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# **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

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**Chapter Grade:**

**B-**

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# 1.1 Educational Disadvantage

Section Grade:

C+

## ⊕ Government Commitment

### **A Programme for a Partnership Government commits to:**

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**

Publish a new School Completion Strategy.

▶ **Progress: Some**

'Educational Disadvantage' receives a 'C+' grade in *Report Card 2020*, up from a 'C' grade in *Report Card 2019*. Increases in funding in Budget 2019 and Budget 2020 are welcome but they do not fully reverse cuts made during the recession. The completion rate to Leaving Certificate for DEIS (Delivering Equality of Opportunity in Schools) post-primary schools has improved significantly over the past decade, while a gap between these schools and non-DEIS schools still remains, this has narrowed considerably. The review of out-of-school education provision, initiated in 2018, has not yet been published. The work of the task group on the development of the School Completion Programme and its integration with the other support programmes under Tusla Education Support Service (TESS) is ongoing.

Every child has a right to education and should have an equal opportunity to participate in education.<sup>1</sup> The UN Committee on the Rights of the Child has stated 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'.<sup>2</sup> The Committee states further that education goes beyond formal schooling 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

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

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

life within society'.<sup>3</sup> States are required to take measures to 'encourage regular attendance at schools and the reduction of drop-out rates'.<sup>4</sup>

### ► Retention and Attainment:

In general, Ireland has a high rate of school completion: a 2017 study found that, 'among countries and economies with comparable data' in the OECD (Organisation for Economic Co-operation and Development), Ireland had the third highest completion rates for girls and the second highest for boys.<sup>5</sup> Of the 60,000 children in the 2012 entry cohort to post-primary schools, 97.6 per cent sat the Junior Certificate examination in 2015 or 2016 and 91.5 per cent sat the Leaving Certificate examination in 2017 or 2018.<sup>6</sup> The completion rate to Leaving Certificate has shown significant improvement over the past decade – the rate for the 2003 cohort, for example, was 82.2 per cent.<sup>7</sup>

The completion rate for boys in the 2012 cohort was 89.9 per cent, while that for girls was 93.1 per cent. This gender disparity in retention has been consistently evident although, overall, there has been significant improvement in the completion rate for boys in the past decade. For boys in the 2003 entry cohort, for example, the completion rate was 79 per cent – that is, 10 percentage points lower than for the 2012 cohort. Notwithstanding this improvement, the fact that one-tenth of boys continue to leave school without completing Leaving Certificate has to be a matter of concern.

The completion rate for pupils in the 2012 cohort who attended schools in the DEIS programme – schools which by definition have a high proportion of students experiencing disadvantage – was 84.7 per cent, as against 93.4 per cent for non-DEIS schools, meaning there was an 8.7 percentage gap between DEIS and non-DEIS schools. There has been a marked improvement in the completion rate for students in DEIS schools over the past decade. The completion rate for the 2003 cohort in DEIS schools was 69.9 per cent and there was a 15.6 percentage



gap between pupils in DEIS and non-DEIS schools. The completion rate for the most recent (i.e., 2012) cohort is therefore 14.8 percentage points above the rate for the 2003 cohort. *The Action Plan for Education 2016–2019* had as one of its objectives, the continued improvement in the second-level completion rates in DEIS schools 'to the national norm' by 2025.<sup>8</sup>

Educational participation and achievement at second level, and the underlying social and economic factors which influence these, are key determinants of the opportunities for participation and achievement in higher education. Ireland has a high level of progression from post-primary into higher education (over 60 per cent) but there are large and persistent disparities between the participation rates of students coming from professional and managerial backgrounds and those from unskilled and semi-skilled backgrounds.<sup>9</sup> Moreover, students from affluent backgrounds are much more likely to enter courses that are

<sup>3</sup> *ibid.*

<sup>4</sup> UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989) Art 28(e).

<sup>5</sup> OECD, 'Ireland' in *Education at a Glance 2017: OECD Indicators* (OECD Publishing 2017).

<sup>6</sup> Department of Education and Skills, *Retention Rates of Pupils in Second-Level Schools: 2012 Entry Cohort* (DES 2019) 8.

<sup>7</sup> Department of Education and Skills, *Retention Rates of Pupils in Second Level Schools: 1991 to 2004 Cohorts* (DES 2011)10 (Table 2a: Retention Rates (Unadjusted) for Each Milestone, 1991–2004 Entry Cohorts).

<sup>8</sup> Department of Education and Skills, *Action Plan for Education 2016–2019* (DES 2016) 2.

<sup>9</sup> Higher Education Authority, *Key Facts and Figures: Higher Education 2017/2018* (HEA 2018) 23; Central Statistics Office, 'Census of Population 2016 – Profile 10: Education, Skills and the Irish Language', <<https://bit.ly/2FjtGyG>> accessed 23 January 2020.

expected to lead to high-earning occupations.<sup>10</sup>

#### ► DEIS Programme:

Since its launch in 2005, the DEIS programme has been the State's main vehicle for supporting children who experience educational disadvantage. *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* includes a commitment to '[c]onsider 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'.<sup>11</sup> It also commits to '[s]trengthen social inclusion measures and re-invigorate efforts to improve educational outcomes among, and integration of, Travellers, Roma and migrant children and young people, and all those with special needs'.<sup>12</sup> Following a commitment in the *Action Plan for Education 2016–2019* to publish a revised action plan for educational inclusion,<sup>13</sup> a new DEIS Plan was published in 2017.<sup>14</sup> This outlines the Government's vision for social inclusion in education policy, sets down five key goals, and identifies 108 actions towards achieving these.<sup>15</sup> As of November 2019, almost 90 per cent of the actions outlined in the 2017 Plan have been implemented or work is ongoing on their implementation.<sup>16</sup>

