within the particular setting there could be five or any number of children. This section could be understood to refer to a person who is taking care of their own children plus three others. Even if a person has no children of their own but is taking in three children from other family settings, outside of their own familial role and support - which is normal - no exemption should apply. The same standard should be expected and insisted upon.

Vice Chairman: Deputy Troy may speak on the Minister’s amendments but not his own, because they were ruled out of order.

Deputy Robert Troy: It seemed to be okay for my colleague to speak on them for the past three minutes.

Vice Chairman: He did not speak on the amendments. He spoke on section 58, and the Deputy may do the same.

Deputy Robert Troy: I will do the same. I welcome the amendment of the Child Care Act and believe it is positive. However, it could go further in the area identified. I raised the issue previously in the context of other legislation of some people being exempted from vetting, and now they are being given an exemption from the standards being set today. That is not right or proper. The standards should be no less whether a person is minding one, two or three children. The Minister should give this issue further consideration. I am interested in hearing why the provision does not apply in this regard. I am relatively new to the legislative part of my role. I have noticed some further areas of the Bill that I feel would benefit from being amended. Would it be permissible for me to propose amendments if this Bill is referred back to us for Report Stage?

Vice Chairman: The Deputy can attempt to bring his amendments back into order and resubmit them on Report Stage.

Deputy Robert Troy: I can attempt to do that.

Vice Chairman: Yes.

Deputy Robert Troy: Okay. Can I make further amendments on Report Stage?

Vice Chairman: The Deputy can attempt to bring his amendments that have been ruled out of order back into order on Report Stage.

Deputy Robert Troy: Is it permissible to make further amendments to this legislation on Report Stage?

Vice Chairman: Yes. If the Deputy signals at this Stage that he intends to introduce further amendments on Report Stage, that will be fine.

Deputy Robert Troy: I intend to introduce further amendments. Should I refer to them now?

Vice Chairman: The Deputy has signalled that he intends to introduce them. He can do so on Report Stage. He has told us that he is going to do it. He is free to do it on Report Stage.

Deputy Robert Troy: I will propose further amendments on Report Stage.

Deputy Frances Fitzgerald: Do we not need to know what area they relate to?

Vice Chairman: Perhaps the Deputy can explain what they relate to.

Deputy Robert Troy: I will be brief. I might propose an amendment to the proposed new section 58D(4) of the 1991 Act, which provides that “the period of a registration shall be 3 years from the date of registration”, because I feel that such a period of time could be too long. In the case of the proposed new section 58D(8), which states that “the Agency shall attach a condition to a registration”, I feel that the agency should be able to attach “conditions” rather than “a condition” to the registration. I wonder why a timeframe of “within the 12 months preceding the date on which registration or removal from the register would take effect” is being stipulated in the proposed new section 58D(9)(c). What happens if it is found that there was an incident prior to the 12-month period in question? I will propose an amendment in that regard. I feel that the proposed new section 58H, which states that “the Agency shall cause to be visited from time to time each prescribed early years service in order to ensure that the person carrying on the service is complying with this Part”, is very loosely worded. It could lead to services not being

visited over a protracted period of time. One would hope that would not happen, but I suggest that it could happen under this new section. I think we should stipulate that visits should happen annually or biannually. I intend to propose amendments in these areas on Report Stage. We can discuss them further at that time.

Deputy Simon Harris: I welcome the amendments to the Child Care Act 1991 that have been proposed by the Minister. They address many concerns in respect of inspections, etc. I ask the Minister to provide some clarity regarding the area of childminding in the context of the recent publication of a report, *Right From the Start*, by the expert advisory group on the early years strategy. Does the Minister envisage that the recommendation in the report that regulation and support should be introduced for all paid non-relative childminders will be implemented? If so, how does she think that can be done? I refer her to the model that is used in this area in Scotland, where the number of registered childminders is much larger than it is in Ireland. There are just 257 notified childminders in Ireland, compared with 6,000 in Scotland, which has a similar population. What lessons does the Minister think we can learn from how other countries have approached this issue? A balancing act is required in this sensitive area. Obviously, there is a clear difference between the Irish tradition of childminding in the home, which is based on familial relationships, and the commercial form of childminding. I would appreciate it if the Minister could comment on and clarify this aspect of the matter.

