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## **1 Introduction**

One Family welcomes the opportunity to informally submit to the Department of Justice & Equality in relation to the work you are undertaking to regulate the ‘Child’s Views’ Experts as outlined in the Children & Family Relationships Act 2015. As Ireland’s organisation for people parenting alone, sharing parenting and separating we are acutely aware of the challenges facing families accessing the private family law courts and the need to ensure that accurate representations of the experiences and wishes of children are captured.

One Family was established in 1972 as Cherish – Ireland’s first organisation for single parents. We celebrated our 45<sup>th</sup> anniversary this year by moving premises to Smithfield, Dublin 7. We provide a wide range of specialist family support services for people living in one-parent families as well as providing policy analysis on relevant issues in order to deliver systemic and positive change.

One Family deals with thousands of queries every year via our national helpline – askonefamily. To date this year, 25% of calls have had a family law related query on issues such as supervised access, Child Contact Centres and mediation. Queries around access/contact with children are the most frequent.

We provide a number of services that are designed to specifically support people as they deal with the challenges of using the family law courts and then proceed to share parenting of their children following separation. These services including specialist parenting programmes<sup>1</sup>; mediated parenting plans; counselling; play therapy; parent mentoring and, previously, Child Contact Centres.

We are a member of Dublin’s Circuit Family Court Users’ Group and we were a member of Dublin’s District Family Court Users’ Group when it was in place. We have excellent working relationships with the staff in both the District and Circuit Courts in Dublin and find them to be professional, client-centred and innovative.

## **2 One Family Research**

Many of the parents we provide services to are users of the family law courts. Many are sharing parenting of their children and experience significant difficulty in coming to agreement about how to manage this. One Family has undertaken research and developed service responses to assist parents to negotiate and manage long-term shared parenting.

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<sup>1</sup><https://onefamily.ie/education-training/for-parents/parenting-skills/>

In 2009 we launched research<sup>2</sup> entitled *Supporting Child Contact: the Need for Child Contact Centres in Ireland*. Following that, we developed and ran pilot Child Contact Centres in two locations in Dublin in partnership with Barnardos. Our policy recommendations arising from this pilot were launched in 2014 – *Child Contact Centre: Key Learnings*. An independent evaluation was also undertaken and published in 2014.

In late 2016 we undertook Ireland’s first national survey on people who share parenting of their children or who attempted to do so. We received over 1,000 responses to our online survey, including over 3,500 individual comments. We launched an analysis of this survey in January this year entitled *National Shared Parenting Survey- Results & Recommendations*<sup>3</sup>. Quotes from parents who responded to the survey and told us about their experiences within the court system and what would help them are included with our recommendations below.

### **3 Recommendations**

Our recommendations in relation to the Regulation of ‘Child’s Views’ Experts are as follows:

#### **3.1 Court Welfare System**

Ireland requires a comprehensive and well-resourced court welfare system to support families, judiciary and practitioners. In particular this is required to ensure that children’s best interests, voice and views are of paramount importance and supported in a meaningful way with impartial, expert information available to courts on what is actually happening within a family.

It has also been the experience of One Family (and this is widely documented internationally) that the diversion of private family court users to ancillary family support services, as well as mediation, can in some circumstances, decrease conflict, tension and return court visits. These services need to be professional, holistic, accessible and child-centred. The co-location of such services in or adjacent to, court buildings should be strongly considered as being the most impactful model of decreasing conflict and the repeated use of the court system to resolve issues.

Whilst this might appear to be an issue outside the direct remit of the development of these regulations, it is clear that if a court welfare system were in place, the work of these Experts would be within a broader and more supported context. Therefore, it is imperative that the importance of such a service is named at every opportunity if we are to truly value the people who use family courts in Ireland.

