

TREOIR BULLETIN - January –March 2012

TREOIR News

New Social Welfare Bill: Disaster for Lone Parent Families

Treoir has written to every TD and Senator to urge them to oppose Section 4 of the [Social Welfare and Pensions Bill 2012](#). If enacted, this would mean that lone parents whose youngest child is over 7 years would be ineligible for One Parent Family Payment (OFP) from 2014.

OFP recipients will then have to move to Jobseekers Allowance (JSA). As JSA is only paid on days not worked at all, this is not suitable for many lone parents who may work part time e.g. each morning when their children are at school.

Why TDs should oppose this section of the Bill:

1. In the absence of vital support services such as childcare, training, flexible working hours being in place, this legislation will have a disastrous effect on many OFP families. It just won't work.
2. The JSA disregard is based on days worked/not worked.
3. There is a critical shortage of job opportunities right now.
4. OFP recipients are being singled out to be available for work when their youngest child reaches 7 years, unlike other Social Welfare recipients with dependent children.

The Joint Oireachtas Committee on Jobs, Social Protection and Education published its report in March 2012 and strongly opposed this change.

DATE FOR YOUR DIARY:

Treoir's AGM will be held on Wednesday June 20th. Following the business meeting for members we will host a seminar to discuss proposed changes in guardianship and birth registration legislation to which we will also invite non-members. Venue and time to be confirmed.

If your organisation is not a member agency of Treoir but you have an interest in the topic please do let us know and will keep you informed.

Treoir Workshop - FREE

We are hosting a workshop on Wednesday 23rd May in our offices in Dublin 1. The workshops will consist of information sessions in relation to:

- Changes affecting unmarried cohabiting parents arising from The Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, which was enacted in Jan 2011. Issues covered include:
 - How are cohabitants defined in the Act
 - What is the Redress Scheme that is available to qualified cohabitants if their relationship ends. This scheme deals with property, maintenance, pension etc.

The sessions will also include information on the legal rights of unmarried parents, eg:

- Maintenance
- Guardianship
- Access/custody

If you would be interested in attending this workshop or if you are working as part of a team and would be interested in hosting a workshop in the future please contact us at info@treoir.ie or call Bella on 01-6700120.

NEW - Information Pack for Unmarried Parents 2012

The 2012 edition of Treoir's Information Pack for Unmarried Parents is now available to download from our website or order at info@treoir.ie / 01-6700120. For those of you who are not familiar with our information pack, it contains key legal information for unmarried parents such as guardianship, custody and access, maintenance, new rights for cohabiting parents, financial information and much more.

TREOIR Step-parent Adoption Leaflet

To reflect changes in legislation we have updated our information leaflet on step-parent adoption which will be available in print form shortly. In the meantime, we have updated our website with the relevant changes.

See <http://www.treoir.ie/information-adoption.php>.

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LEGAL

Non EU parents get residency in Ireland

Following a European Court landmark decision last year (the Zambrano ruling) more than 850 non-EU citizens have been granted residency in Ireland. The Court of Justice of the European Union ruled last March that the non-EU parents of EU-citizen children must be allowed to live and work in that EU state. Another 700 cases are outstanding and it is unknown how many more Irish born children and their parents having left Ireland would be entitled to return following this ruling. The judgment had no impact in terms of eligibility for Irish citizenship as per the 2005 citizenship referendum. Since then, to become an Irish citizen, at least one of that child's parents must have been lawfully resident in Ireland for three out of the previous four years, other than as an asylum seeker or a student. (Irish Times – January 2012)

Country of Residence

Although the following cases involve children born to married parents the judgements made could equally apply where the parents are unmarried.

1. Permission to change Country of Residence

In this case a mother applied to the court in Ireland for permission to relocate to Spain with her children (aged 12 and 6). The application was refused as not in the interests

of the welfare of the children. In this case the parents shared joint custody and guardianship following their separation in 2007.