Deputy Frances Fitzgerald: The proposals with regard to registration have provoked a great deal of comment on childminding. I would like to comment on them as well. I have advocated the introduction of a register of early years services as part of the package of reforms aimed at improving quality in the early years sector. While the HSE has introduced registration on an administrative basis, this section of the Bill will provide a statutory underpinning, which is important. It will be the first time there will have been a statutory underpinning for these services. Up to now, they were merely required to notify the HSE of their intention to open. One such notification had been received within the appropriate timeframe. Such providers were free to operate without having been inspected prior to the commencement of service provision. That will no longer apply. This section, coupled with the proposed section 58D, provides for the introduction of an early years service register. It will be maintained by the agency and available for public inspection free of charge. At a minimum, the register will contain the names of people who provide prescribed early years services. Such people are referred to throughout the new Part as “registered providers”. The register will also contain the addresses of the premises on which such early years services are provided, the number of children each service can accommodate, the date of registration and any other details which may be required by regulations made under section 58B.

Childminding in Ireland has traditionally been viewed as a private arrangement made by parents and has not been subject to any strict regulation. Other countries have started to examine this issue and have taken a variety of approaches to the regulation of childminders. We have encouraged childminders to voluntarily notify their services to the local city or county child care committee. While some of them have done so, the number is nothing like the overall number of childminders who are actually involved in childminding. I suggest that more work can be done in that regard. Childminders could benefit from the kind of support and information that is available. I will continue to actively promote the notification of childminding services and the participation of childminders in quality training programmes. It is extremely important to do so. Clearly, we do not prevent parents from entering into informal arrangements with childminders who are outside the scope of the regulations. It is important for us to disseminate the information that is available. Parents generally know that childminders are outside the scope

of the regulations. Individual parents take a great deal of care and time when they are making decisions about who will look after their children. They investigate references and talk to various childminders. As I have said, this activity is outside the scope of the regulations at present.

The future role and regulation of the childminding sector is one of the specific issues of policy I have identified for consideration in the preparation of our early years strategy for children from birth to the age of six. I expect work on this to be completed. As Deputies know, I received a report from the expert group that addressed this issue. We will examine the recommendations it made in this area. I expect work on the development of our early years strategy to be completed later this year. I will review the future regulation of childminders in that context. Many aspects of this complex issue need to be considered. Unregulated childminding has been the care of choice for many parents in Ireland over many years. Some parents would welcome more regulation. We have to ask certain questions. What is in the best interests of children? How do we go forward in this area? There are many aspects to this matter. I am not in a position to introduce regulations in this sector because I do not believe enough work has been done to examine the precise implications of doing so, or how we might go about doing so. It is something to be considered in the future. In the changes I am proposing today, my focus is on ensuring the quality of preschool settings in the first instance. As I have mentioned, subject to a reasonable lead-in time and discussions with key stakeholders, I intend to extend the regulatory regime to school-age child care services as well as preschool child care services. Pending the conclusion of that additional regulatory provision, I would like to turn my attention to the wider issue of childminding and what might be desirable in that section of early years service provision.

Deputy Caoimhghín Ó Caoláin: The Minister did not refer specifically to the exemptions that are provided for in this amendment. I refer particularly to the exemption that will apply under the proposed new 58L(c) to “a person taking care of not more than 3 children of different families (other than that person’s own such children) in that person’s home”.

Deputy Frances Fitzgerald: Those exemptions are unchanged.

Deputy Caoimhghín Ó Caoláin: Yes, but would the Minister not agree that this is an important opportunity to ensure we have universal application of the highest standards across the board? I do not know that this is a good thing. I understand that there would be resistance to it across the sector. However, we should not expect less to apply in any situation, particularly with regard to 58L(c), where three children of different families are being taken care of. That is a commercial operation rather than familial or neighbourly support for a single family, as is suggested in 58L(b). Why are we cutting off at three and saying we will not apply the same standards, but we will where there are four or five children? I believe each child deserves the best standards and oversight. There is a strong view within the sector that regulation and the application of the highest standards is what is required.

We are missing an opportunity here to do something that is long overdue and which will have to be done at some time, and I am at a loss to understand why the Minister does not seize the moment.

Deputy Frances Fitzgerald: There is a huge amount of work to be done.

Vice Chairman: Deputy Troy wishes to come in on this before we go to the Minister.

