

CHILDREN'S RIGHTS ALLIANCE

Uniting Voices For Children

report card 2017



**IS GOVERNMENT KEEPING ITS
PROMISES TO CHILDREN?**

The Children's Rights Alliance unites over 100 members working together to make Ireland one of the best places in the world to be a child. We change the lives of all children in Ireland by making sure that their rights are respected and protected in our laws, policies and services.

22q11

Ag Eisteacht

Alcohol Action Ireland

Alliance Against Cutbacks in Education

Amnesty International Ireland

ASH Ireland

Assoc. for Criminal Justice Research and Development (ACJRD)

Association of Secondary Teachers Ireland (ASTI)

ATD Fourth World – Ireland Ltd

Atheist Ireland

Autism Network Ireland

Barnardos

Barretstown Camp

Bedford Row Family Project

BeLonG To Youth Services

Care Leavers' Network

Catholic Guides of Ireland

Child Care Law Reporting Project

Childhood Development Initiative

Children in Hospital Ireland

COPE Galway

Cork Life Centre

Crosscare

Cybersafe

Dental Health Foundation of Ireland

Department of Occupational Science and Occupational Therapy, UCC

Disability Federation of Ireland

Down Syndrome Ireland

Dublin Rape Crisis Centre

Dun Laoghaire Refugee Project

Early Childhood Ireland

Educate Together

EPIC

EQUATE

Extern Ireland

Focus Ireland

Foróige

Future Voices Ireland

Gaelscoileanna Teo

GLEN- the LGBTI equality network

Immigrant Council of Ireland

Inclusion Ireland

Independent Hospitals Association of Ireland

Institute of Community Health Nursing

Institute of Guidance Counsellors

Irish Association for Infant Mental Health

Irish Association of Social Workers

Irish Centre for Human Rights, NUI Galway

Irish Congress of Trade Unions (ICTU)

Irish Council for Civil Liberties (ICCL)

Irish Foster Care Association

Irish Girl Guides

Irish Heart Foundation

Irish National Teachers Organisation (INTO)

Irish Penal Reform Trust

Irish Primary Principals Network

Irish Refugee Council

Irish Second Level Students' Union (ISSU)

Irish Society for the Prevention of Cruelty to Children

Irish Traveller Movement

Irish Youth Foundation (IYF)

Jack & Jill Children's Foundation

Jesuit Centre for Faith and Justice

Jigsaw

Kids' Own Publishing Partnership

Law Centre for Children and Young People

Lifestart National Office

Mental Health Reform

Migrant Rights Centre Ireland

Mounttown Neighbourhood Youth and Family Project

MyMind

National Childhood Network

National Organisation for the Treatment of Abusers (NOTA)

National Parents Council Post Primary

National Parents Council Primary

National Youth Council of Ireland

One Family

One in Four

Parentstop

Pavee Point

Peter McVerry Trust

Rape Crisis Network Ireland (RCNI)

Realt Beag

SAFE Ireland

Saoirse Housing Association

SAOL Beag Children's Centre

Scouting Ireland

Sexual Violence Centre Cork

Simon Communities of Ireland

Social Care Ireland

Society of St. Vincent de Paul

Sonas Domestic Violence Charity

Special Needs Parents Association

SpunOut.ie

St. Nicholas Montessori College

St. Nicholas Montessori Teachers' Association

St. Patrick's Mental Health Services

Step by Step Child & Family Project

Suas Educational Development

Teachers' Union of Ireland

Terenure Rugby Football Club

The Ark, A Cultural Centre for Children

The Guardian Children's Project

The Prevention and Early Intervention Network

The UNESCO Child and Family Research Centre, NUI Galway

Traveller Visibility Group Ltd

Treoir

UNICEF Ireland

youngballymun

Youth Advocate Programme Ireland (YAP)

Youth Work Ireland

Contents

Acknowledgements	2
Foreword	3
Grading	4
Key Facts and Statistics	5
Introduction	6
1. Right to an Adequate Standard of Living	9
1.1 Child and Family Homelessness	11
1.2 Parental Leave and Income Supports	16
1.3 Prevention and Early Intervention	21
2. Rights in Early Childhood	27
2.1 Quality in Early Childhood Education and Care	29
2.2 Subsidised and School-Age Childcare	37
2.3 Childminding	43
3. Right to Education	47
3.1 Educational Disadvantage	49
3.2 Diversity in Schools	54
3.3 Disability and Additional Needs in Education	60
4. Right to Equality	67
4.1 Traveller and Roma Children	69
4.2 Refugee and Asylum-Seeking Children	75
4.3 LGBT+ Children and Young People	82
5. Rights in the Family Environment and Alternative Care	87
5.1 Guardian <i>ad litem</i> Service	89
5.2 Child Protection	95
5.3 Child Victims of Crime	100
6. Right to Health	107
6.1 Primary Care	109
6.2 Mental Health	114
6.3 Physical Health and Wellbeing	119

Acknowledgements

The Children's Rights Alliance wishes to thank all those who contributed to researching and compiling this report. In particular, the Alliance would like to thank our partners in helping to produce *Report Card 2017* including the Community Foundation for Ireland, Pobal, the Irish Youth Foundation, the Department of Housing, Planning, Community and Local Government and the Katharine Howard Foundation.

The Alliance would like to thank the Government Departments, statutory and non-statutory agencies for their assistance, comments and co-operation in preparation of this report:

- > Department of Children and Youth Affairs
- > Department of Education and Skills
- > Department of Housing, Planning, Community and Local Government
- > Department of Health
- > Department of Justice and Equality
- > Department of Public Expenditure and Reform
- > Department of Social Protection
- > Health Service Executive
- > National Vetting Bureau
- > Pobal
- > Reception and Integration Agency
- > Tusla, the Child and Family Agency

The expert contributions of Alliance member organisations are gratefully acknowledged, in particular:

- > Alcohol Action Ireland
- > Barnardos
- > BeLonGTo
- > Childhood Development Initiative
- > Cork Life Centre
- > Dental Health Foundation
- > Disability Federation of Ireland
- > Dublin Rape Crisis Centre
- > Early Childhood Ireland
- > Educate Together
- > EPIC
- > EQUATE
- > Focus Ireland
- > GLEN
- > Inclusion Ireland
- > Irish Association of Social Workers Special Interest Group on Migration
- > Irish Heart Foundation
- > Irish National Teachers Organisation
- > Irish Refugee Council
- > ISPC
- > Irish Traveller Movement
- > Mental Health Reform

- > National Childhood Network
- > National Parents Council Post Primary
- > National Youth Council of Ireland
- > One Family
- > One In Four
- > Pavee Point
- > Peter McVerry Trust
- > Prevention and Early Intervention Network
- > Rape Crisis Network Ireland
- > Scouting Ireland
- > Simon Communities of Ireland
- > Society of St. Vincent de Paul
- > SpunOut.ie
- > St Patrick's Mental Health Services

Special thanks also to Professor Nóirín Hayes and Professor Geoffrey Shannon for their feedback. Particular thanks are due to the Board of the Alliance for their oversight. The Alliance would also like to acknowledge the work of Children Now, based in California, whose annual report card provided the initial inspiration for this series.

We extend our thanks to the members of the Assessment Panel who, by assessing the grades in each section and adding their considerable experience, validate this report. The grades allocated represent the collective views of the Panel rather than the views of any individual. The Assessment Panel comprised:

- > Noel Baker, Journalist, Irish Examiner
- > Seamus Boland, Chief Executive Officer, Irish Rural Link
- > Michael Farrell, Solicitor and Consultant on Human Rights Law
- > Catherine Ghent, Solicitor, Gallagher Shatter Solicitors
- > David Joyce, Equality Officer, Irish Congress of Trade Unions
- > Professor Ursula Kilkelly, School of Law, University College Cork
- > Judge Catherine McGuinness, former member of the Supreme Court of Ireland and member of the Council of State
- > Gareth Noble, Solicitor, KOD Lyons
- > Mark O'Mahony, Director of Policy and Communications, Chambers Ireland
- > Dr Liam Thornton, Lecturer in Law, School of Law, University College Dublin.

Finally, massive thanks go to the Report Card team for their incredible hard work and commitment to produce a superb publication once again this year.

Foreword



The Children's Rights Alliance *Report Card 2017* is the ninth in the series and first under *A Programme for a Partnership Government*. As always, our independent panel of experts graded the Government's performance.

The new Government is awarded an overall 'D+' grade for its work on implementing commitments to children. While this is a lower grade than five Cs received by the previous Government, I should note that this new Government is being reviewed on its first seven months in office.

Overall, it is a mixed bag for children with no outstanding achievements quite yet. That said, the proposed Affordable Childcare Scheme will be a major step forward. High-quality and accessible childcare is known to impact positively on children's development. This area received the highest grade this year, a 'B'. Two further Cs, in the areas of 'Childminding' and 'Quality in Early Childhood Education and Care', resulted in the highest chapter grade this year – a 'C+' for 'Rights in Early Childhood'. The introduction of two weeks' paid paternity leave is also a real positive for families.

'Diversity in Schools' receives a 'D' grade. While we welcome the Government's ambitious target to transfer 18 new schools per year from religious patronage, only 10 such schools have opened since 2012. So decisive action is needed to speed up divestment. Also, the Education (Admission to Schools) Bill 2016 does nothing to address the 'baptism barrier'.

363,694 children under six now have access to free GP care, a positive step towards supporting their right to health. Yet, the promised roll-out of GP care to the under 12s has stalled, resulting in a 'D' grade for 'Primary Care'. One in four children is overweight or obese, and food poverty rates have increased from 10 to over 13 per cent, resulting in a 'C' grade in 'Physical Health and Wellbeing'.

'Mental Health' has never risen above a 'D' grade in recent years and 2017 is no different. The remit of the Youth Mental Health Taskforce is narrow and it is disappointing that it does not address some of the most serious issues for young people including long waiting lists. In September 2016 there were over 2,080 children waiting for an appointment with the Child and Adolescent Mental Health Service (CAMHS). Of these, 170 waited more than a year – up almost 20 per cent on the previous year. It is still unacceptable that children continue to be placed in adult psychiatric units despite criticism by the UN Committee on the Rights of the Child in 2016.

Under the 'Right to Equality', the publication of an LGBT+ strategy for young people receives a 'C+' grade. This is welcome and should help to improve the lives of many of the estimated 29,000 LGBT+ teens in Ireland. Ireland has begun to step up to its commitments under the Irish Refugee Protection Programme but not in time for *Report Card 2017*. So, 'Refugee and Asylum-Seeking Children' received a fairly pitiful 'D-' grade. The joint lowest grade in the entire publication – a woeful 'E' – goes to 'Traveller and Roma Children'. Traveller children leave school an average of five years earlier than non-Travellers and are 3.6 times more likely to die in infancy. This Government, like its predecessors, has simply not done enough.

A second 'E' grade was awarded to 'Child and Family Homelessness' reflecting the horrific reality that there were 2,549 children living in homeless accommodation by the end of 2016. Homeless accommodation is no place for a child. One parent families account for 65 per cent of homeless families and more than a quarter of the same group lives in consistent poverty.

'Child Victims of Crime' is given a 'D' grade. Children who have been sexually abused face shocking delays in accessing counselling services, with one service provider (CARI) reporting an increase of over 200 per cent. This is compounded by only one 24-hour state service provision forensic examinations in Galway. This cannot continue.

Important infrastructural developments have happened in the last decade to support real progress on children's rights. Crucially, we have a Minister at Cabinet and a full Government department for children. We have a national policy framework, *Better Outcomes, Brighter Futures*, providing the roadmap for action. Let us take that roadmap and change the lives of the most marginalised. I am reminded of the eternal wisdom of Nelson Mandela: "There can be no keener revelation of a society's soul than the way in which it treats its children." Poor, frightened, alone, sick, abused or homeless – Ireland can and must do better for these children and for every child.

Tanya Ward
Chief Executive

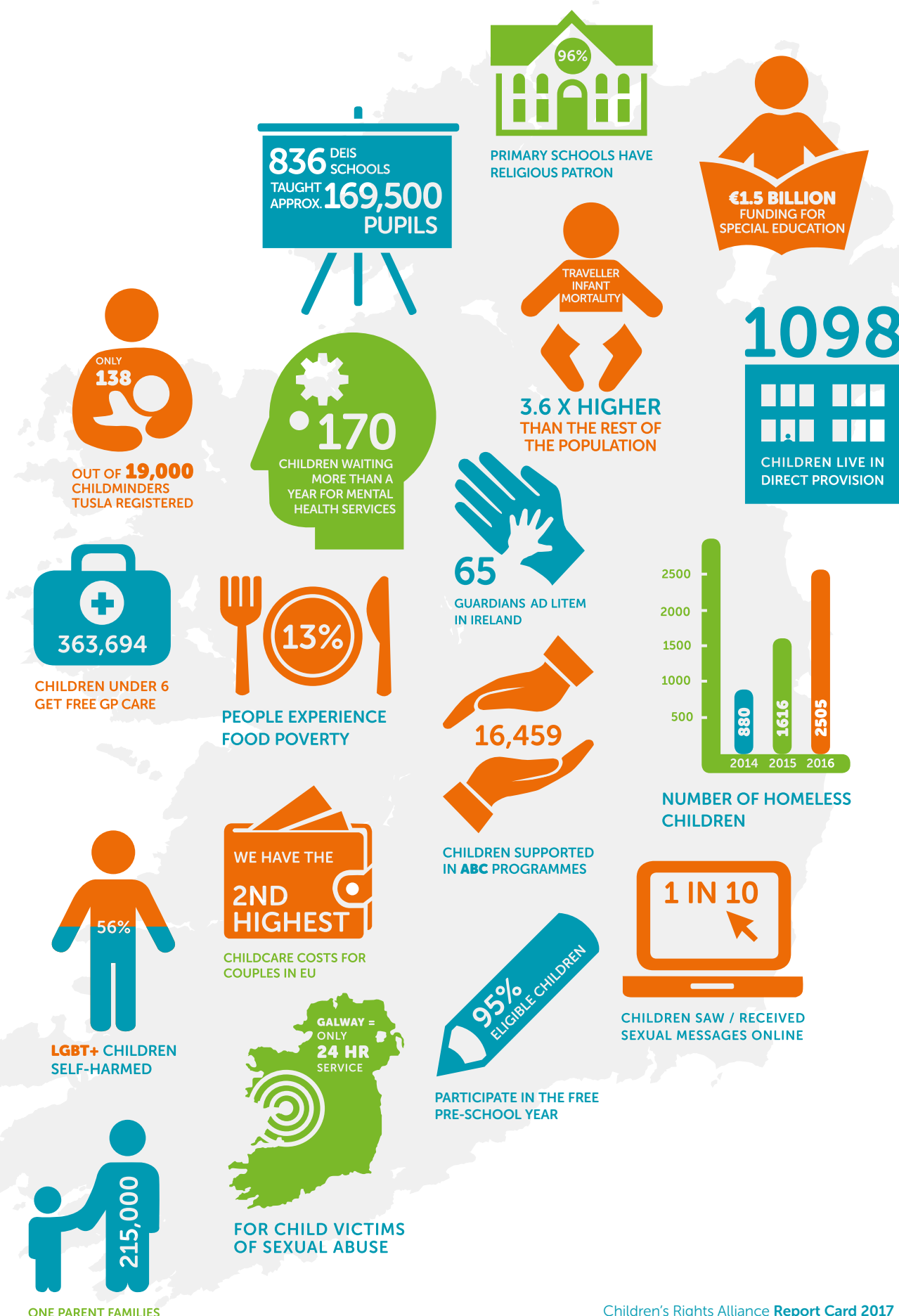
Grading for Report Card 2017

Overall Grade	D+
Right to an Adequate Standard of Living	C-
Child and Family Homelessness	E
Parental Leave and Income Supports	C+
Prevention and Early Intervention	C+
Rights in Early Childhood	C+
Quality in Early Childhood Education and Care	C-
Subsidised and School-Age Childcare	B
Childminding	C
Right to Education	D+
Educational Disadvantage	D
Diversity in Schools	D
Disability and Additional Needs in Education	C+
Right to Equality	D
Traveller and Roma Children	E
Refugee and Asylum-Seeking Children	D-
LGBT+ Children and Young People	C+
Rights in the Family Environment and Alternative Care	D+
Guardian <i>ad Litem</i> Service	D
Child Protection	C
Child Victims of Crime	D
Right to Health	D+
Primary Care	D
Mental Health	D-
Physical Health and Wellbeing	C

Explanation of Grades:

- A Excellent, making a real difference to children's lives
- B Good effort, positive results for children
- C Satisfactory attempt, but children still left wanting
- D Barely acceptable performance, little or no positive impact on children
- E Unacceptable, taking steps in the wrong direction, no positive impact on children
- F Fail, taking steps that undermine children's wellbeing
- N/A Not applicable, due to vague nature of Government commitment

Key Facts and Statistics



Introduction

The Children's Rights Alliance unites over 100 members working together to make Ireland one of the best places in the world to be a child. We change the lives of all children in Ireland by making sure that their rights are respected and protected in our laws, policies and services.

The Report Card is a tool for identifying serious issues for children. It is an established accountability tool for the Children's Rights Alliance and our members, as well as an important information resource for politicians, policy makers, service providers, non-governmental organisations and academics. It scrutinises the Government's own commitments to children flowing from its programme for government.

This is the ninth edition of our annual Report Card series, launched in 2009. *Report Card 2016* marked the final year of the five-year Fine Gael/Labour coalition Government and examined the commitments in the *Programme for Government 2011-2016*. Over its lifetime, the previous Government was awarded on average a 'C' grade overall. This reflects a number of vital commitments it fulfilled for children such as the establishment of the Minister for Children and Youth Affairs with a seat at the cabinet table, a standalone department and Tusla, the Child and Family Agency as well as holding the Children's Referendum to insert the rights of children into the Irish Constitution. The grade also reflects areas in which challenges remained at the end of the Government's term such as child poverty, child and family homelessness and Traveller and Roma Children.

Report Card 2017 is the first edition of the new series and the first under *A Programme for a Partnership Government*. Following the General Election in February 2016, a Fine Gael-led Minority Government was formed with the Independent Alliance and Independent TDs. *A Programme for a Partnership Government* was published in May 2016.

With the new Government comes a new set of commitments to be examined in the Report Card. The commitments selected from *A Programme for a Partnership Government* for *Report Card 2017* are those that are likely to have the biggest impact on children's rights and those that are measurable under the format of the Report Card.

The research process for *Report Card 2017* involved desk research, semi-structured interviews, analysis of legal judgments and data and a wide-ranging consultation with member organisations and key

stakeholders. The grading was carried out by a high-level independent assessment panel, comprising some of Ireland's leading experts in child law and human rights and representatives from the business, trade union and media sectors as well as Social Partnership. *Report Card 2017* contains information up to the end of January 2017.

The Government is awarded an overall 'D+' grade in *Report Card 2017*, reflecting a barely acceptable performance to date with little or no positive impact on children. However, it must be remembered that this Government has only been in power since May 2016. While the highest grade in *Report Card 2017* is a 'B' for Subsidised and School-Age Childcare, the lowest grades have been awarded for Child and Family Homelessness and Traveller and Roma Children, both receiving an 'E'. The Children's Rights Alliance acknowledges the important groundwork that has been carried out in a number of areas but it is clear that much more must be done. We look forward to seeing greater progress over the coming year.



Venture Scouts from Scouting Ireland out on the Mountain Trail

1. RIGHT TO AN ADEQUATE STANDARD OF LIVING

Chapter Grade



//

Intervening early, when a child has a difficulty or preventing that difficulty from happening, makes a lot of sense. This means supporting families so that children do better at school, are healthier and can fulfil their potential. The Government needs to get it right from the start so every child gets the chance that they're entitled to."

Marian Quinn, Chair, The Prevention and Early Intervention Network

Right to an Adequate Standard of Living

Every child has the right to a standard of living that is adequate to their development – physical, mental, spiritual, moral and social. While parents and guardians have the primary responsibility to provide for the child's material needs, the State also has the responsibility to assist parents and guardians to alleviate poverty where needed.

Summary of Article 27 of the UN Convention on the Rights of the Child



IN THE NEWS

7,000 PEOPLE HOMELESS IN IRELAND INCLUDING 2,549 CHILDREN IN EMERGENCY ACCOMMODATION

Irish Examiner, 30 December 2016

An 'unprecedented' 7,000 people are now homeless in Ireland, with one family losing their home every day last month and a shocking 2,549 children now living in emergency accommodation. [...]

Details released as part of the Department's latest homelessness update report show that at the end of November a total of 6,985 people were officially considered homeless in Ireland.

The rate includes 4,436 adults, 2,549 children and a shocking 1,205 families nationwide, and means there are now 20 per cent more adults homeless in Ireland and 30 per cent more families and children homeless compared to November 2015. [...]

In addition, between October and November, 27 more families and 79 children became homeless. And while charities and campaign groups have previously warned more than 7,000 people are without a home nationwide, the 6,985 latest figure is the first time Ireland's homelessness crisis has officially reached such levels. [...]

By Fiachra Ó Cionnaith and Joyce Fegan

1.1

Child and Family Homelessness

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > End the use of unsuitable long-term emergency accommodation for homeless families in part by providing 500 rapid-delivery housing units.



Progress: Some but limited

'Child and Family homelessness' receives an 'E' grade in Report Card 2017. Despite a range of policy and legislative measures introduced to address family homelessness, this grade reflects the unprecedented level of families with children living in unsuitable emergency accommodation. The Minister for Children and Youth Affairs has clearly influenced Government commitments to minimise the impact of homelessness on children and families. The commitment by the Minister for Housing, Planning, Community and Local Government to end the use of emergency accommodation for families by mid-2017 is welcome but its progress has been slow in providing long-term sustainable solutions.

Every child has the right to adequate housing.¹ The UN Convention on the Rights of the Child requires the State to assist parents and guardians who are in need by providing 'material assistance and support programmes particularly with regard to nutrition, clothing and housing'.² The right to adequate housing is defined as being accessible, habitable and affordable with certain 'facilities essential for health, security, comfort and nutrition'.³ Households should have security of tenure.⁴

In 2016, the UN Committee on the Rights of the Child expressed its concern at 'reports of families affected by homelessness facing significant delays in accessing social housing and frequently living in inappropriate, temporary or emergency accommodation on a long-term basis'.⁵ Children as a priority group must be 'accorded full and sustainable access to adequate housing resources'.⁶ The UN Committee has called on the State to undertake measures to increase the availability of social housing and emergency housing support.⁷

Family homelessness is at an all-time high and the number of families living in State-funded emergency accommodation continues to increase.

Homeless families and unsuitable accommodation:

Family homelessness is at an all-time high and the number of families living in State-funded emergency

1 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 27.

2 *ibid* Art 27(3).

3 UN Committee on Economic, Social and Cultural Rights 'General Comment No. 4 on the Right to Adequate Housing (Art 11(1) of the Covenant)' (1991) UN Doc E/1992/23.

4 *ibid*.

5 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 61.

6 UN Committee on Economic, Social and Cultural Rights 'General Comment No. 4 on the Right to Adequate Housing (Art 11(1) of the Covenant)' (1991) UN Doc E/1992/23 para 8(e).

7 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 62.

accommodation continues to increase with 1,205 families with 2,505 children entering homeless accommodation in December 2016.⁸ This compares to 775 families with 1,616 children in December 2015.⁹ While the majority of these families are based in Dublin, in December 2016 there were 177 families with 409 children living in emergency accommodation outside Dublin.¹⁰ There are currently 91,600 households on the social housing waiting list,¹¹ 55 per cent with children.¹² Families become homeless for a variety of reasons including insecure tenancies, rising rents and the lack of sustainable housing options.¹³ In 2015, 48 families were forcibly evicted from local authority houses¹⁴ while other families in the private rented sector were served with eviction notices due to the purchase of mortgages in arrears by so-called 'vulture funds'.¹⁵ The Planning and Development (Housing) and Residential Tenancies Act 2016, commenced in January 2017, included measures to address such scenarios and protect existing tenants, other than in exceptional circumstances. Overall, one parent families account for 65 per cent of homeless families.¹⁶ Levels of hidden homelessness – cases where families and children are living in or sharing unsuitable and inappropriate accommodation – remain unknown.

In July 2016, Minister for Children and Youth Affairs, Dr Katherine Zappone TD and her officials convened an important child homelessness summit which represented a unique child-specific, proactive initiative to tackle the issues surrounding child and youth homelessness, which informed *Rebuilding Ireland: An Action Plan for Housing and Homelessness*,

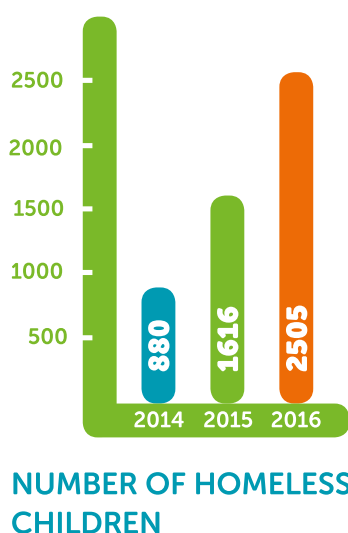
launched later that month. It provides for the delivery of 47,000 social housing units by 2021, supported by an investment of €5.35 billion.¹⁷ The intention to end the use of unsuitable emergency accommodation for families including hotels and B&Bs by mid-2017¹⁸ is welcome, given that 76 per cent of families experiencing homelessness are allocated hotel-style accommodation rather than designated family accommodation.¹⁹ In advance of this deadline, the current stock should be assessed to ensure that families with children are placed in the most suitable accommodation available. However, without suitable alternative accommodation, ultimately the target will not be achieved.

The quality and standard of emergency accommodation is often inappropriate for family life given that whole families have to live in a hotel bedroom in overcrowded conditions. The lack of cooking facilities, recreational spaces for children, lack of access to transport and living at a distance from school have all been identified as issues that impact on families with children in particular.²⁰ A mapping exercise under *Rebuilding Ireland* will identify the number of families who are homeless and match them with available services in an area and identify any gaps in service provision.²¹

Food poverty and unhealthy eating have been identified as particular issues in emergency accommodation,²² and there are concerns that the way in which families are provided with food may lead to unhealthy

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- 8 Department of Housing, Planning, Community and Local Government, 'Emergency Accommodation Figures, December 2016' <<http://bit.ly/2keOobm>> accessed 4 February 2017.
 - 9 Department of Housing, Planning, Community and Local Government, 'Homeless Persons – December 2016' <<http://www.housing.gov.ie/housing/homelessness/other/homeless-persons-december-2015>> accessed 4 February 2017.
 - 10 Department of Housing, Planning, Community and Local Government, 'Emergency Accommodation Figures, December 2016' <<http://bit.ly/2keOobm>> accessed 4 February 2017.
 - 11 Housing Agency, *Summary of Housing Needs Assessments 2016: Key Findings*, (Housing Agency 2016) 5.
 - 12 *ibid* 14.
 - 13 Dr Kathy Walsh & Brian Harvey, *Family Experiences of Pathways into Homelessness* (Housing Agency 2015) 17.
 - 14 Department of Housing, Planning, Community and Local Government, 'Local Authority Mortgage Repossessions 2005-2009' <<http://www.environ.ie/sites/default/files/attachments/c1-repossess-by-yr.xlsx>>
 - 15 RTE, 'Tyrrelstown tenants meeting over eviction notices' (14 March 2016) <<http://www.rte.ie/news/2016/0314/774762-tyrrelstown-properties-eviction/>> accessed 3 February 2017. In March 2016, more than 100 families were informed that their rented houses would be sold over the next four years and that they were facing eviction.
 - 16 Focus Ireland 'Lone Parents and Homelessness: Presentation to Oireachtas Joint Committee on Social Protection' (Focus Ireland 12 January 2017) <<http://bit.ly/2lcHQyh>> accessed 6 February 2017.
 - 17 Government of Ireland, *Rebuilding Ireland: Action Plan for Housing and Homelessness* (Government Publications 2016) 11.
 - 18 *ibid* 13.
 - 19 Dublin Homeless Region Homeless Executive, 'Families who are Homeless (infographic)' (November 2016). <http://www.homelessdublin.ie/sites/default/files/DRHE_Families_November_2016.JPG> accessed 3 February 2017.
 - 20 Government of Ireland, *Rebuilding Ireland: Action Plan for Housing and Homelessness* (Government Publications 2016) 36.
 - 21 Department of Housing, Planning, Community and Local Government *Rebuilding Ireland, Action Plan for Housing and Homelessness; First Quarterly Report* (DHPCLG 2016).
 - 22 Dr Kathy Walsh & Brian Harvey, *Family Experiences of Pathways into Homelessness* (Housing Agency 2015) 31.

overeating or spending limited resources on expensive fast food.²³ Research commissioned by Focus Ireland, and partly funded by the Department of Children and Youth Affairs and the Department of Health, is also underway to examine food access and nutritional health among families experiencing homelessness in Dublin.²⁴



Notably, the Special Rapporteur on Child Protection, Professor Geoffrey Shannon has highlighted the importance of the right to play for children living in poverty who have 'lower levels of access to facilities, often cannot afford to participate in activities' and may live in 'environments with insufficient space or opportunities for play and recreation'.²⁵ In homeless accommodation where play facilities may be limited or not accessible,²⁶ children and young people should be provided with alternative recreational opportunities and access to local leisure facilities.

Complaints to Dublin Region Housing Executive have highlighted a number of serious issues with the standard of accommodation used to accommodate homeless families with children.²⁷ Some families are living in unhygienic and unsafe conditions with used syringes left in bedrooms, insect infestations, mould and damp causing respiratory issues, significant overcrowding and children being kept awake due to noise from surrounding pubs and clubs.²⁸ The UN Committee urged the State to take measures to increase housing support for homeless families ensuring that the supports are 'appropriate to the needs of children affected and subject to adequate safeguards, reviews and evaluations'.²⁹ In a welcome development Tusla and the Dublin Region Homeless Executive have agreed a joint protocol to address child protection concerns,³⁰ which is fully operational in the Dublin area and [...] will be extended to Galway, Limerick and Cork in 2017'.³¹

The development of National Quality Standards for homeless services³² is also a welcome step. The Standards were completed and piloted in services in four of the nine homeless regions during 2016.³³ The Standards aim to set minimum requirements for organisations, and put in place a framework for improvement. However, they are voluntary and have not yet been published. These Standards must ensure the protection and welfare of children receiving homelessness services. They should address child protection and safety in terms of assessing and managing risk, meeting children's educational, health and play needs, and ensuring a safe physical environment. These Standards should ensure consistency of application across all forms of homeless accommodation.

23 Breaking News, 'Food poverty highlighted as key issue facing homeless children living in emergency accommodation' (7 July 2016) <<http://bit.ly/2lcClKw>> accessed 3 February 2017.

24 Communication received by the Children's Rights Alliance from Focus Ireland, 16 January 2017.

25 Prof Geoffrey Shannon *Ninth Report of the Special Rapporteur on Child Protection: A Report Submitted to the Oireachtas* (Department of Children and Youth Affairs 2016) 71.

26 Dr Kathy Walsh & Brian Harvey, *Family Experiences of Pathways into Homelessness* (Housing Agency 2015) 29.

27 Cormac Fitzgerald, 'Pregnant mother 'had to view men exposing themselves to her and her son' in homeless accommodation' *TheJournal.ie* (15 December 2016) <<http://www.thejournal.ie/homeless-conditions-3137432-Dec2016/>> accessed 3 February 2017.

28 *ibid.*

29 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 62.

30 Minister for Children and Youth Affairs, Dr Katherine Zappone TD, Dáil Debates, Priority Questions, Homeless Persons Supports, 9 June 2016 [15260/16].

31 Minister for Children and Youth Affairs, Dr. Katherine Zappone TD, Dáil Debates, Priority Questions, Child and Family Agency Remit, 14 December 2016 [40304/16].

32 Dublin Region Homeless Executive, 'About Putting People First' <<http://www.homelessdublin.ie/putting-people-first>> accessed 3 February 2017.

Rapid-delivery housing units: Budget 2017 allocated €98 million to address homelessness by supporting homeless households to gain secure and sustainable housing.³⁴ A temporary rapid build scheme aimed at moving homeless families out of emergency accommodation was initiated in 2016.³⁵ While approximately 350 additional units were advancing through the tender process or were on-site by the end of 2016,³⁶ with a further 650 rapid-build units planned for 2017,³⁷ only 22 rapid-build units were completed in 2016.³⁸ Costs and protests at proposed sites have added to delays.³⁹ The location of the potential sites 'adjacent to services including transport, schools, retail neighbourhood centres, medical services, recreational and community amenities'⁴⁰ is welcome as this will address some of the issues affecting families in emergency accommodation. However, the small number of units built to date coupled with the growing number of homeless families with children, means that the Rapid Build Programme has not provided an effective solution to the housing crisis, and a sustainable solution to provide families with adequate housing must be prioritised.

The quality and standard of emergency accommodation is often inappropriate for family life given that whole families have to live in a hotel bedroom in overcrowded conditions. The lack of cooking facilities, recreational spaces for children, lack of access to transport and living at a distance from school have all been identified as issues that impact on families with children in particular.

33 Communication received by the Children's Rights Alliance from the Department of Housing, Planning, Community and Local Government, 18 January 2017.

34 Department of Housing, Planning, Community and Local Government, 'Coveney announces transformational housing budget' (11 October 2016) <<http://bit.ly/2klad6B>> accessed 3 February 2017.

35 Dublin City Council, 'Modular Housing' <<http://bit.ly/2jVbAiM>> accessed 3 February 2017.

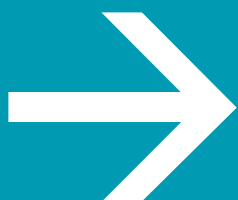
36 Communication received by the Children's Rights Alliance from the Department of Housing, Planning, Community and Local Government, 18 January 2017.

37 *ibid.*

38 Dublin Regional Homeless Executive, 'Rapid Build Housing' <<http://bit.ly/2kAiLtG>> accessed 3 February 2017.

Child and Family Homelessness

Immediate Actions for 2017



IMPLEMENT HOUSING FIRST COMMITMENTS AS A MATTER OF URGENCY AND END THE LONG-TERM USE OF UNSUITABLE EMERGENCY ACCOMMODATION FOR CHILDREN AND FAMILIES BY MID-2017.

Prioritise families with children and move them from unsuitable emergency accommodation including hotels into long-term sustainable housing. Ensure that families are provided with the necessary financial and material supports to ensure that children are not forced to live in unsafe and unsuitable conditions. Children should also be able to access play and recreational facilities while in homeless accommodation.

ROLL-OUT NATIONAL QUALITY STANDARDS FOR HOMELESS SERVICES AND ESTABLISH A ROBUST COMPLIANCE FRAMEWORK TO ENSURE THE PROTECTION AND WELFARE OF CHILDREN.

The National Quality Standards must address child protection and safety in terms of assessing and managing risk, meeting children's educational, health and play needs, and ensure a safe physical environment. These Standards should ensure consistency of application across all forms of homeless accommodation and must be accompanied by the establishment of a robust compliance and monitoring framework.

COMPLETE THE RAPID BUILD PROGRAMME AS A MATTER OF URGENCY BUT CONTINUE TO SOURCE ALTERNATIVE ACCOMMODATION SUITABLE FOR FAMILIES WITH CHILDREN.

The Rapid Build programme will help to address the issue of short supply in the shorter-term but this must be supplemented by ensuring that families have access to affordable rental accommodation as well as increasing the social housing stock.

1.2

Parental Leave and Income Supports

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > Increase paid parental leave in the first year after birth and support stay-at-home parents through an increase in the Home Carers Credit.

Progress: Satisfactory

- > Introduce a new Working Family Payment to promote work over welfare and supplement the income of a household to ensure that every parent working at least 15 hours per week will have more take-home pay for each hour they work. Support middle-income lone parents in work by increasing income disregards through this scheme.

Progress: Some

'Parental Leave and Income Supports' receives a 'C+' grade in *Report Card 2017*. This grade reflects the first step being taken towards increasing paid parental leave through the introduction of two weeks' paternity benefit. It also reflects increases in Budget 2017 to the Home Carers Credit and income disregards for lone parents. The Working Family Payment is in the early stages of development so cannot yet be assessed.

Every child has the right to a standard of living that is adequate to their development – physical, mental, spiritual, moral and social.⁴¹ While parents and guardians have the primary responsibility to provide for the child's material needs, the State also has the responsibility to assist parents and guardians to alleviate poverty where needed.⁴² In 2016, the UN Committee on

the Rights of the Child expressed its deep concern at the 'significant increase in the number of children living in consistent poverty' and in particular referred to single-parent households.⁴³ Article 18 of the UN Convention on the Rights of the Child recognises that support for parents in the early years of a child's life is particularly important. In interpreting this provision, the UN Committee 'acknowledges that many parents are economically active, often in poorly paid occupations which they combine with their parental responsibilities' so it requires the State 'to take all appropriate measures to ensure that children of working parents have the right to benefit from childcare services, maternity protection and facilities for which they are eligible'.⁴⁴ The UN Committee also promotes 'an integrated approach' which focuses on health and education supports for new parents and includes 'interventions that impact

39 RTE, 'Rapid build houses could cost €243k each' (12 April 2016) <<http://bit.ly/1RRPNSa>> accessed 3 February 2017.

40 Dublin Regional Homeless Executive, 'Rapid Build Housing' <<http://bit.ly/2kAiltG>> accessed 3 February 2017.

41 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 27.

42 *ibid*.

indirectly on parents' ability to promote the best interests of children (e.g. taxation and benefits, adequate housing, working hours).⁴⁵

By the end of 2016 there were 4,572 paternity benefit claims and expenditure was €2,058,244.

Paid Parental Leave: The Paternity Leave and Benefit Act 2016 introduced a statutory entitlement to two weeks' paid paternity leave from September 2016.⁴⁶ By the end of 2016 there were 4,572 paternity benefit claims and expenditure was €2,058,244.⁴⁷ A Family Leave Bill, which will consolidate existing leave entitlements including maternity, parental, carer's and adoptive leave, is due to be published in 2017.⁴⁸ This may provide an opportunity to increase leave for parents in the first year of birth.

While the annual cost of implementing the commitment to increase paid parental leave by six months is estimated to be around €273 million,⁴⁹ the long-term benefits are clear. Children do best when cared for at home for at least the first year of life.⁵⁰ Ireland has the fourth shortest period of paid leave for parents out of 26 European countries, most of which provide an average of 19 months' paid leave after the birth of a child.⁵¹ The *Report of the Inter-Departmental Working Group: Future Investment in Childcare in*

*Ireland*⁵² and *Right from the Start: Report of the Expert Advisory Group on the Early Years Strategy*⁵³ both recommend extending State income support in the first year of life for all working parents particularly through enhanced parental leave and benefit provision.

The commitment to increase parental leave in the first year after birth is commendable, and the introduction of paid paternity benefit in the first few months of its tenure is a positive indication of the Government's clear intention. However, this is only the first step in ensuring that parental leave is extended to at least the first year after a child is born. These changes must continue to happen, albeit incrementally, as recommended by the Inter-Departmental Working Group.⁵⁴

Additional Support for Low-Income Families: A *Programme for a Partnership Government* committed to introduce a Working Family Payment and work is ongoing to develop the payment in advance of Budget 2018.⁵⁵ An Interdepartmental Working Group was established in October 2016.⁵⁶ In addition to the introduction of this payment, which will aim to reduce child poverty and make work pay,⁵⁷ the Government has also committed to a number of measures to tackle low pay including an increase in the minimum wage and strengthening the role of the Low Pay Commission to examine the gender pay gap and in-work poverty, as well as strengthening regulations on precarious work.⁵⁸ These commitments are welcome, in particular the intention to reduce 'poverty levels by supporting an

43 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 59.

44 UNCRC 'General Comment No. 7 on Implementing Rights in Early Childhood' (2006) UN Doc CRC/C/GC/7/Rev.1 para 21.

45 *ibid* para 20(a).

46 The Paternity Leave and Benefit Act 2016, s 6.

47 Communication received by the Children's Rights Alliance from the Department of Social Protection, 23 January 2017.

48 Minister of State for Justice and Equality David Stanton TD, Written Answers, Employment Rights, 6 December 2016 [38691/16].

49 Inter-Departmental Group on Future Investment in Early Years and School-Age Childcare and Education, 'Report of Inter-Departmental Working Group: Future Investment in Childcare in Ireland' (DCYA 2015) 11 <<http://bit.ly/1GDVkBn>> accessed 6 February 2017.

50 NICHD, 'Study of Early Childcare and Youth Development: Findings for children aged up to 4 ½ years' (2006) <https://www.nichd.nih.gov/publications/pubs/documents/seccyd_06.pdf> 1, accessed 31 January 2017.

51 Start Strong, 'Family Leave in Ireland, How Do We Compare?' (2015) <<http://bit.ly/2kjVMoa>> accessed 6 February 2017.

52 Inter-Departmental Group on Future Investment in Early Years and School-Age Childcare and Education, 'Report of Inter-Departmental Working Group: Future Investment in Childcare in Ireland' (DCYA 2015) 86 <<http://bit.ly/1GDVkBn>> accessed 6 February 2017; Department of Children and Youth Affairs *Right from the Start: Report on the Expert Advisory Group on the Early Years Strategy* (DCYA 2013) 5.

53 Department of Children and Youth Affairs, *Right from the Start: Report of the Expert Advisory Group on the Early Years Strategy* (Government Publications 2013) 5.

54 Department of Children and Youth Affairs, *Report of the Inter-Departmental Working Group: Future Investment in Childcare in Ireland* (DCYA 2015).

