



## **Ombudsman for Children's Office**

### **Submission to Tusla on the Review of the National Leaving and Aftercare Policy 2011**

**November 2016**

#### **I. Introduction**

The Ombudsman for Children's Office (OCO) was established in 2004 under primary legislation, the Ombudsman for Children Act 2002. The Ombudsman for Children is independent of Government and other civil society actors and is accountable to the Oireachtas. The role of the Ombudsman for Children is to promote and safeguard the rights and welfare of children and young people. The functions of the Ombudsman for Children are: to conduct investigations of complaints regarding actions by public bodies; to promote children's rights and to provide research and policy advice to Government and other bodies.

The OCO welcomes the opportunity to make this submission on the current review of the HSE National Policy and Procedure Document for Aftercare Service Provision (2011). We note that the Child Care (Amendment) Act 2015 placing the provision of aftercare on a statutory basis has not been commenced to date and in light of that, a comprehensive National Leaving and Aftercare Policy (*hereinafter*, National Policy), in line with international children's rights standards and best practice, can greatly contribute to inform current practice. Most importantly, the National Policy will have a determinant role in bridging any potential gaps arising from the implementation of the new legislation when commenced.

The OCO has prepared this submission in light of the Ombudsman for Children's statutory functions under Section 7 of the 2002 Act to:

- Advise on the development and coordination of policy relation to children (7(1)(a));
- Encourage public bodies to develop policies, practices and procedures designed to promote the rights and welfare of children (7(1)(b)); and
- Provide advice on any matter relating to the rights and welfare of children (7(4)).

The advice provided has been framed in light of Ireland's international human rights obligations, the recommendations of the UN Committee on the Rights of the Child, the experience of this Office in relation to complaints received from young people and others on their behalf with regard to aftercare, the issues brought to our attention by organisations working with young care leavers and also the advice provided by the OCO in relation to policy and legislation affecting the rights and welfare of children.

While the OCO acknowledges that progress has been made and an increased number of young care leavers are in receipt of aftercare, there is no data available about the nature and quality of the aftercare services provided. Due consideration should be given to undertaking an audit to evaluate the quality of aftercare service provision. Hiqa inspections to Children's Residential Centres during the second quarter of 2016 have found that in some centres not all aftercare plans were comprehensive and completed in a timely way; Planning and the provision of appropriate aftercare was not adequate; Significant risks were identified in relation to preparation for leaving care and aftercare planning.

Many of the problems highlighted in 2009 by the Report of the Commission to Inquire into Child Abuse in relation to the inadequacy of aftercare support services persists today, proving that the implementation of the actions in relation to aftercare recommended by the Commission has been poor. At the end of the second quarter of 2016 only 33% of 16 and 17 year olds in care had a preparation for leaving care and aftercare plan, and only 34% had an allocated aftercare worker. In both cases, the figures clearly illustrate a lack of consistency in terms of aftercare provision depending on the county concerned.

Some progress has been achieved regarding aftercare provision since the Ryan Report Implementation Plan was published in 2009. In 2012, a Report commissioned by Tusla, Review of Adequacy of HSE Child and Family Services found that approximately 72% more young people were recorded as being in receipt of aftercare services in 2012 than in 2009 (1,457 compared to 847). According to this report approximately 77.2% of young people aged 18-21, in receipt of an aftercare service in 2012 had an Aftercare Plan. At the end of the second quarter of 2016, 1,897 young adults were in receipt of aftercare services and 59% of this cohort (18-22 years old) were in full-time education.

The current review of the National Policy should contribute in a meaningful way to the further implementation of the actions recommended by the Commission, including in relation to:

1. Arranging 'exit interviews' on leaving care;
2. Prioritising identified 'at risk' young people leaving care and requiring local authority housing; and
3. Providing a holistic, integrated, caring service to young people to support their changing needs in making the successful transition to living independently.

The following sections of the OCO submission highlight the concerns raised in the context of complaints made to the OCO by children and young people directly or by others on their behalf in relation to aftercare services and supports over the past number of years. They also include issues which have been brought to our attention by young persons who have experience of the care system and by organisations who work with young people in

aftercare. During 2015 and 2016 the Office continued to receive complaints in relation to specific issues relating to leaving care and aftercare provision and the issues arising are incorporated into this submission. Complaints received include issues relating to:

- A. Delays in aftercare planning;
- B. Inadequate planning generally;
- C. Lack of provision of aftercare support; and
- D. Inconsistencies and a wide variation in aftercare service provision nationally.

## **II. A rights-based approach to the National Leaving and Aftercare Policy**

### **1. The Children's rights constitutional amendment and the Child Care (Amendment) Act 2015**

Following the referendum in 2012 and the signing into law of the Constitutional amendment in 2015, Article 42A (1) of the Constitution now contains an explicit statement that the State recognises and affirms the rights of all children and shall provide for the protection and vindication of the rights of those children. In addition, article 42A commits to introducing legislation to ensure that the best interests of the child are the paramount consideration in child protection and care proceedings brought by the State and that the views of the child will be heard and taken into account in these proceedings. The OCO believes that the best interests and voice of the child principles should be firmly embedded in practices and policies across government.

