

Submission to the Joint Committee on Health and Children on the General Scheme and Heads of Aftercare Bill 2014

28 March 2014



The Children's Rights Alliance unites over 100 organisations working together to make Ireland one of the best places in the world to be a child. We improve the lives of all children and young people by ensuring Ireland's laws, policies and services comply with the standards set out in the United Nations Convention on the Rights of the Child.

Alcohol Action Ireland
Amnesty International Ireland
Ana Liffey Drug Project
Arc Adoption
The Ark, A Cultural Centre for Children
Assoc. for Criminal Justice Research and Development (ACJRD)
Association of Secondary Teachers Ireland (ASTI)
ATD Fourth World – Ireland Ltd
Barnardos
Barretstown Camp
BeLong To Youth Services
Bessborough Centre
Border Counties Childhood Network
CARI Foundation
Carr's Child and Family Services
Catholic Guides of Ireland
Catholic Youth Care
Childhood Development Initiative
City of Dublin YMCA
COPE Galway
Cork Life Centre
Crosscare
DIT – School of Social Sciences & Legal Studies
Doras Luimni
Down Syndrome Ireland
Dublin Rape Crisis Centre
Dun Laoghaire Refugee Project
Early Childhood Ireland
Educate Together
School of Education UCD
EPIC
Focus Ireland
Forbairt Naíonraí Teoranta
Foróige
GLEN - Gay and Lesbian Equality Network
Headstrong - The National Centre for Youth Mental Health
Immigrant Council of Ireland
Inclusion Ireland
Inspire Ireland
Institute of Community Health Nursing
Integration Centre
International Adoption Association
Irish Association of Social Care Workers (IASCW)
Irish Association of Social Workers
Irish Association of Suicidology
Irish Autism Action
Irish Centre for Human Rights, NUI Galway
Irish Congress of Trade Unions (ICTU)
Irish Council for Civil Liberties (ICCL)
Irish Foster Care Association
Irish Girl Guides
Irish National Teachers Organisation (INTO)
Irish Penal Reform Trust
Irish Premature Babies
Irish Primary Principals Network
Irish Refugee Council
Irish Second Level Students' Union (ISSU)
Irish Society for the Prevention of Cruelty to Children
Irish Traveller Movement
Irish Youth Foundation (IYF)
Jack & Jill Children's Foundation
Jesuit Centre for Faith and Justice
Junglebox Childcare Centre F.D.Y.S.
Kids' Own Publishing Partnership
Lifestart National Office
Marriage Equality – Civil Marriage for Gay and Lesbian People
Mary Immaculate College
Mental Health Reform
Mothers' Union of Ireland
Mounttown Neighbourhood Youth and Family Project
MyMind
National Association for Parent Support
National Organisation for the Treatment of Abusers (NOTA)
National Parents Council Post Primary
National Parents Council Primary
National Youth Council of Ireland
One Family
One in Four
OPEN
Parentline
Parentstop
Pavee Point
Peter McVerry Trust
Rape Crisis Network Ireland (RCNI)
Realt Beag
SAFE Ireland
Saoirse Housing Association
SAOL Beag Children's Centre
Scouting Ireland
Society of St. Vincent de Paul
Sonas Housing Association
SpunOut.ie
St. Nicholas Montessori College
St. Nicholas Montessori Society
St. Patrick's Mental Health Services
Start Strong
Step by Step Child & Family Project
Sugradh
The UNESCO Child and Family Research Centre, NUI Galway
The Guardian Childrens Project
Treoir
UNICEF Ireland
Unmarried and Separated Families of Ireland
Yoobyoo
youngballymun
Youth Advocate Programme Ireland (YAP)
Youth Work Ireland

The Alliance is funded by The Atlantic Philanthropies, the One Foundation and the Department of the Environment, Community and Local Government.

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1. Introduction

The Children's Rights Alliance unites over 100 organisations working together to make Ireland one of the best places in the world to be a child. We improve the lives of all children and young people by ensuring Ireland's laws, policies and services comply with the standards set out in the United Nations Convention on the Rights of the Child.¹

The Alliance welcomes the publication of the General Scheme and Heads of the Aftercare Bill 2014 and the opportunity to be consulted on them by the Joint Committee on Health and Children. The Heads of Bill will amend the Child Care Act 1991 to provide qualifying care leavers with a statutory entitlement to the preparation and review of an aftercare plan by the Child and Family Agency. The aftercare plan will identify the need of the child or young person for aftercare supports.

This Heads of Bill provide an important improvement on the existing legislative provisions by imposing a statutory duty on the Child and Family Agency to prepare an aftercare plan for an eligible child or young people. We believe, however, that for this legislation to be effective the Heads must be amended to ensure that they can:

- Reach the most vulnerable children and young people; and
- Lead to an improvement in their life outcomes.

2. Recommendations

Head 1: Interpretation

Head 1 sets out the grounds for eligibility to be:

- **'Eligible Child' who is currently in care:** A child aged 16 years or over who is in care and has been in care for (a) a minimum period of 12 consecutive months, or (b) a cumulative period of not less than 12 months in the previous 5 years
- **'Eligible Child' who left care at 16 but is still under 18:** A child aged 16 or 17 who presents him/herself to the Agency and establishes that he/she had been in care (a) for 12 consecutive months prior to reaching age 16 and who then left care aged 16 years, or (b) on a number of occasions for a cumulative period of not less than 12 months in the previous 5 years
- **'Eligible Young Person' who is now 18, 19 or 20:** A young person aged 18, 19 or 20 who presents him/herself to the Agency and establishes that he/she was an eligible child before he/she reached 18 years. In circumstances where (a) an aftercare plan, for any reason, was not prepared or finalized or who decided not to avail of the assistance offered in the aftercare plan on reaching 18 years of age, or (b) where there has been a significant change in their circumstances since leaving care, that was unexpected and/or which necessitates a review of the original aftercare plan.