In the 2019/2020 school year, there were 891 schools included in the DEIS programme – 693 primary schools (335 urban and 358 rural) and 198 post-primary schools. No additional schools have been designated for inclusion in the programme since 2017, when 79 schools were added. The Department of Education and Skills has indicated that a new data

analysis model is being developed which will include examination of variables which are known to be predictors of educational disadvantage and all primary and post-primary schools are being assessed in light of this identification model. Until this process is completed, no additional schools will be included in the DEIS programme.<sup>17</sup>

Since its inception, DEIS programme has been evaluated by the Educational Research Centre. The most recent report by the Centre, an evaluation of the DEIS programme at post-primary level, focused on Junior and Senior Cycle retention rates and student attainment in the Junior Certificate Examination. The evaluation confirmed the trend towards improvements found in earlier analyses, and a continued narrowing of the gap between DEIS and non-DEIS schools.<sup>18</sup> However, the evaluation report also drew attention to the fact that 'much of the inequality in educational outcomes that does exist has its basis in income inequality'.<sup>19</sup> This point was also highlighted by the Joint Oireachtas Committee on Education and Skills in its report on educational inequality published in May 2019. The report drew attention to the intersectionality of different forms of inequality and above all to the key role of poverty in creating and sustaining educational disadvantage.<sup>20</sup> The Joint Committee emphasised that addressing educational disadvantage requires not just targeted programmes and additional measures within the education system but policies to tackle the deeper issues of social and economic inequality which underlie educational disadvantage.<sup>21</sup>

#### ► Other Measures to Address Educational Disadvantage:

*A Programme for a Partnership Government* also commits to examining how to better support students outside of the DEIS programme, given that a 'significant proportion' of disadvantaged students attend non-DEIS schools.<sup>22</sup> Meeting the

10 Higher Education Authority, *A Spatial and Socio-Economic Profile of Higher Education Institutions in Ireland* (HEA 2019); C. O'Brien, 'Mind the gap: affluent students have firm grip on top university courses', *The Irish Times*, 21 October 2019; C. O'Brien, P. McGuire and É. Ó Caollai, 'Private schools keep grip on high-points college courses', *The Irish Times*, 3 December 2019..

11 DCYA, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (Stationery Office 2014) Commitment 2.16.

12 *ibid* Commitment 2.22.

13 Department of Education and Skills, *Action Plan for Education 2016–2019* (DES 2016) 60.

14 Department of Education and Skills, *DEIS Plan 2017: Delivering equality of opportunity in schools* (DES 2017). This replaced the 2005 Action Plan; see Department of Education and Skills, *DEIS (Delivering Equality Of Opportunity In Schools): An action plan for educational Inclusion* (DES 2005).

15 Department of Education and Skills, *DEIS Plan 2017: Delivering equality of opportunity in schools* (DES 2017) 6, 10.

16 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 9 January 2020.

17 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 9 January 2020.

18 S. Weir and L. Kavanagh, *The Evaluation of the DEIS at post-primary level: Closing the achievement and attainment gaps* (Centre for Educational Research 2018) 24.

19 *ibid* 25.

20 Houses of the Oireachtas, *Joint Committee on Education and Skills, Report on Education Inequality and Disadvantage and Barriers to Education*, May 2019, iv <<https://bit.ly/31HzvFd>> accessed 31 January 2020.

21 *ibid*.

22 Emer Smyth et al, *Review of the School Completion*



**(...) addressing educational disadvantage requires not just targeted programmes and additional measures within the education system but policies to tackle the deeper issues of social and economic inequality.**

needs of disadvantaged pupils in mainstream schools requires ensuring appropriate pupil-teacher ratios so that these pupils are not further disadvantaged by being placed in overcrowded classes. Consideration also needs to be given to the availability of a range of measures, including assistance with school-related costs such as books and uniforms, and timely access to supports such as psychological services and the educational welfare service.

Cuts in educational expenditure during the recession impacted on the general capacity of primary and post-primary schools to respond to the particular needs of disadvantaged pupils. Additional allocations in Budget 2019 and Budget 2020 have gone some way to reversing cuts that had been imposed and are very welcome but it remains the case that the average class size in Irish primary schools is higher than the EU average.<sup>23</sup> Even though there were increases in Budget 2019 and Budget 2020 in the capitation grant for schools, this is still below the level it was in 2010.<sup>24</sup> It is unlikely that these increases in capitation will lead to a reduction, much less the abolition, of the so-called 'voluntary contributions' which are routinely requested by both primary and post-primary schools and which have a particular impact on low-income families.<sup>25</sup> Welcome features of Budget 2020 were the allocation of €1 million for a pilot free books scheme in 50 primary schools, and the provision of €4 million for school meals in primary schools. The Back to School Clothing and Footwear Allowance was increased by €25 in Budget 2019 but no increase was provided for in Budget 2020; the value of this allowance has not yet been restored to its 2010 level.<sup>26</sup>

The *Action Plan for Education 2016–2019* re-iterated the Programme for Government commitment to publish an 'updated Action Plan for Educational Inclusion within 12 months'; the Action Plan stated that this would have 'a particular focus on DEIS schools'.<sup>27</sup> While the revised DEIS Plan was published in 2017, a wider plan for educational inclusion has not yet been published.