### **2. The Child and Family Agency Act 2013 and the UN Convention on the Rights of the Child**

Two fundamental principles of the UN Convention on the Rights of the Child were incorporated in the Child and Family Agency Act 2013. This means that in the performance of its functions, including in relation to aftercare, Tusla has the statutory obligations to:

- Regard the best interests of the child as the paramount consideration - Section 9 (1), (2) of the Child and Family Agency Act 2013 and Article 3 of the UNCRC;
- Ensure that the views of the child are taken into consideration, ascertained and given due weight – Section 9 (3), (4) of the Child and Family Agency Act 2013 and Article 12 of the UNCRC.

It is essential that the National Policy reflects these principles/rights and embeds them in the aftercare framework of service delivery. The obligation to provide support to children who are leaving care is especially important when one considers the particular vulnerability of children who have been in care and the fact that they are at greater risk than their peers of experiencing difficulties such as homelessness, addiction or mental health issues.

It is important that in the assessment and determination of young people's best interests, Tusla follows the guidance provided by the UN Committee on the Rights of the Child, in its General Comment N. 14 on the right of the child to have his or her best interests taken as a primary consideration.<sup>1</sup>

In its 2016 Concluding Observations on Ireland's most recent report on the implementation of the UN Convention on the Rights of the Child, the UN Committee on the Rights of the Child expressed concern about the existing inadequate aftercare services and support provided to children leaving care, particularly those who have experienced homelessness. In this respect, the Committee drew attention to the UN Guidelines on the Alternative Care of Children which provide guidance and outline States' obligations in relation to aftercare. Key elements of these guidelines which should be reflected in the National Policy are as follows:

- Throughout the period of care, the State should systematically aim at preparing the child to assume self-reliance and to integrate fully in the community, notably through the acquisition of social and life skills, which are fostered by participation in the life of the local community.
- The process of transition from care to aftercare should take into consideration the child's gender, age, maturity and particular circumstances and include counselling and support, notably to avoid exploitation. Children leaving care should be encouraged to take part in the planning of aftercare life.
- Children with special needs, such as disabilities, should benefit from an appropriate support system, ensuring, inter alia, avoidance of unnecessary institutionalisation.
- Both the public and private sectors should be encouraged, including through incentives, to employ children from different care services, particularly children with special needs.
- Special efforts should be made to allocate to each child, whenever possible, a specialised person who can facilitate his/her independence when leaving care.
- Aftercare should be prepared as early as possible in the placement and, in any case, well before the child leaves the care setting.
- Ongoing educational and vocational training opportunities should be imparted as part of life skill education to young people leaving care in order to help them to become financially independent and generate their own income.

---

<sup>1</sup> See UN Committee on the Rights of the Child, *General Comment N. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration*, CRC/C/GC/14.

The OCO further recommends that Tusla consults with young people about to leave care and adult care leavers with a view to identifying their key concerns and addressing them in the National Policy. The views of young care leavers should not only inform the drafting of the National Policy but also the work of aftercare workers. Such a consultation should be undertaken in accordance with good practice having regard to the principle of the voice of the child under Article 12 of the UNCRC

### **III. Delivery of Aftercare Services and Supports**

The OCO welcomes the enactment of the Child Care (Amendment) Act in December 2015 which strengthens legislative provisions regarding aftercare and imposes an explicit statutory duty on the Child and Family Agency to prepare an aftercare plan for an eligible young person. The Act, when commenced will also “provide for the giving of assistance by the Agency, subject to the resources available to the Agency”, to meet the needs of young people leaving care. The National Policy should reflect the obligation to provide every young care leaver with an aftercare plan and an allocated aftercare worker to ensure the implementation of the plan.

While the entitlement to access services in the Act is subject to the availability of resources, the National Policy should also ensure implementation of the aftercare plan. The National Policy Framework for Children and Young People 2014-2020 (Better Outcomes Brighter Futures), has committed to “the development and implementation of a quality aftercare plan and the development of protocols in relation to accessing housing, education and training.” The OCO is of the view that implementation of a quality aftercare plan should also ensure access to broader supports having regard to the needs of the young care leaver (see section 4 below – Supports and Services).

