

Changes in law require support on the ground



In the case of tragic deaths in care - such as that of Tracey Fay - it is less about children's rights and more to do with under-resourced social services

Strengthening children's rights into the Constitution will help child protection – but it's just part of the answer

IF ANYONE was in any doubt over how dysfunctional our child protection services are, then the past week has provided an avalanche of disturbing evidence.

Amid the deluge was the Tracey Fay report, which exposed the missed opportunities of social services to help a troubled and vulnerable teenager. New details of the Roscommon abuse case highlighted how horrendous abuse persisted in a family despite the intervention of social workers. It also emerged that significant numbers of foster carers were not being vetted by gardaí prior to taking children into their care.

In the rush for solutions to help prevent these failures into the future, the focus has shifted towards the forthcoming Constitutional referendum aimed at strengthening children's rights.

But what impact will children's rights have on the lives of some of the most vulnerable young people in the State? Will it really prove to be a panacea, transforming the way social services operate, empowering social workers to intervene more quickly into the lives of children at risk? Or will underfunded services be simply left to limp along with over-worked staff and no meaningful changes to the way they operate on the ground?

The answer, according to many involved in research and on the frontline of social work services, is that a successful referendum is crucially important – but it is by no means the solution.

Constitutional change will be largely meaningless in the absence of wider reform and sustained investment in services on the ground.

So what will Constitutional change do? Firstly, strengthening children's rights will provide some very real and tangible benefits.

It will help ensure that the best interests of the child are included in all decisions affecting them in Irish law. It will also help tackle a major imbalance in Irish law that places the rights of a married family ahead of the rights of a child.

This anomaly has, in effect, prevented the adoption of children in long-term foster care whose birth parents were married.

It has also hindered social services from intervening in cases of suspected abuse and neglect because of the Constitutional protection afforded to married parents, according to professionals.

A successful referendum would, in effect, lower the threshold upon which social services are allowed to intervene in the lives of children at risk of abuse or neglect in marital families.

These are not new issues. The need for stronger children's rights to address these areas was highlighted almost two decades ago in the Kilkenny Incest report. All indications are that the forthcoming report into abuse in Roscommon may suggest that protection of the marital family may have prevented the adoption of children out of an abusive family environment.

But these changes are only part of the answer, according to Prof Pat Dolan of NUI Galway and Unesco's chair in children, youth and civic engagement.

"There's no point spending a tremendous effort ensuring the rights of children are properly prescribed in the Constitution if we let them down by not providing services on the ground," he says.

"This needs to be done in an honourable way that guarantees rights as well as resources."

Social workers on the ground agree. They point to tragedies of deaths in care – Tracey Fay, David Foley and others – where the issue was less about children's rights and more to do with social services not being sufficiently resourced to do their job properly.

The Irish Association of Social Workers says social work teams are unable to respond to hundreds of cases of abuse because they are overloaded with work.

Children with mental health problems wait for up to a year or more to get an assessment. Youngsters who are neglected and abused by their parents only come to the attention of authorities when it's too late.

Many feel isolated and vulnerable in their day-to-day work due to heavy case loads and a lack of leadership at senior levels within the HSE. Typically, they want more support and lighter case loads to be able to work with at-risk families.

Our system, in essence, is built on the principles of crisis management rather than responding earlier and more decisively in the lives of children.

"We need to switch towards a system which intervenes quickly in the lives of children and supports parents," says one senior social worker, who declines to be named as he is not authorised by the HSE to do so.

"Social workers should be working with families and helping parents – instead they are too often seen as overzealous social police, whisking children into care."

Academics such as Dolan point to the need for greater emphasis on preventative measures like family support, which have the potential to diffuse problems before they turn into a crisis. This can include something as simple as parenting support, to help lift the burden on a parent who feels at the end of their tether.

"It can tip the scales in their favour," he says. "Something like a parenting programme can help hugely by allowing a parent to admit they're under stress and that they need support."

There have also been calls over the past week for stronger laws to make it easier for social workers to take children into care.

The reality, according to those on the ground, is these laws exist.

The Childcare Act of 2001 gave health authorities new powers to intervene in cases of suspected abuse. It contains a variety of care orders which can be invoked if the evidence of abuse and neglect is real.

Frontline professionals say there is generally no problem in using the law. The problem is the painstaking and resource-hungry work in building up an accurate picture of children's lives. Such evidence is rightly needed to secure a court order.

Of most significance, perhaps, is the fact that our avowed commitment to children is not always translated into actions to improve their lives.

The shelves of the Department of Health and HSE are creaking with the number of reports and recommendations into cases where the State failed to provide sufficient care for children.

They contain recommendation after recommendation aimed at overhauling child protection services, improving inter-agency communication and ensuring children at risk can be afforded protection.

Inevitably, many of their recommended changes are marked by the same pattern of inaction.

Perhaps this time a groundswell of public anger, as well as the public revulsion to the clerical abuse of children in the Ryan and Murphy reports, may finally result in meaningful changes.