In March 2018, a joint Working Group was established by the Department of Education and Skills and Tusla Educational Welfare Service to carry out a review on current and future provision of out-of-school education, with a view to informing policy in this area.<sup>28</sup> The undertaking of such a review was a commitment in the *DEIS Plan 2017*.<sup>29</sup> The aims of the review were to 'identify the needs of the cohort of children who have disengaged with the mainstream education system or are at risk of doing so',<sup>30</sup> and to consider the availability of alternative forms of education provision for young people who leave school without a qualification. The Working Group was chaired by the Department of Education and Skills and included representatives from Tusla Education Support Services, Education and Training Boards Ireland, Solas, and the National Educational Psychological Service.<sup>31</sup> The report on this review has not yet been released but work is ongoing to finalise it for publication.<sup>32</sup> The fact that the review sought the views of early school leavers from various parts of the country is to be welcomed.<sup>33</sup>

The School Completion Programme (SCP) was established in 2002 and expanded in 2005/2006 to include all schools involved in the DEIS programme. In 2011, responsibility for the SCP was transferred from the Department of Education and Skills to the Department of Children and Youth Affairs and in 2014 the service came under the remit of Tusla. The SCP is one of three main strands of what is now the Tusla Education Support Service (TESS), which was previously named Tusla Educational Welfare Services. The other strands of TESS are the statutory Educational Welfare Service and the Home School Community Liaison (HSCL) Scheme. The overall aim of TESS services is the promotion of improved school attendance, participation and retention.

The SCP is a targeted support programme for students most at risk of early school leaving and young people of school-going age not attending an

*Programme*, Research Series, No. 44 (ESRI 2015) 79.

23 INTO, 'Reduce Class Size', <<https://bit.ly/2vj3yH6>> accessed 31 January 2020.

24 'Summary assessment of Budget 2020 Measures', Blog posting by Tricia Keilthy, Society of St Vincent de Paul, 11 October 2019 <<https://bit.ly/3bmY6U2>> accessed 31 January 2020.

25 Barnardos, *The Real Cost of School in 2019* (Barnardos 2019) 13 <<https://bit.ly/377qxSE>> accessed 31 January 2020.

26 Barnardos, *Children's Budget 2020* (Barnardos 2019) <<https://bit.ly/2Sw4wHT>> accessed 31 January 2020.

27 Department of Education and Skills, *Action Plan for Education 2016–2019* (DES 2016) 60 (commitment 10.2.4).

28 Department of Education and Skills, 'Minister Bruton announces consultation on Out of School Education Provision', Press Release, 15 March 2019 <<https://bit.ly/322xYtq>> accessed 11 February 2020.

29 Department of Education and Skills, *DEIS Plan 2017* (DES 2017) Action 88.

30 Department of Education and Skills, 'Minister Bruton announces consultation on Out of School Education Provision', Press Release, 15 March 2018 <<https://bit.ly/2SesHeY>> accessed 11 February 2020.

31 *ibid.*

32 Communication received by the Children's Rights Alliance from Tusla, 21 November 2019.

33 *ibid.*

appropriate educational setting. Its aim is to support young people so that they may complete the Leaving Certificate, or achieve an equivalent qualification, or attain a level of education that enables them to enter training, employment or further education. Each SCP prepares an Annual Retention Plan outlining the identified needs in its catchment area and setting out the interventions and supports it plans to provide. These may include breakfast clubs, in-school learning supports and interventions, homework clubs, after-school and holiday provision.<sup>34</sup> The SCP now has 122 local projects; pupils from 467 primary schools and 223 post-primary schools nationwide come within the programme.<sup>35</sup> Funding for the SCP in the school year 2018/2019 amounted to €24.7 million.<sup>36</sup> Budget 2020 did not provide for any increase in the allocation to the Programme.<sup>37</sup> In 2019, a total of 24,749 students engaged in targeted interventions through the SCP.<sup>38</sup>

During 2019, a national 'intake framework' was put into place for all SCP programmes. Continuing Professional Development (CPD) training is providing opportunities for SCP staff to engage in elective training in areas linked to the specific needs of students in their projects. With the assistance of funding under What Works,<sup>39</sup> individual sites are being supported to document approaches that are considered to have been effective and these may be considered for dissemination to other SCP projects.<sup>40</sup>

In 2018, in response to 'long-term and complex issues' regarding the governance and staffing of the SCP and the fact that 'the programme has never had a well-thought policy base', the Minister for Children and Youth Affairs established a task group to prepare a 'blueprint' for the development of the three programmes which come within TESS (SCP, Educational Welfare Service, and the HSCL Scheme) and for the better integration of these.<sup>41</sup> The task group

is comprised of representatives of the Department of Children and Youth Affairs, Department of Education and Skills, Tusla and stakeholders from the respective areas that come within TESS.<sup>42</sup> The blueprint is expected to be responsive to existing and emerging needs, reflective of relevant policies and initiatives, and informed by the perspectives of practitioners who work at the frontline of service delivery.<sup>43</sup> It is intended that the blueprint will provide, for the first time, 'a policy platform to secure and further sustain' the three services and that a substantive part of the blueprint will be a redesign of the SCP.<sup>44</sup>

A consultation on the development of the policy blueprint was held in June 2019. The various stakeholders have been invited to give feedback to the Department of Children and Youth Affairs with follow-up meetings provided to those parties who requested them. Given the concerns that have been raised about the future of the SCP,<sup>45</sup> the fact that the 79 schools brought into the DEIS programme in 2017 have yet to be included in the programme, and the vital importance of the SCP and the other two strands of support provided under TESS, it is essential that the promised blueprint for these services is completed as soon as possible.