55 Communication received by the Children's Rights Alliance from the Department of Social Protection, 23 January 2017.

56 *ibid*. The Group comprises representatives from the Departments of Children and Youth Affairs; Education and Skills; Finance; Housing, Planning, Community and Local Government; Jobs, Enterprise and Innovation; Public Expenditure and Reform; Social Protection and Revenue.

57 *ibid*.

58 Government of Ireland, *A Programme for a Partnership Government* (Government Publications 2016) 40.

increase in the minimum wage to €10.50 per hour over the next five years.⁵⁹ However, the initial increase in January 2017 from €9.15 to €9.25 per hour means that the Government's own target remains a long way off and significant work must be undertaken to increase the minimum wage to make a real difference to low-paid workers.



ONE PARENT FAMILIES

The Home Carer's Tax Credit is a tax credit given to married couples or civil partners to reduce their payable tax by a specific amount where one partner works in the home caring for a child or other dependent person and they are jointly assessed for tax purposes.⁶⁰ In 2014, there were 80,900 recipients of the credit at a cost of €60.9 million to the State.⁶¹ In Budget 2017 the Home Carer's Tax Credit was increased from €1,000 to €1,100 per year where the home carer has an annual income of less than €7,200.⁶² This is the second increase in two years (the maximum credit was previously set at €810).⁶³

Income Disregards for Lone Parents: More than 215,000 lone parent families live in Ireland⁶⁴ and they experience disproportionate rates of poverty compared with other family types.⁶⁵ More than a third of lone parent households are at risk of poverty, more than a quarter live in consistent poverty and almost 60 per cent experience two or more types of deprivation.⁶⁶ This compares to an overall consistent child poverty rate of 11.5 per cent⁶⁷ meaning that children of lone parents are more than twice as likely to live in consistent poverty as the general child population.

Income disregards are an important mechanism to support lone parents in work as they mean that a certain portion of a person's earned income will not be considered when a person is means-tested for a social welfare payment. Budget 2017 increased the income disregard for parents in receipt of One Parent Family Payment (OPFP) and Jobseeker's Transition Payment (JST) by €20 per week. From January 2017, lone parents can earn up to €110 per week and still qualify for their full social welfare payment. Prior to 2012, a lone parent was permitted to earn €146.50 per week and retain their full payment.⁶⁸ However, following reforms to the payment, the income disregard was reduced to €90 a week, representing a significant drop. The rate of employment amongst lone parents is almost 20 percentage points lower than that of two-parent households⁶⁹ and almost 30 percentage points lower for lone parents whose youngest child was five or under.⁷⁰ Lone parents require additional supports to ensure that they can engage in paid work and there are concerns that with a focus on employment activation measures, transitioning to other payments such as Jobseekers Allowance (JA) or Family Income Supplement (FIS) acts as a disincentive to taking up part-time work due to the loss of income disregards.⁷¹

59 ibid 41.

60 Revenue, 'Home Carer Tax Credit' <<http://www.revenue.ie/en/tax/it/credits/home-carers.html>> accessed 31 January 2017.

61 Minister for Finance Michael Noonan TD, Written Answers, Tax Credits, 22 November 2016 [36281/16].

62 Revenue, 'Home Carer Tax Credit' <<http://www.revenue.ie/en/tax/it/credits/home-carers.html>> accessed 31 January 2017.

63 Revenue, 'Tax relief Charts' <<http://www.revenue.ie/en/tax/it/tax-chart.html>> accessed 31 January 2017.

64 Central Statistics Office, *Census 2011: Profile 5 – Households and Families* (The Stationery Office 2012) 22.

65 Fran McGinnity et al., *Winners and Losers? The Equality Impact of the Great Recession in Ireland* (Equality Authority and ESRI 2014).

66 Central Statistics Office, 'Survey on Income and Living Conditions (SILC) 2015 Results' (CSO 2017) <<http://www.cso.ie/en/releasesandpublications/er/silc/surveyonincomeandlivingconditions2015/>> accessed 2 February 2017.

67 Communication received by the Children's Rights Alliance from the Central Statistics Office, 2 February 2017.

68 One Family, 'One-Parent Family Payment & Income Disregards' (2014) <<http://bit.ly/1guvyYj>> accessed 31 January 2017.

69 Central Statistics Office, 'CSO Statistical Release: Quarterly National Household Survey Quarter 2 2016' (CSO 2016) <<http://www.cso.ie/en/releasesandpublications/er/qnhs-fu/qnhs-householdsandfamilyunitsq22016/>> accessed 31 January 2017. In the second quarter of 2016, 56.4 per cent of lone parents were in work compared with 74.4 per cent of couples with children.

70 ibid.

There are more than 14,000 OPFP recipients in employment, and of 14,500 JST recipients, 5,000 recipients work.⁷² The FIS is also an important support for working parents with approximately 27,000 lone parents in receipt of the payment.⁷³

Of the approximately 56,000 lone parents in receipt of OPFP or JST, 34,700 are not engaged in employment and so remain below the income poverty threshold.⁷⁴ The *Social Impact Assessment of Budget 2017* found that non-earning households benefitted most, with non-earning single parent households experiencing a 4.5 per cent increase in their income.⁷⁵ Other measures that have been taken to support working lone parents in receipt of payments include an exemption from the requirement to seek full-time work, making supports available for longer periods of time, targeted engagement with lone parents with children between the ages of seven and 14 years, and ensuring that lone parents in education are not subject to a means-test for the Student Universal Support Ireland (SUSI) grant.⁷⁶ However, while these supports are welcome they do not restore the cuts made to the One Parent Family Payment during the term of the previous Government. More can be done to fulfil the commitment in *Better Outcome, Brighter Futures: The National Policy Framework on Children and Young People 2014-2020* 'to reform the One Parent Family Payment so that lone parents have access to a range of supports and services designed to provide them with pathways to work while acknowledging their caring responsibilities'.⁷⁷ This position is reinforced by the European Commission's 2016 Country Specific Recommendations for Ireland which recommended that the Government '[e]xpand and accelerate the implementation of activation policies to increase the work intensity of households and address the poverty risk of children. Pursue measures to incentivise employment by tapering the withdrawal of benefits and supplementary payments'.⁷⁸ Further measures to address the social housing needs of lone parents experiencing homelessness should be prioritised alongside targeted measures to increase access to affordable childcare which have been proposed.

71 M. Millar and R. Crosse *Lone Parents and Activation, What Works and Why: A Review of the International Evidence in the Irish Context* (The UNESCO Child and Family Research Centre, National University of Ireland, Galway 2016) 32.

72 Communication received by the Children's Rights Alliance from the Department of Social Protection, 23 January 2017.

73 *ibid.*

74 Communication received by the Children's Rights Alliance from the Department of Social Protection, 8 July 2016.

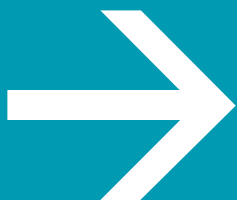
75 Department of Social Protection 'Social impact assessment of the welfare and income tax measures in Budget 2017' (November 2016) <<https://www.welfare.ie/en/downloads/SocialImpact2017.pdf>> accessed 31 January 2017.

76 Communication received by the Children's Rights Alliance from the Department of Social Protection, 23 January 2017.

77 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) 93.

Parental Leave and Income Supports

Immediate Actions for 2017



CONTINUE TO INCREASE PAID PARENTAL LEAVE IN THE FIRST YEAR OF A CHILD'S LIFE.

Work towards introducing one years' paid parental leave, which could be taken after maternity leave by either parent. This would allow a parent and child to spend the first 12 months at home, in line with the recommendations of the 2015 *Report of the Inter-Departmental Group on Childcare*.

DEVELOP THE WORKING FAMILY PAYMENT IN ADVANCE OF BUDGET 2018.

Develop the Working Family Payment and consult with relevant stakeholders to ensure that it is an effective targeted payment that will help to alleviate family and child poverty.

RESTORE THE INCOME DISREGARD FOR ONE PARENT FAMILY PAYMENT AND JOBSEEKERS' PAYMENTS FOR LONE PARENTS.

Increase the income disregard to its pre-recession level of €146.50 per week for the One Parent Family Payment, the Jobseekers Transition Payment and for lone parents in receipt of Jobseekers Allowance to support lone parents to take up employment.

1.3

Prevention and Early Intervention

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > Tackle child poverty by increasing community-based early intervention programmes, such as the ABC Programme.

Progress: Steady

- > Ensure the sharing and implementation of learnings from such programmes.

Progress: Slow

- > Establish a dedicated Prevention and Early Intervention Unit in the Department of Public Expenditure and Reform/Finance in the first 100 days.

Progress: Good

‘Prevention and Early Intervention’ receives a ‘C+’ grade in *Report Card 2017*. This grade reflects steps taken towards the establishment of a Prevention and Early Intervention Unit in the Department of Public Expenditure and Reform. It also reflects the new direction taken by the Department of Children and Youth Affairs to replace reactive intervention with a community-based prevention and early intervention approach for children experiencing poverty and disadvantage. However, progress has been slow in relation to sharing evidence-based learning to child and family services.

Every child has the right to survival and development.⁷⁹ The UN Committee on the Rights of the Child recognises that prevention and intervention strategies during early childhood have the potential to impact positively on young children’s current well-being and future prospects.⁸⁰ Prevention is defined as stopping a problem from happening in the first place; early intervention means acting at the first signs of trouble; while treatment means responding once what could go wrong, has gone wrong.⁸¹ The UN Committee requires that States take all possible measures to improve perinatal care for mothers/ babies, reduce infant and child mortality, as well as create conditions that promote the well-being of all young children during this critical phase of their lives.⁸²

78 Council of the European Union, *Recommendation for a Council Recommendation on the 2016 national reform programme of Ireland and delivering a Council opinion on the 2016 stability programme of Ireland* (European Commission 2016) 10.

79 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 6.

80 UNCRC ‘General Comment No.7: Implementing child rights in early childhood’ (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 8.

Young children in difficult circumstances often face a violation of their rights in early childhood, for example in cases of abuse and neglect and parental substance abuse.⁸³ They are especially vulnerable to the harm caused by unreliable, inconsistent relationships with parents and caregivers, growing up in extreme poverty and deprivation, or being surrounded by conflict and violence.⁸⁴ The realisation of interdependent children's rights requires the provision of appropriate assistance and resources to their parents or guardians responsible for their care.⁸⁵ The UN Committee has highlighted that 'underinvestment in children in their early years can be detrimental to cognitive development and can reinforce existing deprivations, inequalities and intergenerational poverty'.⁸⁶ Rights-based, coordinated, multi-sectoral strategies should be developed to ensure that children's best interests inform service planning and provision. These should be based around a comprehensive framework for early childhood services, provisions and facilities, backed up by an information and monitoring system.⁸⁷

Universal prevention and early intervention programmes for children are currently delivered through, for example, immunisation, primary education, prenatal and infant programmes, to positive effect for child outcomes.⁸⁸ However, there is a social gradient to child outcomes in Ireland⁸⁹ impacting health and wellbeing in childhood and over the lifecycle.⁹⁰ The Government-funded national longitudinal study on children's lives, *Growing Up in Ireland* suggests that much of the variation in child outcomes may be associated with a family's economic, educational and social resources, migrant status, a child's special education needs or a disability.⁹¹

International evidence suggests that prevention and early intervention approaches achieve much better results for children than later intervention, and can reduce the need for costly less effective interventions later in life.⁹² Yet only 20 per cent of all of Ireland's public spending on children and families goes towards early childhood (ages 0-5), with 37 per cent to the middle years (6-11), and 44 per cent to the later years (12-17).⁹³ The change of approach outlined in *A Programme for a Partnership Government* is welcome as it seeks to move away from 'expensive reactive interventions to proactive supports and long term planning starting from birth', and to intervene early in the areas of health, childcare, education and youth crime.⁹⁴

International evidence suggests that prevention and early intervention approaches achieve much better results for children than later intervention, and can reduce the need for costly less effective interventions later in life.

Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020 identifies prevention and early intervention as a transformational goal. It commits to implementing the Area Based Childhood (ABC) Programme as a way to address the impact of child poverty and to improve child outcomes. *Better Outcomes, Brighter Futures* aims

81 Michael Little and Sonia Sodha, *Prevention and Early Intervention in Children's Services* (NESTA 2012) 3.

82 UNCRC 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 10.

83 *ibid* para 36.

84 *ibid* para 36.

85 *ibid* para 31.

86 UNCRC 'General Comment No. 19 on public budgeting for the realization of children's rights (art. 4)' (2016) UN Doc CRC/C/GC/19 para 50.

87 UNCRC 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 22.

88 For example, in the mid-1940s about 500 children died every year in Ireland of vaccine preventable diseases (measles, whooping cough, diphtheria, tuberculosis and polio). Today's death rate figure for these illnesses is zero. Deborah Condon, 'Pre-immunisation: Ireland in the Bad Old days', *Irish Health* (3 May 2011) <<http://www.irishhealth.com/article.html?id=19092>> accessed 6 February 2017.

89 Office of the Minister for Children and Youth Affairs, *Growing Up in Ireland – Infant Cohort Key Finding No. 1 Pregnancy and Birth*, (DCYA 2011) <<http://bit.ly/2jEAz5S>> accessed 6 February 2017.

90 *ibid*.

91 James Williams, Elizabeth Nixon, Emer Smyth and Dorothy Watson, 'Concluding Observations', James Williams, Elizabeth Nixon, Emer Smyth and Dorothy Watson (eds.) *Cherishing All the Children Equally? Ireland 100 Years on From the Easter Rising* (Economic and Social Research Institute 2016) 295.

92 Prevention and Early Intervention Network, 'The Case for Prevention and Early Intervention' (PEIN 2014) <www.pein.ie/images/uploads/docs/The_Case_for_Prevention_and_Early_Intervention_April_2014.pdf> accessed 7 February 2017, 3.

93 Start Strong, *The Economics of Children's Early Years Early Care and Education in Ireland: Costs and Benefits* (Start Strong 2012) 5.

94 Department of the Taoiseach, *A Programme for a Partnership Government* (Department of the Taoiseach 2016) 80.

to 'mainstream the learning from the programme to services throughout the country'.⁹⁵

Community-based Early Intervention Programmes:

Since 2004, the Government and The Atlantic Philanthropies have co-funded major targeted investments in evidence-informed prevention and early intervention services and programmes.⁹⁶ Between 2013 and 2017, €34 million was invested in the ABC Programme, which funded initiatives to improve outcomes for children and families in 13 urban areas of disadvantage.⁹⁷ The initiatives, led by consortia of statutory and voluntary agencies, aim to improve outcomes for children by intervening from the pre-natal stage to 18 years in the lives of children and their parents in a range of areas. These include services that provide assistance for family support, youth mental health, quality early years practice, literacy and numeracy, ante-natal care and education, social and emotional wellbeing⁹⁸ and restorative practice.⁹⁹ The ABC Programme facilitates coordination and interagency collaboration to ensure that services are timely, accessible, and have the potential to be mainstreamed.¹⁰⁰

The Atlantic Philanthropies completed its grant-making in 2016.¹⁰¹ A nationwide ABC Programme evaluation framework will provide both individual and aggregated data on the extent to which ABC changed child and family outcomes, the progress made in implementing evidenced-informed programmes and approaches, and cost-benefit analysis.¹⁰²

Budget 2017 extended Government funding to maintain the 13 ABC sites in 2017.¹⁰³ This is to provide the ABC Programme sites with additional opportunities

to evaluate their activities, focus on mainstreaming the interventions and programmes that make a real difference to children's lives, and bring the conclusion of the ABC Programme closer in line with the expected delivery of the national evaluation report in 2018.¹⁰⁴ The Department of Children and Youth Affairs is currently reviewing the emerging learning on service design and implementation from the ABC Programme. It plans to use the learning and the national evaluation findings to design future community-based prevention and early intervention initiatives to meet the Government's commitment.¹⁰⁵



CHILDREN SUPPORTED IN ABC PROGRAMMES

Sharing and Implementing Learning: The Department of Children and Youth Affairs is developing the Quality and Capacity Building Initiative (QCBI), funded by the Dormant Accounts Funding Scheme, as a co-ordinated approach to enhance capacity, knowledge and quality in prevention and early intervention for children, young people and their families.¹⁰⁶ It aims to link the learning arising from local programmes like the ABC Programme

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- 95 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People* (DCYA 2014) Commitment 4.1, 93.
- 96 Department of Children and Youth Affairs, *Overview of the Quality and Capacity Building Initiative: Enhancing Prevention and Early Intervention for Children and Young People* (DCYA November 2016).
- 97 Centre for Effective Services, 'The Area Based Childhood Programme 2013-2017' <www.effectiveservices.org/downloads/ABC-Programme-2pager_April2016.pdf> accessed 2 February 2017. 16,459 children were supported through the ABC Programmes in 2016. Communication received by the Children's Rights Alliance from the Prevention and Early Intervention Network, 25 January 2017.
- 98 Young Ballymun <http://www.youngballymun.org/our_work/incredible_years/> accessed 19 January 2017.
- 99 Childhood Development Initiative, 'Restorative Practice' <<http://twcdi.ie/our-programmes/restorative-practice>> accessed 19 January 2017.
- 100 Department of Children and Youth Affairs, 'ABC Overview' <<http://bit.ly/2jZZzEU>> accessed 24 January 2017.
- 101 The Atlantic Philanthropies, 'Investing in a Better Future for All' <www.atlanticphilanthropies.org/our-story> accessed 19 January 2017.
- 102 Children's Rights Alliance, *Report Card 2016* (Children's Rights Alliance 2016) 79.
- 103 Government of Ireland, *A Programme for a Partnership Government* (Government Publications 2016) 13.
- 104 Communication received by Children's Rights Alliance from the Department of Children and Youth Affairs, 2 February 2017.
- 105 *ibid.*
- 106 *ibid.*

to national programmes such as Tusla's Prevention Partnership and Family Support Programme¹⁰⁷ and the Health Service Executive's Nurture Programme.¹⁰⁸ The QCBI will enhance access and use of data through a central 'datahub', while also supporting the collection, collation and assessment of evidence to inform interventions and create an online two-way learning platform for policymakers, providers and practitioners. The QCBI also aims to enhance the capacity and skills development of stakeholders in the appraisal and application of evidence-informed approaches. It will align and improve quality systems and standards to mainstream developments and establish quality benchmarks in prevention and early intervention.

Universal prevention and early intervention programmes for children are currently delivered through, for example, immunisation, primary education, prenatal and infant programmes, to positive effect for child outcomes. However, there is a social gradient to child outcomes in Ireland impacting health and wellbeing in childhood and over the lifecycle.

The QCBI implementation will be overseen by an implementation group comprising key statutory and non-statutory organisations and experts, and specific working groups.¹⁰⁹ In 2017, the QCBI, in partnership with Tusla, will develop a draft datahub and pilot a training course to utilise it for outcome-based multi-agency planning, with an initial focus on Children and Young People's Services Committees. Specific outputs will be

agreed following consultation and agreement within the governance structures.¹¹⁰

Prevention and Early Intervention Unit: The Department of Public Expenditure and Reform is in the process of establishing a new Prevention and Early Intervention Unit (PEIU). To date, the Department has scoped the work of the Unit and is currently recruiting staff.¹¹¹ The PEIU will operate as an evaluation unit in relation to prevention and early intervention models in respect of children and also older people with chronic conditions.¹¹² It will provide added value to the delivery of prevention and early intervention services across sectors through the provision of research and analysis. The PEIU will establish and manage inter-departmental/ agency and stakeholder consultation and interaction.¹¹³ A key role of the Unit is monitoring departmental expenditure on prevention and early intervention, making associated recommendations and reporting to relevant Oireachtas Committees.¹¹⁴ The role of the PEIU to enhance information and accountability in relation to PEI policy, operation and outcomes is welcome, as is the consultative and interactive approach to the development and operation of the Unit.

107 The Prevention, Partnership and Family Support Programme (2015 – 2018) aims to embed early intervention and prevention within Tusla, the Child and Family Agency, by building sustainable intellectual capacity and person power within Tusla and partner organisations to perform early intervention work. It is funded by a once-off non-discretionary grant of €8.3 million from The Atlantic Philanthropies.

108 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 2 February 2017. Nurture's purpose is to improve the information and professional supports provided to parents during pregnancy and the first three years of their baby's life. It's a partnership between the Health Service Executive, the Atlantic Philanthropies, the Katharine Howard Foundation and the Centre for Effective Services.

109 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 2 February 2017.

110 *ibid.*

111 Communication received by the Children's Rights Alliance from the Department of Public Expenditure and Reform, 3 February 2017.

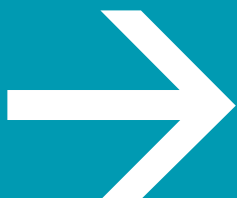
112 *ibid.*

113 *ibid.*

114 *ibid.*

Prevention and Early Intervention

Immediate Actions for 2017



DEVELOP A CLEARLY-RESOURCED PLAN TO MAINSTREAM AREA-BASED CHILDHOOD PROGRAMME SERVICES AND INITIATIVES WHERE EVIDENCE DEMONSTRATES THAT THEY HAVE MADE A POSITIVE IMPACT ON THE LIVES OF CHILDREN AND THEIR FAMILIES.

Where services are making a clear difference for children and their families, particularly in the absence of other service provision, the Department of Children and Youth Affairs should ensure continuity of services and interventions through mainstreaming learning and activities.

DEVELOP AND IMPLEMENT THE QCBI PROCESS IN 2017 TO TRANSFER THE LEARNING FROM ABC AND OTHER PREVENTION AND EARLY INTERVENTION PROGRAMMES TO MAINSTREAM CHILD AND FAMILY SERVICES.

The Quality and Capacity Building Initiative should be progressed in 2017 to ensure that the learning at local level is integrated in national programmes. The datahub must be developed and piloted to ensure that learning from the local level informs existing and future national programmes.

FINALISE RECRUITMENT FOR THE PREVENTION AND EARLY INTERVENTION UNIT IN EARLY 2017 AND ENSURE THAT ITS WORK IS INFORMED BY THE BEST INTERESTS OF THE CHILD PRINCIPLE, IN PARTICULAR IN ITS ANALYSIS OF PUBLIC SPENDING AND ITS DECISION MAKING.

The work of the Prevention and Early Intervention Unit should inform decisions on prevention and early intervention spending in Budget 2018. The Unit's analysis should make the case for increased investment on evidence-based initiatives and programmes to improve child outcomes through public spending.

2. RIGHTS IN EARLY CHILDHOOD

Chapter Grade

C+



Early ChildhoodIre
@EarlyChildhdIrl



'Paid parental leave, high-quality care and education and affordability for families'
@ChildrightsIRL #Budget2017



12.45 PM - 24 Sep 2016

Rights in Early Childhood

The UN Committee on the Rights of the Child encourages States to develop a positive agenda for rights in early childhood. The Convention calls for an understanding that early childhood is not merely preparation for adulthood and requires that children, including the very youngest children, be respected as persons in their own right.

Summary from General Comment 7 of the UN Convention on the Rights of the Child



IN THE NEWS

TWIN TOWNS CHILDCARE AWARDED 'BEST CRÈCHE' IN DONEGAL

Donegal News, 28 October 2016

Twin Towns from Stranolar beat off stiff competition to be crowned Donegal – Crèche of the Year in the 2016 Families First Awards. The awards are designed to thank and acknowledge those people and products local families couldn't be without on a daily basis.

The creche was nominated for the award by many, including Gavin Herron who said it was a great setting: 'Inside and out looks great amazing staff and happy children'.

Emma Watson said she was delighted with the nomination.

The Families First Awards, which took place in Jacksons Hotel, Ballybofey earlier this month, celebrate the wonderful people, products and

services that come together to make our family lives that little bit easier or more enjoyable. [...]

Ann King, Event Organiser was delighted with the turn out and support.

'The Families First Awards event is now into its third year, but this is its first in Donegal. We've been overwhelmed by support and enthusiasm for both the people section and the products and services section of the awards – with literally hundreds of nominations and thousands of votes cast over the past few months it's obvious to us that there are a lot of very happy families who are exceptionally grateful for the people they have in their lives and the products or services that get them through each day. [...]

2.1

Quality in Early Childhood Education and Care

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > Assess the quality of the first pre-school year, withdrawing funding from providers that do not meet quality standards.

Progress: Unsatisfactory

- > Review and reform the inspection regime.

Progress: Some

'Quality in Early Childhood Education and Care' receives a 'C-' grade in Report Card 2017.¹¹⁵ This grade reflects the ongoing delay in the audit of quality of the first free pre-school year (FPSY).¹¹⁶ The review and reform of the inspection regime is welcome, particularly the enactment and commencement of Child Care Act 1991 (Early Years Services) Regulations 2016, as are efforts to harmonise the inspection regime. The rolling-out of Early Years Education-Focused Inspections by the Department of Education and Skills in 2016 is welcome, although it should be extended to Early Childhood Education and Care (ECEC) services for children under three years who also have a right to verified quality.

Every child has a right to education including in their early years.¹¹⁷ The UN Committee on the Rights of the Child interprets the right to education during early childhood as beginning at birth and closely linked to young children's right to maximum development.¹¹⁸ Early childhood institutions, services and facilities must conform to quality standards.¹¹⁹ For the UN Committee quality standards include that:

- > Staff possess the appropriate psychosocial qualities and are suitable, sufficiently numerous and well-trained;
- > Services are appropriate to the circumstances, age and individuality of young children and all staff must be trained to work with this age group;
- > Work with young children is socially valued and properly paid to attract a highly-qualified workforce

115 The term Early Childhood Education and Care (ECEC) is used in Report Card 2017 to denote the care and education of children aged zero to six years. ECEC is the term used by the Organisation for Economic Co-operation and Development.

116 The Early Childhood Care and Education (ECCE) Scheme is referred to as the Free Preschool Year (FYSY) in Report Card 2017 as this is how it is colloquially known, and the term 'Early Childhood Care and Education' is also used in Ireland and other countries to refer to care and education for all young children, not just over the age of three.

117 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 28.

118 UNCRC 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/GC/7/Rev.1 para 28.

119 *ibid.*

- and staff should have up-to-date theoretical and practical understanding about children's rights and development; and
- > Staff use child-centred care practices, curricula and pedagogies, and have access to specialist professional resources and support, including a supervisory and monitoring system for public and private services.¹²⁰

Internationally agreed facets of early childhood education and care (ECEC) service quality required for positive child outcomes - child-to-staff ratios, physical environments, practitioners' educational levels and employment conditions, curriculum, practitioner-child interactions, and pedagogical practices - broadly reflect the UN quality standards.¹²¹

The Government committed in *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* to introduce a second free pre-school year once quality standards are achieved. It also committed to support the monitoring and full implementation of national standards in early years settings, support early years practitioners through continuous professional development, and introduce and implement a national Early Years Strategy.¹²²

Quality Audit of First Free Preschool Year and Funding Withdrawal: Introduced in 2010, the FPSY entitles all children aged between three years and two months and four years and seven months to free access to ECEC for 15 hours per week, 38 weeks per year. Between 1 September 2015 and 31 August 2016, 73,964

children benefitted from the programme.¹²³ Budget 2016 extended the FPSY to children for a second year, and 85,000 children were registered in September 2016.¹²⁴ Approximately 95 per cent of eligible children participate in the FPSY and have done so from the outset.¹²⁵

Good quality ECEC is important as it will impact positively on children's cognitive, physical and socio-emotional development and outcomes in adulthood such as educational attainment, particularly for children whose home learning environments may not support their development.

Good quality ECEC is important as it will impact positively on children's cognitive, physical and socio-emotional development¹²⁶ and outcomes in adulthood such as educational attainment, particularly for children whose home learning environments may not support their development.¹²⁷ Poor quality services and practices can be harmful to child development.¹²⁸ Monitoring aims to enhance the level of quality in ECEC settings and thus improve child outcomes¹²⁹ and ensure States' accountability to children.¹³⁰ The quality of supportive interactions between children and staff, a stimulating curriculum, and effective pedagogical practices are the

120 ibid para 23.

121 Barnara Janta, Janna van Belle, Katherine Stewart, *Quality and Impact of Centre-based Early Childhood Education and Care* (RAND Europe 2016); Working Group on Early Childhood Education and Care, *Proposal for Key Principles of a Quality Framework for Early Childhood Education and Care: Report of the Working Group on Early Childhood Education and Care* (European Commission October 2014).

122 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) 127.

123 Pobal, *Early Years Sector Profile 2015-2016* (Pobal 2016) 12, 13.

124 Department of Children and Youth Affairs, 'Thousands of extra children joining free pre-school' (13 October 2015) <www.dcy.gov.ie/viewdoc.asp?Docid=3953&CatID=11&mn=8&StartDate=01+January+2016> accessed 6 February 2017.

125 Pobal, *Early Years Sector Profile 2015-2016* (Pobal 2016) 13.

126 Working Group on Early Childhood Education and Care, *Proposal for Key Principles of a Quality Framework for Early Childhood Education and Care: Report of the Working Group on Early Childhood Education and Care* (European Commission 2014) 13, 14.

127 Barnara Janta, Janna van Belle, Katherine Stewart, *Quality and Impact of Centre-Based Early Childhood Education and Care* (RAND Europe 2016) 4.

128 Start Strong, *Children 2020* (Start Strong 2010) 11; Mary Moloney, 'Locating Quality in Early Childhood Education and Care Discourse in Ireland: Pre-school and Infant Classrooms as a Crucible for Learning and Development' (PhD thesis, University of Limerick 2011) <<http://bit.ly/2jx62H2>> accessed 8 December 2016, 10.

129 Organisation for Economic Cooperation and Development, *Starting Strong IV: Monitoring Quality in Early Childhood Education and Care* (OECD 2015).

130 UNCRC 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/GC/7/Rev.1 para 23, 32.

most predictive inputs to child development outcomes and to the quality of children's experiences in services.¹³¹



PARTICIPATE IN THE FREE PRE-SCHOOL YEAR

A *Programme for a Partnership Government* committed to audit the quality of the first FPSY. The proposed audit is necessary to address the lack of official data on the quality of Irish ECEC services.¹³² Periodic quality audits of ECEC provision were first recommended in the 2015 *Report of the Inter-Departmental Working Group: Future Investment in Childcare*¹³³ and funding was allocated in Budget 2016 to develop an audit.¹³⁴ In 2016, the Department of Children and Youth Affairs established a Working Group to develop the terms of reference to publically procure services to measure and assess the quality of the FPSY in Ireland.¹³⁵ The Department anticipates that issues related to the audit will be clarified and finalised within the first quarter of 2017.¹³⁶

The development and implementation of an Irish ECEC quality audit tool by an independent agency is welcome; there is no one comprehensive quality assurance framework, assessment process or quality benchmark through which the State assesses and rates the quality of ECEC provision. The State's regulatory and inspection frameworks and tools provide a solid basis for the development of the quality audit, specifically the Department of Education and Science's Early Years Education-Focused Inspections, which is informed by *Síolta: The National Quality Framework for Early Education*,¹³⁷ *Aistear: The Early Childhood Curriculum Framework*¹³⁸ and international research,¹³⁹ and the forthcoming national *Quality and Regulatory Framework* developed by Tusla's Early Years Inspectorate.¹⁴⁰ The proposed quality audit should capture tangible quality elements, such as the quality of children's indoor and outdoor environments, and process quality elements, such as child-practitioner interactions and the efficacy of pedagogical practice. The extent and effectiveness of the support infrastructure that drives ECEC quality should be included specifically Better Start,¹⁴¹ practitioners' education levels and employment conditions. The assessment should audit quality for children as both a group and as individuals.

The Government also commits to withdraw public monies from early years services subject to inspection that fail to meet quality standards.¹⁴² The Department of Children and Youth Affairs anticipates that the proposed quality audit tool will provide evidence against which decisions to withdraw funding will be made.¹⁴³ To date there is little evidence of the withdrawal of public funds for breach of the statutory 2016 Regulations, or

131 Working Group on Early Childhood Education and Care, *Proposal for Key Principles of a Quality Framework for Early Childhood Education and Care: Report of the Working Group on Early Childhood Education and Care* (European Commission October 2014) 6, 17, 28, 36, 40, 43.

132 Start Strong, 'Budget 2016 Analysis' (Start Strong 2015) <<http://bit.ly/2jOX4Jg>> accessed 3 February 2017, 3.

133 Inter-Departmental Working Group on Future Investment in Early Years and School-Age Childcare and Education, 'Report of Inter-Departmental Working Group: Future Investment in Childcare in Ireland' (DCYA 2015) <www.dcy.gov.ie/documents/earlyyears/20150722IDGReportonEarlyYrsInvestmentReport.pdf> accessed 23 July 2016, 104.

134 Department of Children and Youth Affairs, 'Minister Reilly announces €85m childcare package in Budget 2016' (13 October 2015) <<http://www.dcy.gov.ie/viewdoc.asp?DocID=3624>> accessed 6 February 2017.

135 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2017.

136 *ibid.*

137 Department of Education and Skills, 'Síolta - The National Quality Framework for Early Education', <<http://siolta.ie/about.php>> accessed 6 February 2017.

138 National Council for Curriculum and Assessment, *Aistear: The Early Childhood Curriculum Framework* (NCCA 2011).

139 Department of Education and Skills, 'A guide to Early-years Education-focused Inspection (EYEI) in Early-years Settings Participating in the Early childhood education and care (ECEC) Programme' (DES 2016) <<http://bit.ly/2jNxznC>> accessed 6 February 2017.

140 The Early Years Inspectorate in Tusla, the Child and Family Agency, is the independent statutory regulator of early years services in Ireland and is responsible for inspecting pre-schools, play groups, day nursery, crèches and similar services which cater for children aged 0-6 years.

141 Better Start Quality Development Service is an initiative of the Department of Children and Youth Affairs providing an integrated national approach to developing quality in ECEC through mentoring.

142 Department of the Taoiseach, *A Programme for a Partnership Government* (Department of the Taoiseach, 2016) 76.

143 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2017.

its predecessors. Of 2,302 services inspected in 2015, two services were prosecuted in the courts for breach of the 2006 Regulations that preceded the 2016 Regulations.¹⁴⁴ The services remained open despite conviction as the court did not mandate closure.¹⁴⁵ Tusla informed the Department of Children and Youth Affairs about both cases.¹⁴⁶

There is one known instance where capital funding was withdrawn from a service approved under the Early Years Capital Programme¹⁴⁷ after Tusla notified Pobal of a prosecution.¹⁴⁸ It is not within the remit of Early Years Education-Focused Inspections to withdraw public funding from providers that do not meet quality standards.¹⁴⁹

There is a weak connection between receipt of public monies received by Early Childhood Education and Care services and quality demanded by the State, particularly so for children under the age of three years.

Review and Reform of the Inspection Regime:

Every child has the right to protection from abuse and neglect.¹⁵⁰ Young children are frequent victims of neglect, maltreatment and abuse, including physical and mental violence.¹⁵¹ The UN Committee interprets the right as entitling young children to special protection measures.¹⁵² Young children are least able to

avoid or resist abuse, least able to comprehend what is happening and least able to seek the protection of others.¹⁵³ States must have a supervisory and monitoring system for public and private programmes, institutions and services.¹⁵⁴ Inspection regimes support States' accountability to children if there is a violation of their right to safety and protection and they have access to a remedy or sanction.¹⁵⁵ Where non-State services play a major role in early childhood services, the UN Committee reminds the State that it has an obligation to monitor and regulate the quality of provision to ensure that children's rights are protected and their best interests served.¹⁵⁶ A quality framework prepared for the European Commission extends the assessment of ECEC quality beyond individual practitioner and service quality to include the level of competence of the entire ECEC system, including the extent of integration between policies and between ECEC support systems.¹⁵⁷

A Programme for a Partnership Government commits to review and reform the inspection regime. The Department of Children and Youth Affairs funds the three elements of the inspection regime that are central to children's experiences of services: the Tusla Early Years Inspectorate, the Department of Education and Skills' Early Years Education-Focused Inspectorate, and Pobal's compliance regime.¹⁵⁸ A series of gaps have been identified in these elements that impact the extent to which the inspection regime keep children safe and assure the delivery of quality services.

The ECEC governance and inspection system is fragmented.¹⁵⁹ There are two Inspectorates - the

144 Tusla, *Annual Report 2015 of Tusla - Child and Family Agency's Early Years Inspectorate* (Tusla 2016) 2; Communication received by the Children's Rights Alliance from Tusla, 9 February 2017.

145 Communication received by the Children's Rights Alliance from Tusla, 9 February 2017.

146 Communication received by the Children's Rights Alliance from Tusla, 9 February 2017.

147 Early Years Capital Funding is allocated through the DCYA and administered by Pobal. It supports the costs of physical alterations and of additional play equipment to facilitate an increase in childcare places.

148 Communication received by the Children's Rights Alliance from Pobal, 25 January 2017.

149 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 27 January 2017.

150 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 19.

151 UNCRC 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 36(a).

152 *ibid* para 3.

153 *ibid* para 36(a).

154 *ibid* para 23.

155 UNICEF, 'Rights in Principle and Accountable in Practice: Child Rights and Social Accountability in the Post-2015 World, Background Paper' (2014) <https://www.unicef.org/policyanalysis/rights/files/Accountabilities_Meeting_Background_Paper_final.pdf> accessed 6 February 2017, 1.

156 UNCRC 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 32.

157 Mathias Urban and Michel Vandenbroeck, *Competence Requirements for Early Childhood Education and Care: A Study for the European Commission Directorate-General for Education and Culture* (European Commission Directorate-General for Education and Culture 2011).

158 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2017.

159 Geraldine Neylon, 'An analysis of Irish pre-school practice and pedagogy using the early childhood environmental four curricular subscales' (2014) 33 *Irish Educational Studies* 99.

Department of Education and Skills' and Tusla's.¹⁶⁰ This has resulted in an overlap on some of the quality standards monitored and a lack of clarity on procedures for sanctions and for referral mechanisms between the two inspectorates.¹⁶¹ Prior to June 2016, ECEC services could open their doors and receive children without any inspection by Tusla or before 2014, the Health Service Executive. There was no legal requirement for ECEC providers to register with Tusla and no national register of ECEC services. There was no legal minimum training standard resulting in untrained early years practitioners working in the sector. Traditionally, Public Health Nurses have been the only profession employed by Tusla to inspect ECEC services, which has been questioned as they may not be qualified in early care and education.¹⁶²

There is a weak connection between receipt of public monies received by Early Childhood Education and Care services and quality demanded by the State, particularly so for children under the age of three years.¹⁶³ Pobal's¹⁶⁴ contract¹⁶⁵ with FPSY providers on behalf of the Department of Children and Youth Affairs demands that providers use *Síolta*¹⁶⁶ and *Aistear*¹⁶⁷ to frame their curricula and practice.¹⁶⁸ Adherence with these quality and curriculum frameworks is not contractually required from the over 920 non-profit providers receiving targeted ECEC funding for 31,000 children in low-income families.¹⁶⁹ Also, contractually,

practitioners in FPSY rooms must have a National Framework of Qualifications (NFQ) Level 6 qualification, and higher capitation is available when the FPSY Room Leader has a Level 7 qualification, while staff in services and rooms for children under three years are only required to have the legal minimum Level 5 and no additional capitation is offered for higher education levels. This may mean that the least qualified practitioners are working with the youngest and most disadvantaged children.¹⁷⁰ The Department of Education and Science's Early Years Education-Focused Inspection only apply to FPSY rooms, are not regulatory, and the EYEI ratings system does not indicate whether or not practice meets required standards.¹⁷¹

ECEC providers' consider the inspection regime to be resource-intensive and uncoordinated. Tusla-registered ECEC providers undergo rolling inspections by nine State agencies.¹⁷² Providers report inconsistency and inequity within the inspections system, with providers in some locations more likely to receive inspections than in others, and Tusla Early Years Inspectors may not adopt a standardised approach to inspection.¹⁷³

The relevant Government agencies and departments report progress on the inspections commitment in 2016, which is welcome. The establishment of Tusla's Early Years Inspectorate in 2014 was a major

160 The Child Care Act 1991 (Early Years Services) Regulations 2016, inspected and enforced by Tusla's Early Years Inspectorate regulates staff qualifications, child-to-staff ratios, minimum space requirements and facilities for play and rest, alongside child safety and the health, welfare and development of the child, amongst other areas. The role of Tusla's Early Years Inspectorate's is to promote the quality, safety and appropriate care of children through inspection and regulation.

161 There is overlap between the two inspections processes, with Tusla continuing to inspect in relation to Regulation 5 (Health, Welfare and Development of the Child) and Regulation 9 (Behaviour Management), both of which are concerned with the educational aspect of early years provision. Start Strong, 'Submission on Early Years Education-Focused Inspections' (2015) <<http://bit.ly/2jLhVxc>> accessed 6 February 2017, 2.

162 Start Strong, 'Submission on Early Years Education-Focused Inspections' (2015) <<http://bit.ly/2jLhVxc>> accessed 6 February 2017, 2.

163 Start Strong, *Start Strong: The impact of a small children's rights advocacy organisation on early years policy in Ireland* (Start Strong 2016) 29.

164 Pobal manages ECEC programmes on behalf of the Irish Government, including assessing funding applications, checking financial returns, processing payments, and auditing to ensure funds are used for the intended purposes.

165 Department of Children and Youth Affairs, 'Early childhood education and care, Programme General Conditions of Grant Funding Agreement' (2016) <<http://www.dcy.gov.ie/documents/ecce-scheme/20160729ECCEGrantFundingAgreement2016.pdf>> accessed 6 February 2017.

