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Submission by the Council of The Bar of Ireland to the Department of Justice on the Draft Youth Justice Strategy 2020-2026

July 2020

1. Introduction

The Council of The Bar of Ireland ("the Council") is the accredited representative body of the independent referral Bar in Ireland, which consists of members of the Law Library and has a current membership of approximately 2,170 practising barristers. The Bar of Ireland is long established, and its members have acquired a reputation amongst solicitors, clients and members of the public at large as providing representation and advices of the highest professional standards. The principles that barristers are independent, owe an overriding duty to the proper administration of justice and that the interests of their clients are defended fearlessly in accordance with ethical duties are at the heart of the independent referral bar.

2. Scope of Submission

The Department of Justice and Equality (the "Department") is consulting with the public on a draft Youth Justice Strategy. It is intended that the new Strategy will form an important element of the National Policy Framework for Children and Young Adults, which is overseen by the Department of Children and Youth Affairs.

In inviting submissions, the Department has indicated that it wants to provide an opportunity for people to give their views on youth crime, on how the Department should respond, and what they see as the key issues of concern. The Department has further indicated that this consultation will support further development of a new Youth Justice Strategy.

3. Submission

The draft Strategy is a wide-ranging document encompassing a full range of issues connected to children and young people who may come into contact with the criminal justice system, from prevention and early intervention, (including family support), diversion from crime, through to court processes and facilities, supervision of offenders, detention and reintegration and support post-release. The Council has limited itself to those areas of the Youth Justice Strategy with which its members have experience.

A. Prosecutorial Delay

The Court Services Annual Report indicates that waiting times in the Central Criminal Court are, on average, 11 months and that '*earlier dates are made available for trials involving child and other vulnerable witnesses'*.[1] This figure does not take into account time spent in the District Court for service of the Book of Evidence. In this jurisdiction, the issues regarding delay for hearings of child defendants have been comprehensively examined in the case of *RD v DPP*.[2] Domestic[3] and international legislation[4] requires that there is no delay when it comes to matters involving child defendants. It was notable that in 2019 a high profile murder trial took place approximately one year after the offence, particularly considering the scale of the prosecution evidence. In addition, and quite crucially, an experienced trial judge was assigned to that trial in advance. He was able to deal with pre-trial matters[5] and anticipate any issues which might arise, ensuring the smooth running of the trial.

The delays experienced by children during their involvement in the criminal justice system may not only have a deleterious effect on the judicial outcome but also may affect them educationally, socially and emotionally. Provisions to improve the speed of cases involving child defendants in the criminal justice system must be a priority.

The Strategy is to be commended insofar as it seeks to address the issue of delay in advancing cases involving child defendants through the criminal justice system. The presence of obstacles or blockages within the system undermine the overarching purpose and intention of the Children Act 2001 ("the Act") and indeed, this Strategy. Those obstacles or blockages may occur at differing stages such as delays in providing a file to the diversion office, delays in

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[1] Court Services Annual Report 2018 at p.111

[2] RD v DPP [2018] IEHC 164

[3] S. 73 Children Act 2001

[4] Rule 20.1 of the *United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")* states that:
Each case shall from the outset be handled expeditiously, without any unnecessary delay
Article 40.2 (b)(iii) of the Convention on the Rights of the Child states the State Parties shall ensure:
(iii) 'To have the matter determined without delay.....'

[5] Pre-trial hearings with sanctions to include possible moratoria on reporting until the end of the trial should be established for all cases involving child defendants. Legislative provisions for pre-trial hearings are currently at an early stage in this jurisdiction with the Criminal Procedure Bill 2015 still at a 'general scheme' stage. http://www.justice.ie/en/JELR/Pages/Criminal_Procedure_Bill

decision-making within that office, a summons procedure which is not fit for purpose in cases involving children and pre-trial delays.

It is noted that the intention of having a centralised oversight of cases[6] and prioritising juvenile cases[7] will assist in reducing any unnecessary delay.