34 *ibid.*

35 *ibid.*

36 Minister for Children and Youth Affairs, Katherine Zappone TD, Written Answers, School Completion Programme, 17 September 2019 [37073/19].

37 Communication received by the Children's Rights Alliance from Tusla, 21 November 2019.

38 *ibid.*

39 What Works is an initiative led by the Department of Children and Youth Affairs, with funding from Dormant Accounts, to support a move towards evidence informed prevention and early intervention services for children, young people and their families. <https://whatworks.gov.ie/>

40 *ibid.*

41 Minister for Children and Youth Affairs, Dr Katherine Zappone TD, Oral Answers, School Completion Programme, 10 July 2019 [29679/19].

42 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 8 February 2019.

43 *ibid.*

44 Minister for Children and Youth Affairs, Dr Katherine Zappone TD, Written Answers, School Completion Programme, 23 July 2019 [31688/19].

45 Eoin O'Broin TD, Topical Issue Debate, School Completion Programme, 15 October 2019.

# Educational Disadvantage

## Immediate Actions for 2020



### **Publish an updated action plan for educational inclusion.**

The publication of an 'updated Action Plan for Educational Inclusion, within 12 months' was promised in both *A Programme for a Partnership Government* and the *Action Plan for Education 2016–2019*. More than three years later this has not happened. A significant proportion of pupils who are disadvantaged are in schools not within the DEIS programme. This reality means that a broad plan for educational inclusion is needed to ensure that there is recognition, in terms of policy and funding, of the importance of the mainstream school system being able to provide adequate additional supports to address disadvantage.



### **Complete the DEIS identification process now underway so that additional schools can be brought within the programme if they meet the criteria.**

All primary and post-primary schools are now being assessed under a new model for the identification of indicators of deprivation; until this is completed, no new schools will be included in the DEIS programme. It is therefore essential that this identification process is completed as soon as possible. Given the evidence that schools in the DEIS programme have had improved outcomes in terms of retention and completion, it is vitally important that schools in need of the supports the programme can provide are not left waiting for a prolonged period before being included.



### **Publish the policy blueprint for the services under Tusla Education Support Service (TESS) and begin implementation of the actions identified.**

Complete the work of the task group on the development and integration of the three services administered under the School Completion Programme, the Educational Welfare Service and the Home School Community Liaison Scheme. Begin implementation of the actions identified in the blueprint with a focus on measuring and monitoring the quality and effectiveness of these services which are critically important to meeting the needs of children who are at a disadvantage within the education system.

## Educational Disadvantage **Immediate Actions for 2020**



### **Publish the outcome of the review on current and future provision of out-of-school education.**

The review of out-of-school education provision has been an opportunity to consider the availability of alternative forms of educational provision for young people who leave school early, to identify if and where additional financial support for these services is needed, and to ensure that such alternatives are seen as a legitimate part of second-level education. The report of the review should be published as soon as possible, so that action to implement its findings can begin.

# 1.2 Religious Diversity in Schools

Section Grade:

# B-

## ➔ 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: Slow**

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

▶ **Progress: Good**

'Religious Diversity in Schools' receives a 'B-' grade in *Report Card 2020*, the same as last year's grade. During 2019, 17 additional multi-denominational primary schools came into operation, a welcome development. However, 15 towns where, in 2012/2013, parents expressed a preference for a multi-denominational school are still waiting for such a school to be provided. There is no long-term plan in place for the realisation of the Government's target of 400 multi-denominational and non-denominational schools by 2030 and the current rate of progress inevitably raises questions as to whether this target will be achieved.

Every child has a right to education 'on the basis of equal opportunity'<sup>46</sup> and the right to respect for their freedom of thought, conscience and religion.<sup>47</sup> Children have the right to be free from discrimination of any kind, irrespective of, amongst other things, the child's, or their parent's 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.<sup>48</sup> In 2016, the UN Committee on the Rights of the Child recommended to Ireland that it should promote the establishment of non-denominational or multi-denominational schools and amend existing legislation

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

47 *ibid* 14(1).

48 *ibid* Art 2.

to eliminate discrimination in school admissions.<sup>49</sup>

### ► Non- and Multi- Denominational Schools:

The UN Committee's 2016 recommendation called on the State to '[e]xpediently undertake concrete measures to significantly increase the availability of non-denominational or multi-denominational schools'.<sup>50</sup> A non-denominational school is defined as a school which is 'under the patronage of a secular body and which has an explicitly secular ethos'.<sup>51</sup> A multi-denominational school is a school which does not provide classes in religious formation as part of the school day but does provide education about religions and beliefs.<sup>52</sup> Both *A Programme for a Partnership Government* and the *Action Plan on Education 2016–2019* commit to a target of 400 multi- and non-denominational schools by 2030.<sup>53</sup>

The majority of publicly-funded schools in the Irish education system are denominational in nature. Of the 3,106 mainstream primary schools in the 2019/20 academic year, 88.9 per cent have a Catholic ethos; 5.5 per cent have a Church of Ireland ethos; 0.8 per cent are categorised as having an ethos other than Catholic, Church of Ireland or multi-denominational, and 4.8 per cent have a multi-denominational ethos. In total, there are 150 multi-denominational schools at primary level.<sup>54</sup>