166 Centre for Early Childhood Development Education, 'Síolta; The National Quality Framework for Early Childhood Education: Handbook' (2006) <http://siolta.ie/access_manuals.php> accessed 5 February 2017.

167 National Council for Curriculum Assessment, 'Aistear the Early Childhood Curriculum Framework' (Department of Education and Skills 2009) <<http://www.ncca.biz/Aistear/>> accessed 5 February 2017.

168 Although monitoring adherence is based on self-report by the services, not an objective measure.

169 Department of Children and Youth Affairs, 'Policy Paper on the Development of a new Single Affordable Childcare Scheme' (October 2016) <<http://bit.ly/2h4tNrx>> accessed 6 February 2017, 90.

170 Pobal, *Early Years Sector Profile 2015-2016* (Pobal 2016) 34.

171 Start Strong, 'Submission on Early Years Education-Focused Inspections' (2015) <<http://bit.ly/2jLhVxc>> accessed 6 February 2017, 2.

172 Including Tusla's Early Years Inspectorate under statutory regulations, Early Years Education-focused Inspections by Department of Education and Skills Inspectors (FPSY only), Pobal's Compliance, Audit and Risk Directorate, Health and Safety Authority on practitioners' workplace; the Workplace Relations Commission; the Food Safety Authority, Fire Safety Inspectors under fire regulations.

173 Communication received by the Children's Rights Alliance from Early Childhood Ireland, 8 December 2016.

reform, providing a national approach to inspection and regulation. A national registration system was established under the Child Care Act 1991 (Early Years Services) Regulations 2016, which came into effect on 30 June 2016. The regulations require that all staff working in an ECEC service must have a minimum relevant NFQ level 5 qualification.

A national approach to the collation and publication of inspection reports will be pursued in 2017, and will include details on children's experiences and achievements in ECEC services.

Tusla's statutory inspection system and the Department of Education And Skills' non-statutory inspection system are being harmonised through the Operations and Systems Alignment Group (OSAG) chaired by the Department of Children and Youth Affairs.¹⁷⁴ Tusla's Early Years Inspectorate commenced using a new inspection tool in 2016 to reflect regulatory changes, although it was critiqued for not providing services with clear guidance to interpret the new Regulations.¹⁷⁵ The forthcoming *Quality and Regulatory Framework* contains the parameters under which the Inspectorate will assess services for compliance with the 2016 Regulations, providing for consistency of inspection and a shared understanding of the Regulations for providers and Inspectors.¹⁷⁶ The number of Tusla Early Years Inspectors nationwide increased and Regional Managers were appointed.¹⁷⁷ Tusla's Inspectorate opened up Inspector appointments to a wider group

of disciplines, including ECEC practitioners, alongside Public Health Nurses.¹⁷⁸

The Tusla Inspectorate provides the statutory independent complaints mechanism for parents. In 2015, 258 complaints were received by the Early Years Inspectorate – half of the complaints were upheld. Tusla has not carried out an analysis of 2015 complaints.¹⁷⁹ Services found in non-compliance with the Regulations are expected to address identified shortcomings in full.¹⁸⁰ Tusla inspection reports on individual services are now available for parents to view online, but there is no national approach to the collation and publication of complaints.¹⁸¹ Tusla's enforcement powers no longer require recourse to the courts since June 2016. Non-compliance with regulation is an automatic offence and conditions can be altered or attached to the registration or the service can be removed from the register which essentially deems it closed.¹⁸² Protocols for sharing information were developed which allow Pobal to inform Tusla of breaches of child/staff ratios.¹⁸³ Should Inspectors identify a possible breach of Tusla Regulations there is a procedure in place for the Department of Education and Skills to notify Tusla, although there have been no such notifications to date.¹⁸⁴ Tusla and the Department are currently finalising a Memorandum of Understanding which will include protocols for referral in both directions.¹⁸⁵ Tusla and Pobal are also developing a Memorandum of Understanding in respect of information sharing.¹⁸⁶ These are welcome and necessary developments.

The roll-out of Education-Focused Inspections by the Department of Education and Science since April 2016 is welcome. The inspection process has the potential, alongside Better Start to whom the Inspectors may

174 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2017.

175 Early Childhood Ireland, 'Tusla Inspection Tool' (12 July 2016) <www.earlychildhoodireland.ie/tusla-inspection-tool/> accessed 22 December 2016.

176 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2017.

177 Tusla, *Annual Report 2015 of Tusla - Child and Family Agency's Early Years Inspectorate* (Tusla 2016) 12.

178 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2017.

179 Communication received by the Children's Rights Alliance from Tusla, 9 February 2017.

180 Inter-Departmental Group on Future Investment in Early Years and School-Age Childcare and Education, 'Report of Inter-Departmental Working Group: Future Investment in Childcare in Ireland' (DCYA 2015) <<http://bit.ly/1GDVkBn>> accessed 6 February 2017.

181 Start Strong, *Start Strong: The impact of a small children's rights advocacy organisation on early years policy in Ireland* (Start Strong 2016) 29.

182 Tusla, *Annual Report 2015 of Tusla - Child and Family Agency's Early Years Inspectorate* (Tusla 2016) 12.

183 Communication received by the Children's Rights Alliance from Pobal, 25 January 2017.

184 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 27 January 2017.

185 *ibid.*

186 Communication received by the Children's Rights Alliance from Tusla, 9 February 2017.

refer ECEC services for quality support, to develop quality practice and pedagogy.¹⁸⁷ Over 500 inspections were conducted by Early Years Education-Focused Inspectors and 215 inspection reports are available online.¹⁸⁸ A national approach to the collation and publication of inspection reports will be pursued in 2017, and will include details on children's experiences and achievements in ECEC services.¹⁸⁹ The *Education Action Plan 2016-2019* commits to conducting 1,200 inspections by the end of 2017, with the number of published inspection reports to increase to 1,000 in the same time period,¹⁹⁰ indicating enhanced and increased inspections for providers.

187 Department of Education and Skills, 'Early Years Education Focused Inspections' <www.education.ie/en/Publications/Inspection-Reports-Publications/Early-Years-Education-Reports/> accessed 6 February 2017.

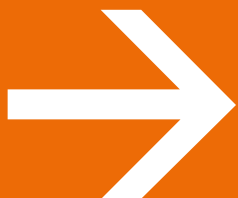
188 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 27 January 2017.

189 *ibid.*

190 Department of Education and Skills, *Action Plan for Education 2016-2019* (DES 2016) 33.

Quality in Early Childhood Education and Care

Immediate Actions for 2017



PROCURE AND COMMENCE THE QUALITY AUDIT OF THE FIRST FREE PRE-SCHOOL YEAR IN THE FIRST HALF OF 2017.

Children and parents should participate in the assessment of quality. Children have participatory rights under the UN Convention and a right to express their views and feelings in the monitoring of early years settings.

CONTINUE WITH THE PLANNED REFORM OF THE INSPECTION SYSTEM AND INCREASE THE NUMBER OF INSPECTIONS CARRIED OUT THROUGH THE ENHANCED INSPECTION COORDINATION. IN PARTICULAR, EXTEND THE EDUCATION-FOCUSED INSPECTIONS BEYOND THE FREE PRE-SCHOOL YEAR TO ECEC FOR ALL CHILDREN UNDER THREE YEARS.

The inspection regime should strengthen rather than weaken young children's rights to be safe and protected in early years settings and assert their right to the best quality practice and provision.

INCLUDE SUBSTANTIAL INVESTMENT IN EARLY YEARS PRACTITIONERS IN THE FORTHCOMING NATIONAL EARLY YEARS STRATEGY TO IMPROVE QUALITY FOR CHILDREN.

The quality of practitioners' interactions with children and the efficacy of their pedagogical practices are the most predictive inputs to child development outcomes and to the quality of children's experiences in services.

2.2

Subsidised and School-Age Childcare

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > Introduce subsidised high-quality childcare for children aged nine-36 months, continue to support subsidised childcare places, and streamline existing schemes to make them more accessible

Progress: Steady

- > Introduce a new system of quality afterschool care for school-age children.

Progress: Limited

'Subsidised and School-Age Childcare' receives a 'B' grade in *Report Card 2017*. The grade recognises the steady progress made since the announcement of the Affordable Childcare Scheme (ACS) in October 2016 in terms of a public consultation and the publication of Heads of Bill and General Scheme for the ACS in January 2017. The grade would have been higher had the funding basis for the scheme been a capitation grant rather than an hourly subsidy rate, and if it were proposed that receipt of public funding would link with quality standards. The forthcoming Action Plan on School-Age Childcare due in early 2017 is a welcome development.

Children of working parents have the right to benefit from childcare services and facilities for which they are eligible.¹⁹¹ The UN Committee on the Rights of the Child identifies that many parents are economically

active, often in poorly paid occupations, which they combine with their parental responsibilities.¹⁹² The UN Convention on the Rights of the Child requires States to provide appropriate assistance to parents and guardians in child-rearing responsibilities.¹⁹³ In addition, the UN Committee notes that insufficient attention has been given by States to the implementation of Article 31 of the UN Convention, which guarantees the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child.¹⁹⁴

Children of working parents have the right to benefit from childcare services and facilities for which they are eligible.

191 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 18(3).

192 UNCRC, 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 20.

193 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 18(2) and (3).

194 UNCRC, 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 21.

Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020 commits to removing barriers to employment through increasing the affordability of quality and accessible childcare and afterschool services.¹⁹⁵ The value of support services, such as breakfast and afterschool clubs, in supporting educational attainment is also recognised.¹⁹⁶

New Childcare Subsidy Model: Budget 2017 announced the delivery of an Affordable Childcare Scheme (ACS) from September 2017. The ACS is a scheme of financial support for parents, which aims to make ECEC and School-Age Childcare (SAC) services more affordable for parents.¹⁹⁷ In October 2016, the Department of Children and Youth Affairs published a policy paper for public consultation setting out the Government's proposals for the Scheme.¹⁹⁸ The ACS will be introduced on a statutory basis and will include both universal and targeted subsidies. The Department views ACS as a flexible platform for future investment in ECEC and SAC in Ireland, allowing for subsidies to be expanded to more children and families over time.¹⁹⁹ The Heads of Bill to establish the ACS were published on 30 January 2017.²⁰⁰

The ACS includes an hourly universal subsidy payable for all children between the ages of six- and 36 months attending childcare services regardless of parental income. The maximum level of subsidy per child is €80 per month based on a 40-hour week. Eligibility for targeted subsidies for children from six-months to 15 years-old is based primarily on net parental income.²⁰¹

The number of subsidised targeted hours that a child can receive is greater when their parent(s) are in employment or training. Budget 2017 allocated €19 million to fund the design and initial implementation of ACS, in addition to the existing €86.8 million already allocated in 2017 for existing targeted subsidies.²⁰²

The proposed ACS addresses a long-standing affordability gap for parents in ECEC and School-Age Childcare costs. Costs in Ireland are among the highest in the EU,²⁰³ and the European Commission in its *2016 Country Specific Report* recommended that the Irish Government act to improve affordability. Childcare in Ireland is unaffordable partly due to the lack of a comprehensive childcare subsidy system that is available in some other countries.²⁰⁴ The excessive cost of childcare has been found to compromise the ability of some low-paid families to meet their basic living costs,²⁰⁵ potentially compromising a child's enjoyment of their right to an adequate standard of living under the UN Convention.²⁰⁶

The ACS aims to fulfil the Government's commitment to streamline existing subsidisation schemes by replacing four targeted employment activation-related childcare subsidies. An estimated 79,000 children are to benefit from the ACS in 2017, including 25,000 new universal subsidy beneficiaries, 22,500 beneficiaries already paying for childcare, and 31,500 children who were already in receipt of a targeted subsidy.²⁰⁷

It is welcome that Government proposes to pay the ACS subsidy directly to ECEC providers rather than to parents, supporting the State's control and oversight

195 *ibid* 68.

196 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) 68.

197 Department of Children and Youth Affairs, 'Budget 2017: Q&A on the Affordable Childcare Scheme' <<http://www.dcy.gov.ie/documents/earlyyears/20161018Budget2017FAQDoc.pdf>> accessed 6 February 2017.

198 *ibid* 10.

199 Department of Children and Youth Affairs, 'Policy Paper on the Development of a new Single Affordable Childcare Scheme' (October 2016) <<http://bit.ly/2h4tNrx>> accessed 6 February 2017, 10.

200 Department of Children and Youth Affairs, 'Affordable Childcare Scheme, Heads of Bills and General Scheme' <<http://www.dcy.gov.ie/documents/legislation/20170126ACSHeadsOfBillandGenScheme.pdf>> accessed 6 February 2016.

201 Income after tax and other deductions.

202 Department of Children and Youth Affairs, 'Policy Paper on the Development of a new Single Affordable Childcare Scheme' (October 2016) <<http://bit.ly/2h4tNrx>> accessed 6 February 2017, 9, 88.

203 Council Recommendation 2016/328/ EC of 18 May 2016 'on the 2016 national reform programme of Ireland and delivering a Council opinion on the 2016 stability programme of Ireland' COM (2016) 328 final, 7.

204 Inter-Departmental Group on Future Investment in Early Years and School-Age Childcare and Education, 'Report of Inter-Departmental Working Group: Future Investment in Childcare in Ireland' (DCYA 2015) <<http://bit.ly/1GDVkBn>> accessed 6 February 2017, 56.

205 Vincentian Partnership for Social Justice *Minimum Income Standard and the Cost of Childcare* (VPSJ 2015); Vincentian Partnership for Social Justice, *When the Living Wage is Not Enough* (VPSJ 2016).

206 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 27.

207 Department of Children and Youth Affairs, 'Budget 2017: Q&A on the Affordable Childcare Scheme' <<http://www.dcy.gov.ie/documents/earlyyears/20161018Budget2017FAQDoc.pdf>> accessed 6 February 2017.

of quality in services.²⁰⁸ That a subsidy was chosen over tax relief for parents is also welcome as tax relief would not be equitable, efficient or effective.²⁰⁹ That the ACS is to be delivered as a hourly subsidy many not contribute to quality enhancement goals in early years services because services require consistent adequate funding to deliver quality; a capitation grant would encourage stability.²¹⁰ The Government proposes that ACS subsidies will only be received by Tusla-registered services²¹¹ to ensure that service providers are monitored and accountable under the 2016 Regulations. This will be a challenge for childminders as by mid-2016 only 138 childminders²¹² out of an estimated 19,000²¹³ were registered with Tusla. Additionally many school-age providers are not eligible to register with Tusla.

It is unclear if the ACS will guarantee affordability for some parents as there may be a gap between the level of ACS subsidy for which parents are eligible and actual fees paid to ECEC providers.²¹⁴ ECEC providers are free to determine the additional fees payable by parents. It is also unclear if the proposed subsidies will be sufficient to support quality and sustainability in ECEC services given the potential gaps between the calculated cost of centre-based ECEC to providers²¹⁵ and the proposed levels of the ACS subsidy.²¹⁶ *A Programme for a Partnership Government* commits to conduct and publish an independent review of the cost of providing quality ECEC, consistent with the principle of ongoing professionalisation of the sector.²¹⁷ The ACS should be reviewed in light of the findings.

While the ACS is proposed as a single national scheme for subsidising the cost of childcare²¹⁸ the Free Pre-school Year (FPSY) remains a stand-alone capitation-funded scheme.²¹⁹ Operating two separate funding schemes, particularly when it is proposed that ACS-funded services will have fewer quality demands and supports from Government than those operating the FPSY, could deepen the current split in the Irish ECEC system where under-threes are cared for and quality and educational standards apply only for pre-school children.



CHILD CARE COSTS FOR COUPLES IN EU

School-Age Childcare: The commitment to develop a school-age childcare system for children attending school is analysed in this chapter of *Report Card 2017* because four- and five-year-olds use these services. However, school-age childcare is a separate policy

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- 208 Department of Children and Youth Affairs, 'Policy Paper on the Development of a new Single Affordable Childcare Scheme' (October 2016) <<http://bit.ly/2h4tNrx>> accessed 6 February 2017, 88.
- 209 Inter-Departmental Group on Future Investment in Early Years and School-Age Childcare and Education, 'Report of Inter-Departmental Working Group: Future Investment in Childcare in Ireland' (DCYA 2015) 77 <<http://bit.ly/1GDVkBn>> accessed 6 February 2017.
- 210 Children's Rights Alliance, 'Submission to the Department of Children and Youth Affairs on the Development of the Single Affordable Childcare Supplement, January 2017' <<http://childrensrights.ie/resources/submission-department-children-and-youth>> accessed 6 February 2017.
- 211 Department of Children and Youth Affairs, 'Policy Paper on the Development of a new Single Affordable Childcare Scheme' (October 2016) <<http://bit.ly/2h4tNrx>> accessed 6 February 2017, 88.
- 212 Communication received by the Children's Rights Alliance from Pobal, 25 January 2017.
- 213 Start Strong, 'Childminding: Recognition and Regulation, Policy Brief' (Start Strong 2014) <<http://bit.ly/2lchQPk>> accessed 6 February 2017, 1.
- 214 Children's Rights Alliance, 'Submission to the Department of Children and Youth Affairs on the Development of the Single Affordable Childcare Supplement, January 2017' <<http://childrensrights.ie/resources/submission-department-children-and-youth>> accessed 6 February 2017.
- 215 Early Childhood Ireland, *Doing the Sums: The Real Cost of Providing Childcare* (ECI 2016).
- 216 Department of Children and Youth Affairs, 'Policy Paper on the Development of a new Single Affordable Childcare Scheme' (October 2016) <<http://bit.ly/2h4tNrx>> accessed 6 February 2017, 88.
- 217 Department of the Taoiseach, *A Programme for a Partnership Government* (Department of the Taoiseach 2016) 76.
- 218 Department of Children and Youth Affairs, 'Policy Paper on the Development of a new Single Affordable Childcare Scheme' (October 2016) <<http://bit.ly/2h4tNrx>> accessed 6 February 2017, 21.
- 219 Minister for Children and Youth Affairs, Katherine Zappone TD, Written Answers, Early Childhood Care and Education, 25 January 2017 [3301/17].

issue from ECEC; its main purpose is to care for children when school is finished but parents are still in work.²²⁰

A Programme for a Partnership Government commits to introduce a new system of quality afterschool care for school-age children.²²¹ The Department of Children and Youth Affairs and the Department of Education and Skills have jointly developed a School-Age Childcare (SAC) Action Plan which is due to be published in the first quarter of 2017.²²² Its recommendations will be considered in the 2018 budgetary process.²²³ The Action Plan will be Ireland's first policy on afterschool and out-of-school services.

School-age childcare will be defined in the forthcoming *School-Age Childcare Action Plan* as:

Childcare which encompasses a wide range of non-scholastic, safe, structured programme offerings for school going children aged four to 12 years, whether provided by childminders or in formal settings. The service operates outside of normal school hours, i.e., before school, after school and during school holidays, excluding the weekends. The same children attend the service on a regular basis and access to the service is clearly defined by agreement with parents and guardians. The main purpose of the service is to promote children's holistic development and to care for children where their parents are unavailable.²²⁴

Statutory, community and private actors provide relevant services which include homework clubs, breakfast clubs, stand-alone afterschool services in ECEC services, afterschool services on school premises, and childminding. However, services catering for school-age children only, and the majority of childminders, are not regulated nor subject to inspection by Tusla or the Department of Education and Skills. The Child Care Act 1991 (Early Years Services) Regulations 2016 only regulates registered early years services catering for children under six- years not attending primary school.²²⁵ However, the Child Care Act 1991 as amended by the Child and Family Agency Act 2013 allows for future regulation of the school-age childcare sector.²²⁶ All staff working directly with children in school-age services should be Garda-vetted under the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016.

While data exists on the number of ECEC services funded by the Department of Children and Youth Affairs offering afterschool care, there is no reliable data available on the number of children availing of SAC, or the number of schools, community or youth services offering school-age services during school term-time or school holidays.²²⁷ A comparative review for the European Commission of school-age services found that Ireland exhibits a mix of informal and part-time arrangements, high unmet demand for formal services and expensive services because it is considered a private responsibility not a public service.²²⁸ The *Inter-Departmental Working Group on the Future Investment in Childcare* (IDG) identified the lack of a clear school-age childcare model, the absence of specified learning outcomes from current provision and the lack of a clear vision or strategy for school-age services on their purpose, content, staff qualifications and physical environment.²²⁹

220 Border Counties Childcare Network, *Afterschool Quality Development Information Pack*, 2nd edition (Border Counties Childcare Network 2010) 8.

221 Department of the Taoiseach, *A Programme for a Partnership Government* (Department of the Taoiseach 2016) 78.

222 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2017.

223 *ibid.*

224 *ibid.*

225 Department of Children and Youth Affairs, 'Minister Reilly publishes new Child Care Regulations' (4 May 2016) <www.dcy.gov.ie/viewdoc.asp?DocID=3774> accessed 6 February 2017.

226 Child Care Act 1991 s 58 as amended by Child and Family Agency Act 2013 Part 12.

227 Inter-Departmental Group on Future Investment in Early Years and School-Age Childcare and Education, 'Report of Inter-Departmental Working Group: Future Investment in Childcare in Ireland' (DCYA 2015) <<http://bit.ly/1GDVkBn>> accessed 6 February 2017, 56.

228 Janneke Plantenga and Chantal Remery, 'Childcare Services for School Age Children: A comparative review of 33 countries' (European Commission, Directorate-General for Justice 2013) <<http://bit.ly/1tdvkvF>> accessed 6 February 2017, 43.

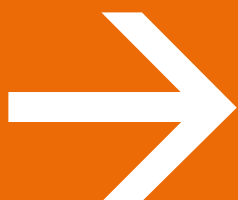
229 Inter-Departmental Group on Future Investment in Early Years and School-Age Childcare and Education, 'Report of Inter-Departmental Working Group: Future Investment in Childcare in Ireland' (DCYA 2015) <<http://bit.ly/1GDVkBn>> accessed 6 February 2017, 55.

The Department of Education and Skills' *Action Plan for Education 2016-2019* commits to utilise primary school buildings for afterschool care provision and proposes to link additional capitation to schools to the provision of buildings for afterschool care.²³⁰ Community groups and private providers will be invited to tender to use school facilities outside school hours. No further detail is available as yet on this proposal or on the level of capitation proposed by the DES.

230 Department of Education and Skills, *Action Plan for Education 2016-2019* (DES 2016) 59.

Subsidised and School-Age Childcare

Immediate Actions for 2017



ENACT THE LEGISLATION TO INTRODUCE THE AFFORDABLE CHILDCARE SCHEME FROM SEPTEMBER 2017 AND PROVIDE ADEQUATE CAPITATION TO ENSURE AFFORDABILITY FOR PARENTS, ACCESS TO SERVICES FOR CHILDREN, AND QUALITY ENVIRONMENTS AND PRACTICE FOR CHILDREN.

The legislation should be put in place so that the Affordable Childcare Scheme can operate from September 2017. While funding has been provided in Budget 2017 this must be kept under review to ensure that all eligible children can avail of the scheme. It must be affordable for parents while also delivering a quality service.

PUBLISH THE ACTION PLAN ON SCHOOL-AGE CHILDCARE IN 2017 TO ENSURE THAT SERVICES ARE REGULATED AND INSPECTED WHILE ALSO PROVIDING AGE-APPROPRIATE CURRICULA AND QUALITY STANDARDS.

The Action Plan should be published early in 2017 setting out clear aims including provision of School-Age Childcare in school buildings or other settings, with a focus on age-appropriate curricula and provision, and ensure that a child's right to play, rest and leisure is respected. The Plan should be evidence-based, and include a review of capacity within the education sector and the private and community sectors alongside a review of demand and need. Put in place a system whereby these services can register with Tusla to ensure that they are properly regulated and inspected.

2.3

Childminding

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > Develop a phased programme of reforms for childminding.

Progress: Satisfactory



'Childminding' receives a 'C' grade in *Report Card 2017*. The grade reflects the establishment of the Working Group in September 2016 to make recommendations on a phased programme of reform for childminding. The grade is also in recognition that this is the first time such a committee has been formed by an Irish Government with the remit of developing a national childminding strategy.

Reforming Childminding: Young children receiving care and education services in the homes of childminders have the same rights under the UN Convention on the Rights of the Child as children receiving centre-based services, including the right to services that conform to quality standards.²³¹ The UN Committee on the Rights of the Child identifies that young children form strong emotional attachments to their parents or other caregivers, from whom they seek and require nurturance, care, guidance and protection.²³² The UN Committee calls on all non-State service providers (for profit and non-profit providers) to respect the principles and provisions of the UN Convention, and reminds States of their primary obligation to ensure its implementation and their

responsibility for service provision for early childhood development.²³³ The UN Committee reminds States that they have an obligation to monitor and regulate the quality of non-State provision to ensure that children's rights are protected and their best interests served.²³⁴

A Programme for a Partnership Government commits to developing a phased programme of reforms for childminding in Ireland. The Department of Children and Youth Affairs has established a Working Group on Reforms and Supports for the Childminding Sector, chaired by Childminding Ireland, a membership-based organisation representing childminders.²³⁵ The Working Group will provide a full description of the childminding sector and examine the feasibility and implications of its mandatory regulation. It is also tasked with identifying the reforms and supports required for a robust system of quality assurance, making proposals and costing a model of short-, medium- and long-term reforms and supports for the childminding sector.²³⁶ The Working Group is due to publish its report in May 2017, which will inform reforms of the sector over a 10 year period.

A childminder is a self-employed person who minds other people's children in the childminder's own home.²³⁷ The Child Care Act 1991 (Early Years Services)

231 UNCRC 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 23.

232 *ibid* para 5.

233 *ibid* para 32.

234 *ibid*.

235 The members are Tusla, Pobal, Department of Children and Youth Affairs, Childcare Committees Ireland, Children's Rights Alliance, the National Childcare Voluntary Collaborative, Better Start, Childminding Ireland.

236 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2017.

237 Office of the Minister for Children, *National Guidelines for Childminders* (Stationery Office, 2006).

Regulations 2016 define a childminding service as a pre-school service offered by a person who single-handedly takes care of pre-school children,²³⁸ which may include the person's own children, in the person's home, for more than two hours per day.²³⁹ It is estimated, in the absence of accurate data, that there are 19,000 childminders caring for approximately 50,000 children,²⁴⁰ making childminders the largest childcare provider in Ireland.²⁴¹ By mid-2016, just 138 childminders were registered with Tusla, the Child and Family Agency.²⁴² The sector operates in the informal economy,²⁴³ and is unregulated by the State, mainly because the majority of childminders are not eligible to register under the provisions of the 2016 Regulations. Childminders caring for three or fewer pre-school children unrelated to the childminder or who care only for school-going children are not required to register with Tusla.²⁴⁴ It is likely that the majority of childminders care for three children or fewer.²⁴⁵

Only registered childminders caring for pre-school children are subject to the 2016 Regulations and liable for inspection by Tusla's Pre-school Services Inspectorate. Legally all childminders should be Garda-vetted, but no official national data exists on the extent of vetting given the current lack of regulation. However, Childminding Ireland's 722 members are required to be Garda vetted or to have applied for vetting, providing some indication of the extent of vetting.²⁴⁶

In 2015, twenty-one childminding services were amongst the 500 randomly selected Tusla inspection reports analysed by Tusla; their compliance rate compared favourably with centre-based settings.²⁴⁷

Tusla does not have a breakdown of childminding services inspected in 2015.²⁴⁸ Childminders not required to register with Tusla can voluntarily 'notify' to their City or County Childcare Committee.²⁴⁹ There is no nationally standardised voluntary notification system, and practices vary nationwide;²⁵⁰ by mid- 2016 730 childminders had notified.²⁵¹ The Childcare Committees do not assess the childminder or their home to determine suitability as there is no statutory basis or resources to do so. Voluntary declaration for childminders involves completing a self-evaluation form.²⁵² Childcare Committees can request that childminders sign a disclaimer indemnifying the Committee should the childminder provide inaccurate information.²⁵³



There is no regulatory or inspection framework in Ireland for school-age children receiving childminding. The proposed Affordable Childcare Scheme will apply to Tusla-registered childminders only.²⁵⁴

238 A pre-school child is defined in the Child Care Act 1991 (Early Years Services) Regulations 2016 (SI No 221) as a child who is under six-years of age and who is not attending primary school.

239 Child Care Act 1991 (Early Years Services) Regulations 2016 (SI No 221).

240 Start Strong, 'Childminding: Regulation and Recognition' (Start Strong 2012) <<http://bit.ly/2khV2yo>> accessed 6 February 2017.

241 There are 4465 Tusla-registered providers in Ireland. Tusla, *Annual Report 2015 of Tusla - Child and Family Agency's Early Years Inspectorate* (Tusla 2016) 21.

242 Communication received by the Children's Rights Alliance from Pobal, 25 January 2017.

243 Start Strong, 'Childminding: Regulation and Recognition' (Start Strong 2012) <<http://bit.ly/2khV2yo>> accessed 6 February 2017.

244 Child Care Act 1991 (Early Years Services) Regulations 2016 (SI No 221), Regulation 12.

245 Start Strong, 'Childminding: Regulation and Recognition' (Start Strong 2012) <<http://bit.ly/2khV2yo>> accessed 6 February 2017.

246 Communication received by the Children's Rights Alliance from Childminding Ireland, 21 December 2016.

247 Tusla, *Annual Report 2015 of Tusla - Child and Family Agency's Early Years Inspectorate* (Tusla 2016) 34.

248 Communication received by the Children's Rights Alliance from Tusla, 9 February 2017.

249 City / County Childcare Committees (CCCs) support ECEC service providers and promote the adoption and application of national frameworks that improve the quality of services.

250 Wicklow County Childcare Committee, Notification as a Childminder <<http://www.wccc.ie/childminding/advice-visits/voluntary-notification-scheme/>> accessed 6 February 2017.

251 Communication received by the Children's Rights Alliance from Pobal, 25 January 2017.

252 Wicklow County Childcare Committee, Notification as a Childminder <<http://www.wccc.ie/childminding/advice-visits/voluntary-notification-scheme/>> accessed 6 February 2017.

253 Notification provides access to a Tax Relief Scheme enabling limited tax free earnings and potentially to €1000 Childminders Development Fund and placement on the Childcare Committee's public listing of Childminders.

254 Department of Children and Youth Affairs, 'Budget 2017: Q&A on the Affordable Childcare Scheme' <www.dcy.gov.ie/documents/earlyyears/20161018Budget2017FAQDoc.pdf> accessed 6 February 2017.

Only Tusla-registered providers delivering the Free Pre-school Years (FPSY) are contractually required to use national quality standards and the national curriculum framework. There is no data on the number of childminders who operate the FPSY as the scheme's administrative data does not differentiate between the types of provider.²⁵⁵ But it is unlikely that childminders provide the FPSY as participating services are required to have a minimum of eight children enrolled in the scheme, although exceptions can be made.²⁵⁶

There is no minimum ECEC qualification required for unregistered childminders. City and County Childcare Committees provide a 10-hour non-accredited Quality Assurance Programme to notified and non-notified childminders, which includes information on child development, hygiene, health and safety, well-being of children, and the importance of play.²⁵⁷ In 2016, 66 childminders nationwide undertook the Programme in addition to 128 in 2015.²⁵⁸

It is estimated, in the absence of accurate data, that there are 19,000 childminders caring for approximately 50,000 children, making childminders the largest childcare provider in Ireland.

Childminders provide valuable home-based, family-type care for children. They provide choice for parents and children, and a flexible support to parental employment close to children's homes and communities. It is important for the Government to recognise their contribution, but the sector requires radical reform to ensure that it is properly regulated. Childminders require supports to improve their homes and practice. The State is accountable to children and must provide an adequate redress mechanism should a childminder violate a child's rights to safety, protection and quality services.

255 Communication received by the Children's Rights Alliance from Pobal, 25 January 2017.

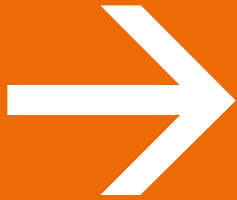
256 Department of Children and Youth Affairs, 'ECCE Minimum Enrolment Exemptions' (DCYA 2016) <www.dcy.gov.ie/documents/eccescheme/20160916MinimumECCEEnrolmentExemptionsDCYAProcedures.pdf> accessed 6 February 2017.

257 Wicklow County Childcare Committee, Notification as a Childminder <<http://www.wccc.ie/childminding/advice-visits/voluntary-notification-scheme/>> accessed 6 February 2017.

258 Communication received by the Children's Rights Alliance from Pobal, 25 January 2017.

Childminding

Immediate Actions for 2017



FINALISE THE REPORT OF THE WORKING GROUP ON CHILDMINDING IN MAY 2017 AND ALIGN WITH THE FORTHCOMING EARLY YEARS STRATEGY.

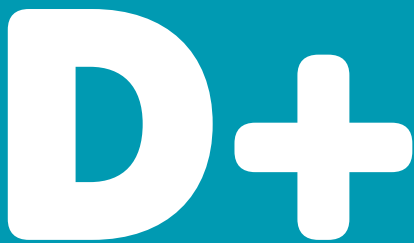
The principles and objectives of the Early Years Strategy should be considered by the Working Group on Childminding. An action plan on childminding should be put in place with implementation supported by adequate multi-annual funding.

THE GOVERNMENT SHOULD COMMENCE THE DEVELOPMENT OF A SYSTEM OF REGULATION AND INSPECTION THROUGH TUSLA, THE NATIONAL CHILD AND FAMILY AGENCY. A SYSTEM IS REQUIRED TO ENSURE CHILDREN'S SAFETY AND DEVELOPMENT AND TO ENABLE CHILDMINDERS' INCLUSION AS AN APPROVED PROVIDER OF THE PROPOSED AFFORDABLE CHILDCARE SCHEME.

The system will require changes to primary legislation, alongside the development of minimum and quality standards that are appropriate to the home-based nature of the service, but are no less rigorous in meeting children's rights standards than those demanded of centre-based services.

3. RIGHT TO EDUCATION

Chapter Grade



Ireland would be a fairer place if schools would accept everyone, not just people with a certain religion."

Students from Dalkey School Project National School, Dublin. Picture Your Rights: A Report to the UN Committee on the Rights of the Child from Children Living in Ireland.'

Right to Education

Every child in Ireland has the right to access education and to be educated. The aim of the right to education goes beyond academic achievement to the development of the child's personality, talents and abilities to their fullest potential, and to providing them with the tools to live a full and responsible life within society.

Summary of Articles 28 and 29 of the UN Convention on the Rights of the Child



Members of The Ark's Children's Council documenting The Ark and Children's Rights Alliance's Seen AND Heard Forum, 17 November 2016. Photographer: Luca Truffarelli



IN THE NEWS

TEEN AWARDED €5,500 OVER DISCRIMINATION BY SCHOOL

The Anglo-Celt, 23 August 2016

A 17-year-old Oldcastle boy who suffers from cerebral palsy has been awarded €5,500 after his former school discriminated against him by not allowing him to bring his assistance dog to school. [...]

An equality officer of the WRC [Workplace Relations Commission], Orlaith Mannion, found Knocktemple NS had, based on their 'Just Say No' policy towards allowing dog access, taken an 'obfuscating and close-minded approach to the request' by the Melia family. [...]

The letter [to the family] stated that Luke would have to stop bringing Aidan to the school until the board had decided on the matter.

As a result, Luke's parents, Pauline and Brendan, have decided to home-school their child. [...]

At the time, Luke's father Brendan said his son's life had been 'transformed' by the arrival of Aidan, which helped his son's mobility.

He told The Anglo-Celt: 'We used to worry about him falling backwards and hitting his head against a pipe or a radiator but now if he wobbles backwards, the dog stops and they steady themselves up.' [...]

Equality Officer Ms Mannion stated that while the school had been correct to pose questions, the law requires educational establishments to do all that is reasonable to accommodate the needs of a person with a disability.

In its ruling, the WRC has now ordered that the school redraft its policies so that they are in compliance with the law. [...]

3.1

Educational Disadvantage

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > Publish a new School Completion Strategy.

Progress: Limited

- > Publish a new updated Action Plan for Educational Inclusion within 12 months, narrow the gap between DEIS and non-DEIS schools, and examine how students outside of DEIS can be better supported.

Progress: Some

'Educational Disadvantage' receives a 'D' grade in Report Card 2017. Neither the School Completion Strategy nor the Action Plan for Educational Inclusion has yet been published though the Plan is expected in early 2017. However, there is no clear plan as to how students experiencing educational disadvantage outside of the Delivering Equality of Opportunity in Schools programme will be supported.

Every child has a right to education on the basis of equal opportunity.²⁵⁹ The UN Committee on the Rights of the Child has provided that the goal of education is to 'empower the child by developing his or her skills, learning and other capacities, human dignity, self-esteem and self-confidence.'²⁶⁰ The Committee states that education goes beyond formal school to embrace the broad range of life experiences and learning processes which enable children, individually and collectively, to develop their personalities, talents and abilities and to live a full and satisfying life within

society.'²⁶¹ States are required to take measures to 'encourage regular attendance at schools and the reduction of drop-out rates.'²⁶²

Every child has a right to education on the basis of equal opportunity.

School Completion: *Better Outcomes Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* commits to 'implement strategies to improve school engagement and reduce incidences of [...] early school-leaving through engaging parents in schooling, strengthening transitions, [...] and fostering inclusive school environments where all pupils flourish, irrespective of social and ethnic background or disability.'²⁶³ One of the goals under the *Action Plan on Education*, launched in September 2016, is to continue to improve retention rates at second-level with the aim of increasing the current rate of 82.7 per

259 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989) Article 28.

260 UNCRC 'General Comment No. 1 on Article 29(1) the Aims of Education' (2001) CRC/GC/2001/1 para 2.

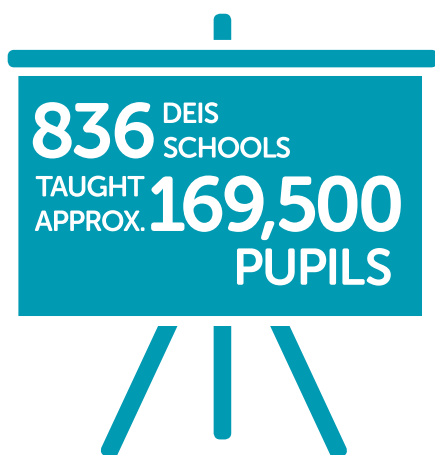
261 *ibid.*

262 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989) Article 28(e).

263 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) Commitment 2.4.

cent in Delivering Equality of Opportunity in Schools programme (DEIS) schools to the national norm of 90.2 per cent by 2025.²⁶⁴

Work on the School Completion Strategy is to begin at the end of 2017.²⁶⁵ The development of the Strategy will be led by the Department of Children and Youth Affairs in conjunction with the Department of Education and Skills.²⁶⁶ Work on the DEIS review and reform of the School Completion Programme under the Educational Welfare Service will lay the foundations to work on the Strategy.²⁶⁷



Significant progress has been made in improving school completion rates, with the most recently available data showing that 7,572 young people left school early in 2011, a drop of 34 per cent over the previous decade.²⁶⁸ The data makes positive reading but there continues to be a cohort of young people who, for a myriad of reasons, disengage with formal education and whose needs are not catered for in the mainstream system.²⁶⁹ In line with the guidance from the UN Committee, the new School Completion Strategy must go beyond formal education and provide additional support and educational alternatives for all young people, of all

abilities and backgrounds and 'embrace the broad range of life experiences and learning processes' that allow children to flourish.²⁷⁰ Traveller and migrant children are over-represented in the early school leaver statistics.²⁷¹

Casting the net of the School Completion Strategy wider than the School Completion Programme is positive. The new Strategy is an opportunity for the Government to make a real difference in the educational outcomes for vulnerable children and young people. While the Programme will benefit from ongoing reform, a more holistic approach taking account of the DEIS review, the forthcoming Educational Inclusion Action Plan, the School Meals Programme, mental health supports and the wider school environment for example would take account of the needs in all aspects of the child's life that impact their school experience. This will involve a coordinated response with responsibility lying across a number of Government departments. Young people, particularly those who have completed their education early or who are at risk of leaving school early should be consulted in advance of the publication of a new Strategy. The Strategy should be outcomes-focused, encourage evidence-based decision-making, be adequately funded and accompanied by an implementation plan with clear timelines and measurable outcomes. Publication of the Strategy should be prioritised to ensure that another group of young people does not fall through the cracks of the education system.

Educational Disadvantage: In Ireland, a person's socio-economic background remains a strong determining factor in their educational attainment. A person is three times more likely to go on to higher education if their parents have higher education than someone whose parents have not completed secondary level education.²⁷² The rapid expansion of education in recent decades²⁷³ and the removal

264 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) 28.

265 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 31 January 2017.

266 *ibid.*

267 *ibid.* The Educational Welfare Service is under the remit of the Child and Family Agency.

268 Department of Education and Skills, 'Early School Leavers, What Next? Report on Early Leavers from Post-Primary Schools – Pupils Enrolled in 2010/2011 and not in 2011/2012' <<http://bit.ly/2kNN0zD>> accessed 2 February 2017, 2, 15.

269 Department of Education and Skills, 'Reports on School Completion and School Leaving show majority of students entering Higher and Further Education' (24 March 2016) <<http://bit.ly/2klmUOK>> accessed 2 February 2017.

270 UNCRC 'General Comment No. 1 on Article 29(1) the Aims of Education' (2001) CRC/GC/2001/1 para 2.

271 Department of Education and Skills, 'Early School Leavers, What Next? Report on Early Leavers from Post-Primary Schools – Pupils Enrolled in 2010/2011 and not in 2011/2012' <<http://bit.ly/2kNN0zD>> accessed 2 February 2017, 12-14, 20. It is worth noting that in September 2011, 'there were 34 boys and 4 girls in detention schools aided by the Department of Education and Skills. There were 21 boys and 17 girls enrolled in DES-aided high-support units in the same period. Data is not available on whether these pupils were enrolled in a DES-aided post primary school in the previous year.'

