

**Disclosure of Information in Cases of Abuse
Establishment of a National Protocol for the Exchange of Information in the
Investigation and Prosecution of Cases of Abuse**

June 2010

Introduction

Barnardos welcomes the opportunity to make a submission to the Health Service Executive towards the establishment of a National Protocol for the Exchange of Information in relation to the Investigation and Prosecution of Cases of Abuse. Barnardos agrees that such a protocol is necessary to operate between the HSE, the Office of the Director of Public Prosecutions (DPP) and An Garda Síochána to facilitate the exchange of information in the investigation and prosecution of cases involving abuse. Consideration should also be given to how information other agencies, including non-statutory agencies, can be included with this or similar protocols.

Current situation

The purpose of the protocol will be to provide an agreed practice between the parties for the sharing and exchange of information in the investigation of cases of alleged abuse and for the purposes of criminal prosecutions. This would include cases of child abuse, elder abuse, abuse against the mentally ill, sexual abuse, and other abuses. Barnardos recommends that the development of the protocol must compliment existing frameworks and protocols which are relevant to information sharing. These include:

- Memorandum of Understanding
- National Vetting Bureau Bill
- Barr Judgement
- Children First – national child protection guidelines

Memorandum of Understanding

This was signed between the Irish and the UK governments on Information Sharing Arrangements Relating to Sex Offenders in 2006. The agreement formalizes the exchange of information which has always taken place and sets out procedures under which this now takes place. The information shared relates to persons who are subject to the notification requirements of the Irish Sex Offenders Act 2001 and the UK Sexual Offences Act 2003 and will be shared for the purposes of assisting in the protection of the public from the risks posed by sex offenders and the investigation of serious sexual offences.

Barr Judgement – allegations involving employees

Sharing of information relating to the investigation of suspected cases is essential between agencies but is also relevant when allegations involve internal employees. The Barr Judgement gives guidance on this and places heavy emphasis on procedural issues – primarily around when and how to inform a particular individual that a complaint of abuse has been made against them and that an investigation is underway. There has been confusion and variation among professionals in interpreting this Judgement for fear of interfering with the criminal investigations that are the preserve of the Garda. It appears that there is a need for clear guidance /

training on what are their obligations when it comes to suspected cases of abuse perpetrated by a colleague.

National Vetting Bureau Bill

The Office of the Minister for Children and the Department of Justice and Law Reform are currently finalising the drafting of the National Vetting Bureau Bill with the Heads of the Bill to be tabled in the Oireachtas over the coming months. The purpose of the Bill is to make the vetting of individuals working with children compulsory. The long awaited Bill is expected to put the Garda Vetting Unit on a statutory basis, thereby ensuring that all individuals, paid or unpaid, involved in working with children would be vetted. This comprehensive vetting system would extend to include the collection and sharing of non-conviction data ('soft' information) meaning that checks would be made not only against any convictions held by the individual but also any information pertaining to relevant cautions, warnings and serious allegations against them. This statutory body would be led by An Garda Síochána with the HSE and other relevant bodies working alongside it. Barnardos supports the development of such a Bill.

Children First

The Ombudsman for Children's recent report on the implementation of the *Children First* guidelines reveals wide discrepancies in adherence and implementation by practitioners and professionals working with children. It highlights that even at the most basic level these failings largely stem from a lack of drive to consistently implement *Children First* at a national level. Some of the problems identified include variable practice, a lack of internal and external scrutiny and a failure of inter agency collaboration.

One of the ongoing failings of the child protection systems is that interagency cooperation is largely dependent on personal relationships and local leaders rather than on standard practice. This can dilute the effectiveness of implementation of a protocol. Barnardos has repeatedly called for Children First to be placed on a statutory basis and welcomed the commitment to do so in the Ryan Implementation Plan 2009. However, legislation to progress this is still outstanding.

Impact of not sharing information

The systemic failures of agencies to work collaboratively on child protection issues has led to a number of high profile neglect and abuse cases including Monageer and McElwee among others. There is a responsibility on the HSE, An Garda Síochána and DPP when devising the new protocol to be mindful of the current interagency frameworks already in existence. The new protocol must build on existing frameworks to establish a transparent process with clear, unambiguous guidelines for the sharing of information. A review must also be built into the process to ensure that the system is working appropriately and to support transparency. We must ensure that any new system of information sharing works - the cost of failing puts children at risk.

Following some high profile cases such as Victoria Climbié, the Soham murders and Baby P, the UK reformed its child protection system. Thorough investigations were undertaken into the above cases and reform followed. The result is the recently updating the Working Together to Safeguard Children document. These guidelines are very comprehensive and are largely complied with consistently across the UK as there is a strong emphasis on local committees that encourage adherence.

Essential Components to an Effective Protocol

Barnardos believes that the new protocol should compliment the existing policy and legislative tools that already provide guidance on interagency working. It must also ensure that learning from the current failings of adhering to *Children First* and other national guidelines are addressed and as a result the national protocol should contain the following characteristics:

- unambiguous – not open to interpretation
- clear criteria to assist in dealing with information that is not non-conviction data.
- clear lines of responsibility
- transparency
- accountability
- be designed to be in the best interest of the child (where the victim is a child or a vulnerable adult).

These collective characteristics will help drive change and raise standards.

Conclusion and recommendations

Barnardos believes that information sharing between agencies is essential to the prevention and investigation of child abuse cases. Accordingly, the creation of the new protocol must be accompanied by the following recommendations:

- Expedite the legislation to place *Children First* on a statutory basis, thereby ensuring a collective responsibility to report concerns that a child could be experiencing neglect or abuse. This should lead to subsequent consistent appropriate assessment and investigation into such concerns;
- Introduce and progress the National Vetting Bureau Bill without further delay ensuring that the Bill provides adequately for the sharing of all significant information between relevant agencies;
- The National Protocol for the Exchange of Information in the Investigation and Prosecution of Cases of Abuse should be unambiguous, transparent, with clear lines of responsibility and accountability for all those involved in child protection.
- To aid ongoing implementation and adherence to the new protocol, ongoing interagency training is essential to ensure staff know their roles and responsibilities when investigating cases of abuse.