



Submission to the Review of *Children First* Guidelines by the Office of Minister for Children

28 April 2006

Introduction

Under Article 19(2) of the UN Convention on the Rights of the Child (UNCRC), State Parties have an obligation to undertake all measures to protect children from all forms of abuse. This article states:

Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment...and, as appropriate for judicial involvement.

The *Children First* Guidelines represent a significant step towards the fulfilment of the State's obligations under the UNCRC. However, although two independent Government commissioned reviews of the guidelines have been carried out (a 2003 Social Services Inspectorate Review and a 2003 National Children's Advisory Council Review), difficulties persist with the implementation of the Guidelines. The Alliance endorses the recommendations of these two reviews and calls for their implementation to form the basis for action taken in light of this current national review.

- Social Service Inspectorate (January 2003) *Report on the Monitoring of the Implementation of Children First: National Guidelines for the Protection and Welfare of Children*
- National Children's Advisory Council (2003) *Advice to the Minister on Implementation of Children First And Vetting*

In particular, the Alliance highlights the following key recommendations, which were made in these reports:

- Clearly delineated departmental responsibilities and inter-departmental working arrangements for rolling out the *Children First* Guidelines;
- Improved structures to promote inter-agency cooperation at national, regional and local level;
- Clear, independent monitoring of progress towards realising the core objectives of the Guidelines rather than simply compliance with procedures;
- A public education campaign to highlight child protection as a key national issue.

Placing the *Children First* guidelines on a statutory basis

The Alliance is concerned at the slow level of implementation of the *Children First* Guidelines, and, in particular, that their position as non-statutory guidelines places no obligation on individuals to report child abuse. The Alliance calls on the Government to place the *Children First* Guidelines on a statutory footing. Anecdotal evidence from service providers indicates that allegations and suspicions of child abuse may not be reported for a variety of reasons, thus posing the risk of further abuse occurring. While the Alliance recognises that further consultation and debate will be needed on the complex issues arising from putting the Guidelines on a statutory basis, such as issues of confidentiality in counselling relationships and service provision, it strongly urges Government to move towards this end. Until the Guidelines are grounded in legislation, Ireland will not be in compliance with its obligations under the UNCRC.

National Child Abuse Prevention Strategy

Article 19 of the UN Convention on the Rights of the Child provides that:

State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse...

In order for the Government to be in full compliance with its obligations as a State Party to the UNCRC, it must do everything in its power to both **protect** children from abuse that is already happening and to **prevent** abuse from occurring. In order for guidelines on reporting child abuse to be fully effective, they must be linked to and function within the context of a comprehensive, National Child Abuse Prevention Strategy.

A National Child Abuse Prevention Strategy is key to moving from the current emphasis on crisis intervention towards real prevention and early intervention.

One of the key roadblocks to a preventive approach, is the lack of coordination between existing programmes and services. A National Child Abuse Prevention Strategy would target this through a planned approach to coordinating existing services. In addition it would develop new services to fill gaps and would put in place sufficient supports for social workers and other workers in this area. A National Child Abuse Prevention Strategy would address issues of neglect, bullying, and domestic violence and also would promote positive parenting and community awareness of child abuse.

The Alliance welcomes the Government commitment in December 2005 to launch a nationwide awareness campaign child sexual abuse. The need for such an awareness campaign was highlighted in the National Children's Advisory Council's 2003 report. This campaign should include an educational campaign targeting children and young people. Crucially, the 'Stay Safe' programme should be fully implemented in all primary schools. The 'Stay Safe' programme is currently not available in up to 20% of primary schools, and parents can exempt their children from it.ⁱ

Q.1 Overall, in your experience, are the Children First Guidelines working well?

In this submission the Alliance will focus on the following areas of concern:

- Contacting HSE staff to report child abuse
- Access to assessment and counselling services for victims
- Garda vetting
- Support services for families and children
- Preventive services

Q5. Are the HEALTH SERVICE EXECUTIVE AND AN GARDA SÍOCHÁNA acting in accordance with the Children First Guidelines in child protection cases? (These relate to, for example, emergency action to protect a child; designated personnel; tracking systems and interagency and inter-professional co-operation)

Health Service Executive: Service providers who are members of the Alliance have indicated that implementation has been sporadic and *ad hoc*, differing from region to region, with variations in the working relationship between statutory and non-statutory bodies. It has been reported that some HSE areas are currently not operating under the *Children First* Guidelines due to a lack of resources and a lack of capacity.

