

# Children First Heads of Bill



*Submission to the Oireachtas Joint Committee on Health  
and Children*



## Youth Work Ireland

*Our Youth, Our Nation, Our Future.*

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“Any improvements to systems of child protection must operate in the context of the lives that young people lead. Thus, supporting strong community, sporting and other settings for all young people is a valuable contribution to fostering a safe and secure environment for the most vulnerable, an environment where they can access trusted adults and peers to discuss any issues that may be related to abuse or neglect”

(Ryan Report Implementation Plan 2009)

## **Introduction**

Youth Work Ireland is the leading organisation in the provision of services to young people in Ireland. Founded in 1962 we are a national federation of 22 local youth services that share a common ethos and approach. Youth Work Ireland works with over 80,000 young people, nearly 1,000 staff and over 7,000 volunteers annually through 450 clubs and projects in all parts of the country with spin off benefits for local communities and economies. Youth Work Ireland’s aim is to change society for the benefit of young people and the wider community. Our work is underpinned by the Children Act 2001 and the Youth Work Act 2001 and contributes every day to achieving key government policy objectives including the National Children’s Strategy, the Agenda for Children’s Services, the Youth Justice Strategy and & Youth Work Development Plan 2003-2007 as well as the European Union Strategy for Youth.

In carrying out our work Youth Work Ireland invests €32 million into local communities. Furthermore we estimate that our work results in €1billion in cost savings to the state by preventing many young people from needing to move on to higher level, more costly state services such as probation, justice, specialist health services etc. To this figure could be added the additional costs saved as a result of reduced welfare dependency and lower unemployment rates among these young people, if such preventative work had not been undertaken. Youth Work Ireland also provides an effective gateway and referral service for young people to more specialist services thus reducing the costs of such services and increasing their accessibility.

Youth Work Ireland projects also leverage considerable voluntary effort with over 7,000 volunteers currently involved in the provision of Youth Work Ireland’s services. Our members invest substantially in the training and development of these volunteers thus increasing their chances of employment and enhancing the contribution they can make to their communities, to the economy and to society throughout their working life and beyond. We estimate that volunteers contribute €6 million in unpaid contributions to youth services in their local area.

## **Child Protection and Youth Work**

Youth Work Ireland and formerly the National Youth Federation has played a leading role in the development of Child Protection procedures and policies in Ireland. The National Youth Federation fed in to significant work in this field in the late 1990s and this substantially informed the Department of Education’s Code of Good Practice for the Youth Work Sector in 2003 when responsibility for Youth Affairs lay with this Department.

The importance of the highest standards of Child Protection for youth work organisations scarcely needs to be restated given the numbers of young people engaging with them around Ireland. It is hugely important to note the critical role played by youth clubs and youth organisations as the first port of call in critical child protection incidents as reflected in many published enquiries in the area and indeed in many non published incidents. The youth work environment lends itself to trusted relationships between adults and young people and disclosure of a range of issues can occur in such a setting.

The Ryan Report Implementation Plan in 2009 recognises the key role played by youth services, youth clubs and youth projects in this area;

“Generic services, such as youth services, have much to offer and should be involved at planning and operational level with those services that work with neglected children and those at risk. It is a failing of the current child care system that cooperation among agencies and staff is dependent on local leaders rather than on standard practice”

“Research indicates that engagement with youth service providers can be one of the few constants in the lives of many young people in care. This, combined with the ability to maintain engagement with young people well beyond the age of 18 (either as service users or as leaders), means that youth services play an important part in supporting children and young people at risk”

(Ryan Report Implementation Report P. 12 & 19)

However there is no reference to this role in the Heads of Bill at all. In fact the legislative basis for youth work is misstated in the heads.

### **National Policy**

National policy on Child Protection is a crucial area of Government policy. It is crucial that Government lead in this area and a number of initiatives taken of late are to be applauded. However at all times the resources and situation on the ground must reflect the political commitment to make progress. The term “Mandatory Reporting has been used quite loosely and liberally with regard to these guidelines and other initiatives. We do not believe that this is a system of mandatory reporting and are not convinced that what is often understood to be mandatory reporting represents progress for children and young people as evidenced in the UK Munro Report.

The Children’s First Guidelines are familiar to youth organisations that have for some time been following and setting best practice in the area of child protection. Youth organisations have long sought the placing of Children’s First Guidelines on a statutory footing and welcome this move in that context. This should be seen as much as a widening the application of Children First as improving standards for those already observing best practice.

There is no silver bullet in the area of legislation or guidelines which will solve issues relating to child protection overnight (Irish Times) Once more attempts to introduce “Mandatory Reporting” in

Australia have been controversial and have not necessarily advanced the protection of children and young people

There have been a number of reports particularly in the period of the last Government on particular policy issues relating to child protection. We agree with comments at preliminary meetings of the committee that a number of these issues and proposed pieces of legislation need to be seen as a suite of interventions and thus must be integrated and connected. The forthcoming Vetting Bureau Bill and the current Withholding of Information Bill are critical in this regard.

However there are other areas not in place. In the last Oireachtas there were two Joint Committee Reports one on child protection following the CC case and one (covering similar issues) on a potential referendum on children. The issue of strict liability in relation to the law on statutory rape is a controversial area and did not lead to unity amongst Oireachtas members; however several current ministers were members of these committees. The issue of strict liability is unavoidable in this debate. This area can even be divisive amongst those working with children and young people. There is however promised legislation which given the significant public concern on this issue should be brought forward speedily. Lack of clarity on this issue inserts uncertainty about this legislation and in to basic information provision in the area of sexual health and related matters.