Of the 723 post-primary schools in the country, 47.6 per cent have a Catholic ethos, 3 per cent have a Church of Ireland ethos; 0.7 per cent have an ethos other than Catholic, Church of Ireland or multi-denominational, and 48.7 per cent have a multi-denominational ethos. In total, at post-primary level, there are 352 schools with a multi-denominational ethos and one fee-paying, non-denominational school.<sup>55</sup>

There are a number of mechanisms through which increased provision of multi-denominational and non-denominational schools can be brought about: the establishment of new schools; the divesting of property owned by a denominational school to enable the establishment of a multi-denominational school; the 'Schools Reconfiguration for Diversity' process, involving the transfer of the patronage of a 'live' denominational school so that it becomes multi-denominational; and the 'early movers' process, involving the transfer of a denominational school to a multi-denominational patron following a request from the school community which is agreed to by the existing denominational patron.<sup>56</sup>

### ► Provision of New Schools:

Since 2011, it has been the policy of government that, generally, new schools will be established only in areas of population growth. In total, 83 new schools have opened since 2011 (44 primary and 39 post-primary), of which 77 (93 per cent) are multi-denominational.<sup>57</sup>

In April 2018, the Government announced that 42 new schools (26 at primary level and 16 at post-primary level) would be established between 2019 and 2022, with a view to providing up to 20,000 new school places.<sup>58</sup> This followed nationwide demographic analyses to establish the need for additional primary and post-primary schools across the country. Arising from further analyses as part of the ongoing demographic review process, two additional new primary schools were announced, one of which was established in 2019 and the other to be established in 2020. A new Irish-medium post-primary school (Gaelcholáiste) will also open in 2020. This brings to 45 the number of new schools established, or to be established between 2019 and 2022, to meet demographic requirements.<sup>59</sup> The Department of Education and Skills has in place a patronage process to determine who will operate each new school; this is open to applications from all patron bodies and prospective patrons. In announcing the planned new schools, the Minister for Education and Skills stated that a key determinant in the choice of patron

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

50 *ibid.*

51 The Forum on Patronage and Pluralism in the Primary Sector, *Report of the Forum's Advisory Group* (Prof John Coolahan, Dr Caroline Hussey, Ms Fionnuala Kilfeather) April 2012 <<https://bit.ly/1Qg3hq4>> accessed 15 January 2020.

52 *ibid.*

53 Department of Education and Skills, *Action Plan for Education 2016–2019* (DES 2016) 42.

54 Department of Education and Skills, *Statistical Bulletin Enrolments September 2019 – Preliminary Results* (DES 2019) <<https://bit.ly/2SDDv6M>> accessed 13 February 2020.

55 Department of Education and Skills, *Statistical Bulletin Enrolments September 2019 – Preliminary Results* (DES 2019) <<https://bit.ly/2HwIshy>> accessed 13 February 2020.

56 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 13 February 2020.

57 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 6 December 2019.

58 Department of Education and Skills, 'Minister Bruton announces plans to establish 42 new schools over the next 4 years', Press Release, 13 April 2018 <<https://bit.ly/2zZLX6p>> accessed 11 January 2020.

59 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 13 February 2020.

would be the preferences of parents of children who reside in the school planning areas concerned.<sup>60</sup>

The Department of Education and Skills (DES) has indicated that the requirement to provide new schools is being kept under review taking account of the planned increase in housing provision.<sup>61</sup>

#### ► Divesting and Reconfiguration Processes:

A second mechanism for the creation of multi-denominational schools is through a patronage divesting process, whereby property owned by a denominational school which is closing or amalgamating is transferred to a multi-denominational patron. This process arose from recommendations of the 2012 report of the Advisory Group to the Forum on Patronage and Pluralism in the Primary Sector.<sup>62</sup> In 2012/2013, the DES undertook surveys of parental preferences in 43 areas of stable population to establish the level of parental demand for a wider choice in the patronage of primary schools in these areas. The results indicated that there was sufficient parental demand to support changes in school patronage in 28 of the areas surveyed. However, 15 of the towns in which families expressed a preference for a multi-denominational school in the 2012/2013 consultation did not have a 'divested' school by 2019.<sup>63</sup>

According to the Department of Education and Skills, the key challenge in establishing multi-denominational schools in areas identified in the 2012/2013 surveys is the difficulty of securing a school property.<sup>64</sup> The Department of Education and Skills has stated that it is continuing efforts in relation to identifying suitable solutions under the patronage divesting process.<sup>65</sup> No further surveys have been conducted under this process since 2012/2013.

The third mechanism for the creation of multi-denominational and non-denominational schools is

the 'Schools Reconfiguration for Diversity' process, announced in January 2017.<sup>66</sup> This provides for the transfer of 'live' schools (as opposed to the amalgamation and closure of schools in the patronage divesting model) and it is through this process that the greater part of the target of 400 multi-denominational and non-denominational schools by 2030 is intended to be achieved.<sup>67</sup>

The Schools Reconfiguration for Diversity process began in 2018 with an 'Identification Phase'. Each of the country's 16 Education and Training Boards (ETBs) undertook an exercise to identify an area where there may be an unmet demand for a multi- or non-denominational school, and (in partnership with the local childcare committee) surveyed parents of pre-school children to assess the level of oncoming demand for multi- or non-denominational education in the area. The Identification Phase has now been completed. However, the findings of these surveys have not yet been made public. The Department of Education and Skills is currently engaged in discussions with representatives of the Catholic Church, the patron of the majority of denominational schools, regarding the approach to the next stage, the 'Implementation Phase', of the Schools Reconfiguration for Diversity process.<sup>68</sup>