These broadly framed and clear defined eligibility grounds are to be welcomed. In particular, we welcome the open door policy for young people of 18, 19 and 20 years to return to the Agency to seek support after a period of disengagement; where no plan was made; or because their circumstances have changed.

¹ *United Nations Convention on the Rights of the Child* (1989)
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

Additional Ground based on Exceptional Need

Head 1 sets out grounds for eligibility based on the length of time a child has been in care. As with any system based on a specified time period, there will always be ‘hard cases’ that fall outside of this time period. Hence, we believe an additional eligibility ground should be added, one which is based on the assessed needs of a child or young person who has been in care or who has been known to the Agency during the past five years. Those assessed as having ‘exceptional needs’ will be deemed eligible under the legislation for an aftercare plan. A definition of ‘exceptional needs’ can be set out in regulations and could include a child or young person who finds themselves destitute or homeless. The combination of grounds – based on length of time in care or in exceptional need – will ensure that the most vulnerable children and young people are captured by the legislation.

This ‘exceptional needs’ ground could be used to address the following potential scenarios:

- *Less than 12 months and in need:* A girl with addiction difficulties whose foster placement broke down after 11 months and for whom a return home is not in her best interest given previous abuse
- *Known to the Agency and at risk:* A girl who has been known to the Agency for a number of years and who is suspected of being involved in prostitution
- *Homeless:* A girl over 16 years who has been homeless and accessing emergency accommodation under Section 5 for a number of months
- *Experience of detention and potentially homeless:* A boy who has been known to the Agency for a number of years while he was detained in a Children Detention School and on release from the School finds himself estranged from his family and destitute
- *Experience of psychiatric care and potentially homeless:* A boy who has been known to the Agency for a number of years given his mental health and behavioural needs who is due to be released from a psychiatric hospital but his family say they cannot cope with his return.

Homeless Children

Homeless teenagers are among the most vulnerable children in the State. The experience of becoming homeless is a deeply traumatic and destabilising event in a child’s life. Even a few weeks of couch surfing, sleeping rough or accessing emergency accommodation can place a child at extreme risk of abuse, criminal behavior and substances misuse. Where a child over 16 years is accessing homeless services under Section 5 of the Child Care Act 1991, they are not technically ‘in care’ as they are not under a Care Order and thus we assume will not qualify under Head 1. Given their vulnerability there must be another route through which a homeless child can be supported.

Recommendation: Include in Head 1 a new subsection (c):

A child or young person between the ages of 16 and 21 years who does not meet the criteria set out in who has (i) been in the care of the Agency or (ii) known to the Agency during the previous five years from the date on which they present themselves to the Agency and who can establish that he/she has an exceptional need for assistance.

Head 2: Preparation of Aftercare Plan

Head 2 provides that in order to determine the need for assistance, the Child and Family Agency must (i) prepare an aftercare plan for each eligible children before they leave care; and (ii) prepare an aftercare plan or review and update an existing aftercare plan for each eligible young person following a request by, or on behalf of, the eligible young person.

The provision in Head 2 is to be welcomed in that it will ensure that eligible children and young people receive an assessment of need and the preparation of an aftercare plan to meet that need. However, it falls short of providing an entitlement to a service or support. A vulnerable child or young person whose needs have been identified in an aftercare plan has no remedy if the plan is not implemented. There is no body charged with ensuring that the aftercare plan is delivered. Head 2, in its current formulation, will not necessarily lead to an improvement in the life outcomes of

vulnerable care leavers. The Heads guarantee the development of an aftercare plan but not the services or supports identified within that plan.

The State needs to play a role in the lives of its most vulnerable children and young people. A failure to support a care leaver to transition successfully to independent living can expose the young person to increased risk of homelessness, imprisonment, mental health and addiction difficulties. Of deep concern was the finding in the 2012 *Report of the Independent Child Death Review Group*² that in several cases no aftercare was provided to a young person leaving care and that homelessness was a prevalent issue for 23 of the 112 cases of unnatural deaths reviewed.³ The difficulties experienced by vulnerable care leavers are multifaceted: they include access to quality affordable accommodation; a lack of personal and social support; support to continue in education; and timely mental health, addiction and intellectual disability support services. A mechanism is needed to ensure that vulnerable care leavers who are in extended care or receiving aftercare support are prioritised when seeking state support. We recommend amendments be made to strengthen the provision:

Recommendations:

Extension of Care

Any child or young people up to the age of 21 years who is identified as being in need of continued care and support following the end of their care placement should be offered the opportunity to remain in care on a voluntary basis. This model of extended care has been adopted in Scotland under the Children and Young People, passed by Parliament 19 February 2014. There is no legal impediment to this provision being adopted in Ireland. The definition of a child in law is not limited by an upper age (see for example Section 117 of the Succession Act 1965). For some young people this may allow them to remain in their current care placement, eg a foster care placement, while for others it would involve a move to a new setting, such as aftercare residential accommodation. However, the young person would still remain within the safety net of the care system and would receive continued support from their social worker.

Voice of the Child

Head 2(3) provides for the views of the eligible child or young person to be ascertained when preparing an aftercare plan. We recommend that the phrasing of this provision be strengthened and aligned with the language used in Head 2(4) to read: "The Agency shall take all reasonable steps to consult with the eligible child or young person".

² Dr. G. Shannon, and N. Gibbons, (2012) *Report of the Independent Child and Death Review: Executive Summary*. Department of Children and Youth Affairs. The report details 196 children who died between the years 2000 and 2010 who were in the care of the state at the time of their death, young adults who were in aftercare and other children who were not in care but were known to the HSE.

³ *Ibid.*, p. 12.