To be clear regardless of the past the state is now the key player in the field of child protection. It has the resources and the ability to make laws and effect change. It controls the key personnel, rules and regulations. This does not in any way absolve individuals, institutions or NGOs from responsibility or accountability but makes it clear that leadership is expected across the board from the highest level.

### **Specific Observations and Questions**

The Bill places responsibility on organisations and individuals which will have significant resource implications for these organisations. In particular 2.23, 3.3, 4.10, 4.11, 4.12.

It is unreasonable to assign responsibilities to organisations or individuals without providing the necessary resources to allow the organisation to meet these responsibilities. The assumption is that the 'most senior person' will be funded to deliver on the obligations and responsibilities contained in the bill however funding is not being provided by the state to organisations to employ a person to meet these requirements.

2.2 is completely at odds with 2.7 It is clearly questionable to place such onerous obligations on organisations when 'parents – extended family members' etc. are the worst offenders statistically.

2.29 states that "it is intended that employees & volunteers who hold a supervisory post in relation to staff who work directly with children, will be required to report any concern or allegation of child abuse that comes to their attention in the course of their employment to the Designated Officer". We would query whether this should this not be the case for all staff and volunteers

2.13 'access to children' is unclear and much of the document assumes work with young children rather than teenagers. It will certainly need to be more clearly defined, for example

our receptionist can walk around the building but does not have access to children in the strict sense as she does not work with the young people in our care. In this situation is she required to be vetted and trained? Indeed will the practice of appointing people to posts subject to Garda vetting and allowing them to work under supervision no longer be permitted?

2.15 – The ‘requirement’ for Designated Officer to attend meetings at the HSE will place an unnecessary burden on the organisation in terms of time and money. It has been our experience that the HSE hold many lengthy meetings which are time consuming, generally unproductive and make little or no difference to the care and protection of children.

4.2 – The document makes mention of the HSE providing advice and support but will this be available on a 24/7 basis which will be necessary to organisation operating outside of office hours. Will they also provide training for Designated Officers, DLP, Staff and volunteers? In the absence of this Service will they provide funding to organisations to deliver on the responsibilities being assigned under the bill?

4.10 to 4.25 This section of the document completely undermines the autonomy of the organisation. Again with limited information it is wide open to interpretation and could see the HSE dictating on all activities of an organisation from what young people are given to eat to the physical activities they engage in. 4.25 specifically provides the HSE a right to impune the professionalism of an individual or organisation in a draconian manner.

As a Service which works with teenagers on the basis that they are ‘citizens in their own right’ we have limited and in many cases no contact with parents, for example the many drop-in style safe space cafes operated by the Service. We feel that this Bill may fundamentally change the way in which we relate to young people, placing a requirement on the Service to engage with parents and significantly reducing the time we engage with young people.

Given the reference to the HSE in the Heads will this be replaced in all instances with reference to the CFSA? Will the new offences made reference to in the document come under the Withholding of Information or Reckless Endangerment or is it a new discreet offence? Will a conviction prohibit a person from continuing in their role as a designated officer or indeed in their employment?

The Notices are sometimes talked about as being served on organisations and at other times on the designated officer 'designated officer can appeal to district court' etc. Are the notices to be served on named individuals or organisations? All Departments are expected to comply with the Bill but the Churches do not come under any Department and don't rely on them for funding. The Bill seems to lack clarity on dealing with the main Churches.

There is a real concern that many of the terms are not clearly defined, are open to interpretation or may indeed be interpreted differently in the future – for example are we to report ‘significant neglect’ ‘abuse concerns’ or simply ‘concerns’ as mentioned throughout the document. The idea, at 4.3 pg. 9, that the HSE is available to provide advice however if we follow that advice and are found to be negligent then the organisation is liable and no blame attached to the HSE is completely

unacceptable. It is surely shameful that such a complete abdication of responsibility on behalf of the HSE would appear in print let alone in legislation.

There is an underlying assumption that the organisation's staff or volunteers will have a level of contact with a young person that will enable them to differentiate between normal adolescent behaviour and the signs of abuse or significant welfare issues. 2.28 fails to recognise the reality of organisations working with large numbers of young people.

It has been widely reported that a 'filtering' system will be put in place to ensure that the HSE is not overwhelmed by the reports. There are a number of key concerns arising from such a situation:

One can only assume that 'Welfare' reports will be side-lined in favour of 'Abuse' reports. This will result in a significant amount of unsubstantiated information being held on file within HSE without the 'accused' being offered the right of reply as one would assume under the principles of natural justice.

Of greater concern is the fact that the young person remains at risk. It has been our experience that families withdraw their children from the Service following a report – interpreting the report as a negative judgement and/or a betrayal of trust. The result on a very practical level is that the report exists – is unlikely to be acted on – and the child or young person becomes further marginalised as the Service is no longer allowed to offer the support/opportunities previously given.

In addition mandatory reporting will place a huge burden on organisations that will have neither protection in law nor the choice of a 'filtering system'. How do legislators propose that organisations resource this?

## **Conclusion**

We should not be obsessed solely with the horrific issue of child sexual abuse which often dominates the media debate in this area. Issues like neglect can have as much if not a greater impact on the broad population of young people and children. Fair more mundane concerns for NGOs can have a greater child protection impact for example proper insurance, volunteer training, staff and volunteer ratios. We need to see the child protection impact of everything we do through proper risk assessment which arises from good professional standards and practice. Unfortunately these are under huge pressure because of the funding situation of the youth work sector.

Much of the history of failure in the area of child protection was by the church and the state. It is of course important to get things right now in our systems and legislation. We see NGOs doing significant frontline work with children and young people as key partners in this area. We very much welcome the Children's First Bill but as an organisation working with 70,000 young people around the country we believe proper and detailed analysis is required before legislation is finalised and enacted.