An Garda Síochána: The Alliance believes that an enhanced system of Garda Vetting must be put on a statutory basis in order for it to be an adequate child abuse prevention tool.

The Alliance welcomes the establishment of the Garda Central Vetting Unit to provide a police check for employees and volunteers who are working with or have access to children. The National Children's Advisory Council highlighted the need for such a vetting system in its 2003 report. However, the Alliance is concerned about ongoing delays preventing full implementation of the service. Garda Vetting of all those who have contact with children is key to preventing child abuse, and significant resources are needed for the unit to be able to do this. Furthermore, retrospective vetting is needed in respect of employees and volunteers for whom vetting was not available at the time of their recruitment. There should also be regular assessments of progress in implementing the vetting system.

In addition to fully resourcing the Garda Vetting Unit, the Alliance would urge three changes to be made to the current vetting system. First, the Alliance would like to see the vetting procedure enhanced along the lines of the system in Northern Ireland (which checks for disciplinary procedures and other forms of 'soft information' as well as criminal convictions).ⁱⁱ Second, more needs to be done to ensure that full background checks are carried out using records from other jurisdictions. Third, a system needs to be put in place whereby parents and young people can receive confirmation that groups or organisations have a vetting policy.

Q6. Are the Children First Guidelines relating to ASSESSMENT AND MANAGEMENT being adhered to? (These include guidelines relating to, for example, child protection assessment, emergency action to protect children, interviewing children and interviewing parents/carers, undertaking child protection reviews and case management reviews)

Assessment

The Alliance has serious concerns about the timely assessment of children following a report of suspected abuse or neglect. There is no central collation of waiting lists for social work assessment. However, anecdotal evidence points to significant delays in securing an assessment for a child deemed to be at risk or suspected of having been abused. In addition, the speed and level of support with which social services respond to vulnerable children is considered by Alliance members to be inadequate, particular in relation to counselling for those who have been abused.

Staffing levels

The problem seems to be two-fold. On one hand, to ensure that the HSE services are operating at full capacity and to maximise their effectiveness, current difficulties in recruiting and retaining qualified and experienced staff must be addressed, through providing workers with adequate in-service support, supervision and training.

On the other hand, there are significant management, administrative and operational deficiencies that inhibit the effective working of the services. These weaknesses are manifested in difficulties experienced in making first contact with HSE social work staff to report child abuse.

Resourcing

In order for the HSE to meet its statutory obligations, considerable resources will be needed to provide an adequate level of support staff (including social workers) and to put in place adequate employment support for staff. A National Child Abuse Prevention Strategy, of which the *Children First* Guidelines would be a part, must be tied to multi-annual funding.

Q8. Are the Children First Guidelines in respect of ORGANISED ABUSE, PEER ABUSE AND BULLYING being adhered to? (These guidelines include, for example, reporting of the existence of organised abuse, investigation and sensitive handling of information, work to ensure that perpetrators of abuse take responsibility for their behaviour etc.)

Alliance members are increasingly concerned about the incidence of bullying among children. In a study in 1997, 31% of primary level students and 16% of second-level students reported having been bullied at some point, with 23% at risk of suffering ill-effects from bullying.ⁱⁱⁱ Anti-bullying policies in schools are critically important.^{iv} Although most schools do have such policies, few have consulted children in their development, and their effectiveness varies. Additionally, there is no strategy to combat bullying outside of school.^v There is an urgent need for the development of a national strategy to combat bullying during childhood, to be developed in partnership with children.

Q9. Are the Children First Guidelines in respect of SUPPORT SERVICES TO CHILDREN being adhered to? (These guidelines include, for example, the availability and early intervention of services specifically directed towards enabling children to get over traumatic or damaging experiences and to get a break from stressful environments)

Children who have been abused and their families have a right to high-quality support services under Article 39 of the UNCRC:

State Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse...Such recovery shall take place in an environment which fosters the health, self-respect and dignity of the child.

The provision of timely, early counseling is a serious concern for Alliance members. While no official waiting lists exist, anecdotal evidence indicates that victims of abuse often wait several months for counseling. This is unacceptable, particularly in light of the brevity of childhood, and is a violation under Article 39 of the UNCRC.

Since legally children require parental permission to access counselling services, those experiencing difficulties at home may be unable to access counselling without securing permission from their parents. In particular, if a child is abused by a parent, they are unlikely to seek permission from either parent for counselling. This is also a violation of their rights under Article 39.