Deputy Robert Troy: I concur with much of what Deputy Ó Caoláin has said. The Minis-

ter spoke about the need for greater encouragement for childminders to come forward and register themselves and to avail of the supports available. My colleague, Deputy Harris, has outlined the dismally low number of childminders who have come forward out of the approximately 50,000 child minders in the country. This is not an issue we can afford to ignore any longer. It is critical we deal with the issue. A lower standard should not be put in place for smaller commercial operations, regardless of the number of children being minded.

I see it as a wasted opportunity that the bull is not being taken by the horns and we are not including this sector in the legislation. I urge the Minister to reconsider this for Report Stage. People talk about parents who, to the best of their ability, check the background of their childminder and ensure they get character references before placing their children with a childminder. However, sometimes this system can fail. We are putting a severe responsibility back on parents and need to take another look at that. It is also in the interest of childminders to have the added protection of knowing they have been vetted and that their business is regulated and fit for purpose for service users.

Vice Chairman: I would like to comment on this. The voluntary code of registration that exists offers great protection to childminders. It also has a financial benefit, in that registered minders get a €15,000 tax break and allows them make PRSI contributions so they can claim a pension when they reach pension age. We need to promote this and advocate it.

Deputy Frances Fitzgerald: Childminding is an area I intend to look at, but I do not propose to approach it in a piecemeal way. There is significant work to be done in regard to the early years services. I am beginning that work today, in the context of ensuring there is proper registration, inspection, national standards and that people who work in the sector are qualified. This is the first time that this series of initiatives and requirements will be part of legislation. There is huge work to be done to implement what we bring forward at this committee today.

In regard to childminding, there is a question as to what model of inspection will be appropriate. Many countries do not regulate this sector at all, but leave it up to parents. Scotland is an exception in this regard. In many countries, the cultural approach or standard is that parents make their own decisions in regard to childminders and the state does not intervene. I am minded to examine this area, but we must decide on what the right model is. What model of inspection should be applied? Who would visit the childminder and how many times a year? We must be clear what model of regulation, inspection and standards would apply. We would want the best interests of the child at the centre of our model.

I have no argument with what Deputy Ó Caoláin suggests regarding the standards that should apply. That is what parents would want. Certainly, standards will apply to any childminders who come forward for registration. However, there are many issues to be examined but I am not ready to deal with them now because the work has not been done yet. It was not done by previous Governments. There is a huge amount of work to be done before we can bring forward a change to the current situation in regard to childminders. I do not rule out the setting of standards by any means. The issue was addressed by the expert group when examining the early years sector and it made some recommendations. We will have an early years strategy and I will begin an examination of the sector.

Amendment agreed to.

Vice Chairman: Amendment No. 68 has already been discussed with amendment No. 66.

Deputy Frances Fitzgerald: I move amendment No. 68:

In page 54, before section 91, but in Part 12, to insert the following new section:

91.— Any person who is, immediately before enactment —

(a) appointed an educational welfare officer or an authorised person or designated a liaison officer under the Education (Welfare) Act 2000;

(b) a person authorised to carry out functions under section 12 of the Adoption Act 2010;

(c) appointed a coordinator under the Children Act 2001;

(d) a designated officer under the Protections for Persons Reporting Child Abuse Act 1998;

(e) appointed an authorised person or an authorised officer under the Child Care Act 1991,

continues to hold that appointment, designation or authorisation until it is revoked or amended by the Agency.”.

Amendment agreed to.

Section 91 deleted.

Sections 92 and 93 agreed to.

NEW SECTIONS

Deputy Frances Fitzgerald: I move amendment No. 69:

In page 55, after line 20, to insert the following new section:

94.—The Taxes Consolidation Act 1997 is amended by the insertion of the following after section 896B (inserted by the Finance Act 2010):

“896C. — (1) In this section —

‘Acts’ has the meaning assigned to it by section 1078(1);

‘Agency’ means the Child and Family Agency.

(2) The Agency shall, at such intervals as are specified by the Revenue Commissioners, supply to the Revenue Commissioners such information held by the Agency for the purposes of Part VIIA of the Child Care Act 1991 as may be required for the performance of the functions of the Revenue Commissioners under the Acts.”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 70:

In page 55, after line 20, to insert the following new section:

95.—The enactments specified in *Schedule 2* are amended as indicated in that Sched-

ule.”.