Possible services to include as part of a court welfare system:

- Mediation including shuttle mediation and mediated parenting plans

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<sup>2</sup><https://onefamily.ie/policy-campaigns/research-reports/>

<sup>3</sup><https://onefamily.ie/policy-campaigns/one-family-campaigns/national-shared-parenting-survey/>

- Specialists to hear the voice of the child
- Specialists to represent the interests of the child
- Specialists to undertake parenting capacity assessments
- Specialists to undertake assessments re the functioning of the family, extent of domestic abuse, risks for children etc
- Counselling for parents, together or separately
- Parent mentoring to focus on the best interests of the child and improve parenting skills
- Specialist parenting programmes such as those provided by One Family and other non-profit organisations
- Play therapy for children
- Child Contact Centres.

### **3.2 Qualifications and Experience of Expert**

Currently there is no regulation in place for any court expert including Guardian ad Litem (GALs), although this is under reform. Appropriate qualifications and regulation of experts is essential and we recommend that minimum standards are established to protect the public. Guidelines that will be developed to regulate GALs may be appropriate to adopt. The Experts should be subject to licensing, regulation, CPD and it may be useful to look at the work of CORU on the regulation of professions.<sup>4</sup>

It is essential that the Expert has an in-depth knowledge of working with and hearing vulnerable children; families where abuse has taken place; the dynamics of parental control, influencing and alienation; common issues that arise in the processes of parental separation and sharing parenting; as well as experience of working with children of all ages and stages of development and those who have experienced trauma and loss.

As part of regulation of the profession, educational qualifications and experience will need to be named in a regulatory framework and applicants will need to show they meet standards. This is all done in order to protect the public.

### **3.3 Fees and Allowable Expenses**

We are aware of the fees charged by those individuals and organisations carrying out Section 47 reports which are beyond the reach of many parents. An examination of the audited accounts of relevant individuals/bodies may reveal the level of profit or otherwise that is being made. The level of fees should be as low as possible to provide for an appropriate professional service but ensure that excess profit is not being generated.

It is necessary to provide for parents and children who cannot afford the private fees of Experts to ensure that access to justice is guaranteed irrespective of family income through state subvention.

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<sup>4</sup> <http://coru.ie/>

As part of the development of a court welfare system significant reform is required to ensure appropriate standards to protect the public, value for money, a child-centred approach and ultimately as a tool for the court.

We are also aware that Tusla are being requested to undertake Section 20 reports in private family law cases where there are insufficient means for the family to pay for an appropriate assessment. These are not appropriate and social workers may not have the specialist training required to deliver these in disputed private family law cases.

*“I could afford legal support and secured this (Section 47) report, had I not been in a position to do this as many aren’t my child’s life would have a very different outcome. Essential reports like this which affect a child should not be left to be funded privately.” (Mother of 3)*

In order to achieve equality under the law and Constitution it is imperative that a statutory mechanism is in place to ensure that vulnerable children are not excluded from having their voices heard in private family law proceedings. Subvention must be provided to cases where assessments are not affordable and at a minimum in line with Legal Aid levels.

### **3.4 How Children are Heard**

Regulation and guidance to reflect international best practice is required to provide an operational framework for how children’s views are ascertained and represented.

Different styles should not develop around each individual Expert as is currently reported.

One Family has experience of ascertaining the wishes of children in disputed private family law cases in our work in the pilot Child Contact Centres through the practice of play therapy and counselling. This work requires significant time but was a powerful way of both parents and the courts hearing the child’s voice.

### **3.5 Facilities**

Whilst plans are underway for a state of the art Children and Family Law Courts building in Hammond Lane, Dublin 7 the direct impact of inadequate and unsuitable courts continue. This is well documented in consultations on the new premises but we are particularly concerned about the challenges of bringing children to courts either in order to hear their voice or due to necessity and lack of childcare.

It is also well documented how inadequate consultation and waiting areas are and how this causes increased stress in separation, divorce and particularly in domestic violence cases. Courts should absolutely not increase risks to vulnerable people.

It is essential to consider the provision of ancillary family support services as well as mediation in conjunction with improved court accommodation into the future. The success of the Dolphin House Mediation Project supports this.

*“Mediation was our saviour ... No slagging matches on the court steps or any of the other sad goings on that you see hurt people partake in.” (Mother of 3)*

It is also essential to provide for appropriate spaces for those representing children or hearing children’s voices in courts as well as safe spaces for those who have experienced abuse or violence.

**Ends**