272 OECD, 'Education at a Glance 2014: OECD Indicators' (2014) <<http://dx.doi.org/10.1787/eag-2014-en>> accessed 3 February 2017, 93. In Ireland, 42 per cent of men and 47 per cent of women (in the 25–43 age range) have a higher educational attainment than their parents, 100.

of tuition fees have benefited most socio-economic groups in accessing higher education.²⁷⁴ These developments have not had a significant impact on the entry rate of students from under-represented lower socio-economic groups²⁷⁵ such as Traveller, Roma and migrant children. *Better Outcomes, Brighter Futures* commits to 'consider the recommendations of the review of the DEIS Programme and use it as a platform for the new initiatives to deliver better outcomes for students in disadvantaged areas'²⁷⁶ and to 'strengthen social inclusion measures and re-invigorate efforts to improve educational outcomes among, and integration of, Travellers, Roma and migrant children and young people.'²⁷⁷

The *Action Plan on Education* commits to publishing and implementing an Educational Inclusion Action Plan that will include 'a school support programme, an assessment framework for resource allocation and a monitoring and evaluation framework.'²⁷⁸ The *Action Plan on Education* also aims to improve the learning outcomes of learners at risk of or impacted by educational disadvantage.²⁷⁹ The Plan notes that 'inclusive education' is a fundamental principle in our education and training system and that while progress has been achieved, 'significant challenges remain' if children and young people from different backgrounds are to be supported to experience educational success.²⁸⁰

The DEIS programme is the State's main policy to tackle educational disadvantage,²⁸¹ and it has been found to positively impact on disadvantage in education.²⁸² Since the formal ending of its initial cycle in 2008, there has been uncertainty related to the future of DEIS. A process to review 'all aspects of DEIS' began in 2015²⁸³ which includes the potential for increased integration of services provided by other Departments and Agencies with the view to improving effectiveness.²⁸⁴ The review is expected to include targeted measures in areas such as new networks of DEIS teachers and schools to share learning outcomes and the improvement of the integration of schools and other State supports within communities.²⁸⁵ A new assessment framework is being developed to assess schools for inclusion in the Programme.²⁸⁶ In a positive move, children from a sample of DEIS schools were consulted as part of the DEIS review and this, together with the outcome of a broader consultation, will be considered in drawing up the Educational Inclusion Action Plan.²⁸⁷

The deadline to publish the Educational Inclusion Action Plan by the end of 2016, as outlined in the *Action Plan on Education*,²⁸⁸ has not been achieved and it is now expected to be published in 2017.²⁸⁹ It is disappointing that the commitments in the Educational Inclusion Action Plan will be implemented 'as resources allow'.²⁹⁰ Dedicated and adequate funding should be committed to achieve its aims given that addressing

273 Expert Group on the Future Funding of Higher Education, *The Role, Value and Scale of Higher Education in Ireland* (DES 2015) 22.

274 Higher Education Authority, *Action Plan for Equity of Access to Higher Education 2008-2013* (HEA 2008), section 2.

275 *ibid*. Such groups include those from skilled manual, semi-skill and unskilled manual and non-manual groups.

276 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) Commitment 2.16

277 *ibid* Commitment 2.22.

278 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) 27.

279 *ibid* 2, 3.

280 *ibid*.

281 The Delivering Equality of Opportunity in Schools (DEIS) Programme, introduced in 2006, aims to address the educational needs of children from marginalised communities through lower pupil-teacher ratios and a range of literacy and numeracy programmes. For more information see: Department of Education and Skills, 'DEIS: Delivering Equality of Opportunity in Schools,' <<http://bit.ly/2kNQ1jz>> accessed 3 February 2017. There were 836 DEIS schools in 2016 teaching 169,500 pupils. Minister for Education and Skills, Richard Bruton TD, Dáil Debates, Delivering Equality of Opportunity In Schools Scheme, 21 July 2016 [24207/16].

282 Emer Smyth, Selina McCoy and Gillian Kingston, *Learning from the Evaluation of DEIS*, (Economic and Social Research Institute 2015) 56, 74.

283 Minister for Education and Skills, Richard Bruton TD, Written Answers, Delivering Equality of Opportunity in Schools Scheme, 29 November 2016 [36891/16].

284 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 20 January 2017.

285 Minister for Education and Skills, Richard Bruton TD, Written Answers, Delivering Equality of Opportunity in Schools Scheme, 29 November 2016 [36891/16]; Carl O'Brien, 'Plan to make education accessible to those from poorer backgrounds' *Irish Times* (Dublin, 14 December 2016).

286 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 20 January 2017.

287 *ibid*.

288 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) 29.

289 Minister for Education and Skills, Richard Bruton TD, Priority Questions, Delivering Equality of Opportunity in Schools Scheme, 18 January 2017 [2011/17].

290 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) 29.

educational disadvantage is a goal of the *Action Plan on Education*. Implementation of the Plan is due to begin in the 2017/2018 school year.²⁹¹

A Programme for a Partnership Government also commits to narrowing the gap between DEIS and non-DEIS schools, and to examine how to better support students outside of DEIS. A 'significant proportion' of disadvantaged students attend non-DEIS schools.²⁹² The Educational Inclusion Action Plan is expected to use 'small areas' census data to identify schools in disadvantaged areas that fall outside of the DEIS Programme.²⁹³ However, children who experience educational disadvantage due to their socio-economic background but do not attend a school in a disadvantaged area will remain beyond the reach of supports such as the Home School Liaison Programme, the School Completion programme and planning supports.²⁹⁴ It is unclear how the Government intends to address the additional support needs of these children as it sets out in its commitment and the new Educational Inclusion Action Plan must make provision for these children.

291 Minister for Education and Skills, Richard Bruton TD, Written Answers, Delivering Equality of Opportunity in Schools Scheme, 29 November 2016 [36891/16].

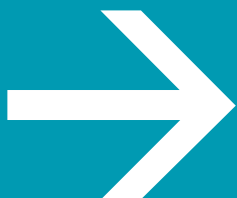
292 Emer Smyth et al, *Review of the School Completion Programme, Research Series Number 44* (ESRI 2015) 79.

293 Carl O'Brien, 'Plan to make education accessible to those from poorer backgrounds' *Irish Times* (Dublin, 14 December 2016).

294 For more information on the supports provided under the DEIS programme see: Department of Education and Skills, 'Support to DEIS Schools' <<http://bit.ly/2lf5EBEl>> accessed 3 February 2017.

Educational Disadvantage

Immediate Actions for 2017



PUBLISH THE ACTION PLAN ON EDUCATIONAL INCLUSION WITHOUT DELAY AND PROVIDE DEDICATED FUNDING FOR ITS IMPLEMENTATION.

The promised Action Plan on Educational Inclusion should be long-term, adequately resourced and accompanied by an implementation plan with clear targets, timelines, expected outcomes and details of how they are to be achieved.

ENSURE THAT THE NEW SCHOOL COMPLETION STRATEGY CONSIDERS THE DIVERSE NEEDS OF THE CHILD IN ALL ASPECTS OF THEIR LIVES AND THAT THIS IS REFLECTED IN A COORDINATED CROSS-DEPARTMENTAL APPROACH. IT SHOULD INCLUDE CONSULTATION WITH CHILDREN AND YOUNG PEOPLE.

The new School Completion Strategy provides the Government with a real opportunity to improve the life outcomes for vulnerable children by helping them achieve their educational potential at school. To achieve this, the Government must be ambitious in its approach and examine all aspects of the lives of the young people who fall out of the education system early through a cross-departmental approach. The Department of Children and Youth Affairs must consult with young people in school as well as early school-leavers to inform the development of the new School Completion Strategy.

ENSURE THAT SUPPORTS ARE MADE AVAILABLE TO CHILDREN WHO EXPERIENCE EDUCATIONAL DISADVANTAGE BUT WHO DO NOT ATTEND DESIGNATED DEIS SCHOOLS.

A significant number of children from disadvantaged backgrounds but not living in DEIS designated areas fall outside of the reach of Programme supports. Priority should be given to ensure that measures are in place to support these children.

3.2

Diversity in Schools

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > Work with stakeholders to facilitate the phased transfer of Catholic schools to new patrons, where support of communities exists and to consider new approaches.

Progress: Limited

- > Increase the number of non-denominational and multi-denominational schools to 400 by 2030.

Progress: Some

- > Publish new School Admissions and Excellence legislation and enact this legislation for the beginning of the school year 2017.

Progress: Some

'Diversity in Schools' receives a 'D' grade in *Report Card 2017*. The Government is to be commended for its commitment to increase diversity in schools. However, new plans on the transfer of existing schools from religious patrons are not fully based on the best interests of children and lack transparency and independence. In addition, the 'baptism barrier' has been protected rather than removed in the new school admissions legislation leaving children of minority or of no faith facing discrimination.

Every child has a right to education 'on the basis of equal opportunity'²⁹⁵ and the right to respect for their freedom of thought, conscience and religion.²⁹⁶ Children have the right to be free from discrimination of any kind, irrespective of, amongst other things, the

child's or their parent or guardian's religion or beliefs. The State is under a duty to 'take all appropriate measures' to ensure that the child is protected against all forms of discrimination based on their beliefs or expressed opinions.²⁹⁷ In 2016, the UN Committee on the Rights of the Child encouraged Ireland to promote the establishment of non-denominational or multi-denominational schools and to amend existing legislation to eliminate discrimination in school admissions.²⁹⁸

In the academic year 2016/17, 96 per cent of primary schools have a religious patron with 89.7 per cent under the patronage of the Catholic Church.²⁹⁹ At post-primary level 52.3 per cent of schools have a religious patron, with 48.5 per cent of these under Catholic

295 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989), Art 28(1).

296 *ibid* Art 14(1).

297 *ibid* Art 2.

298 UNCRC 'Concluding Observations Ireland,' (2016) CRC/C/IRL/CO/3-4 para 64(a).

299 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 23 January 2017.

Church patronage.³⁰⁰ The denominational nature of the Irish education system has led to difficulties for families who wish for their children to be educated in a multi- or non-denominational environment.³⁰¹ This is largely down to a lack of school options in their locality, other than a denominational publicly funded school.³⁰² In five counties in Ireland, there is no alternative to denominational primary school provision.³⁰³

In the Action Plan on Education 2016-2019, the Government commits to working with stakeholders to facilitate the process of reconfiguration under an agreed roadmap for a phased transfer of Catholic schools to new patrons where the support of communities exists.

Divestment/Reconfiguration: The previous Government established a Forum on Patronage and Pluralism in the Primary Sector in 2012 to examine how the education system could best provide a sufficiently diverse number and range of schools nationwide for children of all religions and none.³⁰⁴ It recommended divestment of patronage to take place on a phased process.³⁰⁵ Progress on divestment has been slow and rather than actual divestment of property to another patron, in many cases, schools are housed in temporary accommodation, some with no guarantee of a long-

term building. Just two schools are now in properties given over by the Catholic Church.³⁰⁶

In the *Action Plan on Education 2016-2019*, the Government commits to working with stakeholders to facilitate the process of reconfiguration under an agreed roadmap for a phased transfer of Catholic schools to new patrons where the support of communities exists.³⁰⁷ In conjunction with the proposed new multi- and non-denominational schools, the Minister for Education and Skills, Richard Bruton TD, has pointed to the phased transfer of Catholic schools to new patrons as part of the vision of achieving greater diversity in schools.³⁰⁸ He is to be commended for seeking new approaches to progressing divestment and reconfiguration. Although he met with a broad range of stakeholders on this issue,³⁰⁹ there was little action on the ground in 2016 and progress remained effectively stalled.

In January 2017, the Minister announced a plan aimed at 'providing more multi-denominational and non-denominational schools across the country' through the transfer of existing schools from religious patronage.³¹⁰ The plan sets out a two phase process for the identification of existing schools for transfer and where it is shown that there is a level of demand to justify the transfer, the implementation phase will begin. This model will continue alongside the previous amalgamation and closure model.³¹¹ With regard to the process for the decision on patronage of the new multi- and non-denominational schools, a statement from the Minister provided that 'the existing landowner... will decide what multi-denominational patron to

300 *ibid*.

301 The Department of Education and Skills provides that two types of primary schools are categorised as multi-denominational: 1. Schools that do not provide religious education as formation, during the school day, but do provide education about religions and beliefs. 2. Schools that provide education about religions and also provide some faith formation for different denominations, depending on parental requests, during the school day, over a 3 or 4 week period. Department of Education and Skills, 'Diversity of Patronage' <<http://bit.ly/2lAaq7>> accessed 1 February 2017. Definitions can also be found at this address for denominational and inter-denominational patronage.

302 The Forum on Patronage and Pluralism in the Primary Sector, *Report of the Forum's Advisory Group* (Department of Education and Skills 2012) 42.

303 Educate Together, 'Schools and Start-Up Groups' <<http://www.educatetogether.ie/schools>> accessed 1 February 2017. The six counties are Leitrim, Longford, Monaghan, Roscommon and Tipperary.

304 The Forum on Patronage and Pluralism in the Primary Sector, *Report of the Forum's Advisory Group* (Department of Education and Skills 2012) 3.

305 *ibid* 105.

306 Michael Shiels McNamee, 'It tends not to be prime property that's handed over: 8 schools opened in 3 years under divestment', *The Journal.ie* (1 August 2016) <<http://bit.ly/2lk0T5J>> accessed 6 December 2016.

307 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) 61. In addition, by the end of March 2017, the Action Plan commits to establishing a working group in the Department of Education and Skills to develop an amalgamation protocol for schools reconfiguring to increase diversity of school type.

308 Minister for Education and Skills, Richard Bruton TD, Written Answers, School Patronage, 16 November 2016 [35019/16].

309 *ibid*.

310 Department of Education and Skills, 'Minister Bruton announces new plans to accelerate provision of multi- and non-denominational schools' (30 January 2017) <<http://bit.ly/2kOoRsL>> accessed 1 February 2017.

311 *ibid*.

transfer to.³¹² This is at odds with the constitutional rights of parents to decide the type of school their children attend.³¹³ Given that the vast majority of primary schools are under the patronage and ownership of one denomination,³¹⁴ decisions on patronage should be undertaken by an independent body to ensure a more transparent and independent approach.

Publicly funded education should be based on the rights and needs of children, in particular the best interests of the child, rather than those of patrons. The plan should be re-stated to take this into account when providing for the transfer of existing schools from religious patronage to other patrons. While the rights and needs of patrons and children may well overlap in many cases, the best interests of the child should always be the starting point and the decision-making process on patronage should be transparent, independent and fair. The wishes of parents and families should be central to any plan in this area in line with Article 42 of the Irish Constitution. Plans for consulting with parents should be more comprehensive³¹⁵ and provision should be included for meaningful consultation with children and young people.

Non- and multi-denominational schools: In 2016, the UN Committee recommended that the State 'expeditiously undertake concrete measures to significantly increase the availability of non-denominational and multi-denominational schools'.³¹⁶ *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* commits to 'expand the provision of multid denominational schools where parental demand exists'.³¹⁷ *A Programme for a Partnership Government* specifies a target of 400 multi- and non-

denominational schools by 2030 which is reiterated in the objectives of the *Action Plan on Education*, launched in September 2016.³¹⁸ The *Action Plan* provides that the Government will 'map out new approaches to reach the target' by the end of 2016.³¹⁹ The Government has set itself an ambitious target which effectively breaks down to a figure of 18 new schools to be opened per year including in 2016.³²⁰ However, since the process began in 2012, a total of 10 schools have been opened under the patronage divestment process.³²¹ Under the *Action Plan*, the target to open five more by the end of September 2016 (three under the patronage process and two under reconfiguration) has been achieved.³²²



PRIMARY SCHOOLS HAVE RELIGIOUS PATRON

Greater clarity will be required as to how the target of 400 schools is to be reached. Transfer of existing schools from religious patronage is expected to account for one third of this figure.³²³ Details of how the remaining two thirds are to be achieved should be set out in clear phases of development with stated timelines and funding streams and involve all patron

312 *ibid.*

313 Irish Constitution, Art 42.3.1°. This provision states that 'The State shall not oblige parents in violation of their conscience and lawful preference to send their children to schools established by the State, or to any particular type of school designated by the State.'

314 The Forum on Patronage and Pluralism in the Primary Sector, *Report of the Forum's Advisory Group* (Department of Education and Skills 2012) 63.

315 It appears that pre-school parents will be asked to fill out a survey but no other plans have been set out such as public meetings, written submissions or focus groups – all options set out in Department of An Taoiseach 'Reaching Out, Guidelines on Consultation for Public Sector Bodies' (2004) <<http://bit.ly/2jUf3dv>> accessed 1 February 2017, 13-18.

316 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 64(a).

317 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) Commitment 2.13.

318 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) 3.

319 *ibid* 44.

320 Michael Shiels McNamee, 'It tends not to be prime property that's handed over: 8 schools opened in 3 years under divestment', *The Journal.ie* (1 August 2016) <<http://bit.ly/2lk0T5J>> accessed 6 December 2016.

321 *ibid.*

322 In the *Action Plan*, under the objective heading 'establish 400 new multi-/non-denominational schools', it includes a commitment to three new schools under the patronage process and two reconfigured schools to be opened in Q3 of 2016 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) 44.

323 Department of Education and Skills, 'Minister Bruton announces new plans to accelerate provision of multi- and non-denominational schools' (30 January 2017) <<http://bit.ly/2kOoRsL>> accessed 1 February 2017.

bodes. In addition, given that there are currently 108 multi-denominational primary schools in the country,³²⁴ and no non-denominational schools at either level, it will be important to ensure that any new school divestment model includes not just multi-denominational but also non-denominational schools. Any new approach must explicitly ensure that all children are treated equally regardless of the religious or non-religious beliefs of the child and their family.

School Admissions: The Equal Status Acts 2000-2012, which prohibit discrimination on religious and other grounds, provide an exemption that allows schools of a particular religious ethos to give preference to students of that religious denomination, or refuse admission to students of other or no religion in order to preserve the school's ethos.³²⁵ This is often referred to as the 'baptism barrier' which arises because of the high proportion of schools of a Catholic ethos and the lack of alternatives for families of different or no faiths. It can mean that where schools are oversubscribed, preference in school admission is given to children who can present a baptismal certificate.³²⁶ Research from EQUATE has found that one in four parents who baptised a child, did so to get them into a local school.³²⁷ This shows the lengths that parents are prepared to take to enrol their child in a nearby school which is often publically funded. In 2016, the UN Committee encouraged the State to amend the 'existing legislative framework to eliminate discrimination in school admissions, including the Equal Status Act'.³²⁸ *Better Outcomes, Brighter Futures* commits to reducing discrimination and intolerance of all types experienced by marginalised groups including those from religious minorities.³²⁹

The Government has committed to enact legislation on school admissions in 2017 though this will not apply to admissions for that academic year.³³⁰ The Education (Admission to Schools) Bill 2016 was published in July 2016 fulfilling one part of the commitment, but it relates solely to school admissions and does not address the issue of 'excellence'. The aim of the 2016 Bill is to 'increase the transparency and fairness of school admissions'.³³¹ Amongst other things, it proposes to ban school admission waiting lists which will ensure that parents who move to a new area are not placed at a disadvantage. It will also ban admission fees. However, the Irish Human Rights and Equality Commission has noted that the Bill 'makes no change to the underlying substantive law on how a school may select students for admission'.³³² The Bill explicitly bans discrimination in school admissions including on religious grounds but the exemption set out above under the Equal Status Acts is protected under Section 7 of the proposed legislation.³³³ This amendment allows for the continuation of de facto discrimination based on religious ethos and maintains the 'baptism barrier'.

In November 2016, the Minister for Education and Skills stated that the 'baptism barrier' issue will be addressed separately from the Education (Admission to Schools) Bill under an Equal Status Bill³³⁴ which the Government has agreed will proceed to the second stage in June 2017.³³⁵ In early 2017, he initiated a public consultation based on four potential options to address the 'baptism barrier' issue.³³⁶

While the Minister for Education and Skills has stated publicly that this issue is 'not put on the long finger',³³⁷

324 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 23 January 2017.

325 Equal Status Act 2000, s 7.

326 Caitriona Mc Bride, 'Baptism Barrier, a reality at the school gates' *The Irish Times* (Dublin, 5 September 2016).

327 EQUATE, Religion and School: Parents' voices (EQUATE 2017) 11.

328 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 64(a).

329 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) Commitment 5.6.

330 Minister for Education and Skills, Richard Bruton TD, Written Answers, School Admissions, 22 November 2016 [35929/16].

331 Department of Education and Skills, 'New law will make process of school admissions easier for children and parents – Minister Bruton' (6 July 2016) <<http://bit.ly/2kDywjM>> accessed 6 December 2016.

332 It notes that the religious exemption in the Equal Status 2000 Act is reinstated in the Bill with regard to (a) an appeal against the designation by the National Council for Special Education of a school in the case of a students with special educational needs and (b) an appeal against the designation by the Child and Family Agency of a school in the case of other students where the student has not been able to secure a place in a school. Irish Human Rights and Equality Commission, *Observations on the Education (Admission to Schools) Bill 2016*, (IHREC 2016) 4.

333 Education (Admission to Schools) Bill 2016, s 7. See Education (Admission to Schools) Bill 2016 for more details and also Department of Education and Skills, 'New law will make process of school admissions easier for children and parents – Minister Bruton' (6 July 2016) <<http://bit.ly/2kDywjM>> accessed 1 February 2017.

334 Equal Status (Admission to Schools) Bill 2016.

335 Minister for Education and Skills, Richard Bruton TD, Written Answers, School Admissions, 22 November 2016 [35929/16].

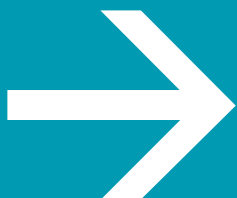
336 The four options are a catchment area approach, a 'nearest school rule', a quota system, which would allow a religious school give preference to children of its own religion in respect of only a certain proportion of places, meaning that the remaining places would be allocated based on other admissions criteria and, the fourth approach is for an outright prohibition on religious schools using religion as a factor in admissions, meaning that all places would be allocated based on other factors. Carl O'Brien, 'Bruton plans removal of 'baptism barrier' in schools' *The Irish Times* (Dublin, 16 January 2017).

it is disappointing that this issue is not being dealt with under the Education (Admission to Schools) Bill 2016. The renewed focus to this area by the Minister is welcome but it seems likely that another group of young children will potentially face discrimination before their first day of school. While the complexity of the issue is acknowledged, it should no longer be used as a reason to deny children access to publicly funded education on an equal basis.

337 Carl O'Brien, 'Bruton plans removal of 'baptism barrier' in schools' *The Irish Times* (Dublin, 16 January 2017).

Diversity in Schools

Immediate Actions for 2017



RE-STATE THE PLAN FOR THE TRANSFER OF EXISTING SCHOOLS FROM RELIGIOUS PATRONAGE FOR PUBLICLY FUNDED EDUCATION TO ENSURE THAT ITS STARTING POINT IS THE BEST INTERESTS OF CHILDREN.

Proposals to provide for the transfer of existing schools from religious patronage for publicly funded education should be based on the rights and needs of children rather than those of patrons. The decision-making process on patronage should be transparent, independent and fair. Current proposals to survey parents of pre-schoolers should be enhanced to ensure a more comprehensive consultation that includes the views of children and young people.

PUBLISH A PLAN TO INCREASE THE NUMBER OF MULTI- AND NON-DENOMINATIONAL SCHOOLS TO 400 BY 2030.

A clear plan involving all patrons and setting out the phases of development with timelines and a monitoring structure is required to provide greater clarity on how the target is to be achieved. Ensure that non-denominational schools are an explicit part of the plan. It should also identify how many of the schools are to be primary and post-primary.

URGENTLY AMEND THE EQUAL STATUS ACTS 2000-2012 AND THE EDUCATION (ADMISSION TO SCHOOLS) BILL 2016 IN ADVANCE OF ENACTMENT TO ENSURE THAT NO CHILD FACES DISCRIMINATION ON THE BASIS OF RELIGION WHEN ACCESSING PUBLICLY FUNDED EDUCATION.

The exemption provision in s 7(3)(c) of the Equal Status Acts allows schools of a particular religious ethos to give preference to students of that religious denomination, or to refuse admission to students of other or no religion in order to preserve the school's ethos. It should be amended to ensure that no child faces discrimination on the basis of religion when accessing publicly funded education. Section 7 of the proposed Education (Admission to Schools) Bill 2016 should be amended to remove this protection.

3.3

Disability and Additional Needs in Education

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > Examine the adequacy of current special education access and funding provision.

Progress: Some

- > Consult with stakeholders with regard to how best to progress sections of the Education of Persons with Special Educational Needs Act 2004 that were introduced on a non-statutory basis.

Progress: Some

- > Introduce a new in-school speech and language service at primary level and to support children in early years.

Progress: Limited

'Disability and Additional Needs in Education' receives 'C+' grade in Report Card 2017. This grade reflects the range of positive developments for special needs education in 2016 including the largely positive review of the new model for resource allocation and investment in additional teaching posts to support its rollout. There is no clear roadmap as to how or when the Education for Persons with Special Educational Needs Act 2004 will be implemented and the introduction of new in-school speech and language service is at the early stages of development.

Every child has a right to education regardless of their needs or ability.³³⁸ The aim of this right is to 'empower

the child by developing his or her skills, learning and other capabilities, human dignity, self-esteem and self-confidence'.³³⁹ It goes beyond formal school to embrace a wide range of life experiences and learning processes to enable children 'to develop their personalities, talents and abilities and to live a full and satisfying life within society'.³⁴⁰ States must ensure, as a priority, that children with disabilities 'have equal opportunities to participate fully in education and community life, including by the removal of barriers that impede the realisation of their rights'.³⁴¹ Children with special educational needs have a right to individualised support and reasonable accommodations to ensure that they can be reasonably accommodated in the

338 UNCRC 'General Comment No. 9 on the rights of children with disabilities' (2006) UN Doc CRC/C/GC/9 para 62. All children up to the age of 18 have the right to primary Education in Ireland under Article 42 of the Irish Constitution.

339 UNCRC 'General Comment No. 1 on The Aims of Education Article 29(1)' (2001) UN Doc CRC/GC/2001/1 para 2.

340 *ibid.*

341 UNCRC 'General Comment No. 7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 36(d).

general education system.³⁴² In addition to rights in education, like other children, children with special education needs and disabilities have the basic right to development and the State must ensure that every child's right is vindicated to the maximum extent possible, regardless of their ability.³⁴³ Children should not face discrimination because of a disability.³⁴⁴

In 2016, the UN Committee on the Rights of the Child recommended that Ireland 'adopt a rights based approach to disability', 'establish a comprehensive strategy for the inclusion of children with disabilities in mainstream education and the encouragement of their autonomy' and that the State should 'train and employ a sufficient number of specialised teachers and professionals in order to provide special needs education support'.³⁴⁵ The Ombudsman for Children selected children with disabilities as one of four key strategic areas of work for his office over the next three years. On education for children with disabilities, the Ombudsman highlighted that '[a]ny child with a disability which may make him/her vulnerable should be protected through a rights based approach in public administration'.³⁴⁶

Access and Funding Provision for Special Education:

A Programme for a Partnership Government commits to examine the adequacy of current special education needs access and funding provision. The majority of students with special educational needs attend mainstream schools with additional supports.³⁴⁷ The National Council for Special Education (NCSE) has found that the number of students receiving low-incidence (such as physical disability, hearing impairments and autism) supports in mainstream schools has increased from 38,000 in 2011 to 45,700 in 2014.³⁴⁸ The expenditure of the Department of Education and Skills on special education in 2016 was €1.5 billion, which represents 17.8 per cent of the gross budget for education and training, and an increase of 320 per cent since 2004.³⁴⁹

In 2016, the UN Committee on the Rights of the Child recommended that Ireland 'adopt a rights based approach to disability', 'establish a comprehensive strategy for the inclusion of children with disabilities in mainstream education and the encouragement of their autonomy' and that the State should 'train and employ a sufficient number of specialised teachers and professionals in order to provide special needs education support'.

Currently, provision of low-incidence special educational needs is based on a diagnostic or medical approach.³⁵⁰ This has proved problematic for a number of reasons.³⁵¹ First, it meant that families, who cannot afford to get a private diagnosis immediately, have had to wait for their professional assessment and experience delay in accessing supports. It means that there was a risk that children were being diagnosed for the purposes of resource allocation and being labelled with a disability just to receive extra teaching support. Children were receiving the same level of support despite a spectrum of ability and disability and there was no systematic assessment of outcomes for students to whom resources were allocated.³⁵² In spite of a high level of spending in this area, it is clear that the existing model has a number of deficiencies and that children from lower socio-economic backgrounds faced inequality in accessing services, as highlighted in *Report Card 2015*.

In 2013, the NCSE recommended that a new model be developed based on the profiled need of each school,

342 UN Convention on the Rights of Persons with Disabilities (3 May 2008) A/RES/61/106 Art 24.

343 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 6.

344 *ibid* Art 2 and UNCRC 'General Comment No. 1 on The Aims of Education Article 29(1)' (2001) UN Doc CRC/GC/2001/1 para 10.

345 UNCRC 'Concluding observations on the combined third and fourth periodic reports of Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4, para 47.

346 Office of the Ombudsman for Children, 'Education in Focus' (Ombudsman for Children, November 2016, <<https://www.oco.ie/wp-content/uploads/2016/11/Education-In-Focus.pdf>> accessed 18 January 2017, 5.

347 Department of Education and Skills, *Review of the Pilot of a New Model for Allocating Teaching Resources to Mainstream Schools to Support Pupils with Special Educational Needs* (DES 2016) 1.

348 *ibid*.

349 *ibid*.

350 *ibid* 2.

351 *ibid* 3-4.

352 *ibid*.

without the need for a diagnosis of disability.³⁵³ A new model for resource allocation was successfully piloted in 2016 in 47 schools by the Department of Education and Skills.³⁵⁴ A review of the pilot has been completed and the overall response from teachers, students and parents was positive. For example the review found that there was increased flexibility and autonomy because by the model allocates resources based on need.³⁵⁵ The review found that there are still some outstanding challenges, in particular in relation to the high level of support required by pilot schools to assist with teachers' continuing professional development in the areas such as target setting and monitoring of students' progress.³⁵⁶ The review provides that it would be difficult to provide this level of support to all schools.³⁵⁷ It notes that of most concern is that some schools reported a lack of impact of the new model where no additional teaching resources were granted which may have implications for the overall allocation of resources for students with special educational needs.³⁵⁸

While the Minister has said the review included the views of parents³⁵⁹ and the learning experiences of pupils were taken into account, it is not clear if children with educational needs or disabilities were consulted directly in this process. In broadly welcoming the model, Inclusion Ireland has noted that the model does not provide an independent appeal mechanism for parents if they feel their child has not been allocated an adequate amount of hours.³⁶⁰ Complaints can only be made to the principal or Board of Management who

will have made the original decision. Parents should have the right to a final appeal to an independent body in the allocation of resources under the new model.

The Minister for Education and Skills, Richard Bruton TD and his predecessor Jan O'Sullivan TD are to be commended for following the recommendation of the NSCE and taking the necessary steps to develop the new model to address inequalities in access to special educational needs supports. The NCSE has welcomed the introduction of the new model hailing it a 'better and more equitable way of allocating teaching resources for students with special educational needs'.³⁶¹ It is expected to be introduced across mainstream primary and post primary schools from September 2017.³⁶² Budget 2017 provided an additional 900 teaching posts to support the introduction of the model and for the recruitment of an additional 115 additional Special Needs Assistants (SNAs) from January 2017.³⁶³ Ensuring that the necessary posts are available to support the roll-out of the new model is welcome.

A number of positive developments took place in other areas of special educational needs in 2016 including exceptional arrangements for students with Downs Syndrome being retained under the new model,³⁶⁴ a review of the SNA scheme,³⁶⁵ and the launch of the Better Start Access and Inclusion Model (AIM) by the Department of Children and Youth Affairs which provides supports designed to ensure that children with disabilities

353 *ibid* 3.

354 Minister for Education and Skills, Richard Bruton TD, Dáil Debates, Special Educational Needs Data, 29 November 2016.

355 Department of Education and Skills, 'Review of the pilot of a new model for allocating teaching resources to mainstream schools to support pupils with special educational needs' (DES 2016) 12.

356 *ibid* 32.

357 *ibid*.

358 *ibid* 33.

359 Minister for Education and Skills, Richard Bruton TD, Written Answers, Special Educational Needs Services Provision, 19 October 2016 [31092/16].

360 Inclusion Ireland, 'Department of Education announce new resources allocation model – our reaction' <<http://www.inclusionireland.ie/content/news-items/1595/departement-education-announce-new-resource-allocation-model-our-reaction>> accessed 6 February 2017.

361 National Council for Special Education, 'NSCE welcomes a better and more equitable way of allocating teaching resources for special needs' (18 January 2017) <<http://ncse.ie/wp-content/uploads/2017/01/NCSE-Press-Release-18th-January-2017final-for-web.pdf>> accessed 5 February 2017.

362 Department of Education and Skills, 'Better outcomes for children with special educational needs is the key goal of new model – Minister Bruton' (18 January 2017) <<http://www.education.ie/en/Press-Events/Press-Releases/2017-Press-Releases/PR2017-01-18.html>> accessed 6 February 2017.

363 *ibid* and Department of Education and Skills, 'Main Features of the 2017 Estimates' <<http://www.education.ie/en/Publications/Estimates/2017-Budget-Main-Features.pdf>> accessed 11 January 2017.

364 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 3 February 2017. Further information will be provided in a Circular and guidance that is being developed for schools.

365 *ibid*. The Minister for Education and Skills has requested that the NCSE to carry out a review of the SNA scheme to make recommendations on how the additional care needs of students can be met in the future and the most appropriate form of support options to provide better outcomes for students with special educational needs given the significant amount of investment in this area. The NCSE will report on the progress of the review in May 2017.

can access the Early Childhood Care and Education programme.³⁶⁶

These developments and policy advices from the NCSE in recent years such as those relating to the education of children with autism, special educational needs and with challenging behaviour arising from severe emotional disturbance/behavioural disorders will inform the assessment of the adequacy of current special educational needs access and funding provision.³⁶⁷

It is worth noting that the many positive developments this area in 2016, there are a number of challenges continue to exist. Cuts to resource hours for students with special educational needs made in 2011, amounting to 15 per cent less hours, have not been restored.³⁶⁸ As noted above, additional supports are welcome but they will only go some way to covering hours lost. In addition, the NCSE has found that, while most schools welcome and enrol children with special educational needs, some erect overt and/or 'soft' barriers to prevent or discourage parents from enrolling their children in the schools.³⁶⁹ These exclusionary practices cannot be permitted in any publicly funded education system.

Consultation on the Education for Persons with Special Educational Needs Act 2004: A Programme

for a Partnership Government commits to consult with stakeholders on the progression of provisions of the Education for Persons with Special Educational Needs (EPSEN) Act 2004 that were introduced on a non-statutory basis.³⁷⁰ The commitment was reiterated in the *National Action Plan for Education* published in September 2016, which sets a deadline for consultation by the end of 2016.³⁷¹

The EPSEN Act 2004 is the key statute providing for the education of children with special needs.³⁷² It provides for 'inclusive education', in line with the UN Convention on the Rights of Persons with Disabilities³⁷³ and the Salamanca Statement on Principles, Policy and Practice in Special Needs Education.³⁷⁴ Though the EPSEN Act was enacted more than 12 years ago, key provisions of the legislation remain unimplemented and the full education rights of children with disabilities and special educational needs remain unfulfilled.

In 2008, due to budgetary constraints, the Government deferred implementation of the Act.³⁷⁵ While a number of provisions of the legislation have been introduced such as those to enable the NCSE to be placed on a statutory footing,³⁷⁶ provisions that would confer on children a statutory entitlement to an educational

366 Department of Children and Youth Affairs, 'Better Pre-School Access for Children with Disabilities 'Access and Inclusion Model: AIM' unveiled Minister Zappone urges Parents to apply' (15 June 2016) <<http://www.dcy.gov.ie/viewdoc.asp?DocId=3804&CatID=11&mn=6&StartDate=01+January+2016>> accessed 11 January 2017. The model includes an escalating range of services provided on the basis of assessed need, rather than formal diagnosis. http://www.dcy.gov.ie/documents/earlyyears/20160615AIMInfo_LeafletandContact.pdf>

367 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 3 February 2017.

368 Inclusion Ireland, 'A Submission to the Department of Education and Skills: on the allocation of resource teaching hours in schools. September 2014'. < <http://www.inclusionireland.ie/sites/default/files/attach/basic-page/1110/resourcehourssubmissionsept14.pdf>> accessed 6 February 2017.

369 National Council for Special Education, *Supporting Children with Special Educational Needs in Schools. NCSE Policy Advice Paper No. 4*, (NCSE 2013) 4.

370 A number of sections of the EPSEN Act have been progressed on a non-statutory basis. The Minister noted that the Department of Education and Skills has introduced measures to provide for educational plans to be prepared for all students accessing Special Needs Assistant (SNA) support. Minister for Education and Skills, Richard Bruton TD, Written Answers, Special Educational Needs Services Provision, 19 October 2016 [31092/16].

371 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) Action 50, 20.

372 Education for Persons with Special Educational Needs Act 2004, s 2. This section, which has been commenced, provides that 'a child with special educational needs shall be educated in an inclusive environment with children who do not have such needs unless the nature or degree of those needs of the child is such that to do so would be inconsistent with— (a) the best interests of the child as determined in accordance with any assessment carried out under this Act, or (b) the effective provision of education for children with whom the child is to be educated'.

373 UN Convention on the Rights of Persons with Disabilities (3 May 2008) A/RES/61/106 Art 24.

374 World Conference on Special Needs Education Access and Quality, *The Salamanca Statement and Framework for Action on Special Educational Needs*, (UNESCO 1994). The UN Committee on the Rights of the Child has stated that inclusive education should be the goal of educating children with disabilities. The manner and form of inclusion must be dictated by the individual educational needs of the child, since the education of some children with disabilities requires a kind of support which may not be readily available in the regular school system. UNCRC 'General Comment No. 9 on the rights of children with disabilities' (2006) UN Doc CRC/C/GC/9 para 66.

375 Communication received from the Department of Education and Skills further to a bilateral of the C&V Pillar on 4 November 2015.

376 Sections 1, 2, 14, 19-37, 39, 40 -53 and Schedules 1 and 2 of the EPSEN Act 2004 have been implemented.

assessment, individual educational plans and delivery of services on foot of the individual plans, remain unimplemented.³⁷⁷

A commitment was made under *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* to 'prepare and implement a plan, guided by the NCSE policy advice, on how aspects of EPSEN Act can be implemented, including prioritising access to an individual education plan and implementing the recommendations of the NCSE'.³⁷⁸ Placing these provisions on a statutory footing would mean that children would have a right to redress if they find that their rights have not been vindicated. In October 2016, the Minister stated his intention to bring into effect many of 'the good ideas contained in the EPSEN Act' and progress EPSEN on a non-statutory basis 'through policy developments across a range of areas, in conjunction with NCSE policy advice. The Minister has stated that legal advice to the Department 'indicates that the EPSEN Act, as it is currently constituted, may not be implemented on a phased, or age cohort, basis'.³⁷⁹ A clear roadmap to fulfil the full range of rights of children with special educational needs should be urgently developed.



The Department of Education and Skills has indicated that consultations have taken place in recent years in relation to the new model and the implementation of the EPSEN Act and that consultation took place over two days in January 2017 with disability and parent representative groups as well as education partners.³⁸⁰ It is unclear if further consultations are planned in line with the commitment in this area with regard to how best sections of the EPSEN Act that were introduced on a non-statutory basis can be progressed.

In-school speech and language service: *A Programme for Partnership Government* commits to introduce a new in-school speech and language service at primary level and to support children in early years. Speech and language services are currently provided by the Health Service Executive (HSE). It has been reported that there are variations in waiting lists and HSE responses across the country and that some parents have to pay privately for diagnosis and treatment because poor access in the public system means that early intervention is not always possible.³⁸¹

Internationally, children with speech and language difficulties are the largest single group of all children with special needs.³⁸² Research indicates that speech and language difficulties are among the most common neuro-developmental disorders of childhood,³⁸³ although its prevalence in Ireland is unclear.³⁸⁴ However, the preschool years are the time when speech and language difficulties typically first reveal themselves.³⁸⁵ Children whose speech and language difficulties are resolved by the age of five are unlikely to experience long-term effects, while children whose difficulties are not resolved by this time are likely to experience long-term academic and/or social difficulties.³⁸⁶ Therefore in-school speech and language services in early years and at primary level would be a positive step. The location of speech and language therapy in the school is particularly important because it has been shown to

377 Minister for Education and Skills, Richard Bruton TD, Written Answers, Special Educational Needs Services Provision, 19 October 2016 [31092/16].

378 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DYCA 2014) commitment 2.21. It also commits to 'continue to provide timely access to educational and therapeutic supports for children who are identified as having special needs'.

379 Minister for Education and Skills, Richard Bruton TD, Dáil Debates, Special Educational Needs Services Provision, 19 October 2016 [31092/16].

380 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 17 January 2017.

