



Coleraine House  
Coleraine Street  
Dublin  
D07 E8XF

[admin@alcoholactionireland.ie](mailto:admin@alcoholactionireland.ie)

Tel +353 1 8780610

Department of Children and Youth Affairs  
50-58, Baggot Street Lower,  
Dublin 2

ChildCareAct1991@dcya.gov.ie

September 11, 2020

## **Alcohol Action Ireland submission to the Review of the Child Care Act, 1991, public consultation**

Alcohol Action Ireland was established in 2003 and is the national independent advocate for reducing alcohol harm.

We campaign for the burden of alcohol harm to be lifted from the individual, community and State, and have a strong track record in campaigning, advocacy, research and information provision.

Our work involves providing information on alcohol-related issues, creating awareness of alcohol-related harm and offering policy solutions with the potential to reduce that harm, with a particular emphasis on the implementation of the Public Health (Alcohol) Act 2018.

Our overarching goal is to achieve a reduction in consumption of alcohol and the consequent health and social harms which alcohol causes in society.

We are pleased to have the opportunity to contribute to the Review of the Child Care Act, 1991.

Alcohol Action Ireland Directors Carol Fawsitt (Chair), Solicitor, Prof Joe Barry Public Health Specialist, Dr Declan Bedford, Specialist in Public Health Medicine and former Acting Director of Public Health, HSE, Catherine Brogan, Mental Health Ireland, Pat Cahill, former President ASTI, James Doorley, Deputy Director, National Youth Council of Ireland, Michael Foy, Head of Finance, Commission for Communications Regulation, Prof Frank Murray, Consultant in Hepatology & Gastroenterology, Dr Mary O'Mahony, Specialist in Public Health Medicine and Medical Officer of Health, HSE South, Dr Colin O'Driscoll – Clinical Lead, HSE Mid-West Addiction Services, Dr Bobby Smyth, Consultant Child & Adolescent Psychiatrist, Tadhg Young, Senior Vice President, Chief Operations Officer, State Street Global Services

**1.0 Introduction:** The Department of Children and Youth Affairs is carrying out a review of the Child Care Act 1991. The 1991 Act is a wide-ranging piece of legislation, which, at its core, seeks to promote the welfare of children who may not be receiving adequate care and protection.

This submission is made by Alcohol Action Ireland, the national independent advocate for reducing alcohol harm. AAI's overarching goal is to achieve a reduction in consumption of alcohol and the consequent health and social harms which alcohol causes in society. A childhood free from alcohol harm is also one of the strategic objectives of AAI. This goal sets out measures to support that children have a childhood free from alcohol harm – i.e. to protect children in their developing environment from the impact of alcohol related harms including raising awareness of parental alcohol misuse, safety, marketing, sale and consumption of alcohol.<sup>1</sup>

AAI welcomes the chance to contribute to the current review of the Child Care Act in line with the commitment set out in Better Outcomes, Brighter Futures: The National Policy Framework on Children and Young People 2014–2020 to: Review and reform, as necessary, the Child Care Act 1991. The recommendations as set out will, AAI believes, help to offset some of damage done to young people and their families.

### **1.1 Silent Voices Initiative**



---

<sup>1</sup> See AAI strategic plan: [https://alcoholireland.ie/download/publications/21155\\_AAI\\_Strategic\\_Plan\\_v6\\_web%25E2%2580%25A2.pdf](https://alcoholireland.ie/download/publications/21155_AAI_Strategic_Plan_v6_web%25E2%2580%25A2.pdf)

Silent Voices is an initiative of Alcohol Action Ireland to highlight the hidden harms of parental alcohol misuse. It aims to ensure the right supports are available to children today coping with parental alcohol misuse – and those adults dealing with the impact of a childhood trauma in later life.

Growing up in a home with parental alcohol misuse has been recognised internationally as an adverse childhood experience for over 20 years, and the physical and mental consequences of parental alcohol misuse have also been studied.<sup>2</sup> Parental alcohol misuse damages and disrupts the lives of children and families in all areas of society, spanning all social classes and is a significant factor in domestic abuse cases and mental health issues in later life.<sup>3</sup>

## 1.2 Alcohol harm and children

The evidence is clear that alcohol contributes significantly to the reasons why young people are in care or at risk of coming into care and from the cradle to the grave, children find themselves in hugely negative and vulnerable situations because of harm from alcohol. Pre-natal exposure to alcohol can leave children compromised from a neurobiological perspective, resulting in problems carried with them throughout their lives. Ireland is estimated to