The Judge in this case said that the main focus in the case was the balance to be struck between Articles 40.3 and 41 of the Constitution. Under Article 41 the family was the natural primary unit group of society, and the State guaranteed to protect it. Under Article 40.3 the children had the personal right to have decisions in relation to guardianship and custody taken in the interests of their welfare. A balancing exercise was involved, which must have regard to the constitutional rights of children to have these decisions taken in the interests of their welfare, which included the right to have access to or contact with their parents.

Mr Justice MacMenamin said he did not think relocation should take place now as it would have the effect of diminishing the father's relationship with the children. He pointed out that all such orders can be revisited because circumstances can change. (Irish Times 20/2/2012)

2. Decision made as to whom a child would reside with

The mother of the boy (13) had brought proceedings under the Hague Convention on child abduction seeking an order requiring his return to England and claiming he would have better schooling and a better life there. The boy, together with his brother and sister, had moved to Ireland with his father following the parents divorce in 2008. In 2010 the girl and younger brother returned to England to live with their mother. After a 2 week holiday in Ireland with this father the younger brother said he wished to remain in Ireland with his father. Mr Justice Michael Peart ruled, after balancing this "sufficiently mature" boy's "genuinely held" objections to return to England against the aims and objectives of the Hague Convention, that this was one of those exceptional cases where a child should not be returned to his country of habitual residence which, in July 2011, was Britain.

While article 12 of the convention required immediate return of a child wrongfully removed, article 13 permitted the court some discretion. In this case, of "particular exceptionality" was the fact the boy had seven years of living with his father and of attending school here with which to rationally compare the 12 months between 2010 and 2011 living with his mother in England, the judge said.

(Irish Times 13/1/2012)

Boy loses challenge to underage sex laws

A five-judge court yesterday rejected an appeal arising from a 15-year-old boy being charged under the Criminal Law (Sexual Offences) Act 2006 with having sex with a 14-year-old. The boy had claimed that the law discriminated against him as it provided for the prosecution of the boy but not the girl in such a situation. The Supreme Court ruled that it was within the discretion of the Oireachtas to enact section 5 of the 2006 (Sexual Offences) Act which provides that a girl under 17 shall not be guilty of an offence by engaging in sexual intercourse. The rationale for the measure was objective and not arbitrary, the court said. While upholding that decision, the Supreme Court awarded costs against the State and the DPP in view of the special circumstances of the case, including that it concerned social policy and a new statutory scheme, and that the boy was a minor. The court unanimously ruled that the danger of pregnancy for teenage girls in such cases was an objective which lawmakers were entitled to have when enacting this legislation.

In practice it is rare for young people to be prosecuted for engaging in sexual activity where they are of similar ages and where there is no complaint of coercion. The Supreme Court pointed out in this case that the DPP has discretion in relation to prosecuting, and chose to exercise his discretion in favour of prosecuting in this case. (Irish Times 24/2/2011)

The increasing acceptance of Facebook and Twitter!!

The English High Court recently confirmed that legal papers can now be served through the social networking site, Facebook. On 21 February of this year, Justice Nigel Teare granted permission to a lawyer representing a pair of investment managers to serve a legal claim via Facebook in circumstances where the defendant was proving difficult to locate. The lawyers for the plaintiffs, having made enquiries, were able to satisfy the Court that the Facebook account belonged to the defendant and that the defendant was in the habit of checking it.

This is not the first time that social media sites have been used for such a purpose. In 2009, the English High Court permitted a lawyer to use Twitter in order to serve an injunction to a Twitter user and Facebook has been used in the past in the UK for the purpose of issuing a court summons to an otherwise elusive debtor. Following a landmark ruling in December 2008 by the Supreme Court in Australia social media sites have been used to serve claims in Australia and New Zealand.