Directly accessible support services

The lack of directly accessible counseling for abuse victims is also a serious concern. Articles 12 of the UNCRC enshrines the right of the child to be heard. Services that children can approach, in their own right, are integral to the fulfillment of this right. The only directly accessible counseling available is through the Childline service of the ISPCC; this service does not receive Government funding.

Twenty-four hour social work service.

The Alliance is deeply concerned that HSE social work services are not available outside office hours, with the exception of a service for homeless children in Dublin on weekdays.^{vi} The establishment of a twenty-four hour, seven-day a week social work service is key to preventing child abuse and supporting families and children.

Q10. Are the Children First Guidelines in respect of SUPPORT SERVICES TO FAMILIES being adhered to? (These services may include those aimed at early intervention as well as those which provide direct practical help, support and/or counseling)

Support Services Strategy

Alliance members have observed that the availability of family support services varies greatly across the country. A comprehensive audit of all support services for families and children provided by both the Health Service Executive (HSE) and the Department of Social and Family Affairs is needed to identify where services are being provided and where there are gaps, and to assess the quality of services.

The Alliance recommends that such an audit should be the basis for the development of a comprehensive Support Services Strategy, to meet the needs of all families, particularly vulnerable children and families and those with special needs. This should link to a National Child Abuse Prevention Strategy and *Children First*. The Support Services Strategy should provide for the evaluation of outcomes of all family

support services and for the mainstreaming of examples of best practice. The Alliance recommends that a Support Services Strategy be coordinated by the Office of Minister for Children, rather than the current arrangement, which splits general, community-based family support services from those for families at risk. The Social Service Inspectorate's January 2003 *Report on the Monitoring of the Implementation of Children First: National Guidelines for the Protection and Welfare of Children* emphasised the importance of strategic planning for family support services.

If Government is to continue to rely heavily on community groups to provide many family services, this sector will need a considerable influx of resources to deal with the range of issues it confronts. Overall, both new and existing services, whether provided by the statutory or voluntary sectors, will require significant additional resources if they are to be universally available and provide targeted supports for families at-risk.

Poverty and family support

In addition, anti-poverty strategies need to be more integrated into family support services. For anti-poverty strategies to be effective, structures need to be put in place to allow parents and children to be directly involved in the implementation and evaluation processes.

Q11. Are the Children First Guidelines in respect of ALLEGATIONS OF ABUSE AGAINST EMPLOYEES AND VOLUNTEERS being adhered to? (These include for example, general procedures for reporting including written procedures on actions to be taken when allegations are received, internal line management reporting procedures, awareness of appropriate authorities, and procedures for dealing with the employee)

As *Children First* have not been placed on a statutory basis, Alliance members have observed that allegations and suspicions of child abuse may not be reported, thus posing the risk of further abuse occurring.

Q13. Are the Children First Guidelines in respect of LOCAL ARRANGEMENTS FOR TRAINING being adhered to? (These include, the inclusion of different disciplines and agencies, focus on child protection and welfare legislation and policy, dissemination of knowledge about recognition and appropriate intervention in child abuse, inter-professional and interagency working and information about local services)

The Irish Government recently acknowledged in its State Report to the UN Committee on the Rights of the Child that professional training in the *Children First* Guidelines is a problem. The Alliance urges the Government to implement a plan of action to provide such training for all professionals and volunteers who have contact with children.

To ensure services are operating at full capacity and to maximise their effectiveness, current difficulties in recruiting and retaining qualified and experienced staff must be addressed, through providing workers with adequate in-service support, supervision and training.

Training will be required on an ongoing and refresher basis. Training must reinforce compliance, meet the needs of new personnel and ensure that the message is not lost following an initial period of 'high awareness'. Ongoing training is key to ensuring there is no variation in the level of compliance throughout the country.

Q16. In your opinion, what changes, if any, are required to current policy and structures to ensure that they support the principles underlying Children First?

The Alliance believes that the following changes to current policy and structures are needed to ensure that they support the principles underlying *Children First*:

- 24 hour, seven-day social work service
- adequate level of support staff (including social workers) and better supports for staff
- coordination of support and preventative services through a Support Services Strategy, linked to both a National Child Abuse Prevention Strategy and *Children First*
- systematic involvement of children and parents in designing support services and policies
- awareness-raising among children of child abuse

Q17. In your opinion, should the Children First Guidelines themselves be revised?

