

# Learner welfare

[A memo to accompany *Children First* and the Department of Education and Science's *Child Protection Guidelines*]

Learner welfare is a broader concept than child protection, and contains the ideas of wellbeing and happiness, as well as the idea of safety. Wellbeing (or wellness) is concerned with the development of resilience and of emotional and social competence. So learner welfare is about the promotion of the wellbeing of the learner and not just about the avoidance of harm. This paper examines the principle of learner welfare and relates it to the issue of child protection in centres.

## Child protection

Centre duties and responsibilities in relation to child protection are laid out in the Department of Health and Children documents *Children First National Guidelines for the Protection and Welfare of Children* (1999) and *Our Duty to Care* (2002); in the Department of Education and Science's document *Child Protection Guidelines and Procedures* (2001); and in the IVEA document *Child Protection Guidelines for VEC Centres* (2006). New guidelines for centres are currently being drawn up by the Department of Education and Science in consultation with the IVEA and are due to be issued later this year<sup>1</sup>.

The objectives set out in *Children First* (which provides the blueprint for the DES and VEC documents) are quite limited in their focus. Their purpose is to deal specifically with abuse by:

- improving the identification, reporting, assessment, treatment and management of child abuse
- facilitating effective child protection work
- maximising the capacity of staff and organisations to protect children
- consolidating inter-agency co-operation based on clarity of responsibility, co-ordination of information and partnership arrangements between disciplines and agencies.

Abuse is defined as **neglect**, **emotional abuse**, **physical abuse** or **sexual abuse**, with an ancillary category covering other forms of abusive behaviour such as peer abuse and bullying.

*Children First* states that all organisations providing services to children have a corporate duty and responsibility to safeguard children by:

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<sup>1</sup> *Child Protection Guidelines for Vocational Education Committee Centres of Education (Youthreach and Senior Traveller Training Centres)*

- (i) Promoting their general welfare, health, development and safety
- (ii) Adopting and consistently applying a safe method of recruiting staff
- (iii) Raising awareness within the organisation about potential risks to children's safety and welfare
- (iv) Developing effective procedures for responding to accidents and complaints
- (v) Developing procedures to provide specific guidance to staff when they have reasonable grounds for concern about the safety and welfare of children. These procedures should not deviate from national guidelines, but could offer further elaboration to ensure local relevance and applicability
- (vi) Identifying a designated person to act as a liaison with outside agencies and a resource person to staff.

In their guidelines, the VECs outline the responsibilities of centre personnel as being

- To provide learners with the highest possible standard of care in order to promote their well-being and protect them from harm; and to report, in accordance with the procedures outlined in the guidelines, when they suspect that a child may have been abused, is being abused or is at risk of abuse
- To appoint and provide training for a senior member of staff in each centre to act as the Designated Liaison Person (DLP) and to carry out the duties assigned to this role.

Although the guidelines do not have the force of law and reporting is not legally mandatory, staff in centres are directed by the VECs and the Department to observe them. This includes making a formal report to the HSE and/or Gardaí when staff have reasonable grounds to suspect that a learner may be experiencing abuse or neglect or that some other children (perhaps a learner's siblings or child/ren) may be experiencing abuse or neglect. The guidelines also specify what is to be done when an allegation of abuse has been made against a member of staff.

However, sometimes the grounds for suspicion are less clear or the staff are uncertain whether the interests of the child / young person would be best served by making a report to the HSE and/or Gardaí. In these cases staff need to consider the principles that underpin child protection and welfare and to use their professional discretion to help them arrive at the best decision for the individual concerned.

## Principles underpinning child protection

Section 1.9.1 of *Children First* outlines a set of twelve principles which should inform best practice in child protection. The first principle is that

*(i) The welfare of children is of paramount importance.* This locates child welfare as the over-riding consideration and the yardstick against which any decision needs to be made.

Of the other principles the ones that are most relevant to young people in a centre context are:

(iii) *Children have a right to be heard, listened to and to be taken seriously. Taking account of their age and understanding, they should be consulted and involved in all matters and decisions which may affect their lives.* This principle underpins learner support mechanisms in centres such as key working, guidance, counselling, mentoring and student councils.

(x) *Agencies or individuals taking protective action should consider factors such as the child's gender, age, stage of development, religion, culture or race.* This principle recognises that the guidelines do not obviate the need for professional judgement to be used by staff.