Aside from the 'reconfiguration' process *per se*, it is open to the school community of any denominational school to seek a transfer of patronage to a multi-denominational patron. If there is agreement, such a transfer may then be managed by the existing patron, in conjunction with the school community and prospective patron bodies.<sup>69</sup>

During 2019, a total of 17 multi-denominational primary schools were established: 12 new multi-denominational schools were established to meet demographic needs; four denominational (three Catholic and one Church of Ireland) schools transferred patronage to a multi-denominational patron, and one new multi-denominational school was established under the patronage divesting process.<sup>70</sup>

60 DES, 'Minister Bruton announces plans to establish 42 new schools over the next 4 years', Press Release, 13 April 2018 <<https://bit.ly/2zZLX6p>> accessed 11 January 2020.

61 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 6 December 2019.

62 The Forum on Patronage and Pluralism in the Primary Sector, *Report of the Forum's Advisory Group* (Prof John Coolahan, Dr Caroline Hussey, Ms Fionnuala Kilfeather) April 2012 <<https://bit.ly/1Qg3hq4>> accessed 15 January 2020.

63 Communication received from the Department of Education and Skills, 13 February 2020.

64 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 6 December 2019.

65 *ibid.*

66 Department of Education and Skills, 'Minister Bruton announces new plans to accelerate provision of multi- and non-denominational schools' (Press Release, 30 Jan 2017) <<http://bit.ly/2kOoRsl>> accessed 23 January 2019.

67 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 8 January 2019.

68 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 6 December 2019.

69 *ibid.*

70 *ibid.*



**During 2019, a total of 17 multi-denominational primary schools were established: 12 new multi-denominational schools; four denominational schools, and one new multi-denominational school.**

No non-denominational school opened in 2019.<sup>71</sup>

The DES has stated that there is no one solution as to how greater choice of school type will be provided and that the establishment of new schools, the transfer of school properties, the reconfiguration of 'live' schools, as well as other options, will all contribute to achieving the Government's objective of having 400 multi- and non-denominational schools by 2030.<sup>72</sup>

Nonetheless, it remains unclear how the Government's target will be achieved given, in particular, the slow pace at which the divesting and reconfiguration processes are moving. A clear plan, involving all stakeholders and setting out the phases of development, with timelines and a monitoring structure, is required to provide clarity for communities and families. The plan should be explicit as to how many of the schools are to be primary and how many post-primary, and should include a commitment to the provision of non-denominational schools.

#### ► School Admissions:

In 2016, the UN Committee on the Rights of the Child recommended that the State amend the 'existing legislative framework to eliminate discrimination in school admissions, including the Equal Status Act'.<sup>73</sup> *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People*, commits to reducing discrimination and intolerance of all types experienced by marginalised groups including religious minorities.<sup>74</sup> In July 2018, the Education (Admission to Schools) Act 2018 was signed into law. The aim of the legislation was to increase 'the transparency and fairness' of admission to primary schools<sup>75</sup> by amending the Equal Status Acts 2000–2015 to remove the provision that enabled recognised denominational schools to use religion as an eligibility criterion for admission. This was a recurring recommendation in this *Report Card* series and the passing of the 2018 Act, and the commencement of its key provisions in

October 2018,<sup>76</sup> are welcome developments. The Act also provides that children of minority religions are to be given priority in admission to the school of their faith in the event of that school being oversubscribed.<sup>77</sup> Where minority religion schools are not oversubscribed, all applicants should be admitted.<sup>78</sup>

While the provisions of the 2018 Act are very positive, it should be noted that children whose parents are members of a minority religion, or not members of any religion, may continue to have little choice in the type of school to which they can send their children. It is likely that many of these children will continue to be educated in schools that promote a particular ethos. This has implications for their entire educational experience, given the integrated nature of the curriculum and the fact that few schools have the facilities or personnel to enable children to opt out of denominational teaching.<sup>79</sup> This makes the achievement of the Government's target for the number of multi-denominational and non-denominational schools highly consequential for those families.

71 *ibid.*

72 *ibid.*

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

74 DCYA, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (Stationery Office 2014) Commitment 5.6.

75 Department of Education and Skills, 'New law will make process of school admissions easier for children and parents – Minister Bruton', Press Release, 6 July 2016 <<http://bit.ly/36XjbSw>> accessed 13 January 2020.

76 Department of Education and Skills, 'Minister Bruton commences key provisions in Education (Admission to Schools) Act, 2018' Press Release, 3 October 2018 <<https://bit.ly/2RXUT32>> accessed 13 January 2020.

77 Education (Admissions to Schools) Act 2018, s 11.

78 Department of Education and Skills, 'Minister Bruton commences key provisions in Education (Admission to Schools) Act, 2018, Press Release, 3 October 2018 <<http://bit.ly/370cn6C>> accessed 13 January 2020.

79 The Forum on Patronage and Pluralism in the Primary Sector, *Report of the Forum's Advisory Group* (Prof John Coolahan, Dr Caroline Hussey, Ms Fionnuala Kilfeather) April 2012 <<https://bit.ly/1Qg3hq4>> accessed 15 January 2020.

# Religious Diversity in Schools

## Immediate Actions for 2020



**Develop and publish a transparent plan to ensure that the Government reaches the stated target of 400 non-denominational and multi-denominational by 2030.**

A clear plan, developed in consultation with all stakeholders and setting out the phases of development, with timelines and a monitoring structure, is required to provide clarity for communities and families. The plan should be specific as to how many of the schools will be primary and how many post-primary, and it should include an explicit commitment to the provision of non-denominational schools.