381 Kitty Holland, 'Over 15,000 people waiting for speech assessment' *Irish Times* (Dublin, 3 May 2016).

382 "Dublin South-West Inner City NEYAI Consortium, *Preschoolers Get Talking and Communicating* (Dublin South-West Inner City NEYAI Consortium, n.d.)"

383 Noirin Hayes et al, *Evaluation of the Early Years Programme of the Childhood Development Initiative* (Childhood Development Initiative 2013) 17.

384 *ibid.*

385 Dublin South-West Inner City NEYAI Consortium, *Preschoolers Get Talking and Communicating* (Dublin South-West Inner City NEYAI Consortium, n.d.).

386 Noirin Hayes et al, *Evaluation of the Early Years Programme of the Childhood Development Initiative* (Childhood Development Initiative 2013) 17.

promote accessibility of services, increase attendance rates and facilitate collaboration between educational and health staff.³⁸⁷

Internationally, children with speech and language difficulties are the largest single group of all children with special needs.

The *National Action Plan for Education* reiterated the commitment to increase speech and language therapy support and the Department of Education and Skills further committed to commence discussions with the HSE and the Department of Health to develop an implementation plan by the end of 2016.³⁸⁸ The implementation plan will provide a timeline for the fulfilment of the commitment and identify what actions will need to be taken.³⁸⁹ It is important that this implementation plan will encompass Early Years Services with both universal and targeted approaches.

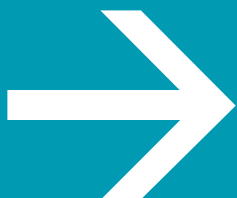
387 Child Development Initiative, 'Chit Chat: Early Intervention Speech and Language Therapy Model and linkages to the Education Sector' (CDI 2016) <https://www4.dcu.ie/sites/default/files/edc/pdf/final_version_-_education_chit_chat_policy_brief_29th_august_2016_2.pdf> accessed 13 February 2017.

388 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) Action 52.

389 Minister for Education and Skills, Richard Bruton TD, Dáil Debates, Speech and Language Therapy Provision, 16 November 2016 [35021/16].

Disability and Additional Needs in Education

Immediate Actions for 2017



INTRODUCE AN INDEPENDENT APPEALS MECHANISM FOR FAMILIES UNDER THE NEW RESOURCES ALLOCATION MODEL.

Families should have an independent appeals mechanism under the new model for resources allocation parents if they feel their child has not been allocated an adequate amount of hours.

DEVELOP A CLEAR ROADMAP TO FULFIL THE FULL RANGE OF RIGHTS OF CHILDREN WITH SPECIAL EDUCATIONAL NEEDS AND CONSULT DIRECTLY WITH CHILDREN WITH SPECIAL EDUCATIONAL NEEDS.

Clarity should be provided to children with special educational needs as to the rights and remedies they are entitled to and under which they can have redress. They should be consulted directly as part of this process.

DEVELOP AND PUBLISH THE IMPLEMENTATION PLAN TO INTRODUCE IN-SCHOOL SPEECH AND LANGUAGE SERVICE AT PRIMARY LEVEL.

In order to progress this commitment, the implementation plan to introduce in-school speech and language service at primary level should be published without delay

4. RIGHT TO EQUALITY

Chapter Grade

D

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If you look at most Travellers sites they're always built beside motor ways, and beside dumps, and that is how you get sick. These instances have led to a lot of mental health issues too, and a lot of suicides, one in seven Travellers committing suicide."

Participant from Traveller Focus Group, Dublin. Picture Your Rights: A Report to the UN Committee on the Rights of the Child from Children Living in Ireland.

Right to Equality and Non-Discrimination

Every child has the right to equal treatment, without discrimination of any kind, irrespective of the race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status of the child or the child's parents or guardian.

Summary of Article 2 of the UN Convention on the Rights of the Child



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IN THE NEWS

CORK SCHOOL FLIES THE FLAG FOR GAY STUDENTS

Evening Echo, 14 November 2016

A CORK city school is this week celebrating its first ever LGBT Awareness Week.

Deerpark CBS is running the weeklong event to coincide with National Stand-Up Awareness Week, which is organised by BeLonGTo, an Irish support group for LGBT youths.

By increasing awareness, friendship and support for LGBT people, this awareness week helps to tackle homophobic bullying. It aims to tackle issues facing LGBT youths by letting them know that they are not alone, and that bullying is not acceptable.

To mark the week, Deerpark CBS will raise a rainbow flag to show its support for the cause, marking the school as a tolerant and accepting institution. [...]

'Over the last few years, the ERST Trust has worked with the Gay & Lesbian Equality Network (GLEN) to

help end prejudice and discrimination against gay people.'

Mr Barry said that the school wants to see an end to discrimination and supports members of its community who are gay.

He said, 'In Deerpark CBS, we challenge prejudice and attitudes that we believe go against the caring instinct of the Christian message. We find prejudice and discrimination to be an ugly and immature behaviour that some people display.

'It is important to remember that being gay is not a choice. Rather, a person's sexuality is a core aspect of who that person is, and is no more a choice than height or skin colour or intelligence.' [...]

4.1

Traveller and Roma Children

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > Publish a revised National Traveller and Roma Inclusion Strategy.

Progress: Slow



'Traveller and Roma Children' is awarded an 'E' grade in *Report Card 2017* as the revised Strategy has still not been completed and Traveller and Roma children experience consistent discrimination and disadvantage.

Every child has the right to an adequate standard of living³⁹⁰ which allows them to develop fully – physically, mentally, spiritually, morally and socially.³⁹¹ The State must take measures, using its maximum available resources, to ensure this adequate standard of living. All children have the right to live free from discrimination on any ground irrespective of the race, ethnic or social origin or other status of the child or their parent or guardian³⁹² and they have the right to life, survival and development.³⁹³ In addition, children in ethnic, religious or linguistic minorities or of indigenous origin must not be denied the right to enjoy their own culture, religion or language.³⁹⁴

The State must identify gaps and barriers and take positive measures, through legislation, resource allocation, policies and programmes, to address

existing and potential discrimination against indigenous children.³⁹⁵ In 2016, the UN Committee on the Rights of the Child made particular recommendations to Ireland in relation to Traveller and Roma children across a range of areas including discrimination,³⁹⁶ adequate standard of living³⁹⁷ and health.³⁹⁸ The Committee also highlighted the lack of a human rights basis for the implementation of the *National Traveller and Roma Integration Strategy* and inadequate consultations with the Traveller and Roma community in relation to the strategy.³⁹⁹

The State must identify gaps and barriers and take positive measures, through legislation, resource allocation, policies and programmes, to address existing and potential discrimination against indigenous children.

390 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 4.

391 *ibid* Art 27.

392 *ibid* Art 2.

393 *ibid* Art 6.

394 *ibid* Art 30.

395 UNCRC 'General Comment No. 11 Indigenous children and their rights under the Convention' (2009) UN Doc CRC/C/GC/11 para 26.

396 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 28(a).

397 *ibid* para 60.

398 *ibid* para 50, 52(a).

399 *ibid*.

Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020 recognises the particular challenges and obstacles faced by Traveller and Roma children and young people.⁴⁰⁰ In it, the Government commits to implement and monitor the *National Traveller and Roma Integration Strategy*, with a particular focus on Traveller accommodation and the engagement of Roma children in education.⁴⁰¹ It also commits to tackle health inequalities,⁴⁰² strengthen social inclusion measures,⁴⁰³ renew efforts towards improving educational outcomes for Travellers and Roma⁴⁰⁴ and reduce discrimination and intolerance experienced by marginalised groups.⁴⁰⁵

The 2011 census indicated that there were 15,450 Travellers aged up to 19 years living in Ireland.⁴⁰⁶ It is estimated that 42 per cent of Traveller children are aged 14 years or under.⁴⁰⁷ There is limited data available on the Roma population in Ireland but in 2014 it was estimated to be around 5,000.⁴⁰⁸ The UN Committee has called on States to employ data collection mechanisms that can study the situation of specific groups, including ethnic and/or indigenous groups.⁴⁰⁹ Notably in 2015, the Department of Justice and Equality commissioned Pavee Point Traveller and Roma Centre to undertake a National Roma Needs Assessment in line with a recommendation of the Logan

Report.⁴¹⁰ The assessment was commissioned with a view to identifying how best to improve State agencies' interaction with the Roma community in Ireland. The assessment is due to be published by Pavee Point and the Department of Justice and Equality in early 2017.

National Traveller and Roma Inclusion Strategy

2016-2020: The State submitted its *National Traveller/Roma Integration Strategy* to the European Commission in 2011 as part of the *EU Framework for the Implementation of National Roma Integration Strategies up to 2020*. Following a series of assessments, the European Commission exposed serious gaps in Ireland's Strategy.⁴¹¹ In 2015, the Department of Justice and Equality established a National Traveller and Roma Inclusion Strategy Steering Group to produce a revised and updated Strategy through a consultation process.⁴¹² The Steering Group has met seven times and comprises Government officials, national Traveller and Roma organisations, Traveller and Roma representatives and is chaired by Minister of State for Equality, Immigration and Integration David Stanton TD.⁴¹³ In July 2016, the Department published a draft of its consultation paper setting out objectives and actions under a number of key headings including children and youth, education, health, accommodation and anti-discrimination and equality.⁴¹⁴ The final revised Inclusion Strategy was not

400 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) Commitments 1.4, 2.22, 4.19 and 5.6.

401 *ibid* Commitment 4.19.

402 *ibid* Commitment 1.4.

403 *ibid* Commitment 2.22.

404 *ibid* Commitment 2.22.

405 *ibid* Commitment 5.6.

406 Central Statistics Office, 'Census 2011 Profile 7-Religion, Ethnicity and Irish Travellers' (Government Publications 2012) 62.

407 Pavee Point, 'Profile of the Traveller Family for Family Resource Centres' (2012) <<http://www.paveepoint.ie/wp-content/uploads/2010/07/Profile-of-the-Traveller-Family.pdf>> 1.

408 Hilary Harmon, *Irish Traveller and Roma Children, Shadow Report, A response to Ireland's Consolidated Third and Fourth Report to the UN Committee on the Rights of the Child* (Pavee Point 2015) 22; Pavee Point, *Roma Communities in Ireland: Child Protection Considerations* (Pavee Point, 2014) 11.

409 UNCRC 'General Comment No. 4 on Adolescent Health and Development in the Context of the Convention on the Rights of the Child' (2003) UN Doc CRC/GC/2003/4, para 13.

410 Pavee Point, 'Terms of Reference for an up-to-date assessment of the Roma Community in Ireland aimed at Establishing how best to improve State agencies' interaction with the Roma Community In line with Recommendation 4.2.3 of the Report of Ms Emily Logan published July 2014 Garda Síochána Act 2005 (Section 42) (Special Inquiries relating to Garda Síochána) Order 2013' <<http://bit.ly/2lggRxJ>> accessed 3 February 2017.

411 European Commission, 'Assessing the implementation of the EU Framework for National Roma Integration Strategies and the Council Recommendation on effective Roma integration measures in the Member States 2016'(Communication) COM (2016) 424 final <<http://www.fonduri-ue.ro/images/files/transparenta/romi/04.07/Roma.report.2016.pdf>> accessed 6 February 2017, 63.

412 Department of Justice and Equality 'Summary of the submissions received for the revised National Traveller and Roma Inclusion Strategy' (2016) <<http://bit.ly/2kesmW4>> accessed 30 January 2017. In total, 38 submissions were received from local and national Traveller organisations, Roma organisations, Traveller Health Units (THU), health stakeholders, children representatives and education stakeholders.

413 Communication received by the Children's Rights Alliance from the Department of Justice, 26 January 2017.

414 Department of Justice and Equality, 'National Traveller and Roma Strategy: Phase 3 Consultation Document' <<http://bit.ly/2kKzU66>> accessed 3 February 2017.

published in 2016,⁴¹⁵ but is expected in 2017.⁴¹⁶ The Strategy must be accompanied by an implementation plan with clear timelines and a robust monitoring framework.

Equality and Non-Discrimination: In 2016, the European Commission noted the prevalence of discrimination against Travellers in Ireland 'in all areas of daily life including employment, education and housing'.⁴¹⁷ It called for stronger legal measures to criminalise anti-Traveller and anti-Roma hate speech and hate crime and to monitor effective enforcement of criminal laws.⁴¹⁸ *Better Outcomes, Brighter Futures* commits to '[r]educe discrimination and intolerance of all types experienced by marginalised groups' and specifically mentions Traveller and Roma children.⁴¹⁹

The Department of Justice and Equality aims to provide targeted interventions to address direct and indirect discrimination against Travellers and Roma in the Strategy.⁴²⁰ The proposed Garda training on hate crime reporting and raising public awareness is an important development.⁴²¹ In a welcome move, the Tánaiste has asked officials to conduct a review of the Prohibition of Incitement to Hatred Act 1989 to determine if amendments to the legislation or further measures are necessary to ensure the purposes of that Act are fully achieved and she has signalled her intention to monitor progress in this area.⁴²²

Ethnicity: In 2016, the European Commission expressed concern that the failure to recognise Traveller

ethnicity did not sufficiently protect the community under anti-discrimination legislation.⁴²³ An Taoiseach, Enda Kenny TD stated in November 2016 that the Government would take steps towards recognising Traveller ethnicity in 2017.⁴²⁴ The Department of Justice and Equality has indicated that ethnicity is being considered in the context of the development of the forthcoming Strategy and the Cabinet Committee on Social Policy and Traveller Representatives are engaged in discussions on the issue.⁴²⁵ Recognition of Traveller ethnicity by the State has been a recommendation in the Report Card series since 2012 and this commitment must be delivered in 2017.

Children and Youth Participation: In relation to indigenous children, the UN Committee recommends that States 'should design special strategies to guarantee that their participation is effective'.⁴²⁶ Therefore, it is positive that participation of Traveller and Roma children and young people is a primary focus in the draft Strategy and this must be retained in the final version. The Department of Justice and Equality has signalled its intention to continue consultations when looking at implementation and monitoring of the Strategy.⁴²⁷

Education: School completion rates for Traveller children have improved considerably⁴²⁸ but they continue to leave formal education almost five years earlier than non-Travellers.⁴²⁹ In a welcome move, an ethnic identifier has been introduced for all children involved in the School Completion Programme to track the number of Traveller, Roma and migrant children

415 Minister of State at the Department of Justice and Equality, David Stanton TD, Written Answers, Traveller Community, 15 November 2016 [34826/16].

416 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 26 January 2017.

417 European Commission, 'Assessing the implementation of the EU Framework for National Roma Integration Strategies and the Council Recommendation on effective Roma integration measures in the Member States 2016'(Communication) COM (2016) 424 final <<http://www.fonduri-ue.ro/images/files/transparenta/romi/04.07/Roma.report.2016.pdf>> accessed 6 February 2017, 63.

418 *ibid.*

419 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) Commitment 5.6.

420 Department of Justice and Equality, 'National Traveller and Roma Strategy: Phase 3 Consultation Document' <<http://bit.ly/2kKzU66>> accessed 3 February 2017.

421 *ibid.*

422 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 26 January 2017.

423 European Commission, 'Assessing the implementation of the EU Framework for National Roma Integration Strategies and the Council Recommendation on effective Roma integration measures in the Member States 2016'(Communication) COM (2016) 424 final <<http://www.fonduri-ue.ro/images/files/transparenta/romi/04.07/Roma.report.2016.pdf>> accessed 6 February 2017, 65.

424 Pat Leahy and Sorcha Pollack 'Pavee Point Welcomes Recognition of Traveller Ethnicity' *The Irish Times* (Dublin, 24 November 2016).

425 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 26 January 2017.

426 UNCRC 'General Comment No. 11 Indigenous children and their rights under the Convention' (2009) UN Doc CRC/C/GC/11 para 39.

427 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 26 January 2017.

428 Central Statistics Office, *Census 2011 Profile 7-Religion, Ethnicity and Irish Travellers* (Government Publications 2012) 32.

429 *ibid.*

being targeted as well as to track their engagement and progression.⁴³⁰ The removal of specialised educational supports for Traveller children including the Visiting Teachers Service for Travellers (VTST) has resulted in negative impacts for school completion.⁴³¹ Traveller children are over-represented in urban Delivering Equality of Opportunity in Education Schools (DEIS) schools.⁴³² While the forthcoming Strategy will address Traveller and Roma-specific needs and supports, these must also be addressed in the Educational Inclusion Action Plan, due to be published in 2017, given the high proportion of the young Traveller population that attend DEIS schools. The proposed review by the Department of Education and Skills of the 2006 *Report and Recommendations for a Traveller Education Strategy*⁴³³ is welcome as the recommendations were not fully implemented. The review is expected to be completed in early 2017.⁴³⁴ It must ensure that Traveller and Roma organisations are consulted and included in the development and delivery of proposed initiatives.

Housing: Overcrowding remains a significant issue for Travellers in both standard and caravan style accommodation; overall 56 per cent of Travellers live in overcrowded accommodation compared with eight per cent of non-Travellers.⁴³⁵ The vast majority of Travellers live in local authority accommodation⁴³⁶ and according to the 2015 *Local Authority Annual Count*, 534 Traveller families live in unauthorised halting sites.⁴³⁷ In 2016, the UN Committee noted the 'significant number of Traveller households in mobile or temporary accommodation with no access to adequate water and

sanitation facilities or safe and appropriate play areas'.⁴³⁸ A decision by the European Committee on Social Rights, published in May 2016, also found that Ireland was in breach of Article 16 of the European Social Charter which provides for the right of the family to social, legal and economic protection.⁴³⁹ The decision was based on insufficient provision of suitable accommodation, inadequate conditions on Traveller sites and the lack of inadequate safeguards against evictions.⁴⁴⁰

While the €9 million allocation in Budget 2017 for Traveller specific accommodation is a welcome development,⁴⁴¹ it falls far short of restoring government spending in this area to pre-recession levels of €40 million.⁴⁴² There are concerns that while the majority of this funding will be spent on fire safety works – an important initiative in the wake of the Carrickmines tragedy in which ten people died in a halting site fire in 2015 – other necessary work will not be carried out to improve living conditions for Travellers.⁴⁴³ Following a review of halting sites in 2016, the National Directorate for Fire and Emergency Management (NDFEM) published a report⁴⁴⁴ which will necessitate some fire safety improvement works by local authorities.⁴⁴⁵ In 2017, an additional €4 million will be provided to assist local authorities to improve fire safety on Traveller halting sites and in group housing schemes.⁴⁴⁶

The Department of Housing, Planning, Community and Local Government continues to engage with Local Authorities to reallocate Traveller accommodation

430 Communication received by the Children's Rights Alliance from Tusla, the Child and Family Agency, 24 January 2017.

431 Emer Smyth et al, *Review of the School Completion Programme* (Economic and Social Research Institute 2015) 127.

432 Emer Smyth et al, *Learning from the Evaluation of DEIS*, (Economic and Social Research Institute 2015) 79.

433 Department of Justice and Equality, 'National Traveller and Roma Strategy: Phase 3 Consultation Document' <<http://bit.ly/2kKzU66>> accessed 6 February 2017.

434 *ibid.*

435 Dorothy Watson, Oona Kenny and Frances McGinnity, *A Social Portrait of Travellers in Ireland* (Economic Social and Research Institute 2017) 45.

436 *ibid.*

437 Department of Housing, Planning, Community & Local Government, 'Annual Count 2015 - Total Number of Traveller Families in all categories of Accommodation' <<http://bit.ly/2kjGq3g>> accessed 6 February 2017. The 2016 Annual Count results are currently being compiled and are due to be published in early 2017: communication received by the Children's Rights Alliance from the Department of Housing, Planning, Community & Local Government, 27 January 2017.

438 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 69.

439 *European Roma Rights Centre (ERRC) v. Ireland* Complaint No. 100/2013 (ECSR, 16 May 2016).

440 *ibid.*

441 The Budget 2017 allocation is a €3.5 million (64 per cent) increase on the 2016 allocation. Communication received by the Children's Rights Alliance from the Department of Housing, Planning, Community & Local Government, 27 January 2017.

442 Pavee Point, 'Budget 2017 – A Step in the Right Direction' (Pavee Point, 12 October 2016) <<http://bit.ly/2jUJXX6>> accessed 6 February 2017.

443 *ibid.*

444 The National Directorate for Fire and Emergency Management (NDFEM), *Programme to Review and Enhance Fire Safety in Local Authority Provided Traveller Accommodation* (NDFEM 2016).

445 Communication received by the Children's Rights Alliance from the Department of Housing, Planning, Community & Local Government, 27 January 2017.

446 *ibid.*

funding to ensure that drawdown is maximised⁴⁴⁷ given a previous underspend of almost €71 million between 2002 and 2012.⁴⁴⁸ Sanctions must be put in place to address any shortfalls in spending.⁴⁴⁹ An independent review of capital and current funding for Traveller-specific accommodation from 2000, commissioned by the Housing Agency, is due to be completed in 2017 and will include an analysis of the underlying reasons and identify particular challenges to be addressed to underpin future progress.⁴⁵⁰ A special working group will be established on foot of this review, to audit the delivery and implementation of Traveller Accommodation Plans.⁴⁵¹



Health: Traveller and Roma children continue to experience health inequalities. The infant mortality rate for the Traveller community was 3.6 times higher than that for the non-Traveller community.⁴⁵² Travellers are more likely than non-Travellers to experience poor health at all ages although the likelihood to experience

poor health increases with age.⁴⁵³ Mental health is a primary concern for young Travellers (with an extremely high suicide rate) and targeted initiatives are urgently needed to ensure outreach by mainstream services.⁴⁵⁴ Dedicated health strategies that dealt with specific health issues faced by Travellers and Roma expired in 2012⁴⁵⁵ and have not been renewed.

In addition, the National Traveller Health Advisory Committee established by the Department of Health has not met since 2012.⁴⁵⁶ Plans to establish an inter-departmental working group to examine issues around developing an appropriate system of ethnic identifiers⁴⁵⁷ are welcome as none currently exist. Traveller advocates consider that it would be more cost effective to introduce an ethnic identifier across all data sets to inform the development and delivery of evidence-based services and policy into the future rather than conduct further research. However, the recommendations from the 2010 *All Ireland Traveller Health Study* should be implemented in the intervening period. The revised *National Traveller and Roma Inclusion Strategy* must ensure the development of 'culturally sensitive' health care services⁴⁵⁸ to respond to the needs of Traveller and Roma children and young people.

447 *ibid.*

448 Minister of State for Housing, Jan O'Sullivan TD, Written Answers, Traveller Accommodation, 16 October 2013 [43690/12-43692/13].

449 58 Local Authorities are charged with providing Traveller accommodation under the Housing Act 1998, between 2002 and 2012 there was an under-spend of almost €71 million in relation to Traveller-specific accommodation. Minister of State for Housing, Jan O'Sullivan TD, Written Answers, Traveller Accommodation, 16 October 2013 [43690/12-43692/13].

450 Communication received by the Children's Rights Alliance from the Department of Housing, Planning, Community & Local Government, 27 January 2017.

451 *ibid.*

452 Cecily Kelleher et al, *Our Geels, All Ireland Traveller Health Study*, (University College Dublin 2010) 87.

453 Dorothy Watson, Oona Kenny and Frances McGinnity *A Social Portrait of Travellers in Ireland* (Economic Social and Research Institute 2017) 61.

454 European Commission, 'Assessing the implementation of the EU Framework for National Roma Integration Strategies and the Council Recommendation on effective Roma integration measures in the Member States 2016'(Communication) COM (2016) 424 final <<http://www.fonduri-ue.ro/images/files/transparenta/romi/04.07/Roma.report.2016.pdf>> accessed 6 February 2017, 64.

455 The *National Traveller Health Strategy* ran from 2002-2005 and the *National Intercultural Health Strategy* ran from 2007-2012 but no current plan exists to address the particular need of Traveller and Roma communities.

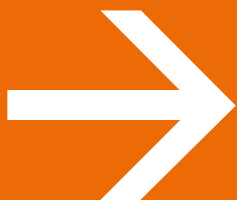
456 Dorothy Watson, Oona Kenny and Frances McGinnity, *A Social Portrait of Travellers in Ireland* (Economic Social and Research Institute 2017) 17.

457 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 26 January 2017.

458 UNCRC 'General Comment No. 11 Indigenous children and their rights under the Convention' (2009) UN Doc CRC/C/GC/11 para 31.

Traveller and Roma Children

Immediate Actions for 2017



LAUNCH THE NATIONAL TRAVELLER AND ROMA INCLUSION STRATEGY WITHOUT DELAY AND ALLOCATE ALL RESOURCES NECESSARY FOR ACHIEVING ITS OUTCOMES.

The Inclusion Strategy should provide an effective policy framework for meeting the particular needs of Traveller and Roma children and young people. In particular it should ensure that the rights of these children to education, health, equality and non-discrimination and an adequate standard of living are upheld.

FULFIL THE COMMITMENT TO RECOGNISE TRAVELLERS AS AN ETHNIC MINORITY GROUP IN 2017.

After a series of unfilled commitments to recognise Travellers as an ethnic minority, the Government can delay no longer and must deliver on its promise in the year ahead.

4.2

Refugee and Asylum-Seeking Children

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > Offer safe haven for refugees under EU and UN resettlement and relocation programmes, while promoting the integration of refugees in our communities.

Progress: Slow

- > Reform of the Direct Provision system, with particular focus on families and children.

Progress: Limited

'Refugee and Asylum-Seeking Children' receives a 'D-' grade in *Report Card 2017*. This grade reflects the slow progress to date by the Government in fulfilling its commitment to resettle and relocate refugees, in particular unaccompanied minors. It also reflects the fact that a number of key recommendations for children made in the McMahon Report⁴⁵⁹ have not yet been implemented.

Every child should be free to enjoy his or her rights without facing discrimination of any kind irrespective of their race, national or ethnic origin or other status.⁴⁶⁰ Children outside their country of origin seeking refugee protection are entitled to special protection regardless of whether they are accompanied by their parents or guardians, or are unaccompanied.⁴⁶¹ The

State must take steps to facilitate family reunification where possible⁴⁶² but in cases where this is not possible, the State must give the same protection to the unaccompanied minor as it would to other children who are separated from their family⁴⁶³ or who are placed in the care of the State.⁴⁶⁴ The child's ethnic, religious, cultural and linguistic background must be taken into account when deciding what is best for that child.⁴⁶⁵ In 2016, the UN Committee on the Rights of the Child called on the State to bring its 'asylum policy, procedures and practices into line with its international obligations' and allow asylum seeking and refugee children the 'same standards and access to support services as Irish children'.⁴⁶⁶

459 Department of Justice and Equality, *Working Group to Report to Government Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers* (2015).

460 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 2(1).

461 *ibid* Art 22(1).

462 *ibid* Art 22(2).

463 *ibid*.

464 *ibid* Art 20(2).

465 *ibid* Art 20(3).

466 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 66.

International Protection: In 2015, almost 1.26 million first-time asylum applications were made in the 28 EU Member States.⁴⁶⁷ Of these, 29 per cent were made by children,⁴⁶⁸ including 88,700 applications by identified unaccompanied minors.⁴⁶⁹ Under the Irish Refugee Protection Programme (IRPP) established in September 2015,⁴⁷⁰ the Government committed to accept a total of 4,000 refugees by the end of 2017, through a combination of the EU relocation mechanism to assist Italy and Greece⁴⁷¹ and the United Nations High Commissioner for Refugees-led resettlement of refugees from camps in Lebanon.⁴⁷² By December 2016, 759 refugees had come to Ireland under these programmes.⁴⁷³

Children outside their country of origin seeking refugee protection are entitled to special protection regardless of whether they are accompanied by their parents or guardians, or are unaccompanied.

Greece and Italy are two of the key transit countries through which people seeking asylum attempt to enter the EU.⁴⁷⁴ Despite commitments by EU Member States to relocate 160,000 refugees from both Italy and Greece by December 2016, only 8,162 people had been relocated to other Member States.⁴⁷⁵ In December 2016, the Tánaiste and Minister for Justice and Equality, Frances Fitzgerald TD and Minister for Children and Youth Affairs, Dr Katherine Zappone TD travelled to Greece to speak with Greek officials and visit refugee camps near Athens.⁴⁷⁶ Child migrants in Greece are currently living in dire conditions including in places of detention due to the lack of appropriate accommodation.⁴⁷⁷ Following this visit, the Tánaiste made a welcome announcement that Ireland would receive 'at least 1,100 asylum seekers from Greece by September 2017'.⁴⁷⁸ However in general, progress has been slow due a range of factors including resource, administrative, legal and technical issues.⁴⁷⁹ Efforts to relocate and resettle refugees in Ireland must continue and it is encouraging that the Government has begun to make real progress in its relocation and resettlement programmes.

Unaccompanied Minors: Although the IRPP committed to prioritise unaccompanied minors,⁴⁸⁰ by the end of 2016 only four children had been relocated from Greece to Ireland under the Irish definition of an

467 Eurostat, 'Asylum statistics' (20 April 2016) <<http://bit.ly/1xHP3Yh>> accessed 6 February 2017.

468 *ibid.*

469 *ibid.* Not all unaccompanied minors self-identify or are identified as such. For example Eritrean children, in particular in Italy, have claimed to be adults in order not to be separated from the group they have arrived with. See European Commission, 'First report on relocation and resettlement' (Communication) COM (2016) 165 final.

470 Irish Naturalisation and Immigration Service, 'Tánaiste and Minister Stanton outline progress on Ireland's commitments under refugee relocation and resettlement programmes' (5 October 2016) <<http://www.inis.gov.ie/en/INIS/Pages/pressrelease-refugee-relocation-and-resettlement-programmes051016>> accessed 6 February 2017.

471 Under the EU relocation programme Ireland has committed to relocating a total of 2622 refugees from Italy and Greece. These commitments were made under Council Decision 2015/1523 and Council Decision 2015/1601. Under a number of Government Decisions in September 2015, June 2016 and November 2016, the Government committed to resettle 1040 refugees from camps in Lebanon. See Minister of State for Equality, Immigration and Integration, David Stanton TD, Written Answers, Refugee Resettlement Programme, 14 December 2016 [40430/16].

472 Irish Naturalisation and Immigration Service, 'Tánaiste and Minister Stanton outline progress on Ireland's commitments under refugee relocation and resettlement programmes' (5 October 2016) <<http://www.inis.gov.ie/en/INIS/Pages/pressrelease-refugee-relocation-and-resettlement-programmes051016>> accessed 6 February 2017.

473 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 25 January 2017. 519 refugees were resettled under the UNHCR programme and 240 were relocated under the EU mechanism.

474 European Commission, 'Refugee Crisis in Europe' (20 June 2016) <http://ec.europa.eu/echo/refugee-crisis_en> accessed 6 February 2017.

475 European Commission 'Relocation and Resettlement – State of Play' (6 December 2016) <<http://bit.ly/2kAeXJd>> accessed 6 February 2017.

476 Department of Justice and Equality, 'Tánaiste and Minister Zappone begin visit to Greece' (11 December 2016) <<http://justice.ie/en/JELR/Pages/PR16000383>> accessed 6 February 2017.

477 Human Rights Watch, 'Why Are You Keeping Me Here?': Unaccompanied Children Detained in Greece' (HRW 2016) <https://www.hrw.org/sites/default/files/report_pdf/greece0916_web.pdf> 1, accessed 6 February 2017.

478 MerrionStreet.ie, 'Tánaiste and Minister Zappone meet with Greek Prime Minister' (12 December 2016) <http://www.merrionstreet.ie/en/Gallery/Images/Tanaiste_and_Minister_Zappone_meet_with_Greek_Prime_Minister.html> accessed 6 February 2017.

479 European Commission, 'First report on relocation and resettlement' (Communication) COM (2016) 165 final.

480 Department of Justice and Equality, 'Irish Refugee Protection Programme (IRPP)' (2015) <http://www.justice.ie/en/JELR/Pages/Irish_Refugee_Protection_Programme_IRPP> accessed 6 February 2017.

unaccompanied minor,⁴⁸¹ while no child had been relocated from Italy.⁴⁸² However, Greek authorities consider children with extended family in a Greek refugee camp as well as minors married to adults to be unaccompanied minors so by that definition, a total of 14 young people were relocated to Ireland.⁴⁸³ Tusla, the Child and Family Agency made an initial commitment to relocate 20 unaccompanied minors from camps in Greece in 2016 and 2017 under the relocation programme⁴⁸⁴ and officials have since travelled to Greece to identify eligible candidates for relocation.

In November 2016, following an all-party motion passed by Dáil Éireann, the Government agreed to relocate up to 200 separated children from reception centres in France following the dismantlement of the unofficial refugee camp in Calais.⁴⁸⁵ The motion specified that the Government has to make a quarterly progress report to the Joint Oireachtas Committee on Justice, Defence and Equality.⁴⁸⁶ In December 2016, the Tánaiste indicated that French authorities would help to identify unaccompanied children from the closed Calais camp, and that unaccompanied children would be provided with a legal mechanism to come to Ireland from France.⁴⁸⁷

In December 2016, the Minister for Children and Youth Affairs announced that she would make a proposal to Government to double the size of the Separated

Children's Team in Tusla and to establish a project office within Tusla to coordinate the Government's response.⁴⁸⁸ Both are welcome measures but will require additional resources to the relevant State services and the expansion of Tusla's capacity to increase the intake of unaccompanied minors.⁴⁸⁹ However, in the context of more than 10,000 young people arriving in Greece⁴⁹⁰ and Italy⁴⁹¹ in the first half of 2016, the response of the Government to assist in relocating these children has so far been inadequate. The Government must strengthen its efforts to relocate unaccompanied children from these EU hotspots.

Integration of Refugees: Work to develop an updated Integration Strategy has been ongoing since 2014 and it is due to be published in February 2017.⁴⁹² The UN Committee on the Rights of the Child expressed its concern in 2016 that 'no appropriate updated national action plan has been enacted' since previous policies were not renewed leaving a gap in integration policy in Ireland.⁴⁹³ For separated children in particular, the UN Committee is very clear that where a child cannot be returned to his or her country of origin, the 'primary option' is to ensure that the child is integrated at a local level.⁴⁹⁴ The Committee also states that 'local integration must be based on a secure legal status (including residence status) and be governed by the Convention rights that are fully applicable to all children who remain in the country'.⁴⁹⁵ To ensure that both accompanied and

481 Minister of State for Equality, Immigration and Integration, David Stanton TD, Written Answers, Refugee Resettlement Programme, 2 November 2016 [32893/16]. The Irish definition of an unaccompanied minor is a child under 18 years of age travelling completely alone or in a group without the support of an adult relative. Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 25 January 2017.

482 Minister of State for Equality, Immigration and Integration, David Stanton TD, Written Answers, Refugee Resettlement Programme, 14 December 2016 [40430/16].

483 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 25 January 2017.

484 Minister for Children and Youth Affairs, Dr Katherine Zappone TD, Written Answers, Unaccompanied Minors and Separated Children 8 November 2016 [33522/16].

485 Tánaiste and Minister for Justice and Equality, Frances Fitzgerald TD, Dáil Debates, EU Migration Crisis: Motion, 10 November 2016.

486 *ibid.*

487 Tánaiste and Minister for Justice and Equality, Frances Fitzgerald TD, Dáil Debates, Questions on Proposed Legislation, 15 December 2016.

488 Minister for Children and Youth Affairs, Dr Katherine Zappone, Priority Questions, Unaccompanied Minors and Separated Children, 14 December 2016 [39976/16].

489 Tánaiste and Minister for Justice and Equality, Frances Fitzgerald TD, Dáil Debates, EU Migration Crisis: Motion, 10 November 2016. It should be noted that the European Commission grants the State €6,000 for each person relocated as set out in European Commission, 'Refugee Crisis – Q&A on Emergency Relocation' (European Commission 22 September 2015) <http://europa.eu/rapid/press-release_MEMO-15-5698_en.htm> accessed 6 February 2017.

490 Human Rights Watch, 'Why Are You Keeping Me Here? Unaccompanied Children Detained in Greece' (2016) <https://www.hrw.org/sites/default/files/report_pdf/greece0916_web.pdf> accessed 6 February 2017, 1. Up to July 2016, 3,300 unaccompanied children registered in Greece.

491 Unicef, 'Danger Every Step of the Way; a harrowing journey to Europe for refugee and migrant children' (2016) <https://www.unicef.org/emergencies/childrenonthemove/files/Child_Alert_Final_PDF.pdf> accessed 6 February 2017 2.

492 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 24 January 2017.

493 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 65.

494 UNCRC 'General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin' (2005) UN Doc CRC/GC/2005/6 para 89.

495 *ibid.*

unaccompanied refugee and asylum-seeking children are properly integrated into their local communities, a needs assessment should be carried out to determine the gaps and whether existing structures such as Children and Young People's Services Committees (CYPSC) can address the integration issues faced by many refugee and asylum-seeking children who arrive in Ireland.

Children in Direct Provision: Direct Provision is the system of accommodation provided by the State to people seeking asylum or protection in Ireland who are awaiting recognition of their refugee status, subsidiary protection or another form of leave to remain in Ireland. Families living in Direct Provision receive room and board usually within former hotels, hostels or other large buildings and a weekly allowance of €15.60 per child and €19.10 per adult.⁴⁹⁶ Each centre is managed by a private contractor on behalf of the Reception and Integration Agency. In November 2016, of the 4,279 people living in direct provision accommodation, 1,098 were under the age of 18 years.⁴⁹⁷

The 2015 *Final Report of the Working Group on Improvements to the Protection Process including Direct Provision and Supports to Asylum Seekers*, also known as the McMahon report,⁴⁹⁸ made 173 recommendations including a series of reforms to address the rights and needs of children living in direct provision.⁴⁹⁹ A *Programme for a Partnership Government* commits to reform the Direct Provision system, with particular focus on children and families but it stops short of committing to implement the McMahon Report in full. The Tánaiste indicated in October 2016, that 91 of the recommendations had been implemented and 47 were in progress.⁵⁰⁰ Analysis in *Report Card 2017* will focus on a number of key

children's rights issues that impact on children in Direct Provision.



Direct Provision Allowance: The January 2016 increase in the child's Direct Provision payment, from €9.60 to €15.60, falls short of the McMahon Report recommendation to increase the payment to €29.80.⁵⁰¹ Budget 2017 did not address the deficit despite a recommendation by the UN Committee in 2016 to increase the payment in line with the cost of living.⁵⁰² Children in Direct Provision should be treated equally to other children whose parents are in receipt of a social welfare payment and get an extra allowance of €29.80 for them.⁵⁰³ Like any other child they have the right to an adequate standard of living and should be able to access the most basic necessities particularly given that their parents cannot work and do not receive the Child Benefit payment.

Self-Catering Accommodation: Improvements in 11 Direct Provision centres have provided residents with access to communal kitchens or shared cooking

496 The direct provision allowance is a non-statutory payment administered by the Department of Social Protection on behalf of the Department of Justice and Equality.

497 Reception and Integration Agency 'Monthly Statistics Report: November 2016' (Department of Justice and Equality 2017) <<http://bit.ly/2keLPpX>> accessed 6 February 2017.

498 Department of Justice and Equality, *Working Group to Report to Government Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers* (2015). The Working Group was established by the Minister for Justice and Equality, Frances Fitzgerald TD and then Minister of State for New Communities, Culture and Equality, Aodhan Ó Riordáin TD in October 2014. It was chaired by former High Court Judge, Dr Bryan McMahon and comprised a number of representatives from government departments, agencies and non-governmental organisations.

499 The recommendations include to increase the weekly payment for children to €29.80; to provide families with self-contained units with cooking facilities or family quarters together with communal kitchens; to provide adequate recreational space for children; to extend the remit of the Office of the Ombudsman and Office of the Ombudsman for Children to include complaints from residents, and establish an independent inspection regime against new standards.

500 Tánaiste and Minister for Justice and Equality, Frances Fitzgerald TD, Joint Oireachtas Committee on Justice, Defence and Equality, UN Summit on Refugees and Migrants: Discussion, 5 October 2016.

501 Department of Justice and Equality, *Working Group to Report to Government Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers* (2015).

502 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 66(c).

503 Parents who receive certain social welfare payments are entitled to an increased amount for each child who usually resides with them. This additional payment is referred to as the Qualified Child Increase and is currently set at €29.80.

stations⁵⁰⁴ rather than only having access to prepared food in canteens.⁵⁰⁵ However, the overall number of self-catering centres has not increased. There were just two self-catering centres in the country in 2016; they can accommodate 128 residents⁵⁰⁶ but do not operate at full capacity.⁵⁰⁷ The 2016 recommendations of the UN Committee called on the State to 'allow for residents to store and cook their own food' as far as possible.⁵⁰⁸ The Working Group recommended a 'nutritional audit by a suitably qualified person'.⁵⁰⁹ This audit is essential to inform proposals to introduce some level of self-catering in centres and to ensure that families are given autonomy in selecting and preparing their own meals while maintaining a nutritional diet. These actions would help to address the situation whereby some children in Direct Provision grow up without seeing their parents prepare a meal or cook.

National standards are essential to ensure that children in Direct Provision are afforded equity of care with all children in care and that service providers are required to maintain consistent quality across the different services they receive in residential settings.