---

<sup>2</sup> Felitti, V.J., Anda, R.F., Nordenberg, D, et al. (1998). Relationship of childhood abuse and household dysfunction to many of the leading causes of death in adults. The Adverse Childhood Experiences (ACEs) study. *American Journal Preventative Medicine*. 1998; 14: 245-258; Ashton, K., Bellis, M. & Hughes, (2016) Adverse childhood experiences and their association with health-harming behaviours and mental wellbeing in the Welsh adult population: a national cross-sectional survey; Bellis, M. A., Hughes, K., Leckenby, N., Jones, L., Baban, A., Kachaeva, M., Terzic, N. (2014). Adverse childhood experiences and associations with health-harming behaviours in young adults: surveys in eight eastern European countries. *Bulletin of the World Health Organization*, 92(9), 641–655. doi:10.2471/BLT.13.129247 2 Gance-Cleveland, B., Mays, M.Z., Steffen, A. (2008). Association of adolescent physical and emotional health with perceived severity of parental substance abuse. *Journal for Specialists in Pediatric Nursing*;13(1): 15-25. Winqvist, S., Jokelainen, J., Luukinen, H., Hillbom, M. (2007). Parental alcohol misuse is a powerful predictor for the risk of traumatic brain injury in childhood. *Brain Inj.*;21(10):1079-85

<sup>3</sup> Turning Point (2006). *Bottling it up – The Effects of Alcohol Misuse on Children, Parents and Families*. 8 See <https://alcoholireland.ie/campaigns/silent-voices/> for an overview of the research data. 9 See <https://alcoholireland.ie/campaigns/silent-voices/> for an overview of the research data. 10 Felitti, V.J., Anda, R.F., Nordenberg, D., Williamson, D.F., Spitz, A.M., Edwards, V., & Marks, J.S. (1998). Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study. *American Journal of Preventive Medicine*, 14(4), 245–258. Baumeister R.F., Schmeichel B.J., Vohs K.D. (2013) Self-Regulation and the Executive Function: The Self as Controlling Agent. In Kruglanski A., Higgins E.T. *Social Psychology: Handbook of Basic Principles* (2nd ed.) New York: Guilford, pp. 516–539

have the third highest prevalence of Foetal Alcohol Spectrum Disorder (FASD) in the world.<sup>4</sup>

Research shows that people with FASD are over-represented in care and justice systems.<sup>5</sup>

Studies have also found that there is a serious risk that parents with alcohol problems may neglect their children. Such neglect has a negative impact on children's emotional and physical development and education. It also puts them at risk of physical and sexual abuse.<sup>6</sup>

A UK survey by the National Association for Children of Alcoholics found that people who had experienced parental alcohol misuse were more likely to consider suicide, have eating disorders, drug addiction, and be in trouble with the police, as well as having above average alcohol dependency and mental health problems.<sup>7</sup>

Data from Ireland's Child Care Law Reporting Project has found that drug and alcohol abuse feature in 1 in 5 cases in child care cases that come to court, while alcohol was identified as a risk factor in three-quarters of Irish teenagers for whom social workers applied for admission to special care - a secure care environment requiring a court order to detain a young person to protect them.<sup>8</sup>

---

<sup>4</sup> Global Prevalence of Fetal Alcohol Spectrum Disorder Among Children and Youth A Systematic Review and Meta-analysis, available at:

[https://alcoholireland.ie/download/publications/jamapediatrics\\_Lange\\_2017\\_oi\\_170049.pdf](https://alcoholireland.ie/download/publications/jamapediatrics_Lange_2017_oi_170049.pdf)

<sup>5</sup> Children with FASD are over represented among children in state care. 2013 Meta-analysis of Prevalence of Fetal Alcohol Spectrum Disorders in Child Care Settings (Paediatrics) found (on the basis of studies that used active ascertainment) "the overall pooled prevalence of FAS and FASD among children and youth in the care of a child care system was calculated to be 6% (60 per 1000; 95% CI: 38-85 per 1000) and 16.9 % (169 per 1000; 95% CI: 109-238 per 1000), respectively."

Ref: Lange S, Shield K, Rehm J, Popova S. Prevalence of fetal alcohol spectrum disorders in child care settings: a meta-analysis. *Pediatrics*. 2013 Oct;132(4):e980-995.

In New Zealand, the FASD working group reported that FASD affects about 50 percent of children and young people in Child, Youth and Family (CYF) care. FASD Working Group. 2016. Taking Action on Fetal Alcohol Spectrum Disorder: 2016–2019: An action plan. Wellington: Ministry of Health.