**Provide, without further delay, a response to those communities in which, during 2012/2013, parents expressed a preference for a multi-denominational school for their children.**

Fifteen of the 28 towns where a 2012/2013 survey of parental wishes revealed a preference for a multi-denominational school have not yet been provided with such a school.



**Publish the findings of the surveys conducted as part of the 'Identification Phase' of the Schools Reconfiguration for Diversity process and proceed towards the 'Implementation Phase' without further delay.**

Make public the information obtained from surveys of parents' preferences carried out in fifteen areas during the 'Identification Phase' of the Schools Reconfiguration for Diversity process; engage with stakeholders, including school communities, with a view to progressing the 'Implementation Phase' as quickly as possible.

# 1.3 Disability and Additional Needs in Education

Section Grade:

# B-

## ➔ Government Commitment

### **A Programme for a Partnership Government commits to:**

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

▶ **Progress: Complete**

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: Some**

'Disability and Additional Needs in Education' receives a 'B-' in *Report Card 2020*, the same as last year's grade. This grade reflects the increased allocation, overall, for special education in 2019; the trialling of a new School Inclusion Model for the provision of special needs assistance and other supports; and the extension for a second year of a pilot project providing in-school and pre-school therapy services. New statutory powers enabling the Minister for Education and Skills to compel a school to make provision for the education of children with special educational needs were used for the first time in 2019. Nevertheless, many children remained without appropriate resources to meet their needs.

Under the provisions of the UN Convention on the Rights of the Child, every child has a right to education, regardless of their needs or ability.<sup>80</sup> From a rights perspective, 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'.<sup>81</sup> The right to education extends beyond formal school to embrace a wide range of life experiences and learning processes so as to enable children 'to develop their personalities, talents and abilities and to live a full and satisfying life within society'.<sup>82</sup> States must ensure, as a

80 UNCRRC, 'General Comment No. 9: The rights of children with disabilities' (2006) UN Doc CRC/C/GC/9 para 62. All children in Ireland up to the age of 18 have the right to primary education under Article 42 of the Irish Constitution.

81 UNCRRC, 'General Comment No. 1: Article 29 (1) The aims of education' (2001) UN Doc CRC/GC/2001/1 para 2.

82 *ibid.*

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 realization of their rights'.<sup>83</sup>

In 2016, the UN Committee on the Rights of the Child expressed concern about Ireland's lack of a 'comprehensive strategy for the inclusion of children with disabilities in mainstream education and the encouragement of their autonomy'.<sup>84</sup> It recommended that the State should 'adopt a human rights-based approach to disability'.<sup>85</sup> It also recommended action to 'train and employ a sufficient number of specialized teachers and professionals in order to provide special needs education support' and to establish 'a clear and objective framework to ensure that children with disabilities are provided with reasonable accommodation for their education needs'.<sup>86</sup>

Ireland ratified the UN Convention on the Rights of Persons with Disabilities on 20 March 2018.<sup>87</sup> The Convention recognises the rights of people with disabilities to an education that is inclusive, free from discrimination and directed to the 'full development of the human potential and sense of dignity and self-worth'.<sup>88</sup> Under the Convention, children with special educational needs have a right to individualised support and reasonable accommodations to enable their effective participation in the general education system.<sup>89</sup> The UN Committee on the Rights of Persons with Disabilities emphasises the central importance of inclusion in the education system, stating that this 'involves a process of systemic reform ... to provide all students ... with an equitable and participatory learning experience and environment that best corresponds to their requirements and preferences. Placing students with disabilities within mainstream classes without accompanying structural changes ... does not constitute inclusion'.<sup>90</sup>

### ► Special Education Provision:

Over €1.8 billion was spent on special education services in 2019. Budget 2020 allocated approximately €1.9 billion to these services for 2020. This amounts to 20 per cent of the overall education budget and represents an increase of more than 50 per cent since 2011.<sup>91</sup> The vast majority of students with special educational needs attend mainstream schools with additional supports.<sup>92</sup> There are currently 13,518 Special Education Teachers (SETs), of whom 9,311 work in primary schools and 4,207 in post-primary schools. The number of SETs is due to increase by 120 in 2020.<sup>93</sup> There are 15,950 Special Needs Assistants (SNAs) working in primary, post-primary and special schools; this number is due to rise by 1,064 in 2020 (bringing the total to 17,014), following an increased allocation in Budget 2020.<sup>94</sup>

The increase in resources over recent years is welcome as it has been a critical factor in supporting the significant growth in the number of children with special needs attending mainstream schools. The number of children in special classes in mainstream primary schools increased substantially between 2014 and 2018, rising from 3,816 to 6,229 (an increase of 63 per cent). At post-primary level, the number increased by 772 between 2014 and 2017 (figures for 2018 not provided), rising from 1,042 to 1,814 (an increase of 74 per cent).<sup>95</sup>

Despite the increased allocation of resources, some special schools are oversubscribed and there are hundreds of children on waiting lists for special classes in mainstream schools; in many cases, the only place that parents can find may be far outside the local school-catchment area.<sup>96</sup> A significant number of children are being educated at home with the support of home tuition grants because a

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

84 UNCR, 'Concluding observations on the combined third and fourth periodic reports of Ireland' 29 January 2016 UN Doc CRC/C/IRL/CO/3-4 par 47(a).

