

Submission on Ireland's 4th Periodic Report under the International Covenant on Civil and Political Rights

May 2012

Introduction

Barnardos welcomes the opportunity to feed into Ireland's fourth Periodic Report under the International Covenant on Civil and Political Rights. This submission will only comment on those articles that have direct and specific relevance to the lives of children. This submission therefore focuses mainly on Article 10 (Rights of Prisoners), Article 23 (The Rights of the Family) and 24 (The Rights of Child).

Article 10 – Rights of Prisoners

Children and Juvenile Justice

Barnardos has welcomed the commitment made in March 2012 by the Department of Children and Youth Affairs to end the practice of sending young people under the age of 18 to St. Patrick's Institution from May 2012 and for the refurbishment of Oberstown to occur within two years. The Government's announcement that a specialist multi disciplinary service will be established to provide specialist therapeutic services for children in detention schools and special care units is also welcome. Improved facilities and better therapeutic supports are fundamental to ensuring that these young people can begin to address the underlying causes for their behaviour that leads to their imprisonment.

Presently, under the Ombudsman for Children Act 2002, no child is allowed to lodge a complaint regarding their experience in prison. In fact, the office is precluded from investigating cases involving children who are detained in prisons and Garda stations and from investigating any action on decisions relating to status in the refugee appeals process. The Ombudsman submitted a formal report in March 2012 seeking changes to the legislation to extend the remit of the office and in the interests of safety of the children, transparency and accountability Barnardos recommends that this should be granted.

Article 23 – The Rights of the Family

Effects of the Recession on Families

Since the onset and deepening of the recession a range of measures have been introduced resulting in reduced income into families, affecting particularly those families with children, including reductions in social welfare payments, increases in VAT, increases in taxation, reduction in service provision and reduction in capital expenditure. The cumulative affect of these have meant a reduction in the standard of living for families with the lowest incomes.

These families are under considerable financial strain and are trapped into cycles of debt. Their children are experiencing not only the consequences of economic deprivation but also being deprived of quality family life and social opportunities. Families are becoming more isolated as children are withdrawn from activities because their parents can no longer afford the entry fees.

Many children are living in poorer housing conditions as bills go unpaid and any unexpected bills send families further into debt or arrears or without key items such as a washing machine. Barnardos knows of families who have to make choices between paying the electricity bill or reducing the food bill. As a result children are growing up in damp and cold houses and are presenting hungry to Barnardos' services and asking to take food home.

Local Authorities have had their maintenance budgets reduced and are often unable to provide the necessary upkeep and repairs to their housing stock. Lack of budgets also means that some 4,286 local authority dwellings were vacant and awaiting repair in 2010. Some of the most deprived social housing estates in urban areas are still waiting for long-promised regeneration. Such projects were designed to improve the housing conditions and local community amenities such as playgrounds, education, childcare and social facilities and green space. The development of these areas is long overdue and necessary for the health, safety and wellbeing of families living there.

Most recently, in April 2012, Barnardos along with OPEN and National Women's Council of Ireland expressed its concerns that proposals in the Social Welfare Bill 2012 will actually increase welfare dependency and poverty among one parent families. Under the Bill, lone parents will be removed from the One Parent Family Payment when their youngest child reaches the age of 7. They will then move to Job Seekers Allowance, the eligibility for which requires recipients to be available for full time work. This poses an unacceptable barrier to lone parents moving from welfare to work as it does not consider the challenges facing lone parents in accessing quality affordable after school care for their children. Barnardos believes that the Bill, which was enacted in May 2012 without the adequate guarantees of childcare, will compound existing poverty traps that currently prevent many lone parents from accessing training and employment. While reform of the social welfare system is necessary, Barnardos believes current reform proposals will do little to support those receiving payments to move out of poverty.

Article 24 – The Rights of the Child

Barnardos fully supports prevention and early intervention services that provide care along a continuum of interventions based on children's level of need ranging from universal to crisis services. While movements have been made to re-organising the current delivery of child welfare and protection services in Ireland, particularly through the establishment of the Department of Children and Youth Affairs and the Child and Family Support Agency, it is crucial that the Agency and services are adequately resourced to complete this task.