Amendment agreed to.

Vice Chairman: Amendment No. 71, in the name of Deputy Ó Caoláin, has been ruled out of order because it involves a potential charge on the Revenue.

Deputy Caoimhghín Ó Caoláin: It has, but I want to make a point in this regard because I hope to be able to reconstruct it on Report Stage.

I made a big shot at this. After tabling amendment No. 71, I came in with a less convoluted proposition in amendment No. 72 but the Minister hammered it as well because of potential charges.

Deputy Frances Fitzgerald: It is not me.

Deputy Caoimhghín Ó Caoláin: Then we will have to find out who is doing this. In any event, the bottom line, in simple and straightforward terms, is that we need to get something appropriate within this legislation and if the Minister is going to knock me back on the basis of a potential charge, then no Opposition Deputy can progress the proposition.

The Minister gave a commitment to me in a previous debate that she would see to it that we would enshrine in future legislation the right of children in care to after-care. We went through all of this in a previous debate on the legislation on the floor of the House and I had hoped and anticipated that the previous debate would have been reflected in this legislation. Clearly, the proposal is only on the basis of need, it is not that it will necessarily have a universal take-up. Some young people will not want it or require it. However, in the preparation for attaining their 18th year, starting earlier than 17 years of age, if they are in care at that age, there should be an engagement with them to plan their future into young adulthood. Just as parents do in real terms with their own children in home settings, it should be a part of the natural outworking of the process where the State is the guardian of the child placed in a care setting. We must emulate the best practice of natural parents or guardians in helping young people to prepare for young adulthood and later life but we are not compelled to do it currently. This needs to be enshrined in legislation and this is why I am making an earnest re-appeal to the Minister. This was the core purpose of amendments Nos. 71 and 72 but I brought it down to a smaller case in amendment No. 72. I appeal to the Minister to take this up because otherwise it will be yet another lost opportunity.

Deputy Frances Fitzgerald: The amendment has been ruled out of order but I gave a commitment that I was going to deal with the issue of after-care and put it on a statutory basis that a young person in care could have an assessment of his or her need done. I intend to do that and I am working very hard on the amendment. I am disappointed that I do not have it to present today. A good deal of work is going on with the Attorney General and my departmental staff have done a great deal of work on this as well. I hope that if the work can be completed and if I am in a position to bring it into the Bill before the conclusion of the legislation, then I will do so. If not, it will come in shortly into other legislation I am bringing in. I have given a commitment to do it. The work is being done and it is a question of finalising that work. There was a great deal more to it than I had expected.

Deputy Caoimhghín Ó Caoláin: I welcome what the Minister has said.

Deputy Frances Fitzgerald: I am doing it and I will do it.

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Deputy Caoimhghín Ó Caoláin: The Minister was doing famously up to the point where she said that if she does not make it then it will be in later legislation. The Minister should close it off, make a full stop and draw a line in the sand. This is the opportunity.

Deputy Frances Fitzgerald: I would certainly like to take it if I possibly can.

Vice Chairman: It may be possible to introduce this on Report Stage.

Deputy Frances Fitzgerald: If I possibly can, I will.

Deputy Caoimhghín Ó Caoláin: I welcome that and I hope that the positive note at this point will signal a more harmonious Report Stage.

Amendment Nos. 71 and 72 not moved.

Schedule 1 agreed to.

SCHEDULE 2

Deputy Frances Fitzgerald: I move amendment No. 73:

In page 61, lines 44 to 58, to delete items 16 and 17.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 74:

In page 73, lines 44 to 56 and in page 74, lines 1 to 12 to delete items 3 and 4 and substitute the following:

