

Unaccompanied Children In the Care System

- Once investigation pursuant to Section 8 (5) of Refugee Act 1996 determines that a child be referred to the HSE the provisions of the Child Care Act 1991 are triggered.
- No specific legislative framework that deals with separated children in Ireland

Child Care Act 1991

- Places legal obligation on HSE to promote welfare of children who are not receiving adequate care and protection. Idea of ‘corporate parenting’.
- Section 4 – voluntary care – difference with Irish children – the social worker becomes the separated child’s legal guardian once appointed
- Section 5 provides for the placement of homeless children, but are not received into the care of the HSE. Complications arise in relation to consents for medical treatments and educational provision. Similarly foster carers are not legal guardians.
- Discretion on HSE to institute proceedings to seek a care a full care order under Section 18 Child Care Act 1991
- Section 12 of 1991 Act allows for the removal of children by gardai to a place of safety – joint protocol between the Gardai and the HSE. Proceedings can be invoked in the District Court for an emergency care order, which expires after eight days, after which an interim care order may be granted.

HSE Services

- Pursuant to the Act children in care should be allocated an ‘authorised person’ (delegated by the HSE to social workers). April 2009 – 16% had no allocated social worker – though generally those in residential care did. In the absence of social worker, the HSE as an agency is legally responsible. Are social workers case managers or acting parents??
- HSE data – a third of children had no care plan.
- Equity of Care Plan – prompted by the Ryan report – see the comments of the Minister in the Dail on 27.9.11.
- By December 2010 government commitment that all children in care will have an allocated social worker and a careplan.
- Section 45 Child Care Act 1991 is legislative provision dealing with aftercare provision

- Aftercare – services from the age of 18 to assist and support them from dependent child to independent adult – often provided by non statutory sector – no care leaving grants
- Current government policy on equity and aftercare

The Guardian ad litem

- Appointed by the courts in the context of court care proceedings – but not in reality in relation to asylum proceedings. Appointed under Section 26 Child Care Act. Provides an independent voice to the child – not legally responsible for the child. Note differences with other European countries such as the Netherlands.
- Section 47 Child Care Act 1991 – ‘Where a child is in the care of a health board, the District Court may, of its own motion or on the application **of any person**, give such directions and make such order on any question affecting the welfare of the child as it thinks proper and may vary or discharge any such direction or order’.

Current Problems

- Section 5 1991 Act
- No requirement for psychological assessment on arrival
- No appointment of GAL for asylum
- Restrictions on education – from 2011/2012 students must be resident in Ireland for three out of the previous five years to qualify for higher education grants. Also policy of dispersal

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