The Child Care (Amendment) Act 2015 will be a welcome development when commenced. However, consideration should be given to incorporating procedures outlined in the revised National Policy into Regulations and statutory Guidance. In Northern Ireland and Scotland, access to and provision of aftercare supports is clearly outlined in legislation but has been supported also by subsequent Guidance and Regulations. In both systems, the young person is to be involved in both carrying out assessment and in preparation of their pathway plan.<sup>2</sup>

---

<sup>2</sup> In Northern Ireland, the Children (Leaving Care) Regulations (Northern Ireland) 2005 support the Children (Leaving Care) Act (Northern Ireland) 2002. The Regulations set out qualifying criteria for the leaving and aftercare arrangements; assessment of need; preparation and review of pathway plans; function of personal advisers and the assistance young people will receive with education, training and accommodation. In Scotland, the Children (Scotland) Act 1995, the Children Leaving Care Act 2000 (UK), the Regulation of Care (Scotland) Act 2001 and the Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003 provide a detailed legal framework for aftercare supports in Scotland.

## 1. Eligibility for Services

The OCO welcomes the enactment of the Child Care (Amendment) Act in December 2015 which strengthens legislative provisions regarding aftercare and imposes an explicit statutory duty on the Child and Family Agency to prepare an aftercare plan for an eligible young person. The Act, when commences will also “provide for the giving of assistance by the Agency, subject to the resources available to the Agency”, to meet the needs of young people leaving care. The Act also provides for a review of the operation of an aftercare plan where there has been a change in the young person’s circumstances or additional needs have arisen.

While welcoming the legislative underpinning which the Act provides, the OCO is of the view that all care leavers should be eligible to receive aftercare services and supports. The current categories outlined in the HSE National Policy (2011) are too narrow and exclude a number of vulnerable young people. The criteria for aftercare services introduced by the Child Care (Amendment) Act 2015, excludes *ab initio* young people who have been in care for less than 12 months, despite the recommendations of the Joint Oireachtas Committee on Health and Children in its Report on the General Scheme of the Aftercare Bill 2014.<sup>3</sup>

While giving effect to the Act, the National Policy should not be limited by the provisions of the Act having regard to the needs of young people leaving care. The National Policy should expand the eligibility criteria to include young people who have been in care for less than 12 months, particularly if he or she is especially vulnerable or at risk. Flexibility to provide supports to young people beyond the age of 20, where such a need is assessed as appropriate, should apply.

### Upper Age Limit

In relation to the upper age limit to qualify for aftercare support, the OCO recommends that the National Leaving and Aftercare Policy aligns itself with the National Policy Framework for Children and Young People 2014-2020. The National Policy should ensure that, where a review of an aftercare plan identifies a need for continued supports, such should be provided up to the age of 24 years, having particular regard to young people at risk (see section 2.2 below) and regardless of whether the young person is in full time education.<sup>4</sup>

---

<sup>3</sup> See Oireachtas Joint Committee on Health and Children, *Report on the General Scheme of the Aftercare Bill 2014*, 31/HHCN/017, July 2014. The Report recommended broadening the eligibility criteria to the following categories of care leavers: young persons deemed to have ‘exceptional needs’; young persons up to the age of 25 years; young persons accessing accommodation pursuant to section 5 of the Child Care Act 1991; young persons who have been in the care system but who subsequently end their childhood in detention centres; young persons who have been adopted following a care placement but where this arrangement subsequently breaks down; and young persons who have been in care for less than the required 12 months but whose families are ‘known’ to the Child and Family Agency.

<sup>4</sup> The Children (Scotland) Act 1995 (as amended) and the Children and Young People (Scotland) Act 2014 set out that local authorities have a statutory duty to prepare young people for ceasing to be looked after (“Throughcare”) and to provide advice, guidance and assistance for young people who have ceased to be looked after (“Aftercare”) on or after their 16th birthday. There is a duty on local authorities to

Flexibility should also be provided for in the National Policy ensure that young people who have disengaged have the option to access to aftercare assessments and support up to the age of 24, having particular regard to young people at risk.

### **1.1 Young People under Section 5 of the Child Care Act**

The OCO has in the past outlined its concerns regarding the issue of homelessness and the operation of section 5 of the Child Care Act 1991.<sup>5</sup> In February 2016, the UN Committee on the Rights of the Child expressed concern about inadequate aftercare services and support provided to children leaving care, particularly those who have experienced homelessness, and recommended that Ireland should undertake legislative amendments, as necessary, to ensure that the Child Care Act, 1991 adequately addresses the needs of children who have experienced homelessness.

Currently, children who have been accommodated under Section 5 of the Child Care Act 1991 are not entitled to access a statutory aftercare provision since they are not in the care of the State. However, in 2011 the HSE Children and Family Services completed an audit of the use of Section 5 and in 2012 a national policy and procedure on the use of Section 5 was implemented.<sup>6</sup>

In 2013, a review of the implementation of the Youth Homelessness Strategy concluded that improvements are needed in providing children at risk with responses based on a comprehensive assessment of their needs; and that key to improving outcomes for children is ensuring their transition to adult services is appropriate to their needs. The recommendations which emerged from the review should be reflected in the National Policy.<sup>7</sup>

It remains of concern to the OCO that children accommodated under Section 5 may not receive the same level of aftercare supports that they would be otherwise entitled to if they

---

provide this support up to the age of 19 and a duty to assess any eligible needs up to their 26th birthday, or beyond at their own discretion. See Children and Young People (Scotland) Act 2014, Part 10 (Aftercare),

<http://www.legislation.gov.uk/asp/2014/8/section/66/enacted> , accessed 6 December 2016. See also Scottish Government, <http://www.gov.scot/Topics/People/Young-People/protecting/lac/careleavers>, accessed 6 December 2016.