The Children's Rights Alliance believes that we should build on the *Children First* Guidelines by revising them to take account of learning since their introduction and to incorporate issues which have arisen since they were developed, such as issues relating to migrant children. Furthermore, the Alliance believes that the *Children First* Guidelines must be placed on a statutory basis to ensure they are fully implemented.

Domestic violence

The *Children First* guidelines do not speak to the particular dynamics experienced when a child is a victim of abuse within the context of domestic violence. Domestic violence has particular implications for how the Guidelines might function.

The State's response to domestic violence generally focuses on the parent who is abused and on the children mainly within the context of the family. The Alliance considers that the response should also include the provision of specific support services for children affected by domestic violence as abuse victims in their own right.

The Alliance calls for the implementation on a national level of the recommendations made in *Listen to Me! Children's Experience of Domestic Violence*.^{vii} The report highlights the need for an expanded and coordinated approach to statutory and community-based child protection, and for services that can deliver timely supports to halt and ameliorate the detrimental effects of living with violence. It calls for a single service to oversee and make connections between different agencies that may or may not have a direct focus on domestic violence, and the further development of the role of An Garda Síochána and of schools. It also draws attention to the need for awareness raising initiatives directed towards service providers and the general public.

Migrant children

There are several emerging child protection issues in relation to migrant children, new to the Irish context since the *Children First* guidelines came into force in 1999. The Alliance supports the National Children's Advisory Committee's 2003 report which recommended that *Children First* Guidelines must be revised to take specific account of the needs of migrant children. While some child protection guidelines do exist on an *ad hoc* basis for specific groups of migrant children (for example the

Reception and Integration Agency *Child Protection Policy for Accommodation Centres*, guidelines for asylum seeking children living in direct provision), it is crucial that child protection for migrant children be fully mainstreamed into the overall child protection framework under *Children First*.

Apart from some isolated incidents, there has been little awareness-raising among new communities in relation to Irish law on child abuse and neglect, nor on the *Children First* Guidelines and obligations to report any suspicion or disclosure of abuse. It must be assumed, therefore, that there is little knowledge of these issues among the new communities.

Reporting child abuse. Training and dialogue on *Children First* is needed in church groups, youth clubs and other organisations led by new communities that explains Irish law and addresses possible cultural differences. The standard form for reporting child abuse should be translated into the main new languages and left in new community organisations who work with children as well as in HSE area offices and in Garda Stations. Interpreters should also be available to translate forms completed in other languages.

Family support services. Migrant families face additional pressures adjusting to a new culture. Early intervention family support services must be made accessible to and publicised among new communities. These services must also include training and dialogue, carried out in a supportive manner, on child protection laws and cultural norms in Ireland.

Interpreters. An interpreter should be available in child protection investigations involving migrant children. Interpreters should have child protection training and in undertaking a child friendly interview. This is to facilitate children's rights under Article 12 of the UNCRC to be heard in all matters concerning them.

Registration of migrant children. There is no system of registering and tracking migrant children other than as dependants of their parents. If a child protection concern arises, there is no official documentation on these children for example, where they have lived and who with. The Alliance recommends that all migrant children be registered at their point of entry to the country, as are adults, and tracked through official documentation.

Deportation proceedings. Children (including Irish children of migrant parents) have been separated from their parents while deportation orders have been carried out. This has raised serious child protection issues when the whereabouts and safety of a child has not been determined prior to the deportation of their parent/s.^{viii} Guidelines are needed to ensure that the level of trauma experienced by children during deportation proceedings is minimised and that child protection issues are fully taken into consideration.

Female genital mutilation. There is currently no specific legal protection against female genital mutilation (FGM).^{ix} Neither is there specific legislation to protect a child from being removed from Ireland to have the procedure carried out overseas. The Alliance strongly urges that legislation to address these issues be introduced. Education and awareness-raising among relevant service providers (Gardaí, teachers and medical personnel) and within communities where FGM may be practised should accompany the process of legislative change.

Trafficking. As of June 2005,^x there were up to forty ongoing investigations into possible trafficking of separated children seeking asylum. The Alliance is deeply concerned about the incidence of separated children seeking asylum being reported missing from their HSE care placement, as these children are particularly vulnerable to being exploited by traffickers.

Since 2001, over 250 separated children have gone missing from their state care placement.^{xi} Anecdotal evidence suggests that a number of separated children seeking asylum have gone missing within the first twenty-four hours of entering the country. Although children may disappear from their hostel placements because they have been unofficially reunited with a family member, there is concern that many, if not most, of the children go missing for other reasons. The very low level of adult supervision and support in hostels for separated children is a major child protection concern.