85 *ibid* para 48 (a).

86 *ibid* para 48.

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

88 *ibid* Article 24.

89 *ibid*.

90 Committee on the Rights of Persons with Disabilities, 'General Comment No. 4, Article 24: Right to inclusive education' (2016) UN Doc CRPD/C/GC/4 para 11.

91 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 6 December 2019.

92 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.

93 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 6 December 2019.

94 *ibid*.

95 DES, *Education Indicators for Ireland* (DES 2019) 19 <<https://bit.ly/2Sc5tpQ>> accessed 21 January 2020.

96 Dáil Debate, Special Educational Needs: Motion [Private Members], 9 July 2019; AsIAm, *Invisible Children: Survey of School Absence and Withdrawal in Ireland's Autism Community* (AsIAm 2019); Carl O'Brien, 'Over 500 children with special needs are without school places', *The Irish Times*, 16 December 2019.

school place has not been made available<sup>97</sup> meaning they are missing out on the key social development elements of being in an educational setting.

Section Eight of the Education (Admission to Schools) Act 2018 provides for an additional section (s 37a) to be inserted into the Education Act 1998, enabling the Minister for Education and Skills to compel a school to make provision for the education of children with special educational needs. Such Ministerial action is to be taken only if a process, including the serving of an initial statutory notice followed by consultation, involving the National Council for Special Education (NCSE), the school's board of management, and the school's patron, has not resulted in the school providing the places required.<sup>98</sup>

Section Eight was commenced in December 2018 and the legislation was formally activated for the first time in April 2019, following a report from the NCSE outlining insufficient special education capacity in Dublin 15.<sup>99</sup> This statutory process was again activated in November 2019 following a NCSE report identifying shortages of places across south Dublin.<sup>100</sup>

Inadequate levels of supports may also result in children being placed on a reduced timetable.<sup>101</sup> The widespread resort to this measure was highlighted in research by Inclusion Ireland, published in 2019.<sup>102</sup> Among the issues which the study noted were the non-recording and lack of monitoring of reduced timetables, the lack of supports and expertise within schools, and the lack of accessible information for parents on their rights and their exclusion from decisions affecting their children. In September 2019, the Department of Education and Skills announced it had prepared draft guidelines on the use of reduced timetables and the procedures to be followed by schools where this option 'is being considered and

used'.<sup>103</sup> It is intended that schools will be required to give formal notification of their use of reduced timetables to Tusla Education Support Service (TESS) which will be tasked with monitoring this usage.

The aim of the guidelines will be 'to ensure that the use of reduced timetables is limited solely to those circumstances where it is absolutely necessary',<sup>104</sup> such as in instances where they support a child to remain in school and build towards a full day. The Department's announcement stated that consultation with education stakeholders on the proposed guidelines would follow.

In September 2017, a new system was introduced for the allocation of resources for special education provision in mainstream primary and post-primary schools.<sup>105</sup> This followed the review of a pilot of a new resource allocation model.<sup>106</sup> Allocations are now based on a profile of the needs of each school, without the requirement for a diagnosis of disability for individual children in the school.<sup>107</sup> The system is intended to provide a greater degree of autonomy for schools in determining how resources are used.<sup>108</sup> While the new model is, in general, welcome, it does not adequately address the difficulties that arise where parents and the school in which their child is a pupil disagree about the support allocated to the child. Parents can no longer appeal resource decisions to the NCSE, where previously the appeals process led to a number of allocation decisions being overturned.<sup>109</sup> Under the new system, the Department of Education and Skills recommends that a parent who is concerned about the level of support provided for their child should discuss the issue with the class teacher and school principal. If they are not satisfied with the response, they should raise the matter with the

97 Carl O'Brien, 'Over 500 children with special needs are without school places', *The Irish Times*, 16 December 2019.

98 Education (Admission to Schools) Act 2018, s. 8.

99 DES, 'Statutory Notices served on six schools in Dublin to provide for additional special education places', Press Release, 23 August 2019 <<https://bit.ly/2OFnLgQ>> accessed 27 January 2020.

100 DES, 'Minister McHugh urges schools in South Dublin to provide more places for children with special needs', Press Release, 14 November 2019, <<https://bit.ly/2vnyXi>> accessed 27 January 2020.

101 Carl O'Brien, 'Not going to school next week, "Our children are slipping through the cracks"', *The Irish Times*, 24 August 2018.

102 Inclusion Ireland and Technological University of Dublin, *Education, Behaviour and Exclusion: The Experience and Impact of Short School Days on Children with Disabilities and their Families in the Republic of Ireland* (Inclusion Ireland 2019).

103 DES, 'Minister for Education and Skills invites education partners to give views on proposed Guidelines on reduced timetables', Press Release, 23 September 2019 <<https://bit.ly/39nQHBY>> accessed 27 January 2020.

104 DES, 'Minister for Education and Skills invites education partners to give views on proposed guidelines on reduced timetables', Press Release, 23 September 2019 <<https://bit.ly/2SvKH3y>> accessed 27 January 2020.

105 An analysis of the need for a new system is provided in: Children's Rights Alliance, *Report Card 2018* (CRA 2018) 23–24.

106 DES, *Review of the Pilot of a New Model for Allocating Teaching Resources to Mainstream School to Support Pupils with Special Educational Needs* (DES 2016).

107 *ibid* 3.

108 DES, 'Circular to the management authorities of all mainstream primary schools: special education Teaching Allocation', Circular No 0013/2017 (DES, 