The Children (Leaving Care) Act 2000, applicable in England and Wales sets out duties local authorities have to support young people leaving care from 16 to 21 years of age and specifies their entitlement to obtain assistance with education, employment and training up to age of 24. Likewise, the Children (Leaving Care) Act (Northern Ireland) 2002, sets out duties local authorities have to care leavers up to the age of 21 and foresees their entitlement to obtain assistance with education, employment and training up to age of 24.

Children (Leaving Care) Act (Northern Ireland) 2002, <http://www.legislation.gov.uk/nia/2002/11/section/4> , accessed 6 December 2016.

<sup>5</sup> See Ombudsman for Children's Office, *Statement on the examination and proposed Investigation of HSE Homelessness Service provision to children who are homeless and accommodated under Section 5 of the Child Care Act and those in the Care of the HSE accessing homeless services*, November 2012; See also Ombudsman for Children's Office, *Annual Report 2009*, p. 26

<sup>6</sup> See *HSE National Policy and Procedure on the Use of Section 5 of the Children Act 1991*; This policy states that children under 16 years presenting as homeless or at risk of homelessness should be categorised as a child protection and welfare concern and referred to the appropriate Children and Family service for an assessment in accordance with Children First. If the assessment determines they cannot return to their parents they should be taken into care under the relevant section of the Child Care Act, 1991. The policy also states that Bed and Breakfast accommodation shall not be used as accommodation for children and young persons under the age of 18 years. See also Tusla, *Review of Adequacy for HSE Child and Family Services*, (2012).

<sup>7</sup> See Department of Children and Youth Affairs, *Review of Implementation of Youth Homelessness Strategy*, 2013.

were formally in the care of Tusla. Under the new eligibility criteria set out in the Child Care (Amendment) Act 2015 time spent under Section 5 of the Child Care Act can be combined with time spent in mainstream care in order to satisfy the 12 month requirement for eligibility. However, the OCO reiterates its recommendation made in 2012 that the National Policy should make provision for children who have been accommodated under Section 5, particularly those where it has been used for extended periods and that all homeless children who turn 18 while homeless should be entitled to aftercare support and benefit.<sup>8</sup>

## **1.2 Asylum seeking Young people Leaving Care**

Under the current HSE National Policy 2011, separated children in Ireland, asylum seeking young people leaving care “*may be eligible to access a leaving and aftercare service on the basis of their individual needs assessment*”.<sup>9</sup> However, professionals have expressed concerns about the discretionary nature and a lack of transparency regarding decisions to allow young adults to remain in placements (e.g., foster care or supported lodgings) rather than being sent to Direct Provision.<sup>10</sup>

Figures from 2015 demonstrate that 50 of the 82 young people who were in the protection process moved to Direct Provision.<sup>11</sup> The current practice is that separated children on reaching 18 who do not have a decision regarding their status move into Direct provision.<sup>12</sup> The Working Group on the Protection Process heard that moving from foster or residential care to Direct Provision accommodation is a daunting experience for many of these young people. While the introduction of the ‘Equity of Care’ policy (2010), requiring that the same standard of care be provided to separated children *vis-à-vis* other children in State care, has improved the standard of care for separated children, the ‘equity of care’ principle has not been extended to the area of aftercare. Practice in this area still reflects the need to see these children as children first – rather than asylum seekers first.<sup>13</sup> Tusla has a fundamental role to play in re-shaping current government policy that a separated child must be placed in adult asylum accommodation, or Direct Provision, upon reaching the age of 18. The Working Group on the Protection Process noted that no positive view was expressed about a separated child transferring to Direct Provision on reaching 18 years.

Tusla should ensure that the National Policy provides that the ‘Equity of Care’ principle should be applied equally to separated children in aftercare planning and supports, irrespective of the child’s status. The OCO supports the recommendation made by the

---

<sup>8</sup> *Idem*.

<sup>9</sup> See HSE, *National Policy and Procedure Document for Aftercare Service Provision*, 2011, p. 21.

<sup>10</sup> See Children’s Mental Health Coalition, *Someone to care: The mental health needs of children and young people with experience of the care and youth justice systems*, (July 2013).

<sup>11</sup> See Working Group to Report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, Final Report, June 2015, page 229-230.

<sup>12</sup> *Idem*, page 230.

<sup>13</sup> See Arnold, Samantha *Aftercare and asylum: who is responsible for separated children?* (2013), Human Rights in Ireland.



Working Group on the Protection Process in 2015 that all separated children over the age of 16 should have an aftercare plan.

