

General Scheme and Heads of Aftercare Bill 2014
January, 2014

Heads of Bill

Aftercare Bill 2013

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A BILL TO PROVIDE FOR A STATUTORY DUTY ON THE CHILD AND FAMILY AGENCY TO PREPARE AN AFTERCARE PLAN FOR EACH ELIGIBLE CHILD OR ELIGIBLE YOUNG PERSON AND REVIEW, ON REQUEST, AN AFTERCARE PLAN FOR AN ELIGIBLE YOUNG PERSON TO PROVIDE THAT THE MINISTER MAY MAKE REGULATIONS ON THE MATTER AND TO PROVIDE FOR RELATED MATTERS.

Interpretation

Head 1 provides for the definition of terms used within the Bill.

Head 1 – Provide that:

In this Bill –

‘Agency’ means the Child and Family Agency established under the Child and Family Agency Act 2013.

‘Aftercare plan’ means a plan prepared by the Child and Family Agency in accordance with this section.

‘Eligible Child’ means a child aged 16 years or over who is in care and has been in care for -

(a) a minimum period of 12 consecutive months, or

(b) a cumulative period of not less than 12 months in the previous 5 years.

‘Eligible Young Person’ means -

(a) A child aged 16 or 17 who presents him/herself to the Agency and establishes that he/she had been in care under any of the provisions of this Act –

(i) for 12 consecutive months prior to reaching age 16 and who then left care aged 16 years, or

(ii) on a number of occasions for a cumulative period of not less than 12 months in the previous 5 years from the date on which they presented themselves to the Agency

(b) a young person aged 18, 19 or 20 who presents him/herself to the Agency and establishes that he/she was an eligible child before he/she reached 18 years

and for whom an aftercare plan, for any reason was not prepared or finalised or who decided not to avail of the assistance offered in the aftercare plan on reaching 18 years of age,

or

(c) A young person aged 18, 19 or 20 who presents him/herself to the Agency and establishes that he/she was an eligible child before he/she reached 18 years and where there has been a significant change in their circumstances since leaving care, that was unexpected and/or which necessitates a review of the original aftercare plan.

Explanatory Note:

This Head is a standard provision containing definitions of key terms within the text of the Bill.

“Agency” means the Child and Family Agency established under the Child and Family Agency Act 2013.

“Aftercare Plan”

While the process engaged in by the Agency inevitably involves planning, there is currently no specific reference to a “plan” in the Child Care Act 1991.

“Eligible child” and “Eligible young person”

The definitions of “eligible child” and “eligible young person” set those categories of children and young people eligible to have an aftercare plan prepared and reviewed.

“Eligible Child”

An “eligible child” is a child aged 16/17 years and has been in statutory care for a minimum of 12 consecutive months or a child who is and has been in care under the Child Care Act 1991 on a number of occasions, but where the total duration of the stay in care does reach 12 months.

“Eligible young person”

The definition of “eligible young person” will allow the Agency to respond to a request from a young person aged 16 or 17 in circumstances where they were in care for 12 consecutive months prior to turning 16 and who left care on turning 16. It will also provide for the Agency responding in cases where a 16 or 17 year old young person had been in care on a number of occasions, but where the total duration of the stay in care had not been less than 12 months. In such cases the agency shall prepare a plan (where none exists) or review and update a current aftercare plan.

The definition further allows the Agency to respond to a request from a young person under the age of 21, who was an eligible child but for whom, for any reason, a care plan was not prepared or finalised, or who did not engage with the after care plan on reaching their 18th birthday. It will also recognise instances where there has been a significant change in the young person’s circumstances. This definition allows for children who leave care at 16 to be included in having an aftercare plan prepared to identify their needs. This cohort could include children who leave care to return home and that arrangement breaks down.

Preparation of Aftercare Plan

Head 2 provides that the Agency is obliged to prepare an aftercare plan for each eligible child and eligible young person.

Head 2 – Provide that:

- (1) (a) In order to determine the need for assistance under this section (i.e. Section 45(1)(a)), the Agency shall -
 - (i) Subject to subsection (2) of this section, prepare an aftercare plan for each eligible child before they leave care

 - (ii) prepare an aftercare plan or review and update an existing aftercare plan for each eligible young person following a request by, or on behalf of, the eligible young person

- (b) A request under sub paragraph (a)(ii) in relation to an eligible young person may be made by those persons referred to in subhead (4).

- (2) The timing of the preparation of the aftercare plan referred to in subsection (1)(a) of this section shall have regard to the review of the case of the child in care carried out in accordance with the provisions of this Act, but in any case shall be completed no later than 6 months before the child attains the age of 18.

- (3) The Agency shall ascertain the views of each eligible child or eligible young person, as appropriate, to whom the aftercare plan referred to in subsection (1) relates.

- (4) The Agency shall take all reasonable steps to consult with all or any of the following persons, unless there is reasonable cause to believe that it is not in the best interests of the child to do so
 - a. A parent

- b. The guardian
- c. Any person acting in *loco parentis*
- d. Any person with a bona fide interest in the child

Explanatory Note:

Subhead (1) provides that the Agency will prepare an aftercare plan for each eligible child and eligible young person required by them for when they leave the care of the State or continued supports that are required since leaving care (in the case of the eligible young person).