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here2help

Here2Help Crisis Pregnancy Services is one of the 'Positive Options' agencies funded by the HSE Crisis Pregnancy Programme. Here2Help is what is sometimes called a 'three-option agency'. This means that they can provide counselling, practical support and information in relation to any of the three options available in a crisis pregnancy situation: parenting, adoption and abortion. Here2Help is exactly that: here to help and support anyone affected by a crisis pregnancy, whether past or present. Their services include face-to-face counselling and support, as well as a telephone helpline. They also provide free pregnancy tests. Services are free, and available to men as well as women, and also to anyone else affected, whether extended family or close friends.

Based in South Dublin and Cavan and open Monday – Friday, 10am – 4pm.

Helpline: 1850 67 3333, www.here2help.ie.

Pathways to Work

This new plan to get people to get back to work was announced by Joan Burton TD, Minister for Social Protection, on the 23rd February. The aim of Pathways to Work is to get 75,000 people who are currently long-term unemployed back into the workforce and to reduce the average time spent on the live register from 21 months today to less than 12 months by the end of 2015. A key element of the Pathways to Work approach is the transformation of social welfare offices into new one-stop-shops in the first half of the year where clients can access their entitlements and get

help with planning their return to work. Four will open in King's Inn, Parnell Street, Dublin; Tallaght, Dublin; Arklow, Co. Wicklow and Sligo by May with a further ten coming on stream by the end of the year.

Overall, the Department will offer 85,650 job placements or work experience initiatives in 2012 including JobBridge, the National Internship Scheme, Tús, the Rural Social Scheme and the Jobs Initiative. The priority is to ensure that employment opportunities go to people currently on the live register. For that reason, the Employer Job (PRSI) Incentive Scheme, which exempts employers from liability to pay their share of PRSI for certain employees for twelve months, is now being extended into 2012. The scheme will also be extended to cover the first 18 months of employment. The relief will also be extended to 18 months for any business set up under the Back to Work Enterprise Allowance or Short-term Enterprise Allowance that takes on additional members of staff. Eligibility criteria for the scheme will be amended to allow time spent on the Work Placement Programme and JobBridge count as the qualifying period for the scheme.

For more information see

<http://www.welfare.ie/en/Schemes/JobseekerSupports/Documents/PathwaysToWork.pdf>

Growing Up in Ireland – Fourth Report

This report, part of the national longitudinal study of children, is based on data collected from 8,568 nine- year-old children, their parents and teachers at the end of 2007 and the beginning of 2008.

Among the findings, the report shows that the parent-child relationship has a greater impact on children's psychological well being than family structure and income. Notwithstanding this, mother-child conflict, a variable strongly associated with children's outcomes, was higher in all single-parent and low-income households. This suggests that the risk of mother-child conflict may be exacerbated by the stress inherent in households with relatively fewer relational or economic resources.

The report by Dr Elizabeth Nixon of Trinity College Dublin found that conflict with parents and closeness to the mother were both strongly associated with the child's social and emotional wellbeing. "Family structure and income do matter but not as much as we might think because the parenting process and child characteristics remain key," Dr Nixon said.

Among the report's recommendations were programmes to help build children's skills in developing relationships and regulating emotions and supports for parents to build positive relationships with their children. Social and emotional difficulties in children relate to problems later in life such as low educational attainment and mental health difficulties, Dr Nixon said. "What happens between children and their parent matters whether they are in a lone parent family, in a socio-economically deprived area or not," said Minister for Children Frances Fitzgerald who launched this report. Ms Fitzgerald said she had prioritised support for families and parents. Children with problems could be helped through earlier assessment, better matching of parenting programmes and identifying women at risk of postnatal depression.

Download report at www.growingup.ie.

Child Contact Centres officially launched

A new service for children whose parents are separated and who are unable to agree safe and appropriate arrangements for contact was launched on the 2nd April by Frances Fitzgerald TD., Minister for Children and Youth Affairs. The Child Contact Centre service is provided by Barnardos and One Family and is operating on a two year pilot in three locations in Dublin: Ballymun, Clondalkin and Tallaght.