The issue of delay in juvenile cases has been well litigated before the Superior courts. It will continue to be litigated until proper provision is made for expediency at all stages of the criminal justice process. This includes the investigation and Garda Diversion Office stages through to initiating a prosecution and proceeding to hearing and/or sentence.

The Superior courts have repeatedly expressed their concern that unnecessary and avoidable delays occur in cases involving child defendants.[8] The most common concern arising from such delays is that the child defendant reaches the age of majority before the criminal process is completed, thereby being denied the benefits of the Children Act. Such benefits include a loss of anonymity[9], potential loss of the procedure under section 75 of the Act, the loss of certain sentencing orders such as a detention and supervision order[10], and the loss of the mandatory provision that an order for detention would be a measure of last resort.[11] Most recently, the Court of Appeal whilst refusing to make an order of prohibition, acknowledged that the appellant did indeed lose the benefit of anonymity, intended for child defendants under the Act, as a result of delay in the prosecution. The Court conveyed its disquiet and dismay at the delay which occurred which it held as being unacceptable.[12]

In order to address the pockets of delay which often arise, the Strategy should seek to develop a cultural change across all parts of the criminal justice system so that cases involving children are always treated with urgency. Whilst it is accepted that many of the various steps involved in such cases are performed expeditiously by various state bodies, there are sufficient instances of delay in which it is a matter of concern that steps should be taken to ensure a consistent and

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[6] Paragraph 2.7, pg 22, Draft Youth Justice Strategy 2020
[7] Paragraph 3.4, pg 28, Draft Youth Justice Strategy 2020
[8] AB v DPP, Unreported Court of Appeal, 21 January 2020; TG v DPP; McD v DPP; Donoghue v DPP
[9] Section 92 Children Act 2001
[10] Section 151 Children Act 2001
[11] Section 96 Children Act 2001
[12] AB v DPP, Unreported Court of Appeal, 21 January 2020

cohesive approach by all. Without seeking to be prescriptive, the following is an example of the pockets in which delay may occur:

- An Garda Síochána; that investigations are conducted more expeditiously when involving a child suspect; reasoned decisions whether to admit a child to the Diversion Programme are given priority and made within a defined time.
- Courts Service; the summons procedure, if continued to be used for initiating criminal proceedings against a child, needs to be radically altered to ensure time limits for using the procedure, for issuing and serving summons; that priority is consistently given for the listing of hearing/trial dates.
- Director of Public Prosecutions; that in cases involving child suspects, decisions whether to prosecute are given priority and made within a defined time, and if prosecuted, that disclosure is made fully and promptly.
- Probation Service; that the Young Persons Probation Office is sufficiently resourced so that reports can be furnished within the 28 days envisaged by the Act.[13]

In addition to undermining the intention of the Act, the presence of delay in juvenile cases is also contrary to public interest. There is no benefit to extending the length of time in which a child is unnecessarily in the criminal justice system.

B. The Diversion Programme

It is evident that the Diversion Office within An Garda Síochána deals with an extremely high number of referrals each year all of which require a decision under the Act. It is to be welcomed that the Strategy seeks to strengthen the operation of the existing procedure for diversion in order to reduce delays and to ensure fully informed and transparent decision-making processes.[14]

The High Court has confirmed that the Director of the Diversion Programme is required to provide reasons to a juvenile offender who has been denied access to the Programme, if requested.[15] Simons J. dealt with this issue in *S v Director of the Juvenile Diversion Programme:*

[13] Section 100 Children Act 2001
[14] Paragraph 2.5, Pg 21, Draft Youth Justice Strategy 2020
[15] S v Director of the Juvenile Diversion Programme [2019] IEHC 796

> *"The refusal of the Programme Director to provide reasons in the peculiar circumstances of this case frustrates the High Court's supervisory jurisdiction by way of judicial review. To permit the Programme Director to maintain a Sphinx-like approach would run the risk of allowing a serious error of law on the part of a statutory decision-maker to go unchecked. This would be contrary to the rule of law."*[16]

The importance of the Diversion Programme in the overall criminal justice process is monumental from a child's perspective as a refusal to admit that child to the programme will likely lead to the child entering the criminal justice system. In order to give effect to the Strategy's intention to strengthen the programme, the requirement to give reasons for a decision not to admit a child to the programme should be placed on a statutory footing and ought to be provided in every case, where sought.