<https://www.health.govt.nz/publication/taking-action-fetal-alcohol-spectrum-disorder-2016-2019-action-plan>

<sup>5</sup> See: Fetal alcohol spectrum disorder and youth justice: a prevalence study among young people sentenced to detention in Western Australia *BMJ Open* 2018; Prevalence and characteristics of adults with fetal alcohol spectrum disorder in corrections: a Canadian case ascertainment study.

<sup>6</sup> Barnard, M and Barlow, J (2003) 'Discovering parental drug dependence: Silence and disclosure' *Children and Society*, Volume 17, Issue 1, p45-56; Cleaver, H; Unell, I and Aldgate, J (2011) *Children's needs, parenting capacity: The impact of parental mental illness, learning disability, problem alcohol and drug use and domestic violence on children's safety and development* (2nd edition)

<sup>7</sup> Nacoa, Professor Martin Callingham, *Survey of children of alcohol-dependent parents*.

<sup>8</sup> <https://www.childlawproject.ie/interim-reports/>

Alcohol in the home was named as a key child welfare concern in the Report of the Independent Child Death Review Group as it was an issue in one third of the cases of unnatural deaths reviewed. It was the second most prevalent issue after neglect and twice as prevalent as drugs in the home.<sup>9</sup>

It was also a key feature of a report by Dr Geoffrey Shannon regarding Garda powers to take young people into care in emergency situations.<sup>10</sup>

## **2.0 Recommendations:**

AAI requests that the review takes account of the following considerations and recommendations:

### **2.1 Guiding Principles and definitions**

AAI welcomes that the introduction of a new section on guiding principles for the Child Care Act, 1991 (the Act) which will provide guidance on the implementation of the Act in its entirety. AAI also welcomes that the overarching principles are that the best interests and views of the child are at the centre of decision-making processes.

#### **2.1.1 Definitions**

AAI recommends that the revised Act include a comprehensive definition of the best interests of the child in a similar way to the definition outlined in the Children and Family Relationships Act, 2015.<sup>11</sup> This is the most comprehensive legal provision for the consideration of the best interests of the child in Irish law.

AAI further recommends that the revised Act re-affirms the definitions of harm and welfare as set out in the Children First Act, 2015,<sup>12</sup> and that a new category of harm be added to the definition of harm in both the revised Act and Children First, (category c: 'Impairment suffering from seeing or hearing

---

<sup>9</sup> Report of the Independent Child Death Review Group, [https://www.lenus.ie/bitstream/handle/10147/230179/Report\\_ICDRG.pdf?sequence=1&isAllowed=y](https://www.lenus.ie/bitstream/handle/10147/230179/Report_ICDRG.pdf?sequence=1&isAllowed=y)

<sup>10</sup> Audit of the exercise by An Garda Síochána of the provisions of Section 12 of the Child Care Act 1991. Audit of the exercise by An Garda Síochána of the provisions of Section 12 of the Child Care Act 1991.

<sup>11</sup> Part V, s.31 of the Children and Family Relationships Act 2015

<sup>12</sup> Part 1 of the Children First Act: <http://www.irishstatutebook.ie/eli/2015/act/36/enacted/en/pdf>

the ill treatment of another.’)<sup>13</sup>

### **2.1.2 Trauma-informed approach**

The courts and other services falling under the remit of the revised Act must adopt a trauma-informed approach to dealing with children and families.

AAI recommends as a guiding principle that the legal processes underpinning the child and family system, i.e. the courts and ancillary services, adopt a trauma-informed approach that acknowledges the prevalence and impact of trauma on children and their families and attempts to create a sense of safety for all participants.<sup>14</sup>

## **2.2 Interagency coordination and collaboration**

Given the longstanding concerns around interagency cooperation in Ireland - poor interagency collaboration is the most commonly cited systemic problem in child abuse inquiries and child death reviews<sup>15</sup> - it is clear that legislation compelling agencies to collaborate is required. AAI believes that by deciding not to legislate for Corporate Parenting in the revised Act, as indicated at this stage, but instead to use the Better Outcomes Brighter Futures structure to introduce the concept, is a very unfortunate missed opportunity to take a much needed leap forward in the best interests of young people.

---

<sup>13</sup> This reflects changes in the UK: Under Section 31(9) of the Children Act 1989, as amended by the Adoption and Children Act 2002: Harm means ill-treatment or impairment of health or development including ‘impairment suffered from seeing or hearing the ill-treatment of another.’