(xi) ... *All agencies and disciplines concerned with the protection and welfare of children must work co-operatively in the best interests of children and their families.*

This principle indicates the importance of inter-agency liaison by staff with all relevant statutory and non-statutory agencies. The promotion of inter-agency liaison and cooperation is strongly supported by the *National Guidelines*, which identifies the following benefits:

- (i) It ensures provision of a comprehensive response to all concerns about children. This includes the pooling of resources and skills at all stages of intervention from initial enquiry to assessment and case management, including early identification and prevention.
- (ii) It avoids gaps in the service response especially in cases where information might otherwise remain concealed or unknown.
- (iii) It provides mutual support for professionals in complex cases.

The HSE document *Our Duty to Care* (2002) is aimed at all community and voluntary organisations which provide services for children and young people under 18 years, and as such is relevant to Youthreach and Community Training Centres. It is a practical guide offering advice on the promotion of child welfare and the development of safe work practices and should be read in conjunction with *Children First* and the Department's and VEC guidelines for centres. *Our Duty to Care* advocates the adoption of a number of principles of good practice by organisations providing services for children, including the right of children to be protected, treated with respect, listened to and have their views taken into consideration.

According to *Our Duty to Care* "Protecting and promoting children's rights in your organisation means

- Creating an environment in which children are valued, encouraged and affirmed, have their rights respected and are treated as individuals
- Taking steps to ensure that children know their rights and responsibilities
- Accepting that the welfare of the children is the most important consideration of any organisation providing services to children
- Eliminating as far as possible any threatening, violent or degrading behaviour
- Adopting a child protection policy to keep children as safe as possible."

*Our Duty to Care* also notes individual worker's responsibilities for protecting and promoting children's rights and outlines a number of ways in which this might be done, for instance by:

- Treating them with dignity, sensitivity and respect
- Making time to listen, talk to and get to know the children
- Encouraging children to have an input into how things are run
- Helping children to be safe, happy and have fun
- Encouraging them to express feelings, fears and experiences openly.

Child protection, then, should be seen as part of a wider responsibility to promote child welfare. It is not enough for centres to limit their role to implementing the reporting procedures when they have concerns that children with whom they have contact may have been abused, or are being abused, or at risk of abuse.

## Realities that need to be considered in relation to learner welfare issues

The Child Care Act (1991) defines a “child” as “a person under the age of 18 years other than a person who is or has been married”. Formal child protection, then, applies only to a section, albeit a large one, of learners in Youthreach and Community Training Centres. In addition, the location of this section at the upper end of the range covered by the terms of the guidelines has implications for how they are interpreted and followed, as was indicated in (x) above.

The definitions of neglect and abuse in *Children First* are quite comprehensive and broad-ranging:

- Neglect is defined in terms of “an omission, where the child suffers considerable harm or impairment of development by being deprived of food, clothing, warmth, hygiene, intellectual stimulation, supervision and safety, attachment to and affection from adults, medical care.” Included in the conceptualisation of neglect are lack of adequate supervision and nutrition and consistent absence from school (Section 3.2).
- Emotional abuse is described as being “normally found in the relationship between a care-giver and a child” ... and “occurs when a child’s need for affection, approval, consistency and security are not met.” Included in this conceptualisation are emotional unavailability by the child’s parent/carer, premature imposition of responsibility on the child and exposure to domestic violence (Section 3.3).
- Physical abuse is defined as “any form of non-accidental injury or injury which results from wilful or neglectful failure to protect a child.” (Section 3.4).
- Sexual abuse is said to occur “when a child is used by another person for his or her gratification or sexual arousal or for that of others.” (Section 3.5).

However, it would not normally be realistic or useful to refer a 16 or 17 year old learner to the HSE simply because they were drinking alcohol or smoking cigarettes (although these behaviours could be seen as evidence of inadequate parental supervision and care).

The limited resources of the HSE and Gardaí, and their need to prioritise their caseloads, mean that it is not helpful to anyone to interpret the guidelines in an overly rigid way. However, the judgement about whether or not to refer the matter to the statutory agencies should be informed and sensible. If in any doubt, the DLP or another relevant person should ring the duty social worker in confidence (without having to give any identifying details about the young person) to ask for their advice. And if they are not satisfied with that advice they have the option of ringing the Principal Social Worker or Child Care Manager for a second opinion.