Policy development to reform the system has been heavily influenced by a series of reports highlighting incidences of institutional, clerical and familial abuse, particularly the Ryan Report, Murphy Report and Roscommon Report. This led to the Ryan Implementation Plan with 99 recommendations and assigned timelines. While this blueprint for reform was widely welcomed, key areas must be progressed as a matter of urgency including the establishment of statutory entitlement to aftercare services for all those leaving the care system and the development of a comprehensive out of hours social work service.

Legislative and Constitutional developments are in the pipeline which, if progressed, will advance improvements in creating a more transparent, accountable and comprehensive child welfare and protection system. These developments include the Children First Bill 2012, the National Vetting

Bureau Bill 2012, the Criminal Justice (Withholding Information on Crimes Against Children and Vulnerable Adults) Bill 2012 and inserting explicit children's rights into the Constitution in Autumn 2012.

Children Who Are Deprived of Normal Family Environments

1. Youth Homelessness

The Youth Homelessness Strategy (2001) is still being rolled out, although a number of hostels have recently closed placing more pressure on adult services. Also the practice of hostels closing during the day leaves young homeless people vulnerable to exploitation and at risk of becoming involved in criminal and alcohol / drug addiction. The link between the provision of aftercare and the issue of homelessness for young people leaving care is well known. However, the continued absence of a legal entitlement to aftercare means many young people are struggling alone in their move towards independent living. The Government is currently in the process of developing the next youth homelessness strategy and Barnardos was happy to feed into the consultation process for this. The key issues of care provided by the HSE under Section 5 of the Child Care Act 1995 and the statutory right to aftercare services must be considered as part of this process to ensure that all children at risk of or experiencing homelessness have access to the full range of services they need.

2. Children in Special Care

Children in special care are a small yet very vulnerable group of children with limited supports available to them such as educational or psychological supports. While Barnardos welcomes the establishment of Assessment, Consultation and Therapy Service (ACTS) in 2011 to provide on-site specialist therapeutic care to children in special care, high support and detention, we would welcome a review of how services are operating and the outcomes for children receiving services.

A significant issue for children in special care is the lack of transitional supports when children are leaving a unit. This transition is not phased over time, nor is any work being done by the special care staff with the child's family meaning that the child returns to the same environmental and familial issues that triggered his / her behaviour.

3. Aftercare

Aftercare must be placed on a statutory footing. This could be done through the forthcoming Child and Family Support Agency Bill which is required to establish the agency and outline its role and functions. It should incorporate key principles of the UN Convention on the Rights of the Child, namely that decisions would be made in the best interests of the young person and that their voice would be heard in all decisions affecting their lives.

The intention of the legislation must be to ensure that young people do not leave care until they are ready to do so and are capable of living independently. Therefore the option for young people to be financially supported to remain with their foster family until age 21 should be included for those seeking to do so. Not only is this a cheaper option for the Health Service Executive / new Child and Family Support Agency but also ensures strong emotional and practical support is provided to the young person.

Any proposed legislation must expand on the existing HSE Leaving and Aftercare Services National Policy and Procedures Document which recognises the importance of preparing for leaving care, beginning at age 16, and outlines the range of supports and services to be offered to meet the practical, emotional and physical needs of the young person. Clear procedures and standardised forms such as conducting a needs assessment, creating and reviewing a pathway plan and assigning overall responsibility to key professionals must be included. The extent of

support offered will vary for each young person depending on their identified needs. These procedures should become Regulations as per the Northern Ireland's system enforcing and assigning clear roles and duties to ensure implementation.

Eligibility for receiving support should be open to all those care leavers who require it. The present categories outlined in the HSE policy are too narrow and excludes a number of vulnerable young people. The categories used in Northern Ireland and Scotland are a useful starting point. It is imperative that a young person who had previously not engaged with the services can self refer themselves at a later point in time if needed.

4. Direct Provision

Direct provision, comprising of institutional communal centres, is not well designed for, nor supportive of, children or parenting. Questions have also been raised about the adequacy of direct provision to meet the medical, nutritional, developmental and educational needs of children. In addition, the level of poverty experienced by most families living in this system along with the long-term consequences for families and parenting where parents are unable to engage in study and work is worrying. Families are struggling to survive as they have to rely solely on a weekly payment of €9.60 and their parent(s)' weekly payment of €19.10. Most of these families are also denied Child Benefit payments, which exacerbates the child's experience of poverty and deprivation. The current practice under which families have to share accommodation with other asylum-seeking parents in direct provision centres should be discontinued as it raises serious child protection concerns and issues such as lack of privacy within and outside the family.