A Child Contact Centre is a safe, friendly and neutral place where children can spend time with the parent(s) they do not live with. The aim of the service is to enable children, where possible, to grow up enjoying a positive relationship with both of their parents, even when they don't live together

The Barnardos & One Family Child Contact Centre service provides a range of contact options including, supervised contact – where contact is supervised for one family at a time; supported contact – where contact is provided for a number of families at the same time, and handover contact – where an arrangement is agreed for one parent to bring their child to the contact centre to be collected by the other parent, without the parents needing to meet. Parents are offered additional family supports like counselling and a key worker to assist them in addressing the issues that led to them needing to use a Child Contact Centre service, so that they can move on to self-arranged contact over time.

Anyone can make a referral to the service by contacting Barnardos & One Family Child Contact Centre at childcontact@onefamily.ie or on 01 4032085/89/80 on Tuesdays from 9.30am – 1pm.

The service is also available to children who are living in the care of the Health Service Executive and who need support to have contact with their parent(s).

Family Day

To celebrate all families throughout Ireland in the week leading up to the UN International Day of the Family, One Family is hosting a Family Day Picnic. The picnic will take place on Sunday 13th May at the Iveagh Gardens, Dublin 2, 11am – 5pm. Bring your own picnic and entertainment will be provided. For more information see www.familyday.ie

Positive Childhood Campaign

Frances Fitzgerald TD., Minister for Children and Youth Affairs launched the Positive Childhood Campaign on March 26th. This is a parents-led social initiative created by youth/family & social marketing consultant Sheena Horgan and family website www.mykidstime.ie. The campaign is supported by Barnardos, ISPCC and the Children's Rights Alliance, as well as other organisations working on behalf of children in Ireland.

[Campaign for Children](http://www.campaignforchildren.ie) is a public education campaign, dedicated to raising awareness of children's rights issues in Ireland. Their aim is to see an Ireland in which children are heard and childhood is cherished and they are looking for support to help make this happen. Central to their focus in the coming months will be Ireland's lack of statutory child protection laws and the fact that their best interests are not prioritised when decisions are made that affect them.

See www.campaignforchildren.ie.

Downsizing the Community Sector (Feb. 2012)

This report has been published by the Community Sector Committee of Congress and shows that since the onset of the financial crisis, the sector has experienced cuts of between 17% and 54%. Launching this new study, by Brian Harvey, on the impact of cuts Congress General Secretary David Begg said it was clear many of the cuts were taking place "below the radar and out of the spotlight. But their impact is enormous. In many communities these cuts are eroding the social fabric, eating away at what binds those communities together," he said.

Download report at

<http://www.ictu.ie/publications/fulllist/downsizingcommunitysector/>

Childminding Ireland

Childminding Ireland is a national organisation promoting and supporting quality family home-based childcare and assisting parents in finding it. To celebrate National Childminding Week 2012 and the launch of its new website Childminding Ireland are hosting a free workshop on Saturday 21st April. The workshop will include:

- Practical tips for Childminders and Parents
- Information on safety features on personal computers
- The benefits of children using the internet
- A range of leaflets on Internet Safety

For more information see www.childminding.ie or Phone 01 2878466.

Birth Parent Support Group North West

For a number of years a group of birth mothers who placed their children for adoption have been meeting in the North West. This is a support group, called Danú, with the purpose of providing a safe, confidential place for these mothers to talk about their experience of adoption. Sheila Gallagher, a social worker with this group, says that feedback from the women attending the Group is very positive that "*the support of peers – other women with similar experiences was invaluable*". By being part of this group the women's sense of isolation has been reduced and it has given them the confidence to talk to their families about their experiences

Contact the Birth Parent Support Group through:

Sheila Gallagher, Social Worker 071 91 43058, stattractas@gmail.com or

Elizabeth King, The Sligo Family Resource Centre, 071 91 46315

coordinatorsligofrc@gmail.com

Free Legal Advice Centres (FLAC) - Fact Sheets

1. **Civil Legal Aid.** This recently updated factsheet provides an overview of the civil legal aid system in Ireland, including

- eligibility and application procedure,
- cost of civil legal aid,
- termination of civil legal aid,
- how to appeal decisions,
- making a complaint in the legal aid system.