Another area of concern within the Diversion Programme is that there is potential that evidence may be given in court of the fact that a child accepted responsibility for the purposes of the diversion process and that they were deemed unsuitable for diversion.[17] The uncertainty created by this gap in the legislation is counter-productive to the aim of the Diversion Programme. A child should not be concerned that their acceptance of responsibility for the purposes of the programme will be later used against them as an essential proof by the Director of Public Prosecutions in a criminal trial. Legislative provision can remedy this concern by introducing a prohibition on informing the Court on whether or not responsibility was accepted at the Diversion stage.

Finally, it is of significant concern that the existing Diversion Monitoring Committee established under section 44 of the Act is to be subsumed into a national oversight group for youth justice. The Monitoring Committee are appointed to monitor the effectiveness of the Programme, review all aspects of its operation and monitor the ongoing training needs of facilitators. This obligation to report on their findings provides transparency and information which is beneficial for all stakeholders involved in this area. Therefore, if the Monitoring

[16] Ibid paragraph 115
[17] Section 48 Children Act (as substituted by Section 126 Criminal Justice Act 2006)

Committee is to be subsumed into a larger oversight group, the obligation to monitor, review and report must also follow, which will require legislative grounding.

C. Evidence Gathering and Trial Process

In line with our neighbouring common law jurisdiction, Ireland has established a suite of support measures for vulnerable witnesses for use in criminal proceedings including video link, recorded testimony and the use of intermediaries. These measures have been extended for use with a focus on protecting victims from victimisation, intimidation or retaliation under s.14AA of the Criminal Evidence Act 1992.[18] As set out in DPP *v Donnelly*[19], these measures may serve to alleviate stress and trauma for the witness. Moreover, UK legislation outlines that one of the ambitions of such support measures is the maximising of evidence before the court.[20] This is implicitly the goal of the support measures in this jurisdiction.[21] One of the notable aspects of legislation here is the fact that the defendant is explicitly excluded from eligibility for these support measures.

The use of registered intermediaries in the UK highlighted that discrepancies can occur if communication from children is not delivered appropriately. While the challenge facing a court to ensure proper delivery of communication is an evolving one, registered intermediaries can present a number of solutions which would not undermine the rights of the defendant. As the intermediaries are independent, their skills have also been used, on an inherent jurisdiction basis, for child defendants with communication difficulties. Case law indicates how important their involvement has been in respect of the quality of the evidence before the court.[22] The establishment of this support measure on a legislative basis has yet to be completed but has been drafted and is awaiting commencement.[23] This and the inclusion of training materials on *The Advocate's Gateway*[24] to assist the participation of the young defendant[25] indicate a fundamental shift in attitude towards the vulnerable defendant. Intermediaries have been used

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[18] As amended by the Criminal Justice (Victims of Crime) Act 2017

[19] *Donnelly v Ireland* [1998] 1 IR 312 (SC).

[20] S.16 Youth Justice and Criminal Evidence Act 1999

[21] See Irish Law Reform Commission Report on Child Sexual Abuse (1990)

[22] See: *C v Sevenoaks Youth Court* [2009] EWHC 3088 (Admin) R v Dixon [2013] EWCA Crim 46