Anecdotal evidence indicates that there is inadequate investigation to verify the identity of people who present as family members and with whom separated children are united. This weak level of safeguards in relation to reunification of separated children with family members may be exploited by traffickers. Where a separated child is united with a family member there is no follow-up by social services to that placement. The Alliance suggests that these children should be visited by a social worker shortly after their placement, and again within three months.

The Alliance believes that, in addition to further legislative protection, therapeutic and rehabilitative support services for victims of trafficking need to be developed as part of the overall framework for support services for children who have been abused.^{xii} Critical among these measures is the provision of safe accommodation for the victims of trafficking. The current level of supervision in hostel accommodation or dormitory accommodation in reception centres is inadequate for the purpose of protecting children who have been victims of trafficking. Further, all decisions regarding victims must be made in the best interests of the child; this may include the granting of residency in Ireland.

The Alliance also supports the ongoing training of immigration officials at airports to identify victims of trafficking.^{xiii}

Age of sexual consent

There is a need for the age of sexual consent to be clarified. Although *Children First* indicates that the age of sexual consent is seventeen, the Attorney General's interpretation of the law is that the legal age for sexual consent is fifteen for males and seventeen for females. This divergence in interpretation needs to be examined.

An additional problem is that the criminal law does not distinguish between underage sexual activity that is consensual and underage sexual activity that is abusive. This issue needs to be addressed.

Both young people and service providers are unclear as to what action a service provider should or must take in situations of consensual underage sexual activity. Young people will be reluctant to approach service providers about sexual health issues if they fear that there is a possibility their situation may be reported to social services as abusive. There is a need to clarify the legal position so that young people are not deterred from approaching service providers about sexual health issues and so that professionals have guidance as to when it is appropriate to report underage sexual activity.

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- ⁱ Olivia Kelly, "One in five primary schools does not offer Stay Safe programme", *The Irish Times*, 3 January 2006.
- ⁱⁱ 'Soft information' is information regarding people who are identified as a risk to children but who do not have a criminal conviction for child abuse.
- ⁱⁱⁱ Mona O'Moore (1997) *Nationwide Study of Bullying in Irish Schools*. See also <http://www.abc.tcd.ie>, the Anti-Bullying Centre, Trinity College Dublin.
- ^{iv} Emer Smyth, Selina McCoy and Merike Darmody (2004) *Moving Up: The Experiences of First Year Students in Post-Primary Education*, Dublin: Liffey Press in association with the ESRI and NCCA.
- ^v Communication from Psychological Society of Ireland, 15 September 2005.
- ^{vi} The Crisis Intervention Service for homeless children is available from 6 p.m. to 4 a.m. for children under 12 years of age and from 8 p.m. to 6 a.m. for those aged 12 to 18, Monday to Friday. The day service is available from 9 a.m.
- ^{vii} Helen Buckley, Sadhbh Whelan and Stephanie Holt (2006) *Listen to Me! Children's Experience of Domestic Violence*, Dublin: Children's Research Centre, Trinity College Dublin and Mayo Women's Support Services.
- ^{viii} Some parents, out of fear, have sent their children into hiding when deportation is imminent in the hope that their children will be able to stay in Ireland and have a better life. In some cases, parents have been deported even though officials did not know the whereabouts of the children. "Appeals for women to be let return to their children," *The Irish Times*, 28 March 2005; "Campaign highlights break up of families," *The Irish Times*, 31 March 2005; "Agents of State blamed for breaking up families," *The Irish Times*, 14 April 2005.
- ^{ix} In 2001, the then Minister for Health and Children told Dáil Éireann that FGM is an offence under the Non-Fatal Offences Against the Person Act, 1997 but that he was considering whether it would be appropriate to enact legislation specifically prohibiting the practice.
- ^x Olivia Kelleher, "Warning of human trafficking in Ireland", *The Irish Times*, 13 June 2005.
- ^{xi} Carl O'Brien, "Concern for missing children prompts new service", *The Irish Times*, 20 June 2005.
- ^{xii} Including 24-hour secure accommodation and the provision of a social worker and language support at their point of entry to the country.
- ^{xiii} Another possible option is to show an information video on the dangers of trafficking to suspected separated children seeking asylum at their point of entry to the country.