<sup>14</sup> A trauma-informed child and family service system is one in which all parties involved recognize and respond to the impact of traumatic stress on those who have contact with the system including children, caregivers, and service providers. <https://www.nctsn.org/trauma-informed-care/creating-trauma-informed-systems#:~:text=A%20trauma%2Dinformed%20child%20and,%2C%20caregivers%2C%20and%20service%20providers.>

See also: Essential Components of Trauma-informed Judicial Practice:

[https://www.nasmhpd.org/sites/default/files/DRAFT\\_Essential\\_Components\\_of\\_Trauma\\_Informed\\_Judicial\\_Practice.pdf](https://www.nasmhpd.org/sites/default/files/DRAFT_Essential_Components_of_Trauma_Informed_Judicial_Practice.pdf) See also: QUB, Developing trauma informed care in Northern Ireland: The child welfare system <https://core.ac.uk/download/pdf/196595928.pdf>

<sup>15</sup> The panel has noted that “As reviews have shown, however, the degree to which the relevant organisations integrate their provision and accept responsibility for promoting and protecting the welfare of children varies considerably and reports have demonstrated numerous examples of gaps and delays with children ‘falling through the net’ of services.” See [www.nationalreviewpanel.ie](http://www.nationalreviewpanel.ie) for further information.

### 2.2.1 Corporate parenting

In Scotland, the *Children and Young People (Scotland) Act 2014*<sup>16</sup> introduced the concept of “Corporate Parenting” to legislation.

Corporate parenting ensures a shared approach is taken by *all* State agencies to children in care and is founded on the principle that collectively all services should have the same aspirations and provide the same kind of care that any good parent would provide for their own children. The services have a mutuality of interest, i.e. the best interest of the child.

*“The role of corporate parent is not restricted to the Social Work...but applies to all departments and agencies, who should recognise their own responsibility to promote the welfare of looked after [children and] young people and ensure that their needs are adequately addressed...”*<sup>17</sup>

The Scottish legislation encompasses a range of important factors, all relevant in an Irish context. For example it contains provisions for information sharing between agencies; provides that a lead professional and a “named person” be provided for, as well as providing for a single “child’s plan” for children who require extra support.<sup>18</sup>

AAI believes that this approach would represent a paradigm shift for young people and their families, and that the concept very much ties in with the ‘best interest’ principle that will guide the revised Act.

Given the challenges that have remained in this area of social policy over many years, it is submitted that a statutory imperative requiring agencies to work together in the interest of children and families is required. Here the law, and not policy, should be clear and act as a tool to bring about long-awaited change.

---

<sup>16</sup> The *Children and Young People (Scotland) Act, 2014* is about improving the wellbeing of children and young people in Scotland. The Act is wide ranging and includes key parts of the *Getting it right for every child approach*, known as GIRFEC.

The Act places the notion of GIRFEC – the idea of improving outcomes and supporting the wellbeing of children and young people by offering the right help at the right time from the right people, GIRFEC on a statutory footing.

<sup>17</sup> See *Getting it right for every child approach*, <http://www.girfecna.co.uk/corporate-parenting> for further details.

As in Ireland, legislation relating to children talks about their “welfare”, which is not defined anywhere. The new Scottish Act does not replace the concept of welfare with wellbeing. Instead, the two concepts will sit alongside each other. “Wellbeing” is defined in the Act and reflects the need to tailor support and help that children young people and their parents are offered.

<sup>18</sup> For more information on the legislation see: <http://www.gov.scot/Topics/People/Young-People/gettingitright>

## **2.3 Information sharing**

Appropriate sharing of relevant information is a critical component of promoting the wellbeing of children, from early intervention through to child protection. AAI welcomes the concept that promoting the well-being of children will underpin the provision of early intervention measures, and that “statutory guidance and national policy will provide further details on the types of measures utilised and details around how collaboration should take place and will also assist in setting out a structure for regular reports.”

### **2.3.1 Early intervention**

In order to facilitate meaningful early intervention, AAI recommends that a specific provision should be included in the Act around information sharing between named mandated professionals.

Current statutory guidance is unclear on how information can and should be shared amongst professionals, to the detriment of children. The revised Act should amend the Data Protection Act 2018 to make specific provision for safeguarding of children and individuals at risk.