[23] S. 104 of the Coroners and Justice Act 2009

[24] See generally: www.advocatesgateway.com

[25] See: *Effective participation of young defendants* Toolkit 8 20 March 2017 The Advocate's Gateway https://www.theadvocatesgateway.org/images/toolkits/8-effective-participation-of-young-defendants-2017.pdf

in respect of vulnerable defendants in this jurisdiction but on an ad hoc manner. Specialist Interviewers in this jurisdiction have been trained in respect of the best manner to take evidence under s.16(1)(b) Criminal Evidence Act 1992 from children and persons with an intellectual disability. It should be noted that the Garda officer involved in the questioning of the accused teenagers in a recent high profile trial noted in evidence that he had consulted with Specialist Interviewers prior to the beginning of questioning of the suspects. However, extensive modification for the questioning of children by An Garda Siochana and specialised personnel such as intermediaries are not available for child defendants in this jurisdiction. It is necessary that the expertise required both in the use of intermediaries and specialist interviewing of child defendants is developed within this jurisdiction so as to ensure that it is available immediately when required rather than a reactive and ad hoc system.

While there are a number of aspects, under the Act, which differentiate the questioning of children from that of adults, the essential interviewing procedure in terms of detention periods, personnel and locations remains the same, albeit with some added protections. This contrasts significantly with the witness suites and trained personnel available for the recording of interviews taken under s.16(1)(b) Criminal Evidence Act 1992. While some efforts were made in one particular recent trial where the suspects were able to sleep in a specially cleared room, rather than a cell, with a parent present throughout, the essential elements of the interview process were strikingly similar to that of any adult suspect. The use of support measures has increased awareness of how to better hear child witnesses in the criminal justice process without causing undue trauma. There should be an equivalent reappraisal of support measures in terms of the goal of better participation of the child defendant under the principles of *T v UK*.[26]

Child defendants may benefit from the reporting restrictions under s.93 of the Act but it is submitted that further examination of the potential reporting challenges is warranted in light of recent high profile cases before the courts. The aspect of media reporting for child defendants is a particularly sensitive matter in respect of the trial process itself as well as the possible lifelong ramifications for the parties involved. Whether through human error, negligence or other reasons, contravention of reporting restrictions may have severe and negative

[26] T v UK (Application no. 24724/94) V. v. the United Kingdom (application no. 24888/94). ECtHR 16 December 1999

consequences. While the importance of the public interest aspect in relation to the reporting of trials is foremost, the consequence of a trial disrupted or of a mistrial due to inaccurate or prejudicial reporting may endanger the health and safety of the child defendant as well as that of the injured party and their families.

A legislative provision which facilitates the introduction of a moratorium on reporting for a specific duration of the trial, perhaps until the verdict is delivered, or even after sentencing, may be warranted for cases involving child defendants. The imposition of a restriction on contemporaneous reporting was considered in the *Irish Times v Ireland* [1998] 1 IR 359 and was deemed to be in excess of what was required in that case. It could be argued that since then, the world, in terms of media and social media has changed drastically. In addition, that case did not involve child defendants which it is submitted must warrant a higher degree of protection in terms of media exposure.

The greater use of social media and the obligation on news outlets has increased the risk of issues which might interfere with a fair trial. The trial judge should be able to focus on the primary responsibility of supervising the trial itself without having to police the reporting on the trial. For any Court, this could add an onerous burden as the online presence of many outlets is numerous and updated continuously. In addition, the issues in respect of social media are substantial and complex. In terms of mainstream reporting, the obligations have grown considerably in recent years. The pressure on journalists for instant reporting through social media platforms such as Twitter leads to an urgency to report, which risks mistakes through simple human error. Often, headlines are generated separately from the authorship of the news article which can lead to issues of inaccuracy that have to be addressed with the judge.

An appropriate balance of the competing rights would be achieved by providing a Trial Judge with the discretion, by way of legisaltive provision, to consider, in all the circumstances of any particular case, whether such orders as an order for a restriction on contemporaneous reporting are required. This would ensure that a trial, once begun, is better protected from applications for a mis-trial due to erroneous or prejudicial reporting

D. Physical Court Buildings and Custody Areas

It has been recognised that the accommodation of the Children's Court in Dublin needs development. The 2018 Annual Report of the Courts Services notes that:

> *The Family Law and Children Court complex referred to in the National Development Plan will include a new Supreme Court facility and accommodation for court offices. The Government's Infrastructure and Capital Investment Plan also provides for this important project. The complex will be located on a site bounded by Church Street and Hammond Lane in Dublin in close proximity to the Four Courts. It will allow for the necessary replacement of the existing child and family law facilities in Dolphin House, Phoenix House, Áras Uí Dhálaigh, and the Children Court with a state of the art purpose built facility at a single location in the heart of the city's legal quarter. A Project Board, chaired by a judge of the High Court, continued to oversee the project during the year. The National Development Finance Agency confirmed that the project is suitable for procurement by way of public private partnership. A range of surveys, including topographical, geotechnical, archaeological, traffic, noise and vibration, have been carried out on the site. A detailed business case/capital appraisal as required by the Public Spending Code was submitted to the Department of Justice and Equality for approval in April 2017. An updated project costing and business case was submitted in April 2018.*[27]

The national provision of courts and custody areas require appraisal as to how child defendants interact with their physical surroundings from initial contact with An Garda Síochána to interaction with the judiciary. It is vital that there is a consistency of experience for all children across the country. It was notable that in respect of the suspects referred to previously in a recent trial in the Central Criminal Court, accommodations were made whereby one child was questioned in two different Garda Stations but had the same Member in Charge present so that there would be a familiarity with the personnel responsible for protecting his rights in custody. There were no other prisoners held in the Garda Stations during that time and instead of staying

[27] Court Services Annual Report 2018 at p.36

in a cell in the Garda Station, a room was cleared and camp beds installed to allow the defendant and the appropriate adult to stay in accommodation that was not a conventional Garda Station custody cell. While these ad-hoc facilitations were welcome and are to be lauded, it is submitted that improved, standardised accommodations be made for all child defendants who may have to undergo Garda questioning and subsequent appearances in court.

E. Sentencing

The Act contains a range of sentencing options for Judges and sets out important principles which underscore them. Essentially, while core sentencing principles of punishment and deterrence are of course respected, it is the efforts to rehabilitate which necessarily come to the fore when courts deal with child offenders in the very wide sets of circumstances which present before them.

When it comes to this sentencing stage it is the Council's view that a number of issues arise, particularly relevant perhaps in the more serious cases, which it is hoped the Department, in the context of priority areas 4, 5 and 6 of the Draft Youth Justice Strategy – 'Improved Criminal Justice Processes', 'Detention and Post-Detention', and 'Strengthen Legislation', respectively – will consider and address.

Firstly, there arises the inability of sentencing courts to impose a fully or partially suspended sentence on children. This arises by virtue of the decision of the Court of Appeal in the case of *DPP v AS*[28] where judgment was delivered on the 28th November 2017. Before this judgment suspended sentences had been imposed on children, their utility being obvious, given that conditions attaching to suspension could seek to address underlying issues such as substance abuse or educational deficits. The Council respectfully submits that there should be an amendment to the law which deals with the imposition of suspended sentences, namely s.99 of the Criminal Justice Act 2006 (as amended), so that the option of imposing a suspended sentence can be available to a sentencing judge. There is a related issue in relation to the sentencing of child offenders by the Court of Appeal where that Court is of the view that the sentence imposed is either unduly lenient or is too severe.[29] Under current provisions the Court

[28] Director of Public Prosecutions v AS [2017] IECA 310, 28 November 2017

[29] DPP v PMcC [2018] IECA 309]

of Appeal has the sentencing powers of the original sentencing court, namely the options provided for by the Children Act. Where the child offender has turned 18 years of age between having been sentenced and his or her appeal being heard, the Court of Appeal can neither sentence the offender as an adult nor, because the offender is no longer a child, employ any of the Children Act options. This creates significant difficulties for the Court of Appeal in correcting inappropriate sentences.

