

**Barnardos' observations on the
Criminal Justice (Public Order) (Amendment) Bill 2008**

January 2009

Introduction

Barnardos recognises that many people who beg are living in very difficult circumstances and often experience problems including homelessness, addiction and mental health difficulties. Families and children living in these situations are particularly at risk from violence, crime, prostitution and abuse.

Begging is incontrovertibly linked with homelessness with both being more prevalent in urban areas. According to the Homeless Agency's report, *Counted In*, covering the 4 Dublin local authorities, 576 child dependents live in households that are presently homeless¹. In addition 449 children were alone and homeless at the end of 2006. Thus, at least 1,000 children are homeless in Ireland. According to the ISPCCLeanbh service which monitors the presence of child begging and offers therapeutic supports to children, there were 887 sightings of children begging in 2008, just over half of these were begging with an adult. For children who are homeless and have to beg it can begin a long cycle of a life of poverty that is hard to break without the provision of adequate support services for themselves and their families.

Proposed Legislation

The Criminal Justice (Public Order) (Amendment) Bill 2008 aims to repeal the 1847 Vagrancy (Ireland) Act which was deemed unconstitutional in 2007. It will create a new public order offence of begging where the begging is accompanied by behaviours such as harassment, intimidation, aggressiveness or obstruction or where such begging is considered to be persistent. Failure to comply with Gardaí can result in a penalty of €700 fine or a month in prison.

Barnardos has concerns regarding the present wording of the legislation:

- The legislation as it stands is very broad. We believe that the legislation should only apply to begging associated with criminal behaviour as per the Law Reform Commission's (1985) recommendation making it an offence to beg in a public place or from house to house in a manner that is likely to cause fear or annoyance.
- The term 'persistent' in the proposed legislation is defined as 'begging in the same place for a period of time, where the person has begged from one or more persons during that period of time'. As there is no specific definition of the period of time it could render all forms of begging to be persistent even including those who are begging passively and not accompanied by any criminal conduct such as harassment².

¹ Homeless Agency (2008) *Counted In*

² Irish Human Rights Commission (December 2008) *Observations on the General Scheme of the Criminal Justice (Public Order) (Amendment) Bill 2008*.

- The powers being awarded to Gardaí to implement this proposed legislation is, in Barnardos' view, disproportionate to the problem. A person, including a child, may be arrested without a warrant if they fail or refuse to comply with a request to desist from begging or to give their name or address. However, as begging is frequently accompanied with homelessness the person will be unable to provide Gardaí with an address and should not incur a fine or a criminal charge for being in these circumstances. The possibility of a child being detained under this legislation is in contravention of the UN Convention on the Rights of the Child.

Recommendations

Barnardos believes that while the existing legislation needs to be updated, begging in itself should not be criminalised. The proposed legislation should focus on begging that is accompanied by harassment, intimidation, threats or assault or other aggressive behaviour. The term persistent should be removed and also the threat of a fine or criminal charge for failing to provide an address.

Legislation alone will not address the problem of begging which stems from the societal failure to care and protect vulnerable people including children. Barnardos recommends adequate resources be available for homeless services and a full commitment given to implement *The Way Home: A Strategy to Address Adult Homelessness in Ireland 2008-2013*. It is unacceptable that the HSE introduced a funding freeze on services dealing with homelessness in July 2008. This resulted in people, including children, being turned away from emergency accommodation. Given the worsening economic climate and rising unemployment, the demand for such services is likely to increase and the removal of vital services will exacerbate the problems facing vulnerable people.

Children and young people who are forced to beg are very vulnerable to exploitation and abuse. The lack of a 24 hour nationwide social work service and the closure of two residential centres which catered for homeless boys and girls aged 12-18 places these children and young people in further danger. Barnardos recommends the roll out of 24 hour nationwide social work service and a 'drop in centre' type service together with a helpline for vulnerable children and young people who are experiencing homelessness or who are about to become homeless.