“

3.	Section 9	<p>(a) in subsection (1), substitute the following for paragraph (b):“(b) the risk may be the result of any act, failure to act or negligence on the part of—(i) the Executive,(ii) the Agency,(iii) a service provider to which paragraphs (a) or (b) of the definition of service provider applies,(iv) a service provider to which paragraph (c) of the definition of service provider applies,(v) the registered provider of a designated centre to which paragraphs (a)(ii), (iii) or (c) of the definition of designated centre applies,(vi) the registered provider of a designated centre to which paragraphs (a)(i) or (b) of the definition of designated centre applies,(vii) the person in charge of a designated centre referred to in subparagraph (v), if other than its registered provider,(viii) the person in charge of a designated centre referred to in subparagraph (vi) if other than its registered provider.”,(b) Substitute the following for subsection (2):“(2) The Minister may, if he or she believes on reasonable grounds that—(a) there is a serious risk of the kind mentioned in paragraph (a) of subsection (1), and(b) the risk may be the result of any act, failure or negligence of the kind mentioned in paragraph (b)(i), (iii), (v) or (vii) of subsection (1),require the Authority to undertake an investigation in accordance with this section. (2A) The Minister for Children and Youth Affairs may, if he or she believes on reasonable grounds that—(a) there is a serious risk of the kind mentioned in paragraph (a)(i) of subsection (1), and(b) the risk may be the result of any act, failure or negligence mentioned in paragraph (b)(ii), (iv), (vi) or (viii) of subsection (1),require the Authority to undertake an investigation in accordance with this section.”.</p>
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4.	Section 10	In subsection (2), substitute “it shall submit the proposed standards to the Minister for approval and, where the standards relate to services provided under the Child and Family Agency Act 2013, the Minister shall not approve the proposed standards without the consent of the Minister for Children and Youth Affairs” for “it shall submit the proposed standards to the Minister for approval”.
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Amendment agreed to.

Schedule 2, as amended, agreed to.

SCHEDULE 3

Vice Chairman: Amendments Nos. 75 and 76 are related and may be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 75:

In page 76, line 6, column 3, after “Section 10” to insert “and Part VII”

This amendment provides for the repeal of Part VII of the Child Care Act which allowed for the supervision of preschool services. Its provisions have been incorporated into the new Part 7 and so the original part may be repealed.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 76:

In page 76, after line 11 to insert the following:

“

No. 26 of 2007	The Child Care (Amendment) Act 2007	Sections 5 to 13
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”.

Vice Chairman: The Minister proposes to move a verbal amendment to amendment No. 76 to correct a drafting error.

Deputy Frances Fitzgerald: I move amendment No. 1 to amendment No. 76:

In the reference to “The Child Care (Amendment) Act 2007”, to delete “The” at the beginning of the Title of the Act.

Amendment to amendment agreed to.

Amendment No. 76, as amended, agreed to.

Schedule 3, as amended, agreed to.

MESSAGE TO DÁIL

Deputy Frances Fitzgerald: I move amendment No. 77:

In page 9, lines 10 and 11, to delete “AND THE TRANSFER OF THE FUNCTIONS OF THOSE BODIES” and substitute the following:

“; TO PROVIDE FOR THE TRANSFER OF THE FUNCTIONS OF THE NATIONAL EDUCATIONAL WELFARE BOARD”.

Vice Chairman: Is the amendment agreed?

Deputy Caoimhghín Ó Caoláin: No, it is not agreed. Again, this is in the context of amendments Nos. 62 to 64, inclusive. This is the Title. The amendment refers to providing for the transfer of the functions of the National Educational Welfare Board but that has not been our understanding heretofore. The Minister will provide Deputy Troy and myself with a full briefing note in respect of the Family Support Agency and the deletion of that from the section with the proposed transfer of functions. That is what we have agreed.

Deputy Frances Fitzgerald: We have already voted on this.

Vice Chairman: Is the amendment agreed?

Deputy Caoimhghín Ó Caoláin: It is not agreed.

Amendment put and agreed to.

Deputy Frances Fitzgerald: I move amendment No. 78:

In page 9, line 15, after “AGENCY” to insert the following:

“; TO AMEND THE CHILD CARE ACT 1991 TO PROVIDE FOR REGISTRATION OF EARLY YEARS SERVICES”.

Amendment agreed to.

Question proposed: “That the Title, as amended, be the Title to the Bill.”

Deputy Caoimhghín Ó Caoláin: We agree only very reluctantly because of the remaining question mark over the dilution of the role and function of the Family Support Agency.

Question put and agreed to.

Bill reported with amendments.

Message to Dáil

Vice Chairman: In accordance with Standing Order 87, the following message will be sent to the Dáil:

The Select Sub-Committee on Children and Youth Affairs has completed its consideration of the Child and Family Agency Bill 2013 and has made amendments thereto.

The select sub-committee adjourned at 7.50 p.m. until 5.15 p.m. on Tuesday, 21 January 2014.