Secondly, an issue arises over the unavailability of a 'Detention & Supervision Order' in many potential cases (s.151 of the Act). This arises because, as interpreted by the Courts, they are only deemed available whereby the second half of the Order, namely the supervision part, concludes before the child's 18th birthday arrives. Given that many children will for example offend prior to and even close to their 18th birthday, with some committing very serious offences, it will be inevitable that they cannot avail of this Order, notwithstanding the absence of an express stand-alone statutory reference in the 2001 Act to its exclusion. The Council submits that an amendment to the 2001 Act would be appropriate to bring such cases within a Detention and Supervision Order's remit and its significant rehabilitative potential.

Both of these deficits point to a larger problem which is becoming increasingly apparent in recent years. There appears in practice to have been a steady increase in the number of children being prosecuted on indictment for serious offences. The sentencing provisions in the current statutory regime aim to provide sentencing options primarily for District Judges of the Children's court as opposed to Judges in indictable courts. For example, if a child is aged 17 years at the time of sentencing for a serious offence and the court decides that it is a case which would be more appropriate for supervision (either by way of suspended sentence or probation bond), then the only option potentially available to the Judge is a probation bond. The difficulty then arises because community sanctions expire 6 months after the child in respect of whom the order was made attains the age of 18 years.[30] This legislative lacuna is putting sentencing judges in an impossible situation which might result in either a sentence being too lenient or too harsh in all the circumstances. There should be legislative amendment to provide for suspended sentences for children and allowing sentencing Judges a discretion to make orders such as Community Sanctions or Detention and Supervision Orders for such periods of time as appropriate beyond a child's 18th birthday, in all the circumstances of each individual case.

[30] Section 138 Children Act 2001

Further issues arise in relation to how long a child might be made the subject of notification requirements of Part 2 of the Sex Offenders Act 2001. In this regard, as highlighted by the recent Court of Appeal judgment of the 21 February 2020 delivered in the case of *AB v DPP*, sexual assault can cover a wide span of activity from consensual fondling to those cases on the cusp of rape or attempted rape. In this regard, consideration ought to be given to amending s.8(4)(b) of the Sex Offenders Act 2001 so that the last part of that sub-clause reads, "….were substituted references of up to 5 years, up to 3 ½ years and up to 2 ½ years, respectively, the precise period to be imposed by the court in the exercise of its discretion", so that a court can take account of the wide range of facts contained in the cases that can come before them, committed by offenders with very specific personal circumstances, There is a concern that given the current problem with the delayed prosecution of children resulting in many children "ageing-out" by the time they are charged, s.8(4)(b) of the Sex Offenders Act 2001 could be further amended so that the possible benefit of reduced periods are afforded to those who were children, i.e. under 18 years, at the time of the commission of relevant offences.

Indeed, and looking at the 2001 Act more generally, it might be worth considering bringing those who were children at the time of the commission of offences, but who at the time of sentencing had transitioned past 18 years, within the ambit of some if not all of the Act's provisions. The Council also believes the interplay of sections 93 and 258 of the Act would benefit from review and potential amendment. S.93 imposes reporting restrictions in cases concerning children. It only applies if at the time of sentencing the individual is still under 18 years. It is lost if conviction and sentence occur after this time. This problem for child offenders has been the controversy at the heart of much litigation before the High Court, Court of Appeal and Supreme Courts. The loss of reporting restrictions has been described as a "significant disadvantage" by the Court of Appeal in the recent judgment of *LE v DPP*[31] in cases of delayed investigation. Difficulties are compounded by the fact that s.258 allows for the expunging of criminal convictions of children. This benefit arises if the individual was a child at the time of the commission of the offence. However, as will be seen the practical benefit of s.258 will inevitably be lost in many cases where cases are available to be reported upon as a child, who under 18 at the time of the alleged commission of an offence, is over that age by the time he or she comes to be tried and sentenced.