Child Protection and Welfare Policy: The UN Committee also raised concerns about the adequacy of child protection services in Direct Provision centres.⁵¹⁰ In 2015, the Health and Information Quality Agency (HIQA) published a report highlighting the significantly higher child protection referral rate to Tusla of children in Direct Provision compared with the general child population.⁵¹¹ The Working Group recommended that Tusla, in conjunction with the Reception and Integration Agency (RIA), should develop a welfare strategy within the RIA to advise on policy and practice matters and to liaise on individual cases as required.⁵¹² HIQA also recommended that Tusla develop an inter-cultural strategy to inform the provision of social services to ethnic minority children and families. An audit of services could inform a strategy to ensure that adequate safeguards and reporting mechanisms are in place to protect children in Direct Provision who are recognised as a vulnerable group within the system.⁵¹³

National Standards for Direct Provision Centres: The commitment to introduce national standards for Direct Provision centres was not realised in 2016.⁵¹⁴ National standards are essential to ensure that children in Direct Provision are afforded equity of care with all children in care and that service providers are required to maintain consistent quality across the different services they receive in residential settings. The standards would also provide a monitoring framework to ensure services can be held accountable through regular independent inspections. In 2015, as part of the Working Group process, the potential advantages of introducing specific outcome-based standards were highlighted acknowledging that they can facilitate open discussion, improve quality, challenge under performance and provide oversight.⁵¹⁵ Existing national standards for

504 Communication received by the Children's Rights Alliance from the Reception and Integration Agency, 24 January 2017.

505 UNHCR, 'Commitment to implement the recommendations of the McMahon Report welcomed by Working Group organisations' (17 June 2016) <<http://www.unhcr.ie/news/irish-story/commitment-to-implement-the-recommendations-of-the-mcmahon-report-welcomed>> accessed 6 February 2017.

506 Reception and Integration Agency 'Monthly Statistics Report: November 2016' (Department of Justice and Equality 2017) <<http://bit.ly/2keLPpX>> accessed 6 February 2017.

507 *ibid*.

508 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 66(c).

509 Department of Justice and Equality, *Working Group to Report to Government Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers* (2015) para 4.99.

510 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 66(c).

511 Health and Information Quality Authority 'Report on inspection of the child protection and welfare services provided to children living in Direct Provision accommodation under the National Standards for the Protection and Welfare of Children and Section 8(1) (c) of the Health Act 2007' (HIQA 25 May 2015) <<http://bit.ly/2jVdCui>> accessed 6 February 2017.

512 Department of Justice and Equality, *Working Group to Report to Government Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers* (2015) para 4.199.

513 *ibid* para 4.178.

514 UNHCR, 'Commitment to implement the recommendations of the McMahon Report welcomed by Working Group organisations' (17 June 2016) <<http://www.unhcr.ie/news/irish-story/commitment-to-implement-the-recommendations-of-the-mcmahon-report-welcomed>> accessed 6 February 2017.

515 Michele Clarke, *Briefing Paper on the Inspection of Direct Provision* (Department of Justice and Equality 2015) 7.

residential settings set by bodies such as HIQA could be adapted to inform new standards for Direct Provision residential settings.⁵¹⁶

Extension of remit of the Ombudsman for Children:

Despite a clear recommendation in the McMahon Report⁵¹⁷ and a further commitment by Tánaiste and Minister for Justice and Equality Frances Fitzgerald TD⁵¹⁸ to extend the remit of the Ombudsman for Children to include complaints from children in Direct Provision, the proposed legislative amendments have not yet been enacted. This means that this cohort remains the only group of children in Ireland who are denied the right to make a complaint under this redress mechanism.⁵¹⁹ Progress is expected on this issue in early 2017.

516 HIQA currently has national standards in place for Children's Residential Centres, Foster Care, Child protection and welfare services Children detention schools Residential centres for children and adults with disabilities and nursing homes. See HIQA, 'National Standards for Children's Residential Centres' <https://www.hiqa.ie/system/files/Standards_children_crc_DOHC.pdf> accessed 6 February 2017.

517 Department of Justice and Equality, *Working Group to Report to Government Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers* (2015).

518 UNHCR, 'Commitment to implement the recommendations of the McMahon Report welcomed by Working Group organisations' (17 June 2016) <<http://www.unhcr.ie/news/irish-story/commitment-to-implement-the-recommendations-of-the-mcmahon-report-welcomed>> accessed 6 February 2017.

519 Ombudsman for Children Act 2002 s 11(1)(e)(i) precludes the Ombudsman for children from hearing complaints on decisions taken in the administration of law relating to asylum, immigration, naturalisation or citizenship.

Refugee and Asylum-Seeking Children

Immediate Actions for 2017



INCREASE THE PACE OF THE RELOCATION AND RESETTLEMENT PROGRAMMES TO ENSURE THAT THE GOVERNMENT FULFILS ITS INTERNATIONAL COMMITMENTS, WITH A PARTICULAR FOCUS ON UNACCOMPANIED MINORS.

The Government must continue its renewed efforts to relocate and resettle 4,000 migrants by the end of 2017. In particular it must allocate adequate resources to Tusla, the Child and Family Agency to increase its capacity to receive up to 200 child refugees from France as well as an increased number from Greece and Italy.

THE STATE SHOULD IMMEDIATELY IMPLEMENT THE OUTSTANDING RECOMMENDATIONS OF THE WORKING GROUP ON THE PROTECTION PROCESS. IN PARTICULAR IT SHOULD:

- > Increase the weekly allowance for children in Direct Provision by a further €14.20 to €29.80, in line with the Working Group recommendation.
- > Increase the number of self-catering facilities for families with children in Direct Provision centres and commission a nutritional audit.
- > Develop and implement a dedicated child protection strategy for Direct Provision accommodation.
- > Develop and introduce national standards for Direct Provision centres and establish as a matter of urgency an independent oversight in the inspection regime.
- > Extend the remit of the Ombudsman for Children as a matter of urgency.

4.3

LGBT+ Children and Young People

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > Develop an LGBT Youth Strategy that will encompass education, youth services, mental health and other issues, and to review implementation of the National Action Plan on Bullying as part of this process.



Progress: Some

'LGBT+⁵²⁰ Children and Young People' receives a 'C+' grade in *Report Card 2017*. This grade reflects the fact the Government has committed to put in place a LGBT (Lesbian, Gay, Bisexual and Transgender) Youth Strategy and has allocated €400,000 to its development. The Strategy must be inclusive of all LGBT+ children and young people to ensure that no child faces discrimination on the basis of their sexual orientation, gender identity or gender expression. The commitment to review implementation of the National Action Plan on Bullying as part of the process is welcome.

Every child has the right to enjoy their rights without discrimination of any kind. While the provision relating to discrimination under the UN Convention on the Rights of the Child does not specifically refer to a

child's sexual orientation and/or their gender identity, the UN Committee on the Rights of the Child has clarified that sexual orientation is included in these grounds.⁵²¹ In 2016, the UN Committee called on States, when implementing children's rights during adolescence, to 'repeal all laws criminalizing or otherwise discriminating against individuals on the basis of their sexual orientation, gender identity or intersex⁵²² status and adopt laws prohibiting discrimination on those grounds.'⁵²³ States must also 'take effective action to protect all lesbian, gay, bisexual, transgender and intersex adolescents from all forms of violence, discrimination or bullying by raising public awareness and implementing safety and support measures.'⁵²⁴

520 The term LGBT+ is used to denote Lesbian, Gay, Bisexual, Transgender and all other individuals who may identify as intersex etc. The term is inclusive of all sexual orientations and gender identities. This is the preferred term used throughout the section although currently the official name of the pending strategy is the 'LGBT Youth Strategy' so it is referred to as such.

521 UNCRC 'General Comment No. 4 on Adolescent health and development in the context of the Convention on the Rights of the Child' (2003) UN Doc CRC/GC/2003/41 para 6.

522 Intersex is 'a term used to describe individuals who are born with sex characteristics (chromosomes, genitals, and/or hormonal structure) that do not belong strictly to male or female categories, or that belong to both at the same time'. See Agnes Higgins et al *The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (GLEN and BeLongTo 2016) 19.

523 UNCRC 'General Comment No. 20 on the implementation of the rights of the child during adolescence' (2016) UN Doc CRC/C/GC/20 para 34.

524 *ibid*.

LGBT Youth Strategy: In June 2016, Minister for Children and Youth Affairs, Dr Katherine Zappone TD formally announced the development of the LGBT Youth Strategy,⁵²⁵ which will be led by the Department of Children and Youth Affairs with support from the Department of Education and Skills.⁵²⁶ The commitment builds on existing commitments in *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020*⁵²⁷ and the *National Youth Strategy 2015-2020*,⁵²⁸ both of which aim to reduce discrimination and bullying against young people of minority groups including LGBT young people. However, the Strategy is referred to as the LGBT Youth Strategy and does not currently include a reference to intersex or other children who do not identify as male or female.

In June 2016, Minister for Children and Youth Affairs, Dr Katherine Zappone TD formally announced the development of the LGBT Youth Strategy, which will be led by the Department of Children and Youth Affairs with support from the Department of Education and Skills.

In Budget 2017 the Government allocated €400,000 to the Department of Children and Youth Affairs to develop the Strategy.⁵²⁹ The funding will encompass the cost of 'procurement, design and writing of the

LGBT Youth Strategy'.⁵³⁰ Una Mullally, a journalist and LGBT+ advocate, was appointed as independent chair in December 2016.⁵³¹ An Oversight Committee comprising members representing relevant stakeholders, including government bodies, the youth sector and LGBT+ organisations will be established to shape the development of the Strategy.⁵³² BeLonGTo and the National Youth Council of Ireland will work together to establish a Youth Advisory Group who will facilitate consultation with young people.⁵³³ The Strategy is expected to be published before the end of 2017.⁵³⁴ The steps that have been taken to date to develop the Strategy are encouraging. The consultation with children and young people is an essential part of the process. The intention that the Oversight Committee will have significantly progressed in its work to inform Budget 2018⁵³⁵ is welcome and adequate funding is necessary to implement the actions agreed in the Strategy.

In 2016, the National Office for Suicide Prevention funded the *LGBTIreland Report*, a national study of the mental health and wellbeing of LGBT+ people in Ireland.⁵³⁶ The study found that the LGBT+ teens surveyed were four times as likely as other teens to suffer from severe or extremely severe stress, anxiety and depression⁵³⁷ while a third of LGBT+ teens had attempted suicide.⁵³⁸ Self-harm was also prevalent among this age group with 56 per cent of children reporting that they had self-harmed.⁵³⁹ The UN Committee on the Rights of the Child has highlighted how negative experiences of LGBT+ adolescents have been 'linked to low self-esteem, higher rates of depression, suicide and homelessness'.⁵⁴⁰ The

525 MerrionStreet.ie 'Homophobia to be challenged in first National LGBT Strategy for Young People' (25 June 2016) <<http://bit.ly/2lggu67>> accessed 3 February 2017.

526 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) 18.

527 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014).

528 Department of Children and Youth Affairs, *National Youth Strategy 2015-2020* (DCYA 2015).

529 Minister for Children and Youth Affairs, Dr Katherine Zappone TD, Written Answers, National Youth Strategy, 10 November 2016 [34182/16].

530 Department of Children and Youth Affairs 'Young People to Benefit from €57 million in funding' (22 October 2016) <<http://www.dcy.gov.ie/viewdoc.asp?DocID=4017>> accessed 3 February 2017.

531 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 24 January 2017.

532 *ibid.*

533 *ibid.*

534 *ibid.*

535 *ibid.*

536 Agnes Higgins et al, *The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (GLEN and BeLonGTo 2016). The survey included LGBTI people specifically but we have used the term LGBT+ to ensure consistency in the section as the survey did include intersex respondents.

537 *ibid.* 23.

538 *ibid.* 1.

539 *ibid.* 109.

540 UNCRC 'General Comment No. 20 on the implementation of the rights of the child during adolescence' (2016) UN Doc CRC/C/GC/20 para. 34.

'vulnerability of this cohort of children and young people must be addressed in the proposed Strategy with tangible measures identified on how to address mental health difficulties for LGBT+ young people.

The *LGBTIreland* study found that although the average age of identifying as LGBT+ was 12 years, for the 14-18 year old cohort, the average age was 13-14 years for telling someone they are LGBT+. ⁵⁴¹ Research indicates that parental reaction to a child coming out as LGBT+ is initially negative. ⁵⁴² The authors of *LGBTIreland* recommend that 'future educational and public initiatives target the potential discomfort Irish families may feel in relation to a family member's sexual orientation or gender identity, and provide Irish families with the knowledge and skills necessary to negotiate this new, and for some people, challenging family dynamic'. ⁵⁴³ The Strategy should examine the need for parental and family supports as well as supports for the young person.



Although transgender children and young people fall within the remit of the Strategy, it should be noted that young people under the age of 18 continue to face challenges in gaining legal recognition of their gender. While the Gender Recognition Act 2015 allows for a legal change of gender without any medical prerequisites, ⁵⁴⁴ applicants aged 16 or 17 can apply for a court exemption to overcome the age barrier for legal recognition but this requires consent of a parent or guardian along with the approval of two medical professionals. ⁵⁴⁵ According to the recent annual report on the implementation of the 2015 Act, four young people aged 16 or 17 availed of legal gender recognition provision between 4 September 2015 and 30 June 2016. ⁵⁴⁶ Given the evidence that some children become aware of their gender identity at a young age, ⁵⁴⁷ some as young as three, ⁵⁴⁸ the Strategy must ensure that the views of transgender children are heard in line with Article 12 of the UN Convention and their rights are recognised.

Transgender children continue to face discrimination and challenges in the school environment. For example, when presenting as their true gender, they risk being 'outed' during class roll calls because these are linked to the birth certificate used to enrol the child at the school. ⁵⁴⁹ This can lead to bullying and harassment which can result in transgender students considering leaving school early. ⁵⁵⁰ Furthermore, to ensure it is as inclusive as possible, the Strategy should be named the LGBT+ Youth Strategy and extend its remit to include children and young people who identify as intersex or who self-identify in other ways such as non-binary or are not provided for in domestic law or policy. ⁵⁵¹

In 2016, the UN Committee on the Rights of the Child called on the State to 'strengthen its efforts to combat discrimination against and stigmatization and social exclusion' of children including that based

541 Agnes Higgins et al, *The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (GLEN and BeLonGTo 2016) 58.

542 *ibid* 230.

543 *ibid*.

544 Gender Recognition Act 2015, s 10.

545 *ibid*, s 12(4)(b). These professionals include the young person's primary medical care practitioner and an impartial endocrinologist or psychiatrist.

546 Department of Social Protection, *First Annual Report under section 6 of the Gender Recognition Act 2015* (DSP 2016) 4.

547 Transgender Equality Network Ireland, *Gender Recognition and Transgender Young People* (TENI 2015) 2-3.

548 Ruari-Santiago McBride *Grasping the Nettle: The Experiences of Gender Variant Children and Transgender Youth Living in Northern Ireland* (Institute for Conflict Research 2013) cited in Transgender Equality Network Ireland *Gender Recognition and Transgender Young People* (TENI 2015).

549 Transgender Equality Network Ireland, *Gender Recognition and Transgender Young People* (TENI 2015) 4.

550 Agnes Higgins et al, *The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (GLEN and BeLonGTo – 2016) 138.

551 Two per cent of the participants in the *LGBTIreland Report* identified as Intersex. Agnes Higgins et al, *The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (GLEN and BeLonGTo 2016) 19.

on their sexual orientation or gender identity.⁵⁵² The commitment to developing the Strategy is a clear indication that the State takes its responsibilities to LGBT+ children seriously and is a welcome step in implementing the recommendation of the UN Committee. The Strategy must reflect the *National Youth Strategy* and address specific issues faced by young people who identify as LGBT+ in terms of their health, learning and development, protection from harm, economic security and opportunity, and feeling connected to society.⁵⁵³ It is important that young people are consulted on the development of the Strategy and the youth panel convened by BeLonGTo and the National Youth Council must be provided with an opportunity for meaningful input.

Report participants aged between 14 and 18 years had experienced anti-LGBT+ bullying, while 67 per cent had witnessed an incident of anti-LGBT+ bullying.⁵⁵⁷ In relation to LGBT+ young people, international human rights experts have explicitly stated that 'States must act to overcome prejudice and stereotypes through anti-discrimination initiatives in schools and public education campaigns'.⁵⁵⁸ It is welcome that the *Action Plan on Bullying*, published by the Department of Education and Skills in 2013,⁵⁵⁹ will be reviewed in the context of the LGBT Youth Strategy. However, it is not clear whether the review of the *Action Plan on Bullying* will focus only on the LGBT specific sections or whether it will address other forms of bullying and harassment against other children and young people in relation to gender, race, religion or other grounds.

In 2016, the UN Committee on the Rights of the Child called on the State to 'strengthen its efforts to combat discrimination against and stigmatization and social exclusion' of children including that based on their sexual orientation or gender identity.

Review of the Action Plan on Bullying: An estimated 29,000 young people identify as LGBT+ representing a sizeable minority of the school population in Ireland.⁵⁵⁴ Homophobic bullying is 'directly related to poorer mental health outcomes and higher levels of reported self-harm and suicidal behaviour'.⁵⁵⁵ While initiatives to address homophobic and transphobic bullying in schools exist,⁵⁵⁶ almost half of the 416 *LGBTIreland*

552 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 28.

553 Department of Children and Youth Affairs, *National Youth Strategy 2015–2020* (DCYA 2015).

554 Gay and Lesbian Equality Network, 'Being LGBT in School; A Resource for Post-Primary Schools to Prevent Homophobic and Transphobic Bullying and Support LGBT Students' (2016) <<http://www.education.ie/en/Publications/Education-Reports/Being-LGBT-in-School.pdf>> accessed 3 February 2017.

555 Agnes Higgins et al, *The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (GLEN and BeLonGTo 2016) 8.

556 The *Stand Up!* campaign, run annually by BeLonGTo, is a programme aimed at tackling homophobic and transphobic bullying in schools. This campaign has been endorsed in the current national *Action Plan on Bullying*, which recommended that the project be supported by the Department of Education and Skills. BeLonGTo 'Stand Up Campaign' <<http://www.belongto.org/campaign.aspx>> accessed 3 February 2017. Gay and Lesbian Equality Network, 'Being LGBT in School; A Resource for Post-Primary Schools to Prevent Homophobic and Transphobic Bullying and Support LGBT Students' (2016) <<http://www.education.ie/en/Publications/Education-Reports/Being-LGBT-in-School.pdf>> accessed 3 February 2017.

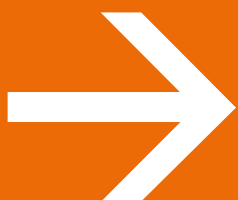
557 Agnes Higgins et al, *The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (GLEN and BeLonGTo 2016) 8.

558 United Nations Human Rights; Office of the High Commissioner, 'Discriminated and made vulnerable: Young LGBT and intersex people need recognition and protection of their rights' (13 May 2015) <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15941&LangID=E>> accessed 3 February 2017.

559 Department of Education and Skills, 'Action Plan on Bullying; Report of the Anti-Bullying Working Group to the Minister for Education and Skills' (DES 2013) <<https://www.education.ie/en/Publications/Education-Reports/Action-Plan-On-Bullying-2013.pdf>> accessed 3 February 2017.

LGBT+ Children and Young People

Immediate Actions for 2017



PUBLISH THE LGBT YOUTH STRATEGY WITH AN IMPLEMENTATION PLAN SETTING OUT ACTIONS AND TIMELINES.

The LGBT Youth Strategy should provide an effective policy framework for meeting the particular needs of LGBT+ children and young people. It should be renamed the 'LGBT+ Youth Strategy' and should also ensure that it addresses specific issues related to intersex children and young people and those who identify in other ways such as non-binary or gender-fluid. The preparatory work for Budget 2018 should inform Government of the necessary resources for the Strategy's implementation and this should be provided for in government estimates. The review of the *Action Plan on Bullying* should play an integral role in this process, in order to better inform the Strategy's outcomes.

5. RIGHTS IN THE FAMILY ENVIRONMENT AND ALTERNATIVE CARE

Chapter Grade

D+



ISPCC Childline
@ISPCC Childline



We are not seeing an urgency around cyber safety at a national level. It is the child protection issue of our time
#InvestInChildhood

🔗 ❤️ ↩

3.18 AM - 19 Feb 2016

Rights in the Family Environment and Alternative Care

Every child has the right to be protected from all forms of abuse, violence, punishment and neglect. They have the right to not be separated from their parents except where it is in the child's best interests and they have the right to be heard in child care proceedings affecting them. The State is responsible for the protection of child victims.

Summary of Articles 9, 12, 19 and 39 of the UN Convention on the Rights of the Child and Article 8 of the Optional Protocol to the Convention on Sale of Children, Child Prostitution and Child Pornography



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IN THE NEWS

CHILD SEX ABUSE VICTIMS 'HUMILIATED AND RETRAUMATISED' IN CRIMINAL TRIALS

Newstalk.com, 12 October 2016

Survivors of child sexual abuse often fear engaging with the criminal justice system because of 'adversarial' trial practices, according to a support group for victims. [...]

Maeve Lewis of One in Four said victims were "regularly humiliated, demeaned, undermined and retraumatised" during trials.

"The criminal court is adversarial. It is not an ideal place to tease out the complexities of sexual abuse," she told Newstalk [...]

Gardaí are generally professional and sensitive in dealing with abuse allegations but investigations are sometimes not carried out in an appropriate manner, she added.

According to its annual report, One in Four provided 2,563 therapy hours last year to 116 adult survivors and 40 families.

A total of 45 per cent of its clients were men – a figure which challenges the idea that boys are not sexually abused, the charity has pointed out. [...]

Ms Lewis said the Criminal Justice (Sexual Offences) Bill 2015 currently proceeding through the Oireachtas will bring in important changes that may improve victims' experiences of the criminal justice system.

She also welcomed the EU Victims' Directive of November 2015, which introduced specialist training for judges and legal professionals.

But she stressed that all cases must be properly dealt with by child protection services, however challenging this may be for social workers.

One in Four passed on 49 sex abuse allegations to Tusla child protection services last year but most were deemed to be 'unfounded'.

"While we appreciate the difficulty social workers face in assessing retrospective allegations, this does imply that many credible allegations will not be pursued, and children will be at risk," Ms Lewis said.

By Catherine Healy

5.1

Guardian *ad litem* Service**GOVERNMENT COMMITMENT**

A Programme for a Partnership Government commits to:

- > Review the operation of guardian ad litem (GAL) to ensure that a child's view is always effectively represented in court proceedings.

Progress: Some

Guardian *ad litem* Service' receives a 'D' grade in Report Card 2017. While the review of the Guardian *ad litem* service has been completed and publication of draft legislation proposed on foot of the review is a positive development, issues remain with regard to the independence of the service and how children's rights will be enforced in proceedings.

Every child has the right to have their views heard in any judicial proceedings affecting them and for those views to be given due weight in accordance with the age and maturity of the child.⁵⁶⁰ The UN Convention on the Rights of the Child makes specific reference to the child being heard in court proceedings either directly or indirectly through a representative body, such as a Guardian *ad litem* (GAL).⁵⁶¹ Under the Convention, the State is obliged to ensure that the child's best interests are a primary consideration in all actions and decision that impacts the child,⁵⁶² particularly when a decision is being made in childcare proceedings to take the child into care.⁵⁶³

The UN Committee also notes that to be eligible for appointment as a child's representative, a person must have sufficient knowledge and understanding of the various aspects of the decision-making

process and experience in working with children.⁵⁶⁴

The representative must be aware that she or he represents exclusively the interests of the child and not the interests of other of other persons such as parent(s), institutions or bodies (e.g. residential home, administration or society).⁵⁶⁵ The UN Committee is clear that '[i]f the hearing of the child is undertaken through a representative, it is of utmost importance that the child's views are transmitted correctly to the decision maker by the representative'.⁵⁶⁶

The UN Committee also notes that to be eligible for appointment as a child's representative, a person must have sufficient knowledge and understanding of the various aspects of the decision-making process and experience in working with children.

In 2016, the UN Committee called on Ireland to '[t]ake measures to ensure the effective implementation of legislation recognizing the right of the child to be heard

560 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 12.

561 *ibid* Art 12(2).

562 *ibid* Art 3.

563 UNCRC 'General Comment No. 12 on the Right of the Child to be heard' (2009) UN Doc CRC/C/GC/12 para 53.

564 *ibid* para 36.

565 *ibid* para 37.

566 *ibid* para 36.

in relevant legal proceedings, particularly family law proceedings, including by establishing systems and/or procedures for social workers and courts to comply with the principle.⁵⁶⁷ In *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* the Government commits to create mechanisms to provide children with the opportunity to be heard in judicial proceedings affecting them and this includes independent representatives where appropriate.⁵⁶⁸

Article 42A.4 of the Irish Constitution states that provision shall be made by law for the best interests of the child to be 'the paramount consideration' in child protection and care, adoption and family law proceedings and for the views of the child to be 'ascertained and given due weight'.⁵⁶⁹ This amendment refers to two types of proceedings: (1) public law proceedings - cases between the State and a child/family and (2) private law proceedings - cases between two private parties. The review of the GAL Service relates to public law proceedings.

The Government has given further effect to Article 42A.4 in private law proceedings under the Children and Family Relationships Act 2015, which provides that the court can 'appoint an expert to determine and convey the child's views' but this provision has yet to be commenced.⁵⁷⁰ However, the provision will mean that in private law proceedings, one or both of the parties must pay for cost of the child views expert. The cost will not be covered by the State. As a result, it is likely that the voice of the child will not be heard in private law cases if the parents cannot afford it and a disparity will continue to exist between hearing the views of children in private law proceedings and public law proceedings. The UN Committee on the Rights of the Child expressed its concern on this issue and recommended that the cost of this service should be covered by the State.⁵⁷¹

Review of the GAL Service: The Department for Children and Youth Affairs launched and completed a consultation in autumn 2015 to inform policy development in key areas of reform of the Child Care

Act 1991.⁵⁷² The General Scheme of the Child Care (Amendment) Bill 2017 was approved by Government in January 2017 and has been referred to the Joint Oireachtas Committee on Children and Youth Affairs for pre-legislative scrutiny. At present, the Child Care Act 1991 provides for the views of the child to be heard through a GAL in child care proceedings.⁵⁷³ There are approximately 65 GALs currently operating in the State: 31 working with Barnardos, 13 with The Independent Guardian Ad Litem Agency (TIGALA) and 21 GALs working as individuals or in a small group.⁵⁷⁴



The role of the GAL is not defined in legislation but the High Court has interpreted that 'the function of the guardian should be twofold; firstly to place the view of the child before the court and secondly to give the guardian's views as to what is in the best interests of the child'.⁵⁷⁵ The General Scheme of the Child Care (Amendment) Bill 2017 expands on this and sets out that the function of a GAL is to 'enhance the decision-making capacity of the court' by: (a) informing the court of the child's views, and (b) advising the court on what is in the child's best interests' in light of having considered the child's views.⁵⁷⁶ In carrying out this role, it provides that the GAL will, amongst other things, 'promote and facilitate the child's right to a voice and to have his or her views considered', 'regard the best interests of the child as the paramount consideration', ensure the child is

567 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 32(a).

568 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) Commitment G18.

569 Irish Constitution, Art 42A.4.

570 Children and Family Relationships Act 2015, s 32(b).

571 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 31(b).

572 Department of Children and Youth Affairs, 'Reform of Guardian ad litem arrangements in child care proceedings' <<http://bit.ly/2ljTZb>> accessed 6 February 2017.

573 Child Care Act 1991, s 26.

574 Comptroller and Auditor General, 'Report on the Accounts of the Public Services 2015' <<http://bit.ly/2ljBmcG>> accessed 6 February 2017, 133.

575 HSE v K (a minor) [2007] IEHC 488.

576 General Scheme of the Child Care (Amendment) Bill 2017, Head 5 – Function of a Guardian *ad litem*.

informed, ascertain his or her views, as far as practicable, having regard to the child's age and maturity, and inform the court of those views. Setting out the functions of the GAL is a welcome development and should be retained in any future iteration of the Bill.

However, an issue exists with regard to the status of the GAL in child care proceedings as set out under the General Scheme. In practice, GALs have played a role beyond facilitating the voice of the child to be heard in courts and advising the courts on the child's best interests. They have often been given legal representation in child care proceedings and fulfilled the function of defending the rights of the child as his or her representative in proceedings.⁵⁷⁷ They have done this by testing evidence, making applications in relation to the welfare of the child and making submissions to the court for example. In many cases, the role of the GAL has developed to the point where they effectively have had the same standing in child care proceedings with Tusla and the parents.

In a recent High Court decision, Ms Justice Marie Baker considered that the current role of the GAL is 'consistent with the furtherance of the interests of justice' and that the GAL 'will take a role in the proceedings not merely as a witness'.⁵⁷⁸ However, the General Scheme provides that the status of the GAL is that of a 'special type of expert witness',⁵⁷⁹ rather than that of party to the case as the child's representative. This status fails to take account of the child as a rights holder under both the Irish Constitution and the UN Convention because without a representative, the child's right to fair procedures and effective participation rights will be impacted. Ms Justice Bronagh O'Hanlon notes that if the GAL is not a party to proceedings, they will not have standing in court to take the full range of applications in the welfare of the child as it may be appropriate

to take, or to appeal decisions of the Court.⁵⁸⁰ This would 'significantly weaken the participation and representation of the child in proceedings that centrally affect them'.⁵⁸¹

It is possible under the Child Care Act 1991 for a child to be joined as a party to proceedings.⁵⁸² This is relatively unusual because it may not be in the child's interests to do so or a young child may not understand the issues or may have complex issues themselves.⁵⁸³ If they are joined, they are entitled to fair procedures in the same way as any other party. However, if a child cannot be joined as a party in their own right and cannot be represented through their GAL, they will not be entitled to the same fair procedure rights. One way to ensure that the child's rights are protected would be to designate the child as a party through their GAL.

In child care proceedings at present, it is at the discretion of the judge to appoint a GAL if he or she is satisfied that it is necessary in the interests of the child and in the interests of justice.⁵⁸⁴ However, GALs were appointed in only 53 per cent of cases attended by the Child Care Law Reporting Project with considerable variations in different locations across the country, ranging from a high of 79.8 per cent of children being appointed a GAL in Louth to a low of 13.3 per cent in Galway.⁵⁸⁵ Under the General Scheme, there will be a presumption in favour of appointing a GAL in all child care proceedings and this is welcome.⁵⁸⁶ Where a court declines to appoint a GAL, it must provide reasons for its decision in open court.⁵⁸⁷ A GAL will be appointed in all High Court Special Care proceedings, that is, those that involve the detention of a child for their own welfare and protection.⁵⁸⁸

Under existing law, a child cannot have both legal representation and a GAL at the same time.⁵⁸⁹ The

577 Ann McWilliams and Claire Hamilton, 'There isn't anything like a GAL': The Guardian ad Litem Service in Ireland' [2010] 10 Irish Journal of Applied Social Studies 31, 32.

578 AO'D v O'Leary & ors [2016] IEHC 555, para 57.

579 General Scheme of the Child Care (Amendment) Bill 2017, Head 6, Explanatory Note.

580 Ms Justice Bronagh O'Hanlon, 'Submission from Ms Justice Bronagh O'Hanlon in relation to the survey concerning a policy approach to the reform of *guardian ad litem* arrangements in proceedings under the Child Care Act 1991' <<http://bit.ly/2kDo9wf>> accessed 6 February 2017, 6-7.

581 *ibid*.

582 Child Care Act 1991, s 25. This section provides that a child may be joined as a party to child care proceedings only where the court is 'satisfied having regard to the age, understanding and wishes of the child'. The child's interests and the interests of justice are also to be considered.

583 Children's Rights Alliance, *Making Rights Real for Children: A Children's Rights Audit of Irish Law* (Children's Rights Alliance 2015) 198-199.

584 Child Care Act 1991, s 26(1).

585 Carol Coulter, *Final Report* (Child Care Law Reporting Project 2015) 80.

586 General Scheme of the Child Care (Amendment) Bill 2017, Head 8.

587 *ibid* Head 8, Subhead 4.

588 *ibid* Head 8.

589 Child Care Act 1991 s 25, s 26 (4).

UN Committee provides that ‘in cases where a child is referred to an administrative or judicial procedure involving the determination of his or her best interests, he or she should be provided with a legal representative, in addition to a guardian or representative of his or her views, when there is a potential conflict between the parties in the decision.’⁵⁹⁰ Given that GALs often reach the same conclusion as Tusla with regard to the threshold criteria in proceedings, their independence from Tusla is crucial to ensure both public confidence in the system, and more importantly the confidence of young people that their views will be accurately represented. The General Scheme dispenses with the automatic prohibition on a child having both legal representation and a GAL concurrently. It provides that the Court will decide whether the appointment of a GAL will continue where the child becomes a party to proceedings.⁵⁹¹

The General Scheme proposes to establish a nationally organised and managed GAL service through a contract with the Minister for Children and Youth Affairs.

GALs are unregulated, there are no professional standards in place and there is no statutory guidance on the eligibility criteria, functions or payment structures.⁵⁹² Guidelines developed by the Children Acts Advisory Board on the qualifications, criteria for appointment, training and role of GALs appointed under the Child

Care Act 1991 were published in 2009 but were never placed on a statutory footing.⁵⁹³ The General Scheme proposes to establish a nationally organised and managed GAL service through a contract with the Minister for Children and Youth Affairs.⁵⁹⁴ Its functions may include tasks such as the recruitment and selection of GALs, implementing performance management and supporting the professional development of GALs as well as monitoring service delivery and quality assurance, providing in-house legal advice and representation where necessary.⁵⁹⁵

Under the current structure, the GAL is dependent on Tusla to meet their costs. Head 9 of the General Scheme provides that funding for the new service will continue to be discharged by Tusla. The Comptroller and Auditor General noted in his report that in child care proceedings the ‘position of Tusla as the party initiating the proceedings, and as paymaster of the guardian *ad litem* costs, may lead to a perceived conflict of interest.’⁵⁹⁶ He recommended that the GAL service should come under the remit of ‘a body that is independent of the legal proceedings’ citing the CAAB guidelines highlighting the need for the GAL ‘to be independent of all other professionals and agency staff involved with the child and the family.’⁵⁹⁷ The Ombudsman for Children notes that while he appreciates that efforts were made through the reforms to mitigate against the risk of perceived conflict of interest, ‘the Agency should not have any role in such fee transactions and that guardians *ad litem* working in the context of a new national service should be paid from an independent governmental source.’⁵⁹⁸ Children should be able to have confidence that their GAL or

590 The Committee states that ‘the child will need appropriate legal representation when his or her best interests are to be formally assessed and determined by courts and equivalent bodies. In particular, in cases where a child is referred to an administrative or judicial procedure involving the determination of his or her best interests, he or she should be provided with a legal representative, in addition to a guardian or representative of his or her views, when there is a potential conflict between the parties in the decision.’ UNCRC, ‘General Comment No. 14 on the right of the child to have his or her best interest taken as a primary consideration, (art.3, para.1)’ (2013) UN Doc CRC/C/GC/14, para 96.

591 General Scheme of the Child Care (Amendment) Bill 2017, Head 8, Subhead 12. This propose to amend the Child Care Act 1991 s 26(4).

592 See Prof Geoffrey Shannon, *Seventh Report of the Special Rapporteur on Child Protection: A Report Submitted to the Oireachtas* (DCYA 2014) and Carol Coulter, *Final Report* (Child Care Law Reporting Project 2015) 80, and Carmel Corrigan, *The Construction and Impact of Children’s Participation through the Guardian ad litem in Child Protection Cases: The Views of District Court Judges, Guardians ad litem and children* (unpublished Phd thesis, Trinity College Dublin 2015).

593 Child Care (Amendment) Act 2007 s 20 established the Children Acts Advisory Board (CAAB). It published CAAB, *Giving a voice to children’s wishes, feelings and interests: Guidance on the Role, Criteria for Appointment, Qualifications and Training of Guardians ad Litem Appointed for Children in Proceedings under the Child Care Act, 1991* (CAAB 2009). The guidelines define the role of the guardian *ad litem* as to ‘independently establish the wishes, feelings, and interests of the child and present them to the court with recommendations’ 3. It was dissolved in 2011.

594 General Scheme of the Child Care (Amendment) Bill 2017, Head 3 – Establishment of a national Guardian *ad litem* service.

595 *ibid* Head 4 – Arrangements with service providers.

596 Comptroller and Auditor General, *Report on the Accounts of the Public Services 2015* (C&AG 2016) 132.

597 *ibid* 131.

598 Office of the Ombudsman for Children, ‘Consultation Paper by the Department of Children and Youth Affairs on preparing a Policy Approach to Reform of Guardian *ad Litem* Arrangements in Proceedings under the Child Care Act 1991’, <<http://dcya.gov.ie/documents/legislation/20160926OCO.PDF>> accessed 6 February 2017, 8.

the body that regulates them has no tie with any other party to their proceedings. The Department of Children and Youth Affairs has indicated that the service will be evaluated in due course.⁵⁹⁹

Any future Bill in this area should ensure that principles underpinning the new service are explicitly in line with the UN Convention on the Rights of the Child and the Council of Europe Guidelines on Child-Friendly Justice, namely participation, best interests of the child, dignity, protection from discrimination, and rule of law.⁶⁰⁰ In implementing the right of the child to be heard, the UN Committee has set out principles to which the process should adhere including that they be transparent and informative, voluntary, respectful, child-friendly, inclusive, supported by training, safe and sensitive to risk, and accountable.⁶⁰¹ These principles should be explicitly included in standards to underpin the revised GAL system with proper oversight and monitoring mechanisms in place to improve and standardise the service.

Any future Bill in this area should ensure that principles underpinning the new service are explicitly in line with the UN Convention on the Rights of the Child and the Council of Europe Guidelines on Child-Friendly Justice, namely participation, best interests of the child, dignity, protection from discrimination, and rule of law.

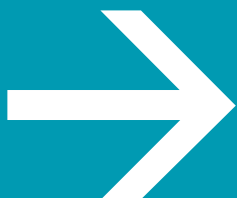
599 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 February 2017.

600 Committee of Ministers of the Council of Europe, 'Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice' (Council of Europe Publishing 2010) <http://www.coe.int/t/dghl/standardsetting/childjustice/default_en.asp> accessed 7 February 2017.

601 UNCRC 'General Comment No. 12 on the Right of the Child to be heard' (2009) UN Doc CRC/C/GC/12 paras 132-134.

Guardian *ad litem* Service

Immediate Actions for 2017



ENSURE THAT PRINCIPLES UNDERPINNING THE NEW SERVICE ARE EXPLICITLY INFORMED BY AND COMPLY WITH THE UN CONVENTION ON THE RIGHTS OF THE CHILD.

In addition to the UN Convention on the Rights of the Child and its relevant General Comments, principles underpinning the new Guardian ad litem service should reflect the Council of Europe Guidelines on Child-Friendly Justice.

ENSURE THAT THE GUARDIAN AD LITEM IS AFFORDED THE STATUS OF REPRESENTATIVE OR ADVOCATE TO THE COURT RATHER THAN WITNESS OR SPECIAL ADVISOR IN CHILD CARE PROCEEDINGS.

Ensure that the child's right to a fair trial is protected by providing that the Guardian ad litem has legal standing in proceedings to represent the child, and that the child, through his or her Guardian ad litem, can have equal standing in proceedings to other parties. Ensure that a child who requires a Guardian ad litem due to age or vulnerability, is designated a party to the proceedings through their Guardian ad litem so that they do not have lesser rights than a child who is joined to the proceedings in their own right.

ENSURE THAT FUNDING FOR THE NEW NATIONAL GAL SERVICE IS DISCHARGED FROM A BODY OTHER THAN TUSLA, THE CHILD AND FAMILY AGENCY.

To ensure the independence of the service, to avoid any real or perceived conflict of interest and to ensure that the child has confidence that there is no link between his or her representative, the body that is responsible for paying them and any other party to their proceedings, the new GAL service should be established separately from the Tusla, the Child and Family Agency.

WITH REGARD TO THE ENFORCEMENT OF A CHILD'S RIGHTS IN CHILD CARE PROCEEDINGS, IF THE GUARDIAN AD LITEM IS NOT ENTITLED TO ENFORCE THE CHILD'S RIGHTS BY BEING A PARTY TO A CASE, CLARIFY WHAT MECHANISM IS TO BE PUT IN PLACE TO FULFIL THIS ROLE.

Given that Guardians ad litem have been given the status of 'special type of expert witness' in the General Scheme of the Child Care (Amendment) Bill 2017, and this would appear to preclude a role in the enforcement of a child's rights in child care proceedings, clarity should be provided as to how this role will be fulfilled.

5.2

Child Protection

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > Ensure robust protections are in place to fully protect children while online and propose updated legislation to effectively deal with sexual offences including stronger sanctions aimed at protecting children from online sexual abuse.



Progress: Good

- > Implement Child Safeguarding Statements as part of Children First legislation.



Progress: Unsatisfactory

- > Enforce robust and efficient vetting procedures for all positions involving substantial access to children.



Progress: Some

‘Child Protection’ receives a ‘C’ grade in Report Card 2017. This grade reflects the positive developments that have been made during 2016 to progress the Criminal Law (Sexual Offences) Bill 2015 but the Bill has yet to be enacted. Critical parts of the Children First Act 2015, including those relating to Child Safeguarding Statements, have not been commenced. The commencement of vetting legislation and the launch of e-vetting in 2016 highlights the political commitment in this area but time spent abroad is not currently considered as part of the vetting application process.

Every child has the right to be protected from abuse, including sexual abuse and exploitation.⁶⁰² States must take ‘appropriate legislative, administrative’ and other

measures to protect children from abuse while in the care of parents, guardians or ‘any other person who has the care of the child’.⁶⁰³ In 2016, the UN Committee on the Rights of the Child welcomed the enactment of the Children First Act 2015. It recommended that adequate resources be provided to enable Tusla, the Child and Family Agency to respond to child protection referrals and address the needs of children at risk in a timely manner, as well as implement long-term programmes for addressing the root causes of violence and abuse.⁶⁰⁴ With regard to a child’s right to online protection, the UN Committee has recommended that States ‘should address the risks posed by digital media and [information and communication technologies] to the safety of children, including online harassment, sexual exploitation of children, access to violent and

602 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 19 which places an obligation on state parties to take all ‘appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child’.

