

Proposals for Families, Communities and Disability Services Portfolio Miscellaneous Amendment Bill 2021

Barnardos response:

- 1. Amend the *Ageing and Disability Commissioner Act 2019* to allow ADC to provide information about outcomes of a report to a reporter and other interested parties, where disclosure of the information is consistent with the objects and principles of the Act.**

Barnardos response:

Barnardos supports this proposal in principle.

Barnardos position is that if information is provided it is high level only and consideration given to only divulging the outcome. We understand that if the rules around the provision of information are not adhered to the results could be catastrophic to the individual concerned. Should this proposal be legislated Barnardos stresses the importance of good governance to ensure the integrity of the decision to disclose or share information.

- 2. Amend the *Ageing and Disability Commissioner Act 2019* to make it an offence for an employer to take detrimental action against an employee or a contractor who provides assistance to the ADC with respect to reports about abuse, neglect or exploitation of an adult with disability or an older adult.**

Barnardos response:

Barnardos supports this proposal and recommends a scheme is developed to monitor and enforce the provision.

- 3. Amend section 76 of the *Children and Young Persons (Care and Protection) Act 1998* to allow the Court to continue to extend the term of a supervision order in exceptional circumstances, notwithstanding the late filing of a report about the progress of a supervision order made under s. 76(1).**

Barnardos response:

Barnardos supports this proposal.

Barnardos would like it noted that an unintended consequence of this proposal is the potential to delay timely decision making and leave uncertainty for a child/young

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person and the significant adults in their lives.

Barnardos recommends a mitigating strategy might include the provision of a timeframe for 'late' reports.

- 4. Amend section 82 of the *Children and Young Persons (Care and Protection) Act 1998* to allow the Children's Court to continue to make orders in relevant care proceedings in exceptional circumstances, notwithstanding the late filing by a party of a report about the suitability of parental arrangements for the child**

Barnardos response:

Barnardos supports this proposal in principle. However, Barnardos would like it noted that an unintended consequence of this proposal is the potential to delay timely decision making in achieving an appropriate permanency outcome for a child thus creating uncertainty for the child/young person and the significant adults in their lives. Consideration needs to be given to the age of the child at the centre of the care proceedings as children need decisions made according to their developmental timeframes and not the timeframes of adults.

- 5. Amend section 82(2) of the *Children and Young Persons (Care and Protection) Act 1998* to extend the period that a court may require a report about the suitability of arrangements for a child's care and protection to be provided to the Court from 12 months to 24 months.**

Barnardos response:

Barnardos supports this proposal understanding the proposal is aimed at aligning the two provisions of the Care Act, section 79(9) and Section 82(2). However, Barnardos experience in delivering models of care targeted to each permanency outcome based on the legal status of the child is that permanency can be achieved within a realistic timeframe of significantly less than 2 years for the vast majority of children under the age of 5. At the present time the court can seek a Section 82(2) report at any time within 12 months and if passed this proposal could see the court not requesting a report until closer to the 24 month timeframe. Consideration needs to be given to the timing of the report and the age of the child at the centre of the care proceedings as children need decisions made according to their developmental timeframes and not the timeframes of adults. Infants removed from parental care at birth or placed into OOHC during the first year of life have developmental needs for attachment that cannot wait for extended periods of planning based on required change in adult behaviour to occur. The age of the child needs to be of paramount consideration by the courts in determining when a report should be requested.

- 6. Amend the Adoption Act to provide that if a person applies for access to information under Chapter 8, the person may, if he or she has ever been in out-of-home-care, access information to which he or she would be entitled to access under sections 168 and 169 of the Care Act.**

Barnardos response:

Barnardos supports this proposal.

Barnardos experience is that it is more difficult for a child who has been adopted to access their information than a child who exits Out of Home Care at age 18 and we support the same rules applying to both cohorts.

- 7. Amend the Adoption Act to provide that information held by DCJ that is also contained in records of proceedings in the Court that relate to the person may be released to the person would otherwise be entitled to under Chapter 8 of the Act may be provided to the person.**

Barnardos response:

Barnardos supports this proposal.