[31] Director of Public Prosecutions v LE 2020] IECA 101

The Supreme Court recently considered whether the lack of an availability for children of the enhanced remission regime applying to sentences, which is available to adult prisoners, was discriminatory on equality grounds.[32] Notwithstanding that the Court found that it was not discriminatory, the Council considers it of note that at para.75 of its judgment the Court, *per* O'Malley J., stated, "…if regulations relating to remission are to be introduced, I can see no reason why they should not include such a scheme if it is thought to be beneficial having regard to the statutory framework and objectives". As part of the Department's strategic review of youth justice policy and following these comments of the Court in the particular context adverted to, the Council believes incorporation of an enhanced remission regime into the Act should be considered.

F. The Children Act

The Children Act 2001 purports the establishment of a Children Court and trial process in line with best practice and children's rights objectives. The Act contains many positive aspects and initiatives consistent with the international standards. However, the full recognition and implementation of standards of best practice is still needed. Although the Act recognised the best interests and right of the child to be heard, these are not fundamental aims. It is therefore a positive change that the Youth Justice Strategy now cites *upholding the best interest of the child or young person as Principle 1A* of the proposed amendments to the Act. However, the right of the child to be heard and to participate in the proceedings or process affecting him/her is not cited as a key principle. This should be reviewed in light of the due process rights of the child; his/her rights under international standards of best practice and the rulings of the European Court of Human Rights.

Procedural guidance is also needed as to how the 2001 Act in its current form (and when amended) will be implemented. A lack of procedural guidelines and hindered interagency communication have been prevalent issues in the administration of youth justice in Ireland. In light of the dependency of the Youth Justice Strategy on interagency communication and the

[32] B v. The Director of Oberstown Children Detention Centre & Ors [2020] IESC 18

proposed amendments to the 2001 Act, such guidelines are imperative and should be provided in advance of any finalisation of the Strategy and introduction of legislative changes.

G. Specialised Training and Development

At present, The Bar of Ireland provides CPD on Representing Children as part of its mandatory programme for first year practitioners. The Council welcomes the introduction of specialist training for lawyers who choose to represent children. The provision of and necessity for such training for those people and agencies working with children in conflict with the law is required by and highlighted in international standards of best practice.[33] Professional qualifications are an essential element in ensuring the impartial and effective administration of juvenile justice.[34] Accordingly, it is necessary to improve the recruitment, advancement and professional training of personnel and to provide them with the necessary means to enable them to properly fulfil their functions.

International standards of best practice require specialist training for personnel at all levels in the youth justice system. This is to ensure that personnel can respond to the special needs of children in conflict with the law and be familiar with dedicated programmes and referral possibilities for the diversion of young people from the justice system.[35] According to such standards, youth justice services must be systematically developed and coordinated with a view to improving and sustaining the competence of personnel involved in these services, including their methods, approaches and attitudes, professional education, in-service training, refresher courses and any other appropriate modes of instruction. It is advised that such training would establish and maintain the necessary professional competence of all personnel dealing with juvenile cases.[36]

There is no requirement for lawyers involved in the representation of children for an alleged criminal offence in Ireland to undertake any specialised training. Oftentimes, it appears that lawyers become involved in youth justice as a result of personal interest or as a result of the

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[33] United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules).
[34] Ibid.
[35] See United Nations Guidelines for the Prevention of Juvenile Delinquency (the 'Riyadh Guidelines').
[36] Beijing Rules, Rule 1.6.

portfolio of cases of the law firm to which they are briefed.[37] Appointments from the bench immediately prior to court proceedings are also common. The Council intend on developing the existing training offered to first year members by providing training, which will be available for all members, on the particular legislative and procedural considerations which apply to children in the criminal justice system. This formalised educational offering will ensure the expertise developed by those who represent children benefits all members.

4. Conclusion

The draft Strategy is an ambitious roadmap to improve current standards of juvenile justice which is very welcome. In order to ensure that the Strategy is implemented to full and proper effect, consideration must be given to the practical effects of such a Strategy and the resources required to do so.

[37] See Defence for Children International – Belgium *My lawyer, My Rights Enhancing Children's Rights in Criminal Proceedings in the EU, National Report – Ireland* (Available at: http://www.mylawyermyrights.eu/Mlmr/national-report-3/).

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