This would mirror a specific provision in the UK data protection legislation<sup>19</sup> which clearly sets out that when it comes to dealing with the safeguarding of children and individuals at risk, GDPR must not prevent or limit the sharing of information for the purposes of keeping these persons safe. AAI believes that Irish law must be very clear on this point. Child protection concerns must trump GDPR, and a specific legislative provision in this regard would clarify the position. For far too long, professionals have felt nervous and/or constrained by data protection law, and how and if they can share often highly sensitive personal information, to the detriment of the vulnerable child.

---

<sup>19</sup> See: <https://www.legislation.gov.uk/ukpga/2018/12/schedule/8/crossheading/safeguarding-of-children-and-of-individuals-at-risk>



### 2.3.2 Lawful, proportionate and clear

Looking once again to Scotland, the Children and Young People (Scotland) Act 2014 promotes lawful and proportionate information sharing, while also protecting the right of the individual to have their personal information fairly processed. If the intent of the revised Child Care Act is to promote early intervention, then it is certain that information will need to be shared - for example with relevant third parties such as An Garda Síochána, schools and other professionals involved in the child's life<sup>20</sup> - before a situation reaches crisis point, or thresholds of harm reach a certain level, given the resourcing constraints in the Child and Family Agency. While the Children First Act 2015 is a strong and very welcome child protection law, problems occur where the circumstances do not yet reach the child protection trigger, yet professional concerns exist. This same issue exists for children who are in voluntary care or under supervision orders, as outlined in the DCYA's consultation paper. A risk to wellbeing can be a strong indication that the child or young person could be at risk of harm if the immediate matter is not addressed and sharing the right information at the right time would help improve outcomes and prevent concerns developing further.

If the revised Act remains silent on this issue, then at minimum, the DCYA must issue clear guidance, similar to those issued in Scotland and England around the sharing of information between professionals.<sup>21</sup> These documents make it clear that the GDPR does and should not prevent, or limit, the sharing of information for the purposes of keeping children and young people safe. However, the optimum course, in the best interests of children at risk, is to have specific and clear legislative protections for the sharing of information.

---

<sup>20</sup> For example, Operation Encompass, a very successful initiative to support young people experiencing domestic abuse in the UK requires that police can share information with schools. For more information see: <https://www.operationencompass.org/>

<sup>21</sup> Multi agency practitioner guide to information sharing, confidentiality and consent to support children and young people's wellbeing, <https://www.cne-siar.gov.uk/media/10867/girfec-practitioners-guide-to-information-sharing-confidentiality-and-consent.pdf> See also: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/721581/Information\\_sharing\\_advice\\_practitioners\\_safeguarding\\_services.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721581/Information_sharing_advice_practitioners_safeguarding_services.pdf)

### **3.0 To summarise, AAI recommends that the revised Act:**

- Includes a comprehensive definition of the best interests of the child in a similar way to the definition outlined in the Children and Family Relationships Act, 2015.<sup>22</sup>
- Adopts the definitions of harm and welfare as set out in the Children First Act, 2015,<sup>23</sup> and adds a new definition of harm to both the revised Act and Children First, (category c: 'Impairment suffering from seeing or hearing the ill treatment of another.')<sup>24</sup>
- Ensures that the legal processes and services underpinning the child and family system, i.e. the courts and ancillary services, adopt a trauma-informed approach that acknowledges the prevalence and impact of trauma on children and their families
- Introduces the concept of "Corporate Parenting" to ensure that state agencies are required under law to work together in the best interests of children.
- Introduces a specific provision around information sharing between named mandated professionals and amends the Data Protection Act 2018 to make specific provision for the safeguarding of children and individuals at risk.
- compels the appropriate statutory body to issue clear guidance, similar to those issued in Scotland and England around the sharing of information between professionals.<sup>25</sup>

---

<sup>22</sup> Part V, s.31 of the Children and Family Relationships Act 2015

<sup>23</sup> Part 1 of the Children First Act: <http://www.irishstatutebook.ie/eli/2015/act/36/enacted/en/pdf>

<sup>24</sup> This reflects changes in the UK: Under Section 31(9) of the Children Act 1989, as amended by the Adoption and Children Act 2002: Harm means ill-treatment or impairment of health or development including 'impairment suffered from seeing or hearing the ill-treatment of another.'

<sup>25</sup> Multi agency practitioner guide to information sharing, confidentiality and consent to support children and young people's wellbeing, <https://www.cne-siar.gov.uk/media/10867/girfec-practitioners-guide-to-information-sharing-confidentiality-and-consent.pdf> See also: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/721581/Information\\_sharing\\_advice\\_practitioners\\_safeguarding\\_services.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721581/Information_sharing_advice_practitioners_safeguarding_services.pdf)