

**Universal Periodic Review Ireland**  
**Individual Submission by [Equality For Fathers in Ireland](#)**  
**for the 12<sup>th</sup> Session of the UPR Working Group October 2011**  
**21<sup>st</sup> March 2011**

In Ireland, despite legislation conferring equality on both married parents, fathers are generally treated as secondary to mothers. This becomes more pronounced following separation or divorce.

1: Contrary to Article 2 of the Convention on the Rights of the Child [\(1\)](#), children of separated parents are discriminated against in Ireland by not having their right respected to have both Legal Guardians act Jointly on their behalf in accordance with Section 6.—(1) of the Guardianship of Infants Act 1964 [\(2\)](#). This matter has been ruled on by the Supreme Court [\(3\)](#) where Judge J. Walsh stated as follows:

*“The main purpose of the Guardianship of Infants Act, 1964, was to give to both parents of an infant equal rights in guardianship matters. In doing so, it provided a statutory expression of the rights already guaranteed by the Constitution.*

*He also said*

*“Section 6 of the Act states the equality of the parents and recognises them as the guardians of the infant; there is nothing in any provision of the Act which purports to confer on the court or any other body the power to displace either one or both of the parents from the position of guardian or guardians”.*

2: This ruling is generally ignored, with the HSE claiming that *“It appears to us that this issue of including fathers in treatment options was not the norm at the time. There was no knowledge as to the rights of non-custodial parents”*. Despite legal advice that where the *“HSE solicitor finds herself 'surprised and concerned that the questions of Guardianship and Custody have come up again... I have repeatedly over many years past advised the Health Board both orally and in writing on these subjects”*[\(4\)](#).

3: Guidelines introduced [\(5\)](#) have not been implemented following which there was a call for policies *“to be drawn up to deal with parents who separate so that fathers are not excluded and there is a need to develop services which support fathers as part of a broader strategy of promoting the wellbeing of children and families”* [\(Kilkelly 6\)](#) This is most likely due to *“the powerful dominant belief that men don't care about or for children that they can't care or won't care”* [\(Ferguson, Hogan 7\)](#).

4: It can also be seen from a number of Equality Tribunal cases that have been heard that this discrimination against children and their fathers continues, not just within the Health Services in Ireland but also in schools [\(8, 9, 10, 11, 12, and 13\)](#)

**RECOMMENDATION:** Wherever consent is deemed necessary, it should be sought from both Legal Guardians.

## **REFERENCES**

- 1- Convention on the Rights of the Child
- 2- Guardianship of Infants Act 1964
- 3- B vs. B 24<sup>th</sup> April 1970
- 4- HSE failed to deal with guardianship rights of  
father
- 5- Staff Guidelines for Obtaining Consent for  
Non Emergency Treatment/Services from Parents of Children and Young People Under  
the Age of 18 years
- 6- Kilkelly-Barriers to the Realisation of  
Children's Rights in Ireland, Commissioned by the Ombudsman for Children
- 7- Strengthening Families through Fathers: Developing policy and practice in relation to  
vulnerable fathers and their families Harry Ferguson, & Fergus Hogan, Centre for Social  
and Family Research
- 8- Equality Tribunal DEC-S2006-030 Full Case Report
- 9- Equality Tribunal DEC-S2008-111 - Full Case Report
- 10- Equality Tribunal DEC-S2009-040 - Full Case Report
- 11- Equality Tribunal DEC-S2010-045-Full Case Report
- 12- Equality Tribunal DEC-S2010-046-Full Case Report
- 13- Equality Tribunal DEC-S2010-049- Full Case Report