

Barnardos welcomes the publication of the Child and Family Agency Bill. This long awaited Bill will pave the way for the biggest restructuring of children's services ever in the State. Barnardos strongly welcomes the Bill and the removal of the child and family services from the HSE into a dedicated agency. The numerous child protection reports in recent years have constantly highlighted inconsistencies and fragmentation of services. The new agency which is incorporating the work of the Family Support Agency and the National Educational Welfare Board aims to create a more child centred system where the services are responding to the child's needs when they arise rather than the child and family having to adapt into the system.

However, Barnardos believes that certain aspects of the Bill must be strengthened to ensure the legal parameters are the best they can be from the outset as it will shape the ongoing work of the Agency. Now is the opportunity to ensure that key lessons from the past are learnt, namely that children are heard in all matters affecting their lives, that decisions are made in their best interests and that services work together to support families by engaging in preventative work as well as responding to child protection crises. Once enshrined in law, the ethos and functions of the Agency will be defined and it is harder to change them at a later date. In this regard, Barnardos would like to raise a number of concerns / issues which should be addressed before the Bill is passed.

### **Section 2 – Interpretations**

There is no definition of a child given. Barnardos believes that it should be explicitly defined as a person under the age of 18 years similar to other pieces of legislation. To include a specific age definition will also lead to better synchronising of all pieces of legislation regarding children and the subsequent provision of services, particularly the legal anomaly that exists surrounding the provision of mental health services for children aged 16 and 17 years.

### **Section 8 – Functions**

Barnardos is disappointed that an explicit reference to engaging in 'prevention and early intervention work' is not stated in the Bill. Section 8(c) states that the Agency *shall support and encourage the effective functioning of families* but does not state what this will involve. From Barnardos experience, effective engagement with families from early on and working proactively with them on their parenting capacity and increasing their awareness of their child's needs does yield improved outcomes for the child. This can prevent any issues becoming entrenched, avoids a child experiencing ongoing abuse or neglect and is more cost effective in the long run. Barnardos' fear is that without a direct reference to prevention and early intervention in the Bill it is likely that the Agency will only concentrate on its stated statutory functions and subsequently engage more in reactive work with vulnerable families rather than preventative work. It is unsatisfactory to agree to the principle of prevention and early intervention, knowing its benefits to the family and society, yet not follow through on it in the Agency's listed functions.

In addition, section 8(10)(c) should be strengthened to recognise that parents are active agents and not passive recipients of services. Additional text should be added to Section 8(1)(c) so it reads:

***“support and encourage the effective functioning of families and the role of parents or guardians therein as integral to the achievement of (b) above”***

Barnardos welcomes that the Bill states in Section 8(8) that the Agency shall promote *‘inter-agency cooperation to ensure that services for children are co-ordinated and provide an integrated response to the needs of children and their families’*. However, it is unclear how the Agency will achieve this. A dominant feature of many child protection reports has been the lack of interagency working with either too many or too few services supporting the vulnerable family and children. This section of the Bill must be strengthened as it is crucial to any prevention and early intervention work as well as crisis intervention. Although services and staff will be subject to adhering to the forthcoming Children’s First legislation, achieving effective interagency working is broader than that as that focuses on identifying and addressing child protection concerns.

A separate section in the Bill detailing a structure for the integration of services and the effective cooperation and exchange of information within the Agency and between it and other bodies is required. Within this section, it must outline how it impacts on the Data Protection Acts and suggest any amendments within that law that may impede professionals from sharing information within the agency and between different bodies in the best interests of protecting the welfare of children.

### **Section 9 – Best interests of the Child / Voice of the Child**

The Bill under Section 9(1) requires that the Agency when undertaking its functions will *have regard to the best interests of the child in all matters*. In light of the passing of the referendum in November 2012, where best interests of the child were to be given paramount consideration the current wording is a dilution of this key principle. Although the Bill states that the best interests will be paramount when undertaking duties related to the Child Care Act 1991 and Adoption Act 2011, it is imperative that the Agency be obliged to act in the best interests of the child across all of its functions.

Similarly, Section 9(4) should be strengthened so that the views of the child are taken into consideration in all aspects of the Agency’s work, not solely when performing its functions in respect of the Child Care Act 1991 or the Adoption Act 2010. Now is the opportunity to ensure that children are never silenced again and that their welfare is not deemed secondary to the interests of an institution or service.

With regard to Section 9(3), Barnardos questions the rationale for only giving consideration to children’s views when planning and reviewing services as they relate to the Agency’s functions in Section 8(1)(a),(b) and (c). Surely, children’s insights and opinions are equally valid when reviewing other services that fall under Section (8)(1)(d)(e) and (f). Therefore, the Bill must be amended to mandate that children’s views be sought when reviewing all the Agency’s functions under Section 8(1).

### **Section 56 – Provision of Services**

The provision of child and family services by a service provider is permitted having regard to the Agency’s annual business plan and corporate plan. The Agency must consider its annual financial allocation before entering into an agreement with a service provider. Barnardos believes that to assist in tackling issues of fragmented service delivery and to facilitate greater continuity of service the Bill must allow for multi-annual funding to be introduced.

As Barnardos is a service provider, it is unclear how Section 56 relates or differs with Section 59 which covers the relationship between the Agency and voluntary bodies. Greater clarity around this is required to ensure no duplication of roles occurs.

### **Section 61 - Complaints**

The complaints procedures are really clear and well defined. It states that *any person who is being or was provided with a service by the Agency or by a service provider or who is seeking or has sought provision of such service may complain*. As children will be in receipt of these services is it correct to presume that children can lodge complaints in their own right? If so this should be explicitly stated.

### **Other provisions to be included in the Bill**

Barnardos believes that it should clearly state that the functions of the Agency are subject to regular inspection and monitoring by HIQA to maintaining adherence to high standards.

Barnardos is disappointed that an express entitlement to aftercare services is not enshrined in the Bill. The Minister for Children has previously stated that the Bill / or subsequent regulations would provide a greater legal framework for the provision of aftercare services. Barnardos has long campaigned for such a statutory entitlement given that so many care leavers do not receive adequate or any supports to help them make a successful transition into independent adulthood. In our view, while the HSE Leaving and Aftercare Services National Policy and Procedures is quite comprehensive, insufficient resource allocation, absence of a national implementation plan and strict eligibility criteria restricts the success of its implementation.