## **2. Assessment of Need**

In February 2016 the UN Committee on the Rights of the Child recommended that Ireland *“adequately prepare and support young people prior to their leaving care by providing for their early involvement in the planning of the transition and by making assistance available to them following their departure”*.<sup>14</sup> In order to fulfil this recommendation the National Policy must ensure that the following conditions are consistently met:

- An assessment of need must take place as early as possible in the process of preparation for leaving care in order to ensure an adequate planning for aftercare services and supports.
- Training on how to carry out assessments of need should be provided to social workers and aftercare workers in all areas.
- Information and guidance on the assessment process should be provided to those involved.
- Young people should actively participate in the planning of their transition.
- Assistance and supports should be extended to care leavers up to the age of 24 where an assessment of need so determines (in line with the upper age limit set out in the National Policy Framework for Children and Young People 2014-2020).

### **2.1 Young People at Risk**

The National Policy should recognise that enhanced planning and assessment of need is required in relation to young people ‘at risk’ leaving care and it should incorporate guidance on how to proceed in terms of prioritising especially vulnerable young care leavers. A series of risk factors should be taken into consideration when identifying young people who need to be prioritised in terms of accessing aftercare supports. After care workers assigned to especially vulnerable care leavers should have lower case loads.<sup>15</sup> The list of risk factors should include where a young person:

- has experienced multiple care placements
- has had a record of numerous changes of social worker
- has experienced unstable and transitory relationships with significant carers
- has had their education severely disrupted
- has had insignificant levels of contact with their families

---

<sup>14</sup> See UN Committee on the Rights of the Child, *Concluding Observations on the combined third and fourth periodic reports of Ireland*, CRC/C/IRL/CO/3-4, para 44(d).

<sup>15</sup> The National Policy should reflect the Children First: National Guidance for the Protection and Welfare a Children which includes a list of “especially vulnerable children” (Part IV, Section 8).

- has a lack of social networks and self-dependency skills
- is leaving care and moving into Direct Provision
- is involved in criminal activity
- is using drugs and alcohol
- has serious mental health difficulties<sup>16</sup>
- uses homeless services
- has a disability.

The “team-around-the-child-approach” used by the Meitheal National Practice Model and the Meitheal Toolkit (2015), should be considered in the context of aftercare particularly in relation to especially vulnerable young care leavers. While currently, this framework is essentially an early family support mechanism, our Office recommends that consideration be given to introducing this type of approach in the context of aftercare.<sup>17</sup>

The OCO further recommends that the findings of the National Review Panel (NRP) on serious incidents including deaths of children in care, should inform this list with regard to the circumstances of the young people who were, at the time of death, in receipt of aftercare services and under 21 years of age, or in care immediately prior to turning 18. In 2014, four young people died in aftercare. From 2010 to 2014, just over 12% of the children whose death was notified to the NRP were in aftercare.<sup>18</sup>

### **3. Preparation for Leaving Care and the Aftercare Plan**

The National Policy Framework for Children and Young People 2014-2020 (Better Outcomes Brighter Futures), acknowledges the challenges for many young people leaving care and recognises that in the absence of good planning, this transition can be severe and abrupt, with a high risk of social exclusion and a higher rate of youth homelessness than peers not in care. It adds that, successful transitions from care rest on pre-care experiences, the quality and stability of the care experience, and the quality of planning and aftercare supports.

In light of this, Government has committed to *“ensure all young people leaving care, detention or residential disability settings are adequately prepared and supported to negotiate the system and transition to stable independent living, further education, training or employment through the development and implementation of a quality aftercare plan and the development of protocols in relation to accessing housing, education and training.”*<sup>19</sup>

---

<sup>16</sup> Transitioning to adult mental health services can be extremely challenging for a young person who is leaving care. The Joint Committee on Health and Children recommended in its Report on the General Scheme of the Aftercare Bill 2014 that it should be recognised that young care leavers may merit treatment as a specific priority group when it comes to applying, being assessed, and being granted State supports and services, including mental health services.

<sup>17</sup> See Tusla, Meitheal Toolkit (2015).

<sup>18</sup> See National Review Panel, *Annual Report 2014*.

<sup>19</sup> See *Better Outcomes Brighter Futures*, The National Policy Framework for Children and Young People 2014 – 2020, p. 36.

Organisations working with young care leavers have brought to the OCO's attention their concerns about the lack of sufficient numbers of social workers engaging in aftercare preparation. Our Office has been made aware of situations where a young person has had little or no interaction with a social worker or where the social worker has a limited relationship with the young person and as a result the needs of the young person are not properly reflected in the aftercare plan.

Best practice suggests that preparation for leaving care that allows young people to leave on a gradual basis have proved to be successful. It is also important to incorporate contingency plans in the preparation and planning processes, as a back-up for supporting young people, in the event of initial leaving care arrangements breaking down.<sup>20</sup>

The mental health risks children and young people face are exacerbated at periods of transition: primary to secondary school, junior to senior cycle, and leaving school. Children in the youth justice system or in care typically have little or no family support; for them, there is even more pressure on these transitions. Leaving care is a particularly vulnerable time and there is evidence that better supported transitions help young people to cope with independence better, and to build on gains made while in care.<sup>21</sup>

In circumstances where young care leavers return home to their families after they leave care, this transition should be supported by family support services under the Meitheal Framework.<sup>22</sup>

Care leavers need the type of flexible support provided by most families to young people exploring independence. The EU-SILC survey (update from 2013) reports that in Ireland 74.7% of young people aged 20-24 live with their parents,<sup>23</sup> yet vulnerable care leavers are expected to live independently at the age of 18. In some cases young care leavers need a longer transition period and the National Policy should introduce flexible support schemes for such situations.

The National Policy should also emphasise the need to equip young people with practical long life skills to manage aftercare, in line with the actions recommended by the Commission in the Ryan Report in 2009.<sup>24</sup>

---

<sup>20</sup> See Social Services Inspectorate, *Practice Guidelines on: Leaving Care and Aftercare Support*, (2010).

<sup>21</sup> See Children's Mental Health Coalition, *Someone to care: The mental health needs of children and young people with experience of the care and youth justice systems*, (July 2013).

<sup>22</sup> See Tusla, Meitheal – A National Practice Model for all agencies working with children, young people and their families, *National Guidance and Local Implementation* (August 2013).

<sup>23</sup> Eurostat Database, <http://ec.europa.eu/eurostat/data/database>, accessed 8 December 2016.

<sup>24</sup> See Office of the Minister for Children and Youth Affairs, Department of Health and Children, *Report of the Commission to Inquire into Child Abuse, 2009: Implementation Plan*, July 2009, p. 49.

### 3.1 Timing for the Preparation of the Aftercare Plan

International and national standards are unequivocal about the benefits of early planning in terms of positive outcomes for the young care leaver. In this respect, the National Standards for Children's Residential Centres state in relation to preparation for leaving care that *"two years prior to a young person reaching the legal age of leaving care the care plan will outline the preparation and support in place for the young person"*.

The Child Care (Amendment) Act 2015 places a statutory obligation on the Child and Family Agency to prepare an aftercare plan for an eligible child *"at least 6 months before he or she attains the age of 18 years", or "within 3 months of that child having become an eligible child"*. While this is a welcome development, the Oireachtas Joint Committee on Health and Children Report on the General Scheme of the Aftercare Bill 2014 recommended that consideration should be given to including a target of completing an aftercare plan before the young person reaches the age of 17. The aim of this would be to allow adequate time to address the individual needs of each young person. This target should be reflected in the National Policy.

### 3.2 Accommodation

The National Policy needs to issue a stronger statement in relation to the need to secure suitable accommodation for young care leavers.

The Ryan Report recommended in 2009 that action be taken to review the approach to prioritising identified 'at risk' young people leaving care and requiring local authority housing.<sup>25</sup> Some progress has been made in the implementation of this action through the introduction of the Protocol on Young People Leaving State Care (2014),<sup>26</sup> however, there is no available data or information to assess whether the protocol has increased care leavers' housing options at the point they leave care.

Furthermore, the Protocol does not designate those leaving care as a priority group for allocation of housing. Organisations working with care leavers have also indicated to the OCO that there is a lack of supported accommodation options for care leavers (Supported Temporary Accommodation). The absence of Aftercare Steering Committees in many areas affects the operationalization of the Protocol.

---

<sup>25</sup> See Office of the Minister for Children and Youth Affairs, Department of Health and Children, *Report of the Commission to Inquire into Child Abuse, 2009: Implementation Plan*, July 2009, p. 49.

<sup>26</sup> See Ryan Report Monitoring Group, *Ryan Report Implementation Plan, Fourth Progress Report*, December 2014, p. 40.

The National Policy should incorporate a commitment to designate those leaving care as a priority group for allocation of housing. Setting up a range of accommodation options should be prioritised and adequately resourced. Consideration should also be given to making provision for care leavers to remain in their foster or residential care placement after 18 years of age, where possible and appropriate, having regard to the best interests of the care leaver and regardless of whether the young person is in education.

### **3.3 Homelessness**

The Protocol on Young People Leaving State Care does not put in place a system to ensure that young people leaving care do not experience homelessness, nor does it designate care leavers who have been identified as at risk of homelessness as a group for priority allocation.

The National Policy must clearly state that in no circumstances should a young person move from care into homelessness. This commitment should be embedded as a minimum core standard in the new National Policy. A review of the Protocol should ensure that indicators to identify young people at risk of homelessness are developed and it should put in place additional supports to prevent homelessness.