603 *ibid* Art 19 (1).

604 UNCRC ‘Concluding Observations: Ireland’ (2016) UN Doc CRC/C/IRL/CO/3-4 para 38.

sexual content, grooming and self-generated sexual content through holistic strategies' to ensure the full enjoyment of their rights.⁶⁰⁵ The UN Committee provides that States should guarantee the protection of children's privacy rights in relation to information and communication technology (ICT) 'and develop effective safeguards against abuse without unduly restricting the full enjoyment of their rights'.⁶⁰⁶

States must take 'appropriate legislative, administrative' and other measures to protect children from abuse while in the care of parents, guardians or 'any other person who has the care of the child'.

Online protection: Children and young people in Ireland are highly engaged with digital media and technology. According to a study, social networking is a 'near universal' feature in the lives of Irish teenagers and an increasing part of the lives of younger children.⁶⁰⁷ Eleven per cent of the young people surveyed (aged 11-16) said they had seen or received sexual messages online over the past year.⁶⁰⁸ The same number had been asked to talk about sexual acts with someone on the internet.⁶⁰⁹ There is no doubt that the commitment to ensure robust protection of children online, as set out in the commitment in *A Programme for a Partnership Government* will enhance the right of the child to be protected from abuse online. This right to be protected must be carefully balanced with the range of other

rights that are facilitated through access to ICT. These include the right to participate primarily, as well as the right to freedom of expression,⁶¹⁰ to access appropriate information⁶¹¹ and freedom of association and peaceful assembly⁶¹² in the online environment. To ensure the robust protection of children, as per the Government's commitment but also that the full range of their rights in this area are protected and respected, a high level inter-departmental group should be established, housed in the Department of the Taoiseach. This group should ensure a coordinated, cross-departmental response through a national strategy to ensure that children's rights in the online world are balanced and protected.

Better Outcomes Brighter Futures: The National Policy Framework for Children and Young People 2014-2020 commits to support efforts to limit exposure by children to age-inappropriate material on the internet.⁶¹³ It also commits to support all efforts to combat child sexual abuse, exploitation and trafficking, including through support for an online filtering system in relation to blocking online child abuse material.⁶¹⁴ While a filtering system has not yet been proposed, the Criminal Law (Sexual Offences) Bill 2015 makes important amendments to the existing legislative framework with regard to sexual offences against children. It creates new offences in relation to viewing online child sexual abuse material⁶¹⁵ and sexual exploitation using ICT to address issues such as online grooming and solicitation. The Bill is expected to be enacted before the end of February 2017.⁶¹⁶ If enacted, the Bill would mean that Ireland is closer to meeting its international human rights obligations for children under the Lanzarote Convention,⁶¹⁷ the EU Directive on Combatting the Sexual Abuse of Children and Child Pornography⁶¹⁸

605 UNCRC, 'Report of the 2014 General Day of Discussion, Digital Media and Children's Rights' (OHCHR, 2014) <http://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2014/DGD_report.pdf> accessed 3 February 2017, 22.

606 *ibid.*

607 Brian O'Neill and Thuy Dinh, 'Social Networking Among Irish 9-16 Year Olds' (Arrow@DIT, 2012) <<http://arrow.dit.ie/cgi/viewcontent.cgi?article=1028&context=cserrep>> accessed 3 February 2017, 1.

608 *ibid.* 36.

609 *ibid.*

610 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 13.

611 *ibid.* Art 17.

612 *ibid.* Art 15.

613 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) Commitment 3.8.

614 *ibid.* Commitment 3.13.

615 Criminal Law (Sexual Offences) Bill 2015, s 13. This relates to the offence of 'child pornography'. It's worth noting that Interpol recommends the use of more appropriate and accurate terminology to avoid the trivialisation of the sexual exploitation and abuse of children. For this reason, the term 'child sex abuse material' is used in *Report Card 2017*. For more see Interpol, 'Appropriate Terminology' <<https://www.interpol.int/Crime-areas/Crimes-against-children/Appropriate-terminology>> accessed 3 February 2017.

616 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 18 January 2017.

617 Council of Europe, Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) (2010) CETS No. 201.

618 EU Council Directive (EC) 92/EU on 'Combatting the Sexual Abuse and Sexual Exploitation of Children and Child Pornography' OJ L 335 of 17.12.2011.

as well as the Second Optional Protocol to the UN Convention on the Rights of the Child.⁶¹⁹

While the Bill is a landmark piece of legislation for the protection of children online, there are a number of areas in which gaps remain. The Special Rapporteur on Child Protection, Professor Geoffrey Shannon has highlighted that the Bill does not make an explicit reference to ICT in offences such as invitation to sexual touching, sexual activity in the presence of a child and causing a child to watch sexual activity.⁶²⁰ In addition, the Bill does not expressly include computer-generated images of abuse and images of fictitious children in the definition of child pornography under the Child Trafficking and Pornography Act 1998, where it currently only refers to a 'visual representation' of 'a person who is or is depicted as being a child' and who is engaged in 'simulated sexually explicit activity'.⁶²¹

In its 2016 report on *Harmful Communications and Digital Safety*, the Law Reform Commission made relevant recommendations with regard to harassment, stalking and the non-consensual sharing of intimate images. It also suggested the establishment of an Office of a Digital Safety Commissioner of Ireland on a statutory basis to promote digital and online safety and to oversee and regulate a system of 'take down' orders for harmful digital communications.⁶²²

Child Safeguarding Statements: *A Programme for a Partnership Government* commits to implementing Child Safeguarding Statements as part of Children First legislation. *Better Outcomes Brighter Futures* commits to implementing the *Children First: National Guidance for the Protection and Welfare of Children*⁶²³ in full, including legislating for elements of the guidance, implementing sectoral plans, associated training and ensuring vetting requirements are met.⁶²⁴ The Children First Act 2015 placed elements of the Children First National Guidance on a statutory footing. It provides

that services that fall under its remit⁶²⁵ must publish a Child Safeguarding Statement that sets out the organisation's procedures to manage and reduce risk for children availing of their services.⁶²⁶ The Statement should also include a written assessment of the risks to a child and specify the procedures that are in place to manage risks and procedures around the management of allegations against staff and provision of child protection information, instruction and training to staff.⁶²⁷



CHILDREN SAW / RECEIVED SEXUAL MESSAGES ONLINE

While some sections of the 2015 Act have been commenced, those relating to Child Safeguarding Statements and other critical provisions have not. This means that the Government has still not fulfilled its commitment to implement Child Safeguarding Statements under the Act in 2016.

Vetting: *A Programme for a Partnership Government* commits to enforcing robust and efficient vetting procedures for all positions involving substantial access to children. *Better Outcomes Brighter Futures* commits to 'ensuring vetting requirements are met'.⁶²⁸ The National Vetting Bureau (Children and Vulnerable

619 UNCRC, 'Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography', (2000) A/RES/54/263.

620 Prof Geoffrey Shannon, *Ninth Report of the Special Rapporteur on Child Protection* (DCYA 2016) 122 in relation to s 4, 5 and 6 of the Criminal Law (Sexual Offences) Bill 2015.

621 Criminal Law (Sexual Offences) Bill 2015 s 9. See also Prof Geoffrey Shannon, *Ninth Report of the Special Rapporteur on Child Protection* (DCYA 2016) 123.

622 Law Reform Commission, *Report Harmful Communications and Digital Safety* (LRC 116-2016) Recommendation 4.18.

623 Department of Children and Youth Affairs, *Children First: National Guidance for the Protection and Welfare of Children* (DCYA 2011).

624 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) Commitment 3.6.

625 Schedule 1 of the Act sets out the types of organisations that carry out 'Relevant Services' for the purposes of the Act, those for which a necessary and regular part of their work involves access to or contact with children.

626 Children First Act 2015, s 10- 11.

627 *ibid* s 11. If, upon request, a relevant organisation fails to supply their Safeguarding Statement to the Child and Family Agency, they can be issued with a notice of non-compliance, see s 12-13.

628 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) Commitment 3.6.

Persons) Acts 2012-2016 was commenced, almost in full, on the 29 April 2016.⁶²⁹ The commitment refers to enforcing vetting procedures for positions involving 'substantial' access to children. The Act provides for the mandatory vetting of those who work with children and vulnerable people, where 'a necessary and regular part [of this work] consists mainly of the person having access to, or contact with, children.'⁶³⁰ However, because many childminders, nannies and au pairs are unregulated, there is no data available on the extent to which these groups are vetted despite the nature of their work.

A Programme for a Partnership Government commits to enforcing robust and efficient vetting procedures for all positions involving substantial access to children.

The National Vetting Bureau, which prior to the Act was known as the Garda Central Vetting Unit, conducts vetting. It received 389,548 vetting applications in 2016.⁶³¹ E-vetting facilities were launched in 2016 to streamline the vetting process and reduce processing times for applications.⁶³² As a result, 93 per cent of applications were received online by the end of 2016 and of those, 80 per cent were dealt with in five working days.⁶³³ It also allows applicants to track the progress of their application online. Paper applications have an approximate four week turnaround time which is considered a minimum time given the administrative work involved.⁶³⁴

The commencement of the Act is very welcome as is the introduction of e-vetting which has significantly improved the efficiency of the process and would appear to go some way towards meeting the Government's commitment in this area. The robustness

of the procedure is undermined somewhat by the fact that there is no facility or provision internationally for the National Vetting Bureau to seek information from police authorities abroad with regard to time spent living outside of Ireland by a person applying to be vetted.⁶³⁵ This is particularly relevant given the potential online exploitation of children by perpetrators outside of this jurisdiction. The Special Rapporteur on Child Protection has suggested that protocols or administrative arrangements with police authorities in foreign jurisdictions might be engaged to address the issue, or provision for the exchange of information could be established through forthcoming legislation to implement the EU Framework Decision on the exchange of criminal records information.⁶³⁶ In order to ensure the efficacy of vetting, the National Vetting Bureau and the organisations supported to carry out Garda vetting checks must continue to be adequately resourced and supported.

629 The Act was commenced by SI 214/16 apart from s 20 which relates to Re-Vetting. A number of amendments were made by the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016.

630 Under s 2 of the Act, vulnerable persons are people other than children who suffer from a mental disorder, an intellectual disability, a physical impairment or significant disability. Schedule 1 of the legislation lists 'relevant persons' who require vetting if working in the certain environments. These are people for whom access to or contact with children is a necessary or regular part of their work or activity such as people who work in pre-schools, schools, hospitals, detention facilities, asylum reception centres, as religious instructors, involved in transportation of children and research which involves interaction with children.

631 Communication received by the Children's Rights Alliance from the National Vetting Bureau, 19 January 2017.

632 Tánaiste and Minister for Justice, Frances Fitzgerald TD, Written Answers, Garda Vetting Applications, 5 October 2016 [28908/16].

633 Communication received by the Children's Rights Alliance from the National Vetting Bureau, 19 January 2017.

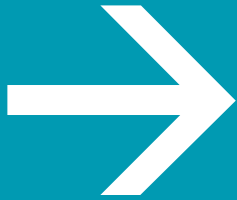
634 Tánaiste and Minister for Justice, Frances Fitzgerald TD, Written Answers, Garda Vetting Applications, 5 October 2016 [28908/16].

635 Prof Geoffrey Shannon, *Eighth Report of the Special Rapporteur on Child Protection* (DCYA 2014) 96.

636 *ibid*.

Child Protection

Immediate Actions for 2017



ENACT AND COMMENCE THE CRIMINAL LAW (SEXUAL OFFENCES) BILL 2015 AS A MATTER OF PRIORITY.

The Criminal Law (Sexual Offences) Bill 2015 should be enacted and commenced without delay to close the loopholes in child protection that currently exist.

DEVELOP A NATIONAL STRATEGY TO PROTECT THE FULL RANGE OF THE RIGHTS OF CHILDREN ONLINE.

A high level inter-departmental group should be established, tasked with ensuring that the rights of children online are balanced and protected. It should develop a national strategy on the digital rights of children to ensure a cross-departmental understanding and response to protecting the full range of the rights of children in the online world.

ENSURE THAT INFORMATION ON TIME SPENT OUTSIDE OF IRELAND IS SOUGHT AND CONSIDERED IN THE GARDA VETTING PROCESS.

The process of vetting individuals to keep children and vulnerable adults safe is undermined significantly if information on periods of time spent abroad is not sought and reviewed as part of the vetting process. This gap should be addressed as a matter of urgency.

5.3

Child Victims of Crime

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > Publish legislation to implement in full the EU Victims of Crime Directive and develop victim support services, including Garda Victims Support Offices, which provide a single point of contact in accessing support and information.



Progress: Some

'Child Victims of Crime' receives a 'D' grade in *Report Card 2017*. The Criminal Justice (Victims of Crime) Bill 2016 was published in late December and reflects a number of the key provisions to safeguard the rights of child victims under the EU Victims of Crime Directive. However, gaps remain and adequate supports and services for child victims are severely lacking.

The State has a duty to promote the recovery and social integration of child victims under the UN Convention on the Rights of the Child.⁶³⁷ States must adopt appropriate measures to protect the rights and interests of child victims at all stages of the criminal justice process including recognition of their vulnerability and adapting procedures to recognise their needs.⁶³⁸ Child victims must be informed of their rights, role, timing and progress of proceedings.⁶³⁹ Unnecessary delays in the processing of their cases should be avoided.⁶⁴⁰ It also provides that the best interests of the child shall be a primary consideration in the treatment of child victims by the criminal justice system.⁶⁴¹

Currently, Irish law does little to protect the rights of victims of crime, adult or child. A 'Victim's Charter and Guide to the Criminal Justice System' was published by the Victims of Crime Office in 2010 but it is not legally binding.

Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020 commits to providing 'effective and timely protection and support services, including therapeutic services for victims of abuse and crime'.⁶⁴² In addition, it commits to reforming domestic violence legislation that includes protection for victims and to a legal and policy framework for child victims of trafficking and measures for their identification.⁶⁴³ In 2016, the UN Committee on the Rights of the Child recommended that the

637 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 39.

638 UNCRC, 'Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography' (2000) A/RES/54/263, Art 8(1) (a).

639 *ibid* Art 8(1)(b).

640 *ibid* Art 8(1)(g).

641 *ibid* Art 8(3).

642 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) Commitment 3.10.

643 *ibid* Commitments 3.13, 3.14 and 3.15.

644 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 58; UNCRC 'General Comment No. 20 on the Rights of the Child During Adolescence' (2016) UN Doc CRC/C/GC/20 para 38(b).

State provide redress and rehabilitation to the victims of domestic violence.⁶⁴⁴

Currently, Irish law does little to protect the rights of victims of crime, adult or child. A 'Victim's Charter and Guide to the Criminal Justice System' was published by the Victims of Crime Office in 2010⁶⁴⁵ but it is not legally binding. The EU Victims Directive aims to 'strengthen the rights of victims and their family members to information, support and protection and victims' procedural rights in criminal proceedings' as well as provide training for officials coming into contact with victims and coordinate national services.⁶⁴⁶ Reform in this area is now required as the State is more than a year late in meeting the deadline of 16 November 2015 for transposing the Directive into Irish law. The Heads and General Scheme of the Criminal Justice (Victims of Crime) Bill 2015⁶⁴⁷ underwent pre-legislative scrutiny in October 2015 but the legislation fell with the 31st Dáil.⁶⁴⁸ An updated Bill was published on 29 December 2016.⁶⁴⁹ The State must follow through with its commitment to prioritise the legislation and ensure it is enacted without further delay.

Criminal Justice (Victims of Crime) Bill 2016: The Criminal Justice (Victims of Crime) Bill 2016 sets out a range of rights for victims of crime, including children, in line with the EU Directive but significant gaps remain that must be addressed before the Bill is enacted.

The EU Directive provides that the child 'and the holder of parental responsibility' are to be 'informed of any measures or rights specifically focused on the child'.⁶⁵⁰ The Bill provides for the right of victims, including children, to information relating to the criminal justice process and to their case.⁶⁵¹ Victims may be accompanied by a person of their choice when receiving such information at first instance.⁶⁵²



FOR CHILD VICTIMS OF SEXUAL ABUSE

Children are automatically assumed to have protection needs under the Bill and it provides for a further assessment of the need for protection or special measures to be carried out on their behalf.⁶⁵³ This is a very positive provision. The requirement for special measures by a child will be determined by reference to the child's best interests, his or her views, taking into account his or her age and level of maturity and any views raised by a parent, guardian or any other person authorised to act on his or her behalf.⁶⁵⁴ While this is welcome, the provision falls short of the standard set in the EU Directive, which provides in Article 1 that 'in the application of this Directive, where the victim is a child, the child's best interests shall be a primary consideration and shall be assessed on an individual basis'.⁶⁵⁵ In the Bill, the principle is confined to the section on whether and the extent to which a child might benefit from special or protection measures, and does not apply to the provisions of the Bill generally. The principle should be incorporated as a standalone provision applying to the full application of the Bill as it does under the Directive.⁶⁵⁶

645 Victims of Crime Office, 'Victims Charter and Guide to the Criminal Justice System' (Department of Justice and Law Reform, 2010) <<http://bit.ly/2ljWUpE>> accessed 7 February 2017.

646 European Council Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime OJ L 315/57; European Commission, 'Justice, Building a European Area of Justice, Victims' <<http://bit.ly/2cpbSGJ>> accessed 7 February 2017.

647 Department of Justice and Equality, 'Criminal Justice (Victims of Crime) Bill 2015' <<http://bit.ly/2kJf3AN>> accessed 7 February 2017.

648 Office of the Government Chief Whip, 'Legislation Programme, Autumn 2016' <<http://bit.ly/2knBI9Z>> accessed 7 February 2017, 8.

649 Criminal Justice (Victims of Crime) Bill 2015.

650 EU Council Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime OJ L 315/57, Art 1.2.

651 Criminal Justice (Victims of Crime) Bill 2015, s 6-7.

652 *ibid* s 6(4).

653 *ibid* s 14.

654 *ibid* s 14(7).

655 European Council Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime OJ L 315/57, Art 1.2.

656 *ibid*.

Provision is made in the Bill to seek the child's views only in the same limited circumstances as the best interests principle and is not generally applicable to the provisions of the Bill.⁶⁵⁷ Every child has the right to have their views heard in all matters concerning them.⁶⁵⁸ This should be extended to other provisions of the Bill such as section 17 which provides that the Gardaí or the Ombudsman Commission 'shall arrange for the victim to be accompanied by an appropriate person when attending any interviews and court proceedings at which the victims is required to be present'.⁶⁵⁹ All victims including child victims should be consulted as to whom this 'appropriate person' should be. The Bill sets out a wider definition of the types of offences for which victim impact statements will be heard and this is a welcome development.⁶⁶⁰

Child victims face significant delays in accessing counselling support services; for example the CARI centre in Dublin had a waiting list of 95 children in December 2016. This is an increase of over 200 per cent since January 2016.

Provision is made under the Bill to prevent or minimise further trauma or re-victimisation of a victim in criminal proceedings as a result of the victim having to give evidence in the presence of the accused or the public. The Bill provides that children can give evidence from behind a screen where a live television link is not being used to achieve this aim.⁶⁶¹

The Special Rapporteur on Child Protection has noted that giving evidence behind a screen 'may prove

problematic' because it means that the child still has to come into the 'intimidating atmosphere of a courtroom and remain there for the duration of his or her evidence, knowing the accused is only a few feet away' and he suggests that this be used only as a last resort.⁶⁶² He proposes that an alternative would be that a screen would only be used in relation to child witnesses where the child specifically opts out of giving his or her evidence by television link, subject to the approval of the court and having regard to the child's wishes.⁶⁶³ This would bring the provision into line with Article 8(1) of the Optional Protocol to the UN Convention on the Rights of the Child on the Child Pornography and the Sale of Children and the EU Directive on combating the sexual abuse and sexual exploitation of children and child pornography.⁶⁶⁴

Given the importance of this Bill to the most vulnerable children in a time of crisis and need, it should be fast-tracked through the legislative process as a matter of urgency. Once it has been enacted, a review of the criminal justice system should be undertaken to ensure that it is in compliance with the new legislation.

Victim Support Services: A key provision of the EU Directive to provide 'confidential victim support services, free of charge, acting in the interests of the victims before, during and for an appropriate time after criminal proceedings'⁶⁶⁵ is a gaping omission from the current draft of the Criminal Justice (Victims of Crime) Bill 2016.

Child victims face significant delays in accessing counselling support services;⁶⁶⁶ for example the Children at Risk Ireland (CARI) centre in Dublin had a waiting list of 95 children in December 2016.⁶⁶⁷ This is an increase of over 200 per cent since January 2015.⁶⁶⁸ For those under the age of 14, the difficulties in accessing services are compounded by the existence of only one 24-hour State service providing

657 Criminal Justice (Victims of Crime) Bill 2015, s 14(7)(b)(iii).

658 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 12.

659 Criminal Justice (Victims of Crime) Bill 2015, s 17(1).

660 *ibid* s 27 (a).

661 *ibid* s 26.

662 Prof Geoffrey Shannon, *Ninth Report of the Special Rapporteur on Child Protection* (DCYA 2016) 130.

663 *ibid* 156.

664 EU Council Directive (EC) 92/EU on Combatting the Sexual Abuse and Sexual Exploitation of Children and Child Pornography [2011] OJ L 335 of 17.12.2011. It provides that States must ensure that in criminal proceedings relating to sexual exploitation, a 'child victim must be heard in the courtroom without being present, in particular through the use of appropriate communication technologies'.

665 *ibid* Art 8(1).

666 For example, in 2015, a media report highlighted the case of a child who had waited for two years to access counselling. RTÉ Morning Ireland (March 2015) and Kelly O'Brien, 'Abused Boys Wait Two Years for Counselling', *The Irish Examiner* (Cork, 21 March 2015).

667 Communication received by the Children's Rights Alliance from CARI, 7 February 2017.

668 *ibid*, 27 January 2015.

forensic examinations, located in Galway.⁶⁶⁹ In 2015-16, this service has had to temporarily close twice, most recently due to lack of funding.⁶⁷⁰ This is an unacceptable situation for some of the State's most vulnerable children, particularly given that the total cost of providing the 24-hour service in Galway is just €212,000.⁶⁷¹ In December 2016, the Tánaiste and Minister for Justice and Equality announced a total of €1.712 million for organisations supporting victims of crime 'to give effect to the EU Victims Directive in terms of providing information, advice and support to victims.'⁶⁷² While this is welcome, a second 24-hour State service providing forensic examinations for child victims under the age of 14 should be established as a matter of urgency. The right to access these services must be placed on a statutory footing. Victims over 14 years are entitled to access specialist integrated Sexual Assault Treatment Units, but these are unavailable in most parts of Ireland.⁶⁷³

Child victims also face delays in their case proceeding through the courts. The most recent Garda Inspectorate Report from 2014 found delays of up to six months in the interviewing of child victims or witnesses of sexual or physical abuse or serious neglect.⁶⁷⁴ The Guidelines on Child-Friendly Justice, published by the Council of Europe, provide that in all cases involving children, 'the urgency principle should be applied to provide a speedy response and protect the best interests of the child, while respecting the rule of law.'⁶⁷⁵ It notes that a child perceives time differently to an adult and a year of proceedings in a case may seem a lot longer in a child's life than in that of an adult.⁶⁷⁶ A priority list should be developed by the Director of Public Prosecutions

or the Gardaí in their work to ensure that cases involving children are fast-tracked through the criminal justice process.

The Garda Victims Services Offices were launched under the previous Government and continue to operate in 2016.⁶⁷⁷ The Offices act as the central point of contact for victims in each Division and they supplement victim support activity already being carried out by investigating members of the Garda Síochána.⁶⁷⁸ The aim of the initiative is to develop a 'renewed culture [that] will see a strong victim-orientation across the Garda service' with the support of victims 'now part of every anti-crime strategy'.⁶⁷⁹ The Offices are staffed by 'specially trained personnel operating to a Standard Operating Procedure'.⁶⁸⁰ This latter point around training would appear to meet the requirement under Article 8(4) of the Optional Protocol to the UN Convention that States 'take measures to ensure appropriate training... for the persons who work with victims...'.⁶⁸¹ The 2015 Bill provided for vital awareness training for professionals who have contact with victims in the course of their official duties to 'enable them to deal with victims in an impartial, respectful and professional manner'.⁶⁸² Unfortunately this has not been retained in the 2016 Bill but should be reinstated and enhanced by providing for the training of professionals including all Gardaí to enable them to adequately deal with the particular situation of child victims.

The unsuitability of the Irish Court system in dealing with child victims has been highlighted by Professor Geoffrey Shannon, Special Rapporteur on Child Protection.⁶⁸³ Concerns have been raised over the lack

669 Health Service Executive, 'Child and Adolescent Sexual Assault Treatment Services' <<http://www.hse.ie/satu/>> accessed 7 February 2017.

670 Newstalk, 'Ireland's only 24-hour sexual assault clinic for children to close' (3 March 2016) <<http://www.newstalk.com/Galway-Child-Adolescent-Sexual-Assault-Treatment-Unit-SATU-Dr-Joanne-Nelson-closure>> accessed 31 January 2017.

671 *ibid.* €212,000 will fund four specialised examiners, two consultant paediatricians, one consultant gynaecologist and a specialist general practitioner to provide a 24-hour service for child victims of sexual assault.

672 Department of Justice and Equality, 'Tánaiste announces funding of €1.712 million for organisations supporting victims of crime', (30 December 2016) <<http://www.justice.ie/en/JELR/Pages/PR16000405>> accessed 30 January 2017.

673 There are only six Sexual Assault Treatment Units clinics in Ireland (Cork, Dublin, Galway, Mullingar, Donegal and Waterford). Health Service Executive, 'Sexual Assault Treatment Unit', <<http://www.hse.ie/satu/>> accessed 7 February 2017.

674 Garda Inspectorate, *Crime Investigation Report*, (Garda Inspectorate 2014) 50.

675 Council of Europe, *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, Explanatory memoranda*, (Council of Europe Publishing 2010) 28.

676 *ibid.* 83.

677 An Garda Síochána, 'Launch of The Garda Victims Services Offices 9/12/15' <<http://bit.ly/2jYOFTP>> accessed 7 February 2017.

678 *ibid.*

679 *ibid.*

680 *ibid.*

681 UNCRC, 'Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography' (2000) A/RES/54/263, Art 8(4).

682 Department of Justice and Equality, 'Criminal Justice (Victims of Crime) Bill 2015' <<http://bit.ly/2kJf3AN>> accessed 31 January 2017, Head 20.

of mechanisms to prevent secondary victimisation of children who have been sexually abused.⁶⁸⁴ The European Commission has expressed concern at the lack of training for professionals working with child victims and lack of specific provision in the Garda Charter to provide child victims with information.⁶⁸⁵ Irish courts are ill-equipped to deal with child victims as many lawyers and judges are not trained to work with child victims.⁶⁸⁶ In the United Kingdom, it will soon become mandatory for all advocates wishing to undertake publicly funded work for serious sexual offence cases involving vulnerable witnesses to undertake training with regard to vulnerable witnesses.⁶⁸⁷ There is no equivalent mandatory training required of solicitors and barristers in Ireland undertaking work with vulnerable witnesses or victims. The legal profession should be encouraged to ensure extensive training for all legal professionals working with child victims.

for medical examination and counselling as well as interviews with the possibility of a third party to listen in by video link in an adjacent room. It can ensure that professionals benefit from support and advice of other disciplines when taking decisions that will impact on the child and that the child victim's needs are catered for under one roof.

Child victims also face delays in their case proceeding through the courts. The most recent Garda Inspectorate Report from 2014 found delays of up to six months in the interviewing of child victims or witnesses of sexual or physical abuse or serious neglect.

Given its history of sexual abuse cases, Ireland should lead in world class services and supports for child victims. The Guidelines on Child-Friendly Justice encourage States to increase the multi-disciplinary nature of their response to child victims which would go some way to joining up services and the effectiveness of the response.⁶⁸⁸ One option that might be explored is the establishment of 'Children's Houses' found in Nordic countries.⁶⁸⁹ The 'Children's House' model is a one-stop shop where a range of services are provided for children such as social services, paediatricians, police, prosecutors and forensic medical experts work together. The House provides rooms

683 Prof Geoffrey Shannon, *Eighth Report of the Special Rapporteur on Child Protection* (DCYA 2014) 34.

684 *ibid*.

685 European Commission – Directorate-General for Justice, *Summary of Contextual Overviews on Children's Involvement in Criminal Judicial Proceedings in the 28 Member States of the European Union* (European Union, 2014) 28.

686 Una Ní Raifeartaigh 'Child sexual abuse cases: the need for cultural change within the criminal justice system' (2009) 14 (5) BR 103.

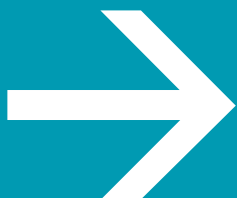
687 The Inns of Court College of Advocacy, 'Advocacy and the Vulnerable' <<http://www.icca.ac.uk/advocacy-the-vulnerable>> accessed 31 January 2017 and The Bar Council UK, 'Bar Council Launches Vulnerable Witness Advocacy Training' (4 November 2016) <<http://bit.ly/2knHVxh>> accessed 31 January 2017.

688 Council of Europe, *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, Explanatory memoranda*, (Council of Europe Publishing 2010) 66.

689 *ibid*.

Child Victims of Crime

Immediate Actions for 2017



STRENGTHEN THE CRIMINAL JUSTICE (VICTIMS OF CRIME) BILL 2016.

The Criminal Justice (Victims of Crime) Bill 2016 is a critical step forward in the provision of rights and support to all victims of crime including children. The Bill should be amended to:

- > Incorporate both the best interests principle and the voice of the child principle as standalone provisions in the application of the Bill where the victim is a child.
- > A child victim should be consulted as to who the 'appropriate person' should be to accompany him or her during interviews or court proceedings.
- > Make provision for the training of professionals including all Gardaí to enable them to adequately deal with the particular situation of child victims.
- > Ensure that where a child is giving evidence in criminal proceedings, the use of a screen should only be used if the child specifically opts out of giving his or her evidence by television link, subject to the approval of the court and having regard to the child's wishes.

FAST-TRACK THE ENACTMENT OF THE CRIMINAL JUSTICE (VICTIMS OF CRIME) BILL 2016 AND CONDUCT A REVIEW OF THE CRIMINAL JUSTICE SYSTEM TO ENSURE ITS COMPLIANCE WITH THE NEW LEGISLATION.

The date for transposition of the EU Directive through the Bill expired in November 2015. The Government should ensure that the legislation is prioritised, strengthened and is fast-tracked through the legislative process at the earliest possible opportunity to ensure that the most vulnerable victims have access to improved supports in their time of need. Once the Bill is enacted, conduct a review of the criminal justice system in light of the new legislation to ensure its compliance.

ENSURE THAT CHILD VICTIMS OF CRIME HAVE IMMEDIATE ACCESS TO ADEQUATE, FREE AND CONFIDENTIAL SUPPORTS SERVICES.

Urgent funding should be made available to establish a second 24 hour State service providing forensic examinations for child victims under the age of 14 and the right to access these services must be placed on a statutory footing.

DEVELOP A PRIORITY LIST FOR CASES INVOLVING CHILDREN IN THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS AND AN GARDA SÍOCHÁNA.

In order to reduce delays faced by children in court proceedings, the Office of the Director of Public Prosecutions and An Garda Síochána should develop a priority list of cases involving children that should be fast-tracked through the criminal justice system.

CONSIDER THE ESTABLISHMENT OF THE 'CHILDREN'S HOUSE' AS A ONE STOP SHOP FOR PROVIDING SERVICES TO CHILD VICTIMS.

The 'Children's House' model provides multi-disciplinary services to children in one location from social services to police and forensic medical experts and should be considered as a means of providing world class services and supports to child victims.

6. RIGHT TO HEALTH

Chapter Grade

D+

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Children that experience decay in their baby teeth are more likely to have future dental problems. Oral health is an essential component of good health. Therefore government commitment to dental health including a preventive dental health programme will have an impact on the oral health and wellbeing of children."

Patricia Gilsenan O'Neill, Chief Executive, Dental Health Foundation.

Right to Health

Every child has the right to enjoy the highest possible standard of health, to access health and other related services and to facilities for the treatment of illness and rehabilitation of health. Children with disabilities have the right to a full and decent life within the community, and to special care.

Summary of Article 24 of the UN Convention on the Rights of the Child



National Youth Council of Ireland, 'Youth Arts' programme



IN THE NEWS

CHILDREN AND TEENS WAITING OVER 12 MONTHS FOR A MENTAL HEALTH APPOINTMENT

theJournal.ie, 13 May 2016

A new report into the HSE's performance has shown young people still struggling to access mental health services.

The new report – looking at the first two months of the year – shows 182 teenagers and children in January and 177 in February who had to wait 12 months or more for an appointment. [...]

Summing up how the area is performing, the HSE pointed to the number of vacancies in the service and difficulties in recruiting staff as two areas that still posed problems.

These shortages, it says, make delivering services at community level much tougher. [...]

Mental health funding has been under increased scrutiny in recent months, after former Minister for

Health Leo Varadkar said that money earmarked for the service would be diverted elsewhere.

In the new report, spending in the area is shown to be around €2 million over-budget for the year, coming in at €128.8 million. [...]

In previous years the government has been able to mask difficulties in the health service hitting its budgetary targets with a supplementary budget, but that isn't an option this time around.

The HSE National Service Plan published in December of last year pointed to new EU budgetary rules that prevent this from happening.

By Michael Sheils McNamee

6.1

Primary Care

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > Extend in phases free GP care to under 18s, subject to negotiation with GPs.

Progress: Slow

- > Introduce a dental health package for the under 6s.

Progress: Slow

- > Extend the entitlement to a medical card for all children in receipt of Domiciliary Care Allowance in Budget 2017

Progress: Limited

'Primary Care' receives a 'D' grade in *Report Card 2017*. The commitment to extend free General Practitioner (GP) care to all children under the age of 18 has stalled pending the completion of the negotiations of a new GP contract. The Dental Health Package will not be introduced until after the publication of the National Oral Health Policy in 2017. Provision was made in Budget 2017 to fund medical cards for children in receipt of Domiciliary Care Allowance; however the legislation required to give effect to this has not been published and there is no clear timeline for when the scheme will be put in place.

Every child has the right to enjoy the highest attainable standard of physical and mental health.⁶⁹⁰ Article 24 of the UN Convention on the Rights of the Child places particular emphasis on the development of primary health care (which includes access to GP care).⁶⁹¹ The UN Committee on the Rights of the Child has also stressed that primary care should include the provision of information and services, as well as the prevention of illness and injury.⁶⁹² *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020*, reiterated the commitment to introduce universal GP services,⁶⁹³ first articulated in the 2012 *Future Health Framework*.⁶⁹⁴

690 A child's right to health is set out in UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 24.

691 *ibid* Art 24 (b).

692 UNCRC 'General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art 24)' (2013) UN Doc CRC/C/GC/15 para 26.

693 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) Commitment G9, 30.

694 Department of Health, *Future Health: A Strategic Framework for Reform of the Health Service 2012 – 2015*, (DOH 2012) ii.

Free GP Care: In 2013, the Government announced the first step towards universal free GP care, by allocating €37 million to meet the full year cost of free GP care to children under the age of six years.⁶⁹⁵ Following the enactment of the Health (General Practitioner Service) Act 2014 and the successful negotiation of a contract for the provision of GP services to children under six, the scheme for children began in July 2015.⁶⁹⁶ By January 2017, 363,694 children have access to GP care without fees through medical cards or GP visit cards, representing 84 percent of the eligible population.⁶⁹⁷ The programme has been operational for a year and it is unclear why take up rates are not higher than this despite the number of registrations for the scheme being consistent each month.⁶⁹⁸ There is concern that children from vulnerable groups including Traveller and Roma children, migrant and undocumented children may experience barriers in accessing their entitlement to free GP care. In particular, the concern relates to the potential difficulty people may face in demonstrating that they are 'ordinarily resident' in Ireland.⁶⁹⁹ Children in families with literacy difficulties may also have problems in accessing the scheme.⁷⁰⁰

New elements of the scheme include the provision of wellbeing and prevention assessments of children at the age of two years and again at five years and an agreed cycle of care for children diagnosed with asthma.⁷⁰¹ By January 2017, 29,080 children had been registered for the asthma cycle of care by their GPs.⁷⁰² The expanded

scheme is a further positive step towards fulfilling the child's right to access preventive healthcare, in line with EU obligations⁷⁰³ and international human rights law.⁷⁰⁴ There is considerable scope to enhance the prevention provisions to provide care for other high incidence chronic illnesses affecting children and young people such as eczema/skin allergies and food/digestive allergies which alongside asthma account or more than a half of all chronic illnesses among three year olds.⁷⁰⁵

Every child has the right to enjoy the highest attainable standard of physical and mental health. Article 24 of the UN Convention on the Rights of the Child places particular emphasis on the development of primary health care (which includes access to GP care).

The previous Government announced in Budget 2016, the last of its five-year term, that the free GP Care Scheme would be extended to all children under the age of 12.⁷⁰⁶ Roll-out of the scheme was expected to commence in 2016 subject to contract negotiations with the Irish Medical Organisation and the passing of the necessary legislation.⁷⁰⁷ However, the introduction

695 Minister for Public Expenditure and Reform, Brendan Howlin TD, Address to Dáil Éireann on Expenditure Estimates 2014, 15 October 2013.

696 Communication received by the Children's Rights Alliance from the Department of Health, 20 January 2017.

697 By January 2017, 115,928 children under six have medical cards and 247,766 children have a GP visit card. Communication received by the Children's Rights Alliance from the Department of Health, 20 January 2017.

698 Communication received by the Children's Rights Alliance from the Department of Health, 20 January 2017.

699 The application form asks applicants to state whether their child (or children) live, or intend to live, in the Republic of Ireland for at least one year. There is a concern that this requirement may be confused with the requirement to prove 'habitual residence' by satisfying a number of criteria to access social assistance payments. The Habitual Residence Condition applies to all means-tested social welfare payments and Child Benefit. This confusion is likely to be exacerbated by the lack of written guidance from the HSE on how this requirement can be demonstrated.

700 One in six Irish adults is at, or below Level 1 on a five level literacy scale. At this level a person may be unable to understand basic written information. National Adult Literacy Agency, 'Literacy in Ireland' <<https://www.nala.ie/literacy/literacy-in-ireland>> accessed 27 January 2017.

701 Health Service Executive, 'Form of Agreement with Registered Medical Practitioners for Provision of Services to Children Under 6 Years Old Pursuant to The Health (General Practitioner Service) Act 2014 (Under 6 Year Olds)' (2015) <<http://health.gov.ie/wp-content/uploads/2015/04/Under-6s-Form-of-Agreement-GP-Contract1.pdf>> accessed 27 January 2017.

702 Communication received by the Children's Rights Alliance from the Department of Health, 20 January 2017.

703 European Union Charter of Fundamental Rights (22 October 2012) OJ C 326, Art 35: 'Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.'

704 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 24; International Covenant on Economic, Social and Cultural Rights (16 December 1966) 993 UNTS 3 (ICESCR) Art 12.

705 Economic and Social Research Institute, *Growing Up in Ireland: Key Findings: Infant Cohort (at 3 years) No.1 The Health of 3 Year Olds* (ESRI & TCD 2011) 3.

706 Minister for Public Expenditure and Reform, Brendan Howlin TD, Address to Dáil Éireann on Expenditure Estimates 2016, 13 October 2015.

707 Communication received by the Children's Rights Alliance from the Department of Health, 18 December 2015.

of the scheme has been delayed and will form part of the negotiations of a new GP Contract,⁷⁰⁸ as will the further roll-out of GP care to further groups of children and young people under the age of 18.⁷⁰⁹ The negotiations on the new contract were due to commence by the end of 2016,⁷¹⁰ however they are now expected to begin in early 2017.⁷¹¹ No timeframe has been given for the completion of the talks.⁷¹² It is essential that there is GP buy-in for the expansion of free GP care for children under 18. The rights of children to access preventative healthcare should be prioritised during these negotiations.



CHILDREN UNDER 6 GET FREE GP CARE

Dental Health: *A Programme for a Partnership*
Government committed to introduce a dental health package for children under the age of six to encompass timely access to a comprehensive preventive dental health programme. Currently Health Service Executive (HSE) Dental Clinics provide services for children of school-going age through screenings in primary school at six, nine and 12 years.⁷¹³ The introduction of the dental

health package will be informed by the National Oral Health Policy which is currently being developed by the Department of Health and is due to be completed in 2017.⁷¹⁴ Work on the Policy commenced in 2014 and will inform future provision of dental services, including the dental health package for children under six years. It should be ensured that the dental health programme includes oral health promotion and not focus solely on treatment.⁷¹⁵ The introduction of a dental health package is a positive step towards vindicating the right of a child to the highest attainable standard of health and healthcare.⁷¹⁶

Medical Cards: Medical cards issued by the Health Service Executive entitle holders to a range of health services free of charge including doctor visits and hospital care.⁷¹⁷ In Budget 2017 the Government announced the allocation of €10 million to provide a medical card to all children who qualify for the Domiciliary Care Allowance. The Allowance is a monthly payment for children under the age of 16 with a severe disability, who require ongoing care and attention, substantially over and above what is usually required by a child of the same age.⁷¹⁸ All children in receipt of Domiciliary Care Allowance will automatically qualify for the medical card without the need to satisfy any additional criteria and approximately 9,000 extra children are expected to benefit from the measure.⁷¹⁹ The extension of the medical card scheme to all children in receipt of Domiciliary Care Allowance is a positive step in realising the rights of children with disabilities in Ireland who have exceptional care needs.⁷²⁰ However, the high number of applications for Domiciliary Care Allowance that are refused every year and subsequently allowed on appeal is an issue. In

708 Minister for Health, Simon Harris TD, Written Answers, General Practitioner Services, 12 July 2016 [20909/16].

709 The roll-out of free GP care to under-18s will be considered in the context of the funding available and the capacity of GPs to undertake this additional work. Minister for Health, Simon Harris TD, Written Answers, General Practitioner Contracts, 2 June 2016 [13769/16].