Download at <http://www.flac.ie/download/pdf/20111122123218.pdf>

2. Habitual Residence Condition (HRC). FIAC has also updated their Factsheet on the HRC. This is a qualifying condition for certain social welfare payments which was introduced on 1 May 2004 in response to EU enlargement. All persons seeking means- tested social welfare payments and Child Benefit after that date have been required to satisfy this condition.

Download at http://www.flac.ie/publications/2012-flacsheet-on-hrc_final/

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NOTICES from the Adoption Authority

1. Renewal of Section 63 Declarations which will expire on 31st October 2012.

Section 41 of the Adoption Act 2010 allows for a possible **ONE** year extension to a Declaration of Eligibility and Suitability previously issued. Section 41 states –

41.—(1) A declaration of eligibility and suitability expires after—

(a) 24 months from the date of issuance of the declaration, or

(b) a further period of not more than 12 months that the Authority may specify on application made to the Authority by the person or married couple concerned within those 24 months.

Prospective Adoptive Parents in possession of a valid Declaration of Eligibility & Suitability are advised that an online notification and application system will be launched on the Authority's website on 13th April 2012. This will allow prospective adoptive parents to apply to the Authority for an extension to their Declaration of Eligibility & Suitability in sufficient time before the expiry date of 31st October 2012. Further details will be announced nearer the launch date. Prospective adoptive parents not having access to the internet will be advised of alternative arrangements. Application details will be forwarded to the HSE on a regular basis in order for an updated assessment report to be carried out.

Further details of the online registration system will be given on 12th April 2012.

2. HSE INFORMATION & TRACING SERVICE – NEW ADDRESS

HSE Information & Tracing Service,

2nd Floor Nexus Building,

Units 4/5 , Blanchardstown Corporate Park,

Dublin 15.

Tel: 01 – 8976881 / 01- 8976858

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Ombudsman for Children

Children First: National Guidelines for the Protection and Welfare of Children

The Ombudsman for Children has issued a review on the States' compliance with recommendations made in Children First: National Guidelines for the Protection and Welfare of Children. In the review Ombudsman Emily Logan has identified a series of fundamental failures by the [Health Service Executive](#) in implementing crucial child protection measures. A lack of local procedures to deal with concerns or 24-hour access to monitoring systems for children at risk, as well as poor co-operation between the HSE and gardai, have all been identified by Ombudsman Emily Logan.

The findings were released on the 14th March. "It is the view of the Ombudsman for Children that much needs to be done to improve protection and promote children's rights and welfare," the report stated. The review examined a lack of official local procedures across the country and noted that it was very difficult to ascertain how good each "on the ground" approach worked. The Child Protection Notification System (CPNS) -- a database containing information from healthcare workers and gardai on children deemed to be at risk -- came under particular scrutiny. See report at www.oco.ie.

Ombudsman for Children seeks change in legislation

Ombudsman for Children, Emily Logan, has submitted a formal [report](#) to the Houses of the Oireachtas and the Minister for Children seeking changes to the legislation that governs her Office, the Ombudsman for Children Act, 2002. Under Section 7(h) of the Act, the Ombudsman for Children shall monitor and review the operation of the Act and make recommendations to the Minister for Children and Youth Affairs and/or the Oireachtas.

Among the changes proposed in the legislation:

- The Ombudsman for Children should be allowed to consider complaints from young people detained in St. Patrick's Institution.
- Public bodies established after the enactment of the 2002 Act with mandates and functions relevant to children and young people are included within the remit of the Office. In particular, the Ombudsman for Children should be allowed to consider complaints regarding the National Council for Special Education (NCSE).
- The definition of "child" should be amended to include young people under the age of 21 who have a disability within the meaning of section 2 of the Equal Status Act 2002 and young people who have left the care of the Health Service Executive.

See www.oco.ie

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