- 8. Amend the *Children and Young Persons (Care and Protection) Act 1998* to provide that a designated agency must keep carer records and transfer them to DCJ if it ceases operations and closes down.**

Barnardos response:

Barnardos supports this proposal in principal. However Barnardos query the inclusion of corporate and administrative records within this proposal and further clarification is required.

- 9. Amend the *Adoption Act* to provide that the prohibition on access to records under section 194 does not prevent records being produced to a court or other authority in response to a subpoena or other compulsory process.**

Barnardos response:

Barnardos supports this proposal. The passing of this proposal would provide clarity for staff on what can and cannot be produced under subpoena if information is protected by the Adoption Act.

- 10. Amend the *Children and Young Persons (Care and Protection) Act 1998* to provide that the Minister may approve a code of conduct for authorised carers.**

Barnardos response:

Barnardos require more clarity regarding this proposal as it is not clear if support of this would mean funded service providers have one code of conduct for the entire service system.

- 11. Amend section 245B(1)(b) of the *Children and Young Persons (Care and Protection) Act 1998* to clarify that the definition of ‘prescribed body’ includes classes of persons prescribed by the regulations.**

Barnardos response:

Barnardos supports this proposal.

- 12. Include a specific power in section 79C of the *Children and Young Persons (Care and Protection) Act 1998* to authorise the Secretary to require a guardian of a child or young person who has received financial assistance to notify the Secretary if the child or young person has left the guardian’s care.**

Barnardos response:

Barnardos supports this proposal.

- 13. Amend section 137(2) of the *Children and Young Persons (Care and Protection) Act 1998* to clarify that the regulations may prescribe requirements to notify the Children’s Guardian of a respite carer’s details and incidents where a child is placed in out-of-home care with a respite carer for more than 90 days in any 12 month period.**

Barnardos response:

Greater clarity is required for Barnardos to consider this proposal. Barnardos seeks to understand the rationale for this proposal and would like it noted that the tracking of data relating to this may prove challenging.

- 14. Amend section 137(2) of the *Children and Young Persons (Care and Protection) Act 1998* to provide that the regulations may authorise designated agencies to impose conditions on an authorised carer's authorisation and to vary and revoke those conditions**

Barnardos response:

Barnardos supports this proposal. Barnardos view is that this will provide greater clarity to S137 of the Care Act.

- 15. Amend the *Children and Young Persons (Care and Protection) Act 1998* to enable an authorised carer or person who resides at an authorised carers home to be required to undergo a medical examination and provide a report to designated agency.**

Barnardos response:

Barnardos proposes an alternative solution to the issue this proposal is attempting to address. Barnardos suggests the inclusion of this instance in S137 - which outlines conditions that can be placed on a carer authorisation is more pertinent than changing the language in S264 (1A)(f).

- 16. Amend the *Children and Young Persons (Care and Protection) Act 1998* to allow the regulations to impose particular requirements on authorised carers in relation to the administration of their authorisation**

Barnardos response:

Barnardos supports this proposal.

- 17. Amend section 137(2)(e) of the *Children and Young Persons (Care and Protection) Act 1998* to include grounds that trigger automatic cancellation or suspension of an authorised carer's authorisation**

Barnardos response:

Barnardos supports this proposal. Specifying agreed grounds for automatic suspension or cancellation provides greater consistency across the sector and ensures a standard of practice / expectation for all authorised carers and HHM. Given these are reviewable decisions via NCAT – more “clarity” in the Act and Regs would be helpful.

18. Amend the *Children and Young Persons (Care and Protection) Act 1998* to provide for the Secretary to approve behaviour management practices for managing the behaviour of children and young persons

Barnardos response:

Barnardos supports this proposal. Barnardos sees this proposal as providing further safeguards to children and young people.

19. Include a power in the *Children and Young Persons (Care and Protection) Act 1998* for the Secretary to approve the form of documents for the purposes of the Care Regulation

Barnardos response:

Barnardos gives in principle support to this proposal. Barnardos seeks confirmation that consultation would occur if the template affected/concerned designated agencies.

20. Amend section 9A(1)-(2) of the *Children (Detention Centres) Act 1987* (CDC Act), relating to certain persons subject to arrest warrants who are not to be detained in detention centres, to provide that it also applies to those persons where they are subject to warrants of commitment to detention centres.

Barnardos response:

Barnardos supports this proposal.