Welfare Cuts

Barnardos is very concerned that for children whose families are reliant on social welfare, their household incomes consistently remain below the level required to attain a minimum essential standard of living. Recent cutbacks to social welfare rates are exacerbating the situation for these families living in poverty.

It is unsurprising that the recent welfare cuts, reduced wages and increased taxes have led to an increase in consistent child poverty rates. In 2010, (the latest year for poverty figures), just over 8% (up from the 6.3% in 2008) or well over 90,000 children (aged 0-17) continue to live in consistent poverty.

While the social welfare system provides a necessary lifeline to many families, it is also littered with poverty traps that can prevent adults from progressing into training or employment. The system, including the National Employment and Entitlements Service, must be made more flexible to empower people to take up or remain in training / low paid employment without pushing their family further into poverty. Key issues such as access to affordable, quality childcare and medical care also need to be addressed to ensure adequate in-work supports for parents in low paid or part time employment.

Separated Children Seeking Asylum

Barnardos has previously argued that historically, there has been a lack of a child centred approach in dealing with separated children in Ireland, with too much emphasis placed on immigration status rather than the best interests of the child. This had impacted negatively on the quality of care given to separated children in the State. Separated children should be treated as children first and as asylum seekers second.

Barnardos acknowledges some marked improvements in the care of separated children since 2009, primarily in the closure of designated hostels and their placement into foster care and supported lodgings. However, more action is still required for this vulnerable group of children. This includes ensuring that appropriate supports are available to them and their carers as they move into foster care placements.

The removal of separated children to direct provision centres once they turn 18 without any aftercare provision and general supports is of significant concern. This practice is not based on an assessment of the needs of the young person and is often contrary to their best interests. In some instances, these transfers to direct provision centres are often in areas where these young people have no network of support and it exacerbates their vulnerability.

The specific needs of aged out minors must be recognised in two distinct cohorts – those who are seeking asylum and those granted status. Both groups of children remain vulnerable as they move into young adulthood and are exceptionally vulnerable to exploitation and therefore require aftercare services.

Barnardos also continues to be concerned about the approximately 440 separated children who went missing from the care of the HSE between 2000 and 2010 and are still unaccounted for, despite the existence of a Garda-HSE Joint Protocol on Missing Children. While, the number of separated children going missing since 2010 have drastically fallen due to the closure of hostels and the placement of these children in foster care and in residential care, the whereabouts of the missing children is still of great concern.

There were some welcome provisions in the Immigration, Residence and Protection Bill 2010 on the protection of suspected victims of trafficking, such as the proposed possibility to extend the recovery and reflection period to exceed 60 days for foreign nationals under the age of 18 years. In response to this Bill, Barnardos, recommended that specific provisions relating to the protection of suspected trafficked children and the specific entitlements of those who are granted temporary residency must be added to Irish legislation in line with the child's best interests. The 2010 Bill lapsed at the end of the previous government and the current Minister for Justice and Law Reform has stated that a new Bill will be presented shortly with significant amendments.

Education

1. Pre-School Education in Ireland

The Early Childhood Care and Education (ECCE) sector in Ireland covers a wide variety of service types such as preschools, crèches (private and community based), and childminding. Participating in quality ECCE is beneficial for all children especially those who are disadvantaged. Recent welcome developments have included the introduction in 2010 of one year free part time pre-school education for all children the year prior to joining primary school. A testament to its importance is reflected by the 94% take up of the scheme in its first full year.

However, issues of quality, accessibility and affordability remain outstanding concerns within the ECCE sector, especially when provision for children aged 0-3 years also remains woefully under-developed. There is weak workforce development and slow adherence to and implementation of quality standards (SIOLTA) and the curriculum framework (AISTEAR). Also the limited availability of spaces in community based crèches and the cessation of the Traveller Pre-school Service in favour of integration into mainstream services without necessarily providing additional supports to those mainstream services remain ongoing issues.