The reality is that some of the young people attending a centre are likely to have experienced a degree of neglect, even abuse, in the past. According to Prof Dorothy Scott of the Australian Government's Centre for Child Protection<sup>2</sup> there is now compelling evidence that families whose children are involved with statutory child protection services have multiple and complex needs. These families may be affected by one or more of the following risk factors:

- Domestic violence
- Alcohol misuse
- Drug misuse
- Psychiatric / mental health problems
- Homelessness
- Poverty

Staff in centres report that it is not uncommon for these kinds of problems to be found in the families of the young people attending Youthreach and CTCs<sup>3</sup>. Any one of them can lead to child neglect and/or abuse and the general compromising of child safety and welfare, with more than one increasing the risk by a multiple effect. Staff are aware that they may be working with young people for whom there has been a cumulative effect of abuse or neglect over a long period. The promotion of protective factors, e.g. by establishing good secondary attachments with staff and peers, practical support and opportunities for emotional learning and social interaction, can help counteract the effects of these negative experiences and increase their ability to survive adverse conditions and develop resilience. Learner support provision, then, should be at the heart of the centre's child protection and welfare policy.

Because of their age learners in centres will now be less vulnerable to abuse and better able to take action on their own behalf. For this reason, there needs to be less emphasis on acting *for* the child and more emphasis on acting *with* them. Creating the opportunity for learners to disclose abusive relationships in their own lives (or, indeed, to talk about their concerns for others) is a necessary first step to protective intervention. It is important that learners are aware of the centre's policy in relation to the limits of confidentiality and the reporting of suspicions of child abuse, so that they know what actions will follow if they disclose abuse. However, this policy must not be implemented by staff in such a way that they are signalling to the learners that they do not want to be informed about abuse. Learners will be very sensitive to such signals and will be

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<sup>2</sup> Presentation to School of Social Work and Social Policy, Trinity College, 22 June 2009

<sup>3</sup> Gordon (2004) <http://www.youthreach.ie/webwheel/reports/REPORTonGuidance.doc>

deterred from speaking. The unequivocal message for the learners should be that their welfare is the first priority of staff and management and that they will receive help and support if they are suffering from abuse.

Current thinking in the field of child protection<sup>4</sup> advocates the uses of a multifactorial approach, including the targeting of family protective factors in public health strategies to reduce child maltreatment. One way of doing this is to go beyond the statutory child protection system (and the viewing of child protection as the exclusive preserve and responsibility of particular statutory bodies) towards a greater sharing of responsibility for child welfare. Providing appropriate forms of social support to learners in centres can not only mitigate some of the effects of past neglect and abuse on them but can also help to prepare them for their future roles as parents. This is in line with proposals for more inter-sectoral collaboration across organisational and professional boundaries, the building of social networks and the engagement through relationship-based practice with families that have multiple and complex needs. This kind of approach is now informing legislation and practice in parts of Australia and of the US, while in Ireland the review of compliance with Children First by the Office of the Minister for Children and Youth Affairs (OMCYA) in July 2008 acknowledged the need for a greater focus on vulnerable children and their families and a shift in emphasis towards family support and early intervention<sup>5</sup>.

## Best practice by centres

In order to implement the Department and VEC guidelines and carry out their responsibilities in relation to child protection, centres need to devise clear procedures in a number of areas:

- The appointment of the designated liaison person
- The monitoring of young people considered to be at particular risk
- The implementation of curricular interventions that can act as an aid to the prevention of abuse
- The organisation of inservice training for staff and management
- The establishment of clear procedures for dealing with allegations of abuse.

To implement these policies and make them operational, centres must have procedures to:

- Clarify the roles and responsibilities of coordinator, designated liaison person, key workers, tutors and counsellor with respect to learner welfare
- Provide for confidentiality and its limits, e.g. what kinds of information are shared with all staff; what kinds of information are passed on to the coordinator and to the DLP; what kinds of information staff members can keep to themselves
- The organisation of staff training and support
- When and how consultations with duty social workers and gardaí will be done
- When and how formal reporting processes will be implemented.

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<sup>4</sup> See Lancet special issue on child maltreatment, Jan 2009.

<sup>5</sup> OMCYA (2008) *National Review of Compliance with Children First*

In developing procedures in these areas, centres should identify possible scenarios and discuss them with a view to determining the exact actions that will take place in each case on a step by step basis.