Subhead (2) refers to the timing of the preparation of a plan. It is linking this process to review of cases of children in care carried out in accordance with the Child Care Act 1991 and the related Child Care Regulations 1995. It also contains a safeguard in that there is an obligation that an aftercare plan must be completed no later than 6 months in advance of a child's 18th Birthday. While the obligation exists to have the plan completed in this timeframe, it should not preclude any further changes required to the plan in light of any changes in circumstances for the child.

Subhead (3) provides that the Agency shall ascertain the views, in so far as is reasonable and possible of each eligible child and eligible young person in relation to the aftercare plan. It should be noted that the participation of the child or young person is not a prerequisite to the completion of an aftercare plan

Subhead 4 provides that other persons shall be consulted, where it is in the best interest of the child or young person, regarding the aftercare plan. This could include, for example, parents or siblings, foster carers, residential care workers, education providers, Guardian ad Litem (where still actively representing a child in care), and medical and other therapeutic professionals working with the child.

Cooperation with HSE

Head 3 provides that the Agency will cooperate with the HSE in providing assistance in relation to health needs of the eligible young child or eligible young person as part of the transition to independent living. It also provides that the Minister may prescribe other bodies with whom the Agency shall cooperate in assisting a child or young person.

Head 3 – Provide that:

- (1) Insert new paragraph (f) in section 45 (2) that provides that the Agency may assist a person by co-operating with the HSE in planning for the health needs of children leaving care

- (2) Insert a new paragraph (g) in section 45(2) to provide that Agency may assist a person, in accordance with this section [45] by co-operating with such State Bodies as the Minister may prescribe.

Explanatory Note:

This head provides that the Child and Family Agency may assist a person by co-operating with the HSE in relation to the health needs of the young person. At present section 45(2) provides for:

“(2) A health board may assist a person under this section in one or more of the following ways—

- (a) by causing him to be visited or assisted;
- (b) by arranging for the completion of his education and by contributing towards his maintenance while he is completing his education;
- (c) by placing him in a suitable trade, calling or business and paying such fee or sum as may be requisite for that purpose;
- (d) by arranging hostel or other forms of accommodation for him;

(e) by co-operating with housing authorities in planning accommodation for children leaving care on reaching the age of 18 years.”

This amendment is required to ensure that the existing arrangements for cooperation with other bodies are expanded to include the HSE, by including a reference to cooperation with the HSE which was not previously required .

Similarly, subhead (2) provides that Agency may assist a person, in accordance with section 45, by co-operating with such State Bodies as the Minister may define in Regulations.

Regulations

Head 4 provides that the Minister may make regulations in relation to any matter referred to in the Bill and further provides for the laying of those regulations before the Houses of the Oireachtas.

Head 4 – Provide that:

(1) The Minister may make regulations -

- (a) for any purpose in relation to which regulations are provided for in this Bill,
- (b) prescribing any matter or thing which is referred to in this Bill as prescribed or to be prescribed, and
- (c) generally for giving effect to this Bill.

(2) Regulations under this Bill may contain such consequential, supplementary and ancillary provisions as the Minister considers necessary or expedient.

(3) Without prejudice to the generality of subhead (1), regulations under this section may prescribe, but not be limited to, the following in respect of an aftercare plan:

- a. Arrangements for timing, review and updating of an aftercare plan including having regard to the requirement for the general review of cases of children in care under the provisions of this Act .
- b. Issues to be addressed in an aftercare plan in respect of the assessment of the eligible child's or eligible young person's need for assistance
- c. The Agency's role in co-operating with other State Bodies in respect of supports
- d. Records that will be maintained in respect of the preparation of the plan

(4) Every regulation under this section is to be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the order or regulation is laid before it, the regulation will be annulled accordingly, but without prejudice to anything previously done thereunder.

Explanatory Note:

Subheads (1), (2) and (4) are standard provisions to empower the Minister to make regulations to give effect to the Bill.

Subhead (3)(a) will provide details on the timing, review and updating of aftercare plans. It is considered important to link the regular care planning process with aftercare planning.

Subhead (3)(b) also will allow for the prescription of issues to be addressed in an aftercare plan in respect of the assessment of the young person's need for assistance and consider other issues such as key relationships, social supports and continuity, financial matters and health and wellbeing etc.

Subhead (3)(c) refers to the role of the Agency in assisting by co-operating with other authorities in assessing or planning for other needs of the child. Section 45(2) of the Child Care Act sets out how the Agency may assist a person by arranging for certain service or opportunities or co-operating with other authorities in planning such supports/services. It is proposed regulations might further specify the precise role of the Agency in linking with relevant bodies having regard to the wide range of potential needs of a young person leaving care.

Subhead (3)(d) prescribes records that will be maintained. This is likely to include, for example, a written record of the aftercare plan signed by both the person who prepared the plan and the child, and any subsequent reviews of the plan until the child reaches his/her 18th birthday. Details to be recorded might include who was involved in the preparation of the plan, supports required, supports to be provided, who is responsible for actions identified; any review of the plan; contacts from or on behalf of the child or young person in respect of the plan; the views of the child / young person in respect of the plan.