2. Primary Education in Ireland

Although access to primary education in Ireland is free, many children are failing to reach their educational potential due to the present inadequacies in the system and limited frontline support services. The cutbacks already made to education services have been wide ranging including reducing the overall number of teachers and language support teachers, withdrawing the visiting teachers for Travellers and reducing access to special needs assistants and resource teachers.

Although all children are directly or indirectly affected by these cuts, it is those children who need extra help that are disproportionately affected as these supports are being withdrawn with little or no compensation for their loss. Coupled with these widespread cutbacks is the continued underfunding of the National Education Psychological Service (NEPS). Access to educational supports is largely contingent on an assessment by NEPS but lengthy delays are frequent, again jeopardising a child's ability to keep up with the class. For children, the longer they continue without having their needs assessed the worse the impact on their development.

The costs associated with sending children to school are crippling parents as they have to pay for school books, uniforms, photocopying charges, extra curricular activities and are asked to pay a voluntary contribution. Barnardos annual School Costs Survey 2011 highlighted that the average costs for sending a child to junior infants are €350 rising to €805 for a child entering secondary school.

Although the Department of Education and Skills does provide funding to schools towards meeting book costs, the distribution of the funds rests with the principal, although it is strongly encouraged that a school book rental scheme be established. A national school book rental scheme should be mandatory as it is the most practical and cost effective way to ease the financial burden on parents. Barnardos recognises the ongoing funding difficulties in executing this and is committed to continuing to work with the Department and other stakeholders to examine solutions to this issue.

3. Primary Pupil Database

There is still no comprehensive database of primary school pupils based on PPS numbers, despite its necessity being recommended over the past decade. The absence of such a database means that it is not possible to track the transition of individual children between primary and secondary schools and more importantly those children who drop out of school at this stage. Approximately 1,000 pupils per year do not move into secondary school. Their subsequent destination is largely undocumented and unknown. Anecdotal evidence suggests a large portion of these children are Traveller children.

4. Delivering Equality of Opportunity in Schools (DEIS)

The DEIS strategy was introduced in 2005. Schools within the DEIS programme are eligible for a variety of supports targeted at tackling educational disadvantage. However, some of these supports have also been withdrawn or scaled back and this has included the loss of homework clubs and support teaching staff.

These cutbacks have had a significant impact on keeping some children engaged with the school system and have adversely affected such children's literacy and numeracy skills. One in three children from disadvantaged backgrounds continue to have serious literacy problems.

While the continuation of the DEIS programme is important, it must be recognised the significant fact that 68% of pupils from disadvantaged backgrounds do not attend DEIS schools. Subsequently, the cutbacks being made across the educational system are adversely affecting these children, jeopardising their ability to succeed within the system.

5. The National Education Welfare Board

The National Educational Welfare Board (NEWB) is mandated to tackle absenteeism from school. Its remit has widened recently and now includes the Home School Community Liaison (HSCL), the School Completion Programme (SCP), the Visiting Teachers Service for Travellers (VTST) and the Educational Welfare Service (EWS). With this wider remit, the reality is that the NEWB remains underfunded and as a result the caseloads of the Education Welfare Officers can be significantly large, meaning that they cannot engage with the child until they miss far more than the 20 day threshold. Barnardos suggests that the NEWB should be transferred under the remit of the Child and Family Support Agency and that its services should be aligned within the framework of overall child welfare and protection services.

Presently, under the legislation the NEWB begins with children aged six in line with compulsory age of going to school. Barnardos believes that in light of the majority of children beginning school at age four or five, the NEWB should also engage with these children where absenteeism is already an issue.

6. International Obligations

While some improvements have been made in the advancement of children's economic, social and cultural rights, significant shortfalls remain within legislation, policy and service provision. In addition to this, Ireland has signed but not yet ratified the following international agreements which would further advance children's rights;

Signed but not ratified:

- Optional Protocol to the United Nations Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography;
- United Nations Convention on the Rights of Persons with Disabilities;
- International Convention for the Protection of all Persons from Enforced Disappearance
- The European Convention on the Exercise of Children's Rights

Not signed:

- UN International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families.