The roles and responsibilities associated with liaison with the relevant agencies need to be clearly established. It is particularly important to set up an effective working relationship with the HSE duty social workers and with the gardaí at local level. But collaborative working relationships should also be established with all other local agencies that are in a position to offer services to the learners. Various likely or possible scenarios should be discussed with these agencies in advance as a way of developing lines of action and responsibility, and of agreeing what information will be formally reported to the social services and / or gardaí.

Procedures are needed in relation to communication and liaison with parents of learners who are under 18 years. All parents should be informed of centre policies and practices when the learners start in the centre and parents of under 18 year olds should be asked to sign their consent to these. Where appropriate and in keeping with centre policies, parents should be kept informed about their children. Parents should always be informed if a report is being submitted to the HSE or Garda unless doing so is likely to endanger the young person or place them at risk.

Good procedures are needed for communication with the learners also. Learners should be informed about all centre policies and practices and asked to sign their consent to these. Arrangements for one-to-one support through key working, mentoring, guidance, counselling, etc. should be explained clearly and the learners should also be informed that they will be supported to access services outside the centre if they need them.

The HSE document *Duty to Care* (2002)<sup>6</sup> is a very useful guide to centres to help with drawing up these procedures and should be consulted along with *Children First*<sup>7</sup> and the Department and VEC guidelines.

## Thorny issues

Along with procedures for dealing with child protection concerns and practices for providing a range of supports to learners, centres need to have procedures in place for discussing and resolving thorny issues. These are problems which can place learners at serious risk of harm but which are not directly related to abuse. They include mental health difficulties, criminal behaviours and substance misuse. These kinds of problems

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<sup>6</sup> *Duty to Care* can be downloaded from [http://www.hse.ie/eng/HSE\\_FactFile/FactFile\\_PDFs/Other\\_FactFile\\_PDFs/Our\\_Duty\\_to\\_Care\\_The\\_principles\\_of\\_good\\_practice\\_for\\_the\\_protection\\_of\\_children\\_and\\_young\\_people\\_2002.pdf](http://www.hse.ie/eng/HSE_FactFile/FactFile_PDFs/Other_FactFile_PDFs/Our_Duty_to_Care_The_principles_of_good_practice_for_the_protection_of_children_and_young_people_2002.pdf)

<sup>7</sup> *Children First* can be downloaded from [http://www.omc.gov.ie/documents/publications/Children\\_First\\_A4.pdf](http://www.omc.gov.ie/documents/publications/Children_First_A4.pdf)

extend beyond child protection but are encompassed under the broader heading of child welfare.

How best to deal with such problems – when to intervene, how to support and whether or not to make a formal report to the HSE or gardaí – is always a matter of professional judgement for the coordinator/manager/director and staff in a centre. While there is no legal requirement on staff to report criminal activity that they become aware of in the course of their work, there will be times when it will be appropriate to do so.

Examples of the kinds of issues that require the use of professional discretion and judgement are:

- Substance misuse in the centre
- Criminal activities (e.g. drug dealing) in the centre
- Criminal activities by learners outside the centre
- Bullying/peer abuse in/outside the centre
- Prejudice, racism, cruelty (e.g. dog fighting) outside the centre
- Staff welfare issues (e.g. risk to staff of having some kinds of information)
- Balancing of interests of one learner with the interests of others
- Balancing the interests of learners with the interests of staff / centre / VEC or FÁS<sup>8</sup>

Experienced staff in centres know that difficult discretionary issues are to be expected from time to time and that there can be no easy blueprint for all cases. However, what can be defined and put in place are *processes* for dealing with thorny issues as they arise. Each centre should agree suitable procedures which allow for proper consultation, reflection and learning and which ensure that decision-making is informed by clear learner welfare principles. Centres can share with each other their experience and wisdom in relation to these kinds of cases.

As the guiding principle is the welfare of the learner, it is *not* appropriate for centres to try to deny or ignore thorny issues. The responsibility of the centre is to seek to help the learner to address their problems and not to discourage or prevent discussion of them. Finally, while the main focus of learner welfare will be on those under the age of 18 years the duty of care of a centre applies to all its participants, and especially those who, for whatever reason, are particularly vulnerable.

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<sup>8</sup> *Children First* states that “A balance must be struck between protecting children and respecting the rights and needs of parents/carers and families, but where there is a conflict, the child’s interests must come first.” (1.9.1) It is reasonable to apply this principle also to the balance of interests between children and those of staff / management.