The National Policy should build on the commitments made by the Department of Housing, Planning, Community and Local Government (DHPCLG) under the Action Plan on Housing and Homelessness (July 2016) to:

- Ensure that young people leaving State care and at risk of homelessness are identified and catered for through appropriate housing and other supports required to meet their needs;
- Allocate specific funding under the Capital Assistance Scheme for Approved Housing Bodies (AHBs) to respond to these accommodation needs; and the commitment that the health and independent living supports are to be provided by Tusla, the HSE and expert NGOs.

## **4. Accessing Services and Supports**

Findings from practice tell us that aftercare support tends to be provided by committed individual practitioners, rather than as the product of clear, strategic service planning.<sup>27</sup> This is also reflected in the complaints which are brought to the OCO which often reflect inconsistent, uneven provision of aftercare support. The following points reflect issues which have come to the OCO's attention through our complaints and investigation function, as well as issues which have been brought to the attention of the office by organisations working with young care leavers:

---

<sup>27</sup> See Social Services Inspectorate, *Practice Guidelines on: Leaving Care and Aftercare Support* (2010).

- **Young people who disengage:** the National Policy should ensure that young people reluctant to engage are given meaningful opportunities to do so and are provided with adequate supports. These young people are often amongst the most vulnerable and in need of most support. No rigid time limits should be imposed on the young person to engage with support services, especially when these are deemed to meet the young person's needs.
- Systems should be put in place to ensure that young people who have disengaged have the option to access aftercare assessments and support up to the age of 24, having particular regard to young people at risk.
- **Lack of consistency of Services:** the National Policy should ensure that aftercare workers caseloads are at 'best practice' levels. The current caseload of 25 cases to 1 aftercare worker is very difficult to sustain. Organisations working with care leavers suggest that caseloads should be set in the range of 15 to 20 cases per aftercare worker with the variation in caseloads being reflective of young people's needs rather than of the number of young people in need of support.
- The National Policy should ensure that the provision of aftercare services is consistent and equitable throughout the country. Children in care should not be subjected to a geographical lottery for aftercare support.
- **Lack of clarity/information about payments and supports:** the National Policy should ensure that there is clarity around who manages and pays for aftercare supports, with clear guidelines outlining the criteria and rationale for financial payments. Guidelines should address situations where a specific case is originally being managed by a Social Work Team in a certain county/region and is subsequently transferred to a different county/region.
- There is also a lack of information on how to access grants, requirements and deadlines. This information should be readily available and easily accessible to all those involved including aftercare workers, social workers, young care leavers, foster families, etc. Young care leavers should receive clear information on their rights and entitlements as part of their aftercare planning process.
- **Young care leavers who have their own children in care:** aftercare planning must take the particular situation of these young care leavers into consideration. The specific needs of these young care leavers should be assessed, particularly in relation to increasing parental capacity and providing suitable accommodation and supports. Any decisions in relation to their children should take into account the young care leavers' views as parents, regard the best interests of their children as the paramount consideration and give due weight to their children's views in accordance with their age and maturity.

- **Young care leavers with disabilities:** the OCO is particularly aware of additional supports required by young care leavers with a disability and the need for inter-agency co-ordination in planning aftercare placements and supports for these young people.<sup>28</sup>
- The National Policy should provide for active support for young care leavers with a disability with longer transitions to ensure links are made with appropriate support services and the young person is sufficiently prepared for and involved in the transfer to adult services or independent living.<sup>29</sup>
- Specialist leaving care schemes, targeting and focussing on meeting the needs of these young care leavers for accommodation, social support, finance, continuing education or training, information and specialist advice (e.g. benefits system, employment, counselling, health care issues etc.) are required.
  - Adequate follow-on placements and early aftercare planning is crucial to ensure positive outcomes for these young people.
  - These young people have the right to know their life story and should have access to their information prior to leaving care.
- **Addressing the Mental Health Needs of Young Care Leavers:** the OCO is concerned about the inadequacy of provision in relation to children in care with mental health needs. Young people leaving care with mental health needs should be directed to counselling and other necessary services and should be prioritised in terms of accessing mental health supports.<sup>30</sup> Furthermore, due consideration should be given to CAMHS offering aftercare support to young care leavers up to the age of 24.
- A broad definition of mental health should be adapted in relation to children in care: not just the absence of illness, but a state of well-being and the ability to cope with life's challenges.<sup>31</sup> This should be reflected in the range of supports needed to address the complex mental health needs of children and young people in state care and in the youth justice system when planning for aftercare.
- The lack of access to dual diagnosis mental health services where a young person has both addiction and mental health issues also needs to be addressed.
- Enhanced inter-agency co-operation to ensure that a range of supports will be available to young people leaving care with mental health needs is absolutely

---

<sup>28</sup> The National Policy must recognise the right of young people with disabilities to special protection in line with Article 23 of the UN Convention on the Rights of the Child. The scope of application of Article 23 includes young people with mild learning disabilities and young people with moderate to profound disabilities and who are unlikely to live fully independently. The UN Committee on the Rights of the Child has highlighted that these young people are entitled to assistance, appropriate to their condition designed to ensure that the young person with disabilities has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to him or her achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development. See United Nations, *Convention on the Rights of the Child*, Article 23 N.2-3.

<sup>29</sup> See HIQA, *National Standards for Residential services for children and adults with disabilities*, 2013.

<sup>30</sup> See Children's Mental Health Coalition, *Someone to care: The mental health needs of children and young people with experience of the care and youth justice systems*, (July 2013).

<sup>31</sup> See Children's Mental Health Coalition, *Someone to care: The mental health needs of children and young people with experience of the care and youth justice systems*, (July 2013).

necessary and this should be planned for and reflected in aftercare plans. A detailed transition plan should be put in place for young care leavers in these circumstances.

- **Young people in aftercare with addiction problems:** the OCO is particularly concerned about the lack of access to appropriate services for young care leavers and those in receipt of aftercare that have addiction problems. Access to appropriate services, including supported accommodation, needs to be provided as a matter of priority.

## **5. Inter-agency cooperation**

In Brighter Outcomes Brighter Futures, the Government committed to bring a stronger focus on effective transitions, particularly within education, health, child welfare, and youth justice services. The implementation of this commitment implies that providers of aftercare services and supports must inevitably work in partnership with other agencies and departments (accommodation providers, social welfare, employment and training providers, and health care services).

Furthermore, while the assistance to be provided under the Act is subject to the availability of resources, the Act requires the Agency to consult with other public bodies having regard to the services required by the young person leaving care, both in the preparation of an aftercare plan and any reviews. The development of interdepartmental protocols can help define, formalise and assure the ‘wrap-around’ support care leavers need. It will ensure that the services meet the needs of the child rather than the child fitting the service. For example, there is a need for greater coordination between Tusla and the HSE Disability Services, CAMHS, DES, local authorities in relation to accommodation, etc.

The development of Children’s Services Committees will be crucial in this regard. However, in order to ensure effective transitions and maximise the benefits of inter-agency cooperation, children’s services and adult services should also co-operate with each other where needed.<sup>32</sup> The National Policy must prioritise the development of Aftercare Steering Committees at local level equipped with area-based multi-disciplinary teams linked to Children and Young People Services Committees to ensure a local inter-agency response to young people leaving care. The Aftercare Steering Committees should also track progress of young people leaving care and provide a forum for re-referrals in the event of placement breakdown.

---

<sup>32</sup> More broadly, consideration should be given to placing a statutory obligation on agencies to work together in the provision of supports and services to children generally, and particularly to children in care. In Northern Ireland, the Children’s (Northern Ireland) Order 1995 was amended to facilitate greater inter-agency co-operation between agencies with regard to children in care by mandating agencies to provide assistance where requested by other agencies provided it is compatible with their statutory duties. The Children’s Services Co-operation Act (Northern Ireland) 2015 places a statutory obligation on every children’s authority to co-operate with other children’s authorities and with other children’s service providers in the exercise of those functions. The definition of “children’s authority” includes a broad range of statutory authorities and agencies which provide services to children.



## 6. Monitoring and Evaluation

- **National Standards for Aftercare with Inspections:** the National Policy should incorporate a set of national standards for aftercare, which should draw from international best practice. Independent periodic inspections should be established in order to ensure the quality of the services and to improve accountability.
- **Exit interviews:** the Ryan Report recommended that 'exit interviews' be conducted with children on leaving care and that these interviews should be recorded and should be considered in the planning and delivery of services. Organisations working with young care leavers and young care leavers themselves have brought to our attention the lack of implementation of this recommendation. The new National Policy should commit to undertake exit interviews with young care leavers.
- **Better data:** there has been no systematic follow-up of all young people who have left care, so it is not possible to estimate the percentage who experience difficulties beyond those normally encountered in the transition from adolescence to adulthood.<sup>33</sup> Disaggregated data covering the different aspects of young care leavers lives should be collected and disseminated systematically. Due consideration should be given to undertaking an independent audit to evaluate the quality of aftercare service provision.
- **Independent Appeals Process:** given the statutory right to aftercare under the Child Care (Amendment) Act 2015, care leavers should have access to an independent appeals process in cases where they feel they were not provided with the supports they needed. Information about the complaints statutory function of the OCO should be made available to young people upon their admission to care.

---

<sup>33</sup> See Office of the Minister for Children and Youth Affairs, Department of Health and Children, *Report of the Commission to Inquire into Child Abuse, 2009: Implementation Plan*, July 2009, p. 48. The Ryan Report recommended that the HSE conduct a longitudinal study to follow young people who leave care for 10 years, to map their transition to adulthood. This action was never implemented due to resource restrictions. See Ryan Report Implementation Plan, Fourth Progress Report, December 2014, prepared by the Ryan Report Monitoring Group, p. 40.