710 Minister for Health, Simon Harris TD, Joint Oireachtas Committee on Health Quarterly Update on Health Issues: Discussion, 10 November 2016.

711 Communication received by the Children's Rights Alliance from the Department of Health, 20 January 2017.

712 Minister for Health, Simon Harris TD, Joint Oireachtas Committee on Health Quarterly Update on Health Issues: Discussion, 10 November 2016.

713 Health Services Executive, 'Dental Services and Treatment' (HSE) <<http://www.hse.ie/eng/services/list/2/dental/>> accessed 7 December 2016.

714 The project, led by the Chief Dental Officer, includes a needs assessment, a review of resources and involves consultation with stakeholders, including dental professionals and the public. Detailed financial analysis will be required in order to establish as accurately as possible the expected costs to the Exchequer in each case. Minister for Health, Simon Harris TD, Written Answers, Water Fluoridation, 27 September 2016 [27049/16].

715 Communication received by the Children's Rights Alliance from the Dental Health Foundation, 16 January 2017.

716 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 24.

717 Health Service Executive, 'Your Guide to Medical Cards' (HSE) <<http://www.hse.ie/eng/services/list/1/schemes/mc/about/>> accessed 30 January 2017.

718 Department of Social Protection, 'Domiciliary Care Allowance' (DSP) <http://www.welfare.ie/en/Pages/1078_Domiciliary-Care-Allowance.aspx> accessed 30 January 2017.

719 Minister for Health, Simon Harris TD, Written Answers, Medical Card Eligibility, 15 November 2016 [34460/16].

720 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 24.

2016, of the 1198 applications that were refused, 90 per cent were subsequently revised by a Deciding Officer, allowed on appeal or partially allowed on appeal.⁷²¹ With eligibility for a medical card under the new scheme resting solely on whether a child qualifies for Domiciliary Care Allowance, it is essential that decisions made at the first instance are correct.

The HSE has been asked to commence the planning for the requirements of the scheme and how cards will issue.⁷²² Legislation will be required in order to give effect to this measure. The Heads of Bill and General Scheme are currently being prepared, however no timeframe has been provided for their publication and expected passage through the Oireachtas.⁷²³

The high number of applications for Domiciliary Care Allowance that are refused every year and subsequently allowed on appeal is an issue. In 2016, of the 1198 applications that were refused, 90 per cent were subsequently revised by a Deciding Officer.

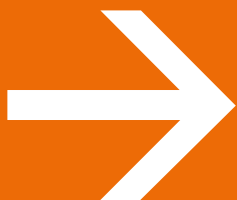
721 Minister for Social Protection, Dr Leo Varadkar TD, Written Answers, Social Welfare Schemes Data, 24 January 2017 [3228/17].

722 Communication received by the Children's Rights Alliance from the Department of Health, 20 January 2017.

723 Minister for Health, Simon Harris TD, Written Answers, Medical Card Administration, 7 December 2016 [38969/16].

Primary Care

Immediate Actions for 2017



PRIORITISE AND COMPLETE THE EXTENSION OF FREE GP CARE TO ALL CHILDREN UNDER THE AGE OF 18 YEARS.

The completion of the introduction of free GP care for all children under 18 years should be a priority for the Government, as a key strategy to vindicate the child's right to access primary healthcare services. Further, measures should be taken to enhance the preventative and health promotion components of the GP contract to extend to other high incidence chronic illnesses.

ENSURE THE NATIONAL ORAL HEALTH POLICY IS DELIVERED IN 2017.

The completion of the National Oral Health Policy on time should be a priority for the Department of Health. Following this the dental health package, with oral health promotion as a key component, for children under six should be introduced without delay.

PUBLISH AND EXPEDITE THE ENACTMENT OF LEGISLATION TO GRANT MEDICAL CARDS TO CHILDREN IN RECEIPT OF DOMICILIARY CARE ALLOWANCE IN EARLY 2017.

Government should expedite the publication and passage through the Oireachtas of the legislation required to grant a medical card to all children in receipt of Domiciliary Care Allowance. Further, the Department of Health and the HSE should ensure that the necessary procedures are put in place so eligible children can avail of the medical card in early 2017.

6.2

Mental Health**GOVERNMENT COMMITMENT**

A Programme for a Partnership Government commits to:

- > Conduct an evidence-based expert review of the current status of implementation of *A Vision for Change* in Ireland and of international best practice in the area of mental health within the frame of human rights.

The review will advise on building further capacity in Child and Adolescent Mental Health Services (CAMHS) and the introduction of more 24/7 service support and liaison teams in primary and emergency care.

Progress: Slow

- > Establish a National Taskforce on Youth Mental Health to consider how best to introduce and teach resilience, coping mechanisms, greater awareness to children and young people, and how to access support services voluntarily at a young age.

Progress: Some

'Mental Health' receives a 'D-' grade in *Report Card 2017*. Progress on the review of *A Vision for Change* is slow with no clear timeline in place for completion. While the National Taskforce on Youth Mental Health was established in 2016, it has limited scope to tackle pressing issues including inadequately funded Children and Adolescent Mental Health Services (CAMHS) services and the availability of age-appropriate in-patient mental health services for young people.

Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020 commits to implement a *Vision for Change* as it relates to children and young people. It also aims to improve equality of access to services and coordination of

service supports, with a focus on improving mental health awareness and reducing incidents of self-harm and suicide.⁷²⁴

All children have a right to the enjoyment of the highest attainable standard of physical and mental health under Article 24 of the UN Convention on the Rights of the Child. The UN Committee on the Rights of the Child has emphasised the serious nature of mental health problems for children and the need to tackle 'behavioural and social issues that undermine children's mental health, psychosocial wellbeing and emotional development'.⁷²⁵

In 2016, the UN Committee on the Rights of the Child expressed its concern about children and young

724 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) Commitment 1.8 and 1.9.

725 UNCRC 'General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art 24)' (2013) UN Doc CRC/C/GC/15 para 38.

people's access to mental health treatment in Ireland. In particular they highlighted the inadequate availability of age appropriate mental health units, the waiting list for accessing mental health supports and the lack of out-of-hours services.⁷²⁶ The UN Committee recommended that the State take action to address these issues by 'improving the capacity and quality of its mental health-care services for in-patient treatment, out of hours facilities and facilities for treating eating disorders.'⁷²⁷ The UN Committee further recommended that the State consider establishing a mental health advocacy service for children that is 'accessible and child-friendly'.⁷²⁸ As young people can be potentially deprived of their liberty against their will for mental health treatment, it is important that an independent advocacy service for children and young people is established.

In 2016, the UN Committee on the Rights of the Child expressed its concern about children and young people's access to mental health treatment in Ireland. In particular they highlighted the inadequate availability of age appropriate mental health units, the waiting list for accessing mental health supports and the lack of out-of-hours services.

Review of *A Vision for Change*: *A Vision for Change* is the national policy for mental health services in Ireland published in 2006.⁷²⁹ It sets out the framework for building 'accessible, community-based, specialist services for people with mental illness' and proposes a holistic view of mental illness with the adoption of an integrated multidisciplinary approach.⁷³⁰ *A Vision for Change* was due to be fully implemented by the end of 2016 but progress to date has been 'slow and inconsistent'⁷³¹ and parts of the policy remain unimplemented.⁷³² Many gaps remain in the current system such as mental health in primary care and the lack of development of services for particular groups of children.⁷³³

The review of *A Vision for Change* has commenced with an expert having been appointed to assess national and international best practice in the development and delivery of mental health services.⁷³⁴ Notably, there is a commitment that this review will be carried out within a 'human rights framework', however it is unclear what this means. This review will form the basis for the development of a new policy for mental health.⁷³⁵ It is expected that the new policy will include a multi-annual implementation plan to inform the allocation of resources in future years.⁷³⁶ There is no clear deadline for when the review will be completed and subsequent policy will be put in place.

Demand for services continues to exceed availability with long waiting lists for CAMHS. Between 2012 and 2015 there was a 25 per cent increase in referrals although the waiting list decreased by 103 cases.⁷³⁷ In September 2016, there were 2,080 children waiting for a first appointment with CAMHS.⁷³⁸ Of these 1,182

726 UNCRC, 'Concluding Observations: Ireland' (20016) UN Doc CRC/C/IRL/CO/3-4, para 53 (b).

727 *ibid* para 54 (b).

728 *ibid* para 54 (c).

729 Department of Health, *A Vision for Change: Report Of The Expert Group On Mental Health Policy* (The Stationery Office 2006).

730 *ibid* 8.

731 Mental Health Commission, 'Implementation of a Vision for Change is slow and inconsistent across the country, according to the Mental Health Commission' (Mental Health Commission, January 2013) <http://www.mhcirl.ie/File/Press_Release_7th_Anniversary_AVFC.pdf> accessed 30 January 2017.

732 Such as the commitment 10.2 that Child and adolescent mental health services should provide mental health services to all aged 0-18 years. For more on the gaps see Mental Health Reform, *A Vision for Change Nine Years On* (MHR 2015).

733 For more see Children's Mental Health Coalition, *Meeting the Mental Health Support Needs of Children and Adolescents: a Children's Mental Health Coalition View* (CMHC 2015).

734 Minister of State for Mental Health and Older People, Helen McEntee TD, Written answers, Mental Health Policy, Tuesday 17 January 2017 [41570/16].

735 Minister of State for Mental Health and Older People, Helen McEntee TD, Dail Debates, Mental Health Services Funding: Motion [Private Members], 15 November 2016.

736 *ibid*.

737 In 2012 there were 10,705 referrals accepted into CAMHS with a waitlist of 2,422. In 2015 there were 13,356 referrals accepted into CAMHS with a waitlist of 2,319. Communication received by the Children's Rights Alliance from the Health Service Executive, 24 January 2017.

738 Health Service Executive, *Performance Report August/September 2016* (HSE 2016) at 56.

children were waiting for longer than three months and 170 were waiting over one year.⁷³⁹ While work is ongoing to reduce waiting lists to ensure that no one waits over 12 months, there was a 19.7 per cent increase in the number of children waiting more than a year in 2016 due to the lack of availability of primary care based psychological supports and recruitment difficulties in appointing clinical staff.⁷⁴⁰ Currently a young person who needs to access out-of-hours mental health treatment can generally only do so through hospital emergency departments. There are reports of young people who have attempted suicide after unacceptable waits in busy emergency departments before being assessed.⁷⁴¹ It is important that the review of *A Vision for Change* will advise on the introduction of 24/7 support and liaison teams in primary and emergency care so that children and young people do not have to access help through the emergency departments of hospitals. The State must prioritise the UN Committee's recommendations to strengthen capacity for out-of-hours facilities.⁷⁴² It is critical that the review of *A Vision for Change* be completed as a matter of urgency to address the significant shortcomings in mental health service provision for children and young people. A multi-annual implementation plan and an independent monitoring group should be put in place to oversee improvements to the system.

National Taskforce on Youth Mental Health: The Taskforce was established in August 2016⁷⁴³ as one of the Taoiseach's priority items for the first 100 days

of Government.⁷⁴⁴ The Taskforce will work for one year focusing on children and young people aged 0-25 years,⁷⁴⁵ to lead changes in the community to 'empower young people to build their own resilience and emotional wellbeing'.⁷⁴⁶ The Taskforce is chaired by Minister of State for Mental Health and Older People, Helen McEntee TD and is made up of key stakeholders from public, private, community and voluntary sectors.⁷⁴⁷ The Taskforce is expected to design a series of policy interventions to reduce stigma, raise awareness of supports, align services and build capacity at community level.⁷⁴⁸ The Taskforce met four times in 2016 and focused on identifying priority issues, barriers and potential ideas for change.⁷⁴⁹ Four sub-groups have been set up and the Taskforce is due to meet monthly in 2017.⁷⁵⁰



The Taskforce has a limited scope. Its Terms of Reference do not include pressing issues of the lack of primary care psychology services, inadequately

739 ibid.

740 The increases are mainly restricted to a small number of Community Healthcare Organisations. Communication received by the Children's Rights Alliance from the Health Service Executive, 24 January 2017.

741 A Lust for Life, 'We're Calling on the Government to Make Community Mental Health Care Available 24/7' <<http://www.alustforlife.com/the-bigger-picture/were-calling-on-the-government-to-make-community-mental-health-care-available-247>> accessed 30 January 2017.

742 UNCRC, 'Concluding Observations: Ireland' (20016) UN Doc CRC/C/IRL/CO/3-4, para 53-54.

743 Department of Health, 'Minister McEntee establishes a community-led taskforce to take action to improve the mental health and wellbeing of children and young people in Ireland' <<http://health.gov.ie/blog/press-release/minister-mcentee-establishes-a-community-led-taskforce-to-take-action-to-improve-the-mental-health-and-wellbeing-of-children-and-young-people-in-ireland/>> accessed 30 January 2017.

744 Department of Health, 'National Youth Mental Health Taskforce – Extracts from Programme for Partnership Government & Taoiseach's 100 day priority commitment' <<http://health.gov.ie/wp-content/uploads/2016/08/NTYMH-PfG-extract.pdf>> accessed 30 January 2017.

745 Department of Health, 'Minutes of the Second Meeting of the National Taskforce on Youth Mental Health' <<http://health.gov.ie/wp-content/uploads/2016/11/Second-Meeting-Minutes-NTYMH.pdf>> accessed 6 February 2017.

746 Department of Health, 'National Taskforce on Youth Mental Health, FAQs' <<http://health.gov.ie/national-taskforce-on-youth-mental-health/faqs/>> accessed 30 January 2017.

747 The full membership of the Committee can be seen here: Department of Health, 'Meet Your Taskforce' <<http://health.gov.ie/national-taskforce-on-youth-mental-health/meet-your-taskforce/>> accessed 30 January 2017.

748 Department of Health, 'Terms of Reference for the National Taskforce on Youth Mental Health' <<http://health.gov.ie/national-taskforce-on-youth-mental-health/terms-of-reference/>> accessed 30 January 2017.

749 Department of Health, 'Minutes of the National Taskforce on Youth Mental Health' <<http://health.gov.ie/national-taskforce-on-youth-mental-health/minutes/>> accessed 30 January 2017.

750 The sub-groups are 0-12 years, 13-18 years, 19-25 years and 'parents and noticers' group. Department of Health, 'Minutes of the Fourth Meeting of the National Taskforce on Youth Mental Health' <<http://health.gov.ie/national-taskforce-on-youth-mental-health/minutes/>> accessed 26 January 2017.

funded CAMHS services as well as the availability of age-appropriate in-patient mental health services for young people. Children and young people who have complex and enduring mental health diagnoses are at risk of not being considered in the work of the Taskforce when there are serious human rights breaches taking place. In September 2016, 17.1 percent of all admissions of children and young people were to adult units.⁷⁵¹ The UN Committee on the Rights of the Child expressed concern at the ongoing practice of admitting children and young people to adult wards due to inadequate availability of suitable facilities.⁷⁵² Where placement in a psychiatric unit is necessary, adolescents should be separated from adults, where appropriate.⁷⁵³ The Mental Health Commission's Code of Practice states that the placement of children in adult wards would be phased out by the end of 2011⁷⁵⁴ but it is clear that this has not been delivered. The continued admission of children to adult units has been criticised repeatedly as being unsatisfactory by the Mental Health Commission.⁷⁵⁵

A Youth Reference Panel has been established to support and challenge the work of the Taskforce.⁷⁵⁶ The first consultation with young people aged 19-25 took place in November 2016 to discuss youth mental health and inform the changes they would like to see the Taskforce deliver.⁷⁵⁷ The Taskforce has committed to publish a full report of the consultation.⁷⁵⁸ Further consultations should take place to ensure that children and young people of all ages have the opportunity to participate in the process in a meaningful way. Online consultation may ensure that as many children and young people as possible can have their voices heard. The Reference Panel should take special measures to ensure that marginalised and seldom-heard children are consulted as part of this process.

The focus of the Taskforce on reducing stigma, providing greater information on services and community interventions is to be welcomed as a key measure to ensure that children and young people's

right to health is respected. The Committee on the Rights of the Child has emphasised the need to 'promote resilience and healthy development and to protect against mental ill health' and has provided guidance as to how this might be achieved by focusing on 'strong relationships with and support from key adults, positive role models, a suitable standard of living, access to quality secondary education, freedom from violence and discrimination, opportunities for influence and decision-making, mental health awareness, problem-solving and coping skills and safe and healthy local environments.'⁷⁵⁹ While the Terms of Reference identify objectives, there is a need for further clarity on the expected deliverables and outputs including how the work of the Taskforce will be implemented and monitored in order to measure the effectiveness of the initiative.

751 Health Service Executive, *Performance Report August/September 2016* (HSE 2016) 56.

752 UNCRC, 'Concluding Observations: Ireland' (20016) UN Doc CRC/C/IRL/CO/3-4, para 53.

753 UNCRC 'General Comment No. 4 on The Implementation of the Rights of the Child During Adolescence' (2016) UN Doc CRC/GC/20 para 29.

754 Mental Health Commission, *Code of Practice Relating to Admission of Children under the Mental Health Act 2001: Addendum* (MHC 2009).

755 Mental Health Commission, *Annual Report 2015* (MHC 2016) 8.

756 The panel is chaired by Niall Breslin and Emma Farrell. An engagement model has been presented and agreed in principle by the Taskforce which encompasses utilising existing feedback, face to face consultation with the different age groups and online engagement. There has also been agreement to establish a clinical oversight group in the HSE.

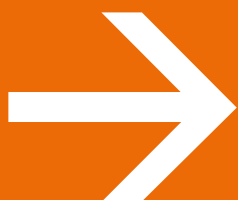
757 Department of Health, 'Minister Helen McEntee holds first consultation with young people for National Taskforce on Youth Mental Health' <<http://health.gov.ie/blog/press-release/minister-helen-mcentee-holds-first-consultation-with-young-people-for-national-taskforce-on-youth-mental-health/>> accessed 30 January 2017.

758 *ibid*.

759 UNCRC, 'General Comment No. 20 (2016) on the implementation of the rights of the child during adolescence' (2016) UN Doc CRC/C/GC/20 para 17.

Mental Health

Immediate Actions for 2017



COMPLETE THE REVIEW OF *A VISION FOR CHANGE* IN 2017.

The review of *A Vision for Change* should be completed in 2017. The reviewer should ensure that building further capacity in Child and Adolescent Mental Health Services (CAMHS) and the introduction of more 24/7 service support and liaison teams in primary and emergency care are two core components of the review. The reviewer should consult and engage with service users, key civil society actors and service providers in both the public and the independent sector. There should be a multi-annual implementation plan and the appointment of an independent monitoring group to ensure the review translates into practice.

ENSURE THAT ALL CHILDREN UNDER 18 HAVE ACCESS TO MENTAL HEALTH SERVICES IN A TIMELY MANNER.

Build upon work done during 2016 to reduce the waiting times for first appointments, in particular those waiting over 12 months. Achieving this requires ongoing investment in the development of Child and Adolescent Community Mental Health teams. Efforts should be made to introduce primary care psychology services for children and young people in 2017.

PROVIDE CLARITY ON THE DELIVERABLES AND OUTPUTS OF THE TASKFORCE.

While the Terms of Reference identify objectives for the Youth Mental Health Taskforce, there is a need for further clarity on the expected deliverables and outputs including how the work of the Taskforce will be implemented and monitored in order to measure the effectiveness of the initiative.

6.3

Physical Health and Wellbeing

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > Enact the Public Health (Alcohol) Bill

Progress: Limited

- > Implement a national obesity plan

Progress: Some

- > Implement a sexual health strategy

Progress: Some

'Physical Health and Wellbeing' receives a 'C' grade in Report Card 2017. The Public Health (Alcohol) Bill 2015 passed Committee stage in the Seanad in 2016 and is due to return to the Dáil in 2017. A Healthy Weight for Ireland: Obesity Policy and Action Plan 2016-2025 was published in September 2016 in consultation with children and young people. Work on the implementation of the Sexual Health Strategy is progressing with the Action Plan 2015-2016 committed to the evaluation of the implementation of Relationships and Sexuality Education in post primary schools.

Every child has the right to enjoyment of the highest attainable standard of physical and mental health⁷⁶⁰ and the right to an adequate standard of living for their physical, mental, spiritual, moral and social development.⁷⁶¹ This section examines three concrete

and measurable commitments in *A Programme for a Partnership Government* that focus on physical health and wellbeing, namely those related to alcohol, obesity and sexual health.

Public Health (Alcohol) Bill 2015: Of Ireland's 4.59 million population it is estimated that 1.34 million people drink harmfully and 176,999 are dependent drinkers.⁷⁶² The phenomenon of binge drinking is evident among adolescents in Ireland. A survey, published in December 2015, found that of the young people aged between 13 and 17 years who responded, 64 per cent had consumed alcohol, 53 per cent had been drunk at least once and 50 per cent reported that they drink every month.⁷⁶³

In December 2015, the Government published the Public Health (Alcohol) Bill 2015. The Bill contains a

760 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 24.

761 *ibid* Art 27.

762 Health Research Board, 'Irish Alcohol Diary 2013: Irish Drinking in 2013' (HRB) <http://www.hrb.ie/uploads/media/Alcohol_Consumption_in_Ireland_2013_full_infographic.jpg> accessed 27 January 2016.

763 Alcohol Action Ireland and the Health Promotion Research Centre NUI Galway, *Alcohol marketing and young people's drinking behaviour in Ireland* (Alcohol Action 2015) 8.

number of positive measures including the introduction of minimum unit pricing;⁷⁶⁴ a prohibition of price-based promotions; mandatory health warnings and calorie labelling on alcohol products.⁷⁶⁵ The legislation also proposes to introduce restrictions on the advertising of alcohol including a prohibition on advertising in places frequented by children;⁷⁶⁶ restrictions on advertising in sports grounds for events where the majority of competitors or participants are children or directly in a sports area for all events.⁷⁶⁷ It is regrettable that the Bill does not take any measures to address the digital marketing of alcohol to children and young people, particularly in light of research showing 77 per cent of children aged 13-17 have reported exposure to online marketing.⁷⁶⁸ Alcohol companies target their marketing at children and young people in order to encourage, normalise and glamorise alcohol consumption among young people.⁷⁶⁹ It is disappointing that the issue of alcohol sports sponsorship was not included in the Bill. Consideration should be given to amending the Bill to include a restriction on the online marketing of alcohol and a ban on alcohol sponsorship of sport.

Of Ireland's 4.59 million population it is estimated that 1.34 million people drink harmfully and 176,999 are dependent drinkers.

The Bill passed second stage in the Seanad in December 2015 and commenced Committee Stage in October 2016 but its completion has been delayed.⁷⁷⁰ The Bill is scheduled to return to the Dáil in 2017.⁷⁷¹

The continued delay in implementing reform to tackle alcohol misuse represents a clear breach of the UN Convention on the Rights of the Child. The Convention obliges the State to protect children from alcohol, tobacco and illicit substances and places an onus on States to take measures to reduce the consumption of these substances among children.⁷⁷²

Obesity Policy: *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* commits to tackling the issue of childhood obesity through a mix of legislative, policy and public awareness activities.⁷⁷³ The UN Special Rapporteur on the Right to Food has provided guidance on five priority actions to combat obesity: regulating the sale of 'junk food'; restricting the advertising of 'junk food'; overhauling agricultural subsidies to make healthier foods cheaper than less healthy alternatives; taxing unhealthy products; and supporting local food production so that consumers have access to healthy, fresh and nutritious food.⁷⁷⁴

One in four children living in Ireland is obese or overweight.⁷⁷⁵ Childhood obesity has long term effects on children's physical and emotional wellbeing.⁷⁷⁶ *A Healthy Weight for Ireland: Obesity Policy and Action Plan 2016 – 2025* was published in September 2016. In developing the policy consultations were held with children and young people aged eight to 17 years⁷⁷⁷ that identified the need for increased physical activity and greater access to healthy foods as some of the main issues for children and young people.⁷⁷⁸ The 10 step plan aims to increase the number of people with a healthy weight. The *Obesity Policy* commits to implementing the 2016 *Get Ireland Active! National*

764 The Bill makes it illegal to sell or advertise for sale alcohol at a price below 10c per gram of alcohol.

765 Public Health (Alcohol) Bill 2015 s11 provides for the labelling of products containing alcohol which will contain a warning to inform the public of the danger of alcohol consumption.

766 This includes schools, early years services, playgrounds, train and bus stations. The Bill also sets out the criteria for advertising in cinemas and publications.

767 For example on the actual pitch, the race track, tennis court etc.

768 Alcohol Action Ireland and the Health Promotion Research Centre NUI Galway, *Alcohol marketing and young people's drinking behaviour in Ireland* (Alcohol Action 2015) 4.

769 *ibid* 2.

770 Communication received by the Children's Rights Alliance from the Department of Health, 21 December 2016.

771 Houses of the Oireachtas, 'Public Health (Alcohol) Bill 2015' <<https://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/bills/2015/12015/document1.htm>> accessed 30 January 2017.

772 UNCRC 'General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art 24)' (2013) UN Doc CRC/C/GC/15 para 62.

773 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) Commitment 1.1.

774 Human Rights Council, 'Report submitted by the Special Rapporteur on the right to food, Olivier De Schutter' (2012) UN Doc A/HRC/19/59, 17 -18.

775 Department of Health, *A Healthy Weight for Ireland: Obesity Policy and Action Plan 2016-2025*, (Stationery Office 2016) 14.

776 *ibid* 30.

777 Communication received by the Children's Rights Alliance from the Department of Health, 19 December 2016.

778 Department of Children and Youth Affairs, *Healthy Lifestyles: Have your Say*, (Government Publications 2016).

*Physical Activity Plan for Ireland*⁷⁷⁹ which is key to tackling childhood obesity alongside the other actions in the Policy.

Concern has been raised regarding the role of the food industry in developing the *Obesity Policy*,⁷⁸⁰ particularly in relation to their partner role in the development, implementation and evaluation of a voluntary code of practice for the promotion, marketing and sponsorship of food and beverages.⁷⁸¹ The manner in which food and drinks are promoted and marketed can reduce exposure to unhealthy food.⁷⁸² It is essential that the interests of public health are placed above corporate interests and mandatory code of practice is put in place.

The *Obesity Policy* committed to developing proposals for the introduction of a levy on sugar sweetened drinks.⁷⁸³ The levy was announced in Budget 2017 and will be introduced in April 2018⁷⁸⁴ following a public consultation on how to implement it.⁷⁸⁵ The purpose of the levy is to encourage a reduction in sugar sweetened drinks, a measure which is supported by 58 percent of the Irish public.⁷⁸⁶ Consideration should be given to introducing further taxation measures on other unhealthy foods in line with the commitments in The Obesity Policy which proposes the introduction of 'evidence-based fiscal measures to support healthy eating and lifestyles'.⁷⁸⁷ Any income generated by the levy and other taxation measures should be used to invest in measures that will further improve children's health. Consideration should also be given to taking measures to make healthy foods cheaper to purchase.

Food poverty: Clear health inequalities exist between children who live in disadvantaged areas and the general population.⁷⁸⁸ *A Healthy Weight for Ireland* recognises this stark inequality and commits to prioritise vulnerable groups including 'families, children, low-income groups and people living in deprived areas'.⁷⁸⁹ In the first year of the policy, a needs assessment will take place 'of vulnerable groups as the basis of allocation of resources for preventative and treatment services for children and adults'.⁷⁹⁰ It is unclear how this will be progressed.



PEOPLE EXPERIENCE FOOD POVERTY

Food poverty is one of the driving forces behind higher rates of obesity and ill-health in disadvantaged communities.⁷⁹¹ Since 2010, the percentage of people experiencing food poverty in Ireland has risen from 10 to 13.1 per cent.⁷⁹² Research has found that the rate of social welfare payments and level of earnings based on the minimum wage in Ireland make it difficult to follow a healthy diet.⁷⁹³ The risk of low income families experiencing food poverty is related to the age of

779 Department of Health, *Get Ireland Active! National Physical Activity Plan for Ireland*, (Stationery Office 2016).

780 Irish Heart Foundation, 'IHF welcomes obesity plan, warns of 'implementation paralysis'' (22 September 2016) <<http://www.irishheart.ie/iopen24/welcomes-obesity-plan-warns-implementation-paralysis-n-546.html?textsize=0>> accessed 2 February 2017.

781 Department of Health, *A Healthy Weight for Ireland: Obesity Policy and Action Plan 2016-2025*, (Stationery Office 2016) Action 3.2.

782 *ibid* 40.

783 *ibid* Action 1.9.

784 Minister for Finance Michael Noonan TD, Budget Statement 2017 (11 October 2016).

785 Department of Finance, 'Sugar Sweetened Drinks Tax, Public Consultation' 11 October 2016 <http://www.budget.gov.ie/Budgets/2017/Documents/Sugar-Sweetened_Drinks_Tax_Public_Consultation_final.pdf> accessed 30 January 2017.

786 Irish Heart Foundation, 'Pre-Budget Submission Invest in children's health - Fund and tax proposal September 2016' <http://www.irishheart.ie/media/pub/advocacy/ihf_prebudget_submission__ssd_tax__sept_2016.pdf> 34, accessed 30 January 2017.

787 Department of Health, *A Healthy Weight for Ireland: Obesity Policy and Action Plan 2016-2025*, (Stationery Office 2016) Action 1.8.

788 *ibid* 50.

789 *ibid*.

790 *ibid* Step 9.

791 Irish Heart Foundation, 'Pre-Budget Submission Investing in children's future health July 2015' <http://www.irishheart.ie/media/pub/advocacy/final_prebudget_submission_2016__childrens_future_health_fund__july_2015_3.pdf> accessed 30 January 2017.

792 Department of Social Protection, *Social Inclusion Monitor 2014* (Department of Social Protection 2016).

793 B. MacMahon, and G. Weld, *The cost of a minimum essential food basket in the Republic of Ireland: Study for six household types* (SafeFood 2015) 63.

their children, with expenditure greatest for infants (who have specific dietary requirements) or teenagers (who need to consume more food).⁷⁹⁴ Food poverty is contributing to malnutrition, obesity, and poor concentration in school.⁷⁹⁵ The issue of food poverty is multi-faceted and complex and requires a similar multi-faceted approach across four key areas to tackle food poverty:⁷⁹⁶ affordability,⁷⁹⁷ accessibility,⁷⁹⁸ availability⁷⁹⁹ and awareness.⁸⁰⁰

The School Meals Programme, funded through the Department of Social Protection, continues to be a positive way of ensuring regular food services for disadvantaged school children. In 2016, over 200,000 children benefitted from this programme at a cost of €4.2 million.⁸⁰¹ An additional €5.7 million has been allocated to the School Meals Programme for 2017.⁸⁰² However, unlike in other European countries, Ireland has a poor infrastructure of kitchen facilities in schools.⁸⁰³ The current programme does not cover the cost of kitchen equipment, facilities or staff costs requiring schools to pay from their core budget or charge students to implement the programme.⁸⁰⁴ The School Meals Programme is not universal, an application process is in place and priority is given to schools which are part of the DEIS initiative.⁸⁰⁵

However, the additional funding provided in Budget 2017 is expected to allow for some extension of the scheme to breakfast clubs in non-DEIS schools from September 2017.⁸⁰⁶

Sexual Health Strategy: All children have the right to the highest attainable standard of health, including sexual health.⁸⁰⁷ States have an obligation to take measures to ensure that children and young people have access to education that provides them with a basic knowledge of health in order for them to make informed choices⁸⁰⁸ that should be age-appropriate and accessible.⁸⁰⁹ The UN Committee on the Rights of the Child has provided specific guidance on the provision of sexual health education which should be 'based on scientific evidence and human rights standards'⁸¹⁰ and should be 'designed in a manner through which children are able to gain knowledge regarding reproductive health and the prevention of gender-based violence, and adopt responsible sexual behaviour'.⁸¹¹ In 2016, the UN Committee expressed concern at the 'lack of access to sexual and reproductive health education and emergency contraception' for young people in Ireland. The UN Committee recommended a number of actions including making sexual and reproductive health a mandatory part of the school curriculum and

794 B. MacMahon, G. Weld, R. Thornton and M. Collins, *The Cost of a Child: A Consensual Budget Standards Study Examining the Direct Cost of a Child Across Childhood* (Vincetian Partnership for Social Justice 2012) 32.

795 Healthy Food for All, *Pre-Budget Submission 2014*, (Healthy Food for All 2013).

796 Healthy Food for All Initiative, 'Food Poverty' <<http://healthyfoodforall.com/food-poverty/>> accessed 30 January 2017.

797 Healthy Food for All Initiative, 'Healthy Food Basket' <<http://healthyfoodforall.com/wp-content/uploads/2013/10/healthy-food-basket-summary-sheet-roi-final.pdf>> accessed 30 January 2017.

798 This is a critical and challenging issue, as even though low income families may know about choosing healthier options, their scope to do so is limited by physical as well as financial constraints. People living in areas with a lack of local shops and supermarkets, or limited transport options can mean they are unable to buy and bring food home.

799 Most particularly for poor families living in disadvantaged areas, the availability of fresh and healthy food options can be an issue. In these areas, families are often reliant on local convenience stores, rather than large supermarkets. Fresh foods have shorter shelf lives, with higher storage costs, and lower profit margins and therefore smaller local shops may not stock a full range of fresh produce.

800 What constitutes 'healthy eating' can be confusing: there is a lot of misinformation about nutrition and healthy eating in the media, which can be difficult to negotiate for even the best informed consumers. For people who never learned the basics of food preparation and cooking – whether in school or at home – and/or have literacy difficulties, the challenge can be particularly acute. Families who are both income and time poor need much more support about how to make healthy, nutritious and economical food choices.

801 Communication received by the Community and Voluntary Pillar from the Department of Social Protection 24 November 2016.

802 *ibid*.

803 Educational Disadvantage Centre, 'National Strategy Hunger Prevention in Schools' <<https://www4.dcu.ie/edc/hunger-prevention-schools.shtml>> accessed 30 January 2017.

804 Communication received by the Children's Rights Alliance from the Irish Heart Foundation, 20 April 2015.

805 Communication received by the Children's Rights Alliance from the Department of Social Protection, 2 December 2015.

806 Communication received by the Community and Voluntary Pillar from the Department of Social Protection 24 November 2016.

807 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 24 (1).

808 *ibid* Art 24 (2) (e).

809 UNCRC 'General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art 24)' (2013) UN Doc CRC/C/GC/15 para 58.

810 UNCRC 'General Comment No. 20 on the Rights of the Child During Adolescence' (2016) UN Doc CRC/C/GC/20 para 61.

811 UNCRC 'General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art 24)' (2013) UN Doc CRC/C/GC/15 para 60.

the adoption of a sexual and reproductive health policy for young people.⁸¹²

The National Sexual Health Strategy 2015 – 2020 published in October 2015 aims to improve sexual health and wellbeing and reduce negative sexual health outcomes.⁸¹³ *Report Card 2017* focuses on measuring the child specific commitments in the Strategy which relate to information and education. The Strategy acknowledges the responsibility of the State to ensure that children and young people receive comprehensive sex education and it recognises the need for a 'partnership approach between parents, statutory and non-statutory organisations'.⁸¹⁴ It commits to ensuring that children and young people will have access to 'age-appropriate sources of trustworthy and accurate information and support on relationships and sexual health'⁸¹⁵ and to evaluate State-funded Relationships and Sexuality Education (RSE) programmes.⁸¹⁶ The Health Service Executive (HSE) is prioritising sexual health training under the Sexual Health Strategy.⁸¹⁷

Educating young people on the issue of sexual consent is vital and should be complemented by education on respectful, safe and healthy relationships with awareness to the unacceptability of verbal, emotional and all other forms of relationship abuse.

Currently sex education in schools is conducted as part of the RSE programmes.⁸¹⁸ While guideline programmes and materials have been developed by the HSE Sexual Health and Crisis Pregnancy Programme such as b4udecide,⁸¹⁹ a school's Board of Management ultimately determines the content of the programme.⁸²⁰ This has led to reports of 'patchy' and 'misinformed' sex education in schools.⁸²¹ In implementing the sexual health strategy, the current deficits in the content of school-based sex education needs to be addressed while the profile and role of the programmes should be raised.

Education and awareness programmes that are properly designed and implemented should also encompass sexual consent into the already established programmes. Educating young people on the issue of sexual consent is vital and should be complemented by education on respectful, safe and healthy relationships with awareness to the unacceptability of verbal, emotional and all other forms of relationship abuse.⁸²² *A Study of Students' Experiences of Harassment, Stalking, Violence & Sexual Assault* in 2013 found that 'the largest proportion of victims of unwanted sexual experiences identified the perpetrators as being 'acquaintances'.⁸²³

Not providing an adequate standard of information and education on sexual health and relationships means children and young people are leaving school without the understanding, awareness and the skills they will need to navigate adult sexual life.⁸²⁴ In addition, there are many vulnerable children and young people who fall out of the formal school system and consequently do not receive the education that they need on these topics.

812 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 58.

813 Department of Health, *The National Sexual Health Strategy 2015 – 2020 and Action Plan for 2015 – 2016* (DOH 2015) 17.

814 *ibid* 36.

815 *ibid* action 3.4.

816 *Ibid* action 3.8.

817 Communication received by the Children's Rights Alliance from the Department of Health 23 January 2017.

818 Section 4 of the Rules and Programme for Secondary Schools requires schools to have an agreed policy for RSE and a suitable RSE programme in place for all students at both junior and senior cycle. Department of Education and Skills, 'Relationships and Sexuality Education (RSE)' <<http://www.education.ie/en/Schools-Colleges/Information/Post-Primary-School-Policies/Policies/Relationships-and-Sexuality-Education-RSE-.html#sthash.gKpqa92X.dpuf>> accessed 30 January 2017.

819 B4udecide 'HSE Crisis Pregnancy Programme' <b4udecide.ie> accessed 30 January 2017.

820 Department of Education and Skills, 'Relationships and Sexuality Education' <<http://www.education.ie/en/Schools-Colleges/Information/Post-Primary-School-Policies/Policies/Relationships-and-Sexuality-Education-RSE-.html#sthash.gKpqa92X.dpuf>> accessed 30 January 2017.

821 Peter McGuire, 'Sex ed in Ireland: 'It's all disease, risk and crisis pregnancy' *The Irish Times* (Dublin, 18 May 2015).

822 Communication received by the Children's Rights Alliance from the Dublin Rape Crisis Centre, 20 January 2017.

823 Union of Students of Ireland, *Say Something: A Study of Students' Experiences of Harassment, Stalking, Violence & Sexual Assault* (USI 2013) 6.

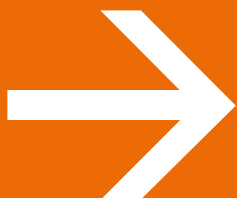
824 Communication received by the Children's Rights Alliance from the Dublin Rape Crisis Centre, 20 January 2017.

It is welcome that the *The National Sexual Health Strategy* commits to evaluate the implementation of RSE in post primary schools.⁸²⁵ As part of this review consideration should be given to making sexual health education, based on scientific evidence, a mandatory part of the school curriculum in line with the recommendations of the UN Committee. Young people should be consulted in this evaluation.

825 Department of Health, *The National Sexual Health Strategy 2015 – 2020 and Action Plan for 2015 – 2016* (DOH 2015) 14.

Physical Health and Wellbeing

Immediate Actions for 2017



ENACT THE PUBLIC HEALTH (ALCOHOL) BILL 2015.

The Public Health (Alcohol) Bill 2015 should be progressed through the Houses of the Oireachtas as a matter of priority. Consideration should be given to amending the Bill to include a restriction on the online marketing of alcohol and a ban on alcohol sponsorship of sport.

CONDUCT A NEEDS ASSESSMENT OF VULNERABLE GROUPS AS OUTLINED IN A *HEALTHY WEIGHT FOR IRELAND*.

Ensure that the proposed needs assessment of vulnerable groups outlined in *A Healthy Weight for Ireland* including families, children, low-income groups and people living in deprived areas to inform resource allocation for preventative and treatment services is adequately planned and resourced.

COMPLETE THE REVIEW OF THE IMPLEMENTATION OF RELATIONSHIPS AND SEXUALITY EDUCATION IN POST PRIMARY SCHOOLS.

As part of this review consideration should be given to making sexual health education, based on scientific evidence, a mandatory part of the school curriculum in line with the recommendations of the UN Committee on the Rights of the Child. Young people should be consulted in this evaluation.

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The **Children's Rights Alliance** unites over 100 members working together to make Ireland one of the best places in the world to be a child. We change the lives of all children in Ireland by making sure that their rights are respected and protected in our laws, policies and services.

Children's Rights Alliance

7 Red Cow Lane
Smithfield
Dublin 7
Ireland
D07 XN29

Ph: +353 1 662 9400
Email: info@childrensrights.ie

Find us on



www.childrensrights.ie

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ISBN: 978-0-9928317-6-9

