

ASTI Presentation to Joint Oireachtas Committee on Health and Children

INTRODUCTORY REMARKS

We are confident that what we, the educators, have to say today will be of assistance to him and the Committee in its important work on the developing the future legislation. Teachers play a unique and formative role in the lives of young people. Not only do we see the same young every day, every week for at least nine months of the year, we also observe their behaviour in the context of their peer group. It is this context that provides teachers with privileged insights into the lives and well-being of young people. Whatever sectoral policy framework emerges into the future, it will be important to build on this strength and empower teachers to recognise when individual children's well-being is compromised or when they need help.

ASTI Observations on Draft Heads of Children Bill, 2012

Before I present some core concerns in relation to the Heads of Children Bill, I want to put it on public record the good standing of the teaching profession in relation to child protection. If we cast our minds back to the darker days of 1991, following the Kilkenny Incest Report, we will recall that one of the most ardent supporters of the "Stay Safe" programme was the teaching profession. It was not always easy to maintain that position. However, we now have school courses/interventions which are of high quality, culturally sensitive and developmentally appropriate which aim to foster the personal development, health and well-being of the child, to help him/her to create and maintain supportive relationships and become an active and responsible citizen in society. We already have strengths in our system.

You have received a copy of the ASTI submission. Its core concerns are neither new nor insurmountable. Specifically, we share the concerns of the Children's Rights Alliance as regards:

- Failure to include terminology of "*the best interests of the child*"
- Very narrow definition of abuse in Head 2 –not consonant with existing guidelines
- Lack of clarity as to relationship between national guidelines and legislation
- Need for coherence across the raft of new and emerging legislation
- Phased commencement of legislation

We also have concerns specific to schools. The teaching profession does not have problems with the new requirement on schools to prepare Keeping Children Safe Plans, to proactively engage in promoting awareness of child welfare, etc. Nor does it have problems with the designation of teachers as Mandated Professionals. The problems arise from the capacity of our schools to take on these additional roles. These statutory requirements will add greatly not just to the workload of Principals but also to the Board of Management. The Department of Education & Skills must put in place a coherent Sectoral Plan, policy templates and above all, consistent training. Future legislation must ensure that the Designated Officer must be given the type of bona fida protection that is currently provided under Persons Reporting Child Abuse Act, 1998.

Speaking of protections, the ASTI believes that the criminal prosecution sanction in Heads 11 & 20 is unworkable in practice and should be re-considered. A core objective of the Children First legislation is to bring accountability into the area of child protection and welfare. It will best succeed in this goal by facilitating a culture of compliance with the legislation. An accountable organisational culture will not emerge because of fear of prosecution. Rather, it will emerge when professionals/individuals working in such organisations have clear and shared understandings of children's welfare; of child abuse - in particular, emotional and psychological abuse; of what constitutes the best interests of the child.

More specifically, the ASTI must put on record its deep concern over the potential criminal liability that the Bill conjoins to the role of the Designated Officer. Organisational cultures are driven by leaders: in the case of schools, by the school Principal. Affixing potential criminal liability to their role would be disastrous on several counts. It will discourage teachers from applying for the post of principal: there is already widespread evidence of such difficulties because of the perceived workload and responsibility attached to the post. It will not create the organisational culture of compliance wherein all members of staff have to create a culture of accountability. It also raises issues as to the current contractual duties of principals. Furthermore, it raises issues as to the statutory duties and responsibilities of the Board of Management, including the Chairperson of the Board. The Department of Education & Skills has a particular responsibility to address these issues in advance of the finalisation of the legislation.

System Capacity

Finally, we cannot finish our presentation without reference to the system capacity and leadership issues which have rightly dominated the public discourse arising from the Report of the Independent Child Death Review Group. This Report provides evidence of:

- Delays in taking children into care
- Re-assignment of social workers
- Poor standard of record keeping and inconsistent reports
- Poor supervision by Team Leaders
- No care plans
- No aftercare

It concluded that *“These concerns are largely systemic in nature...A lack of clear procedures, reporting and supervision amongst HSE staff is clearly evident...Evident problem of communication within HSE and between HSE and other services, eg, Garda”*. This is indeed a very depressing scenario. The Report mirrors the conclusions of system incapacity, frequent system failure that emerged during the reviews of Children First some years ago. It would appear that little has changed. That is the real challenge facing society; as legislators you have both an opportunity and a duty to ensure that the necessary changes take place in our child protection systems. The Heads of the Children First Bill are broadly speaking not problematic. What is deeply problematic is the incapacity of the child protection services to deal with the referrals. Currently, it is dealing with 29,00 referrals per year. This will invariably increase under the future legislation. Until the core problem of system capacity in the child protection services is addressed, we will continue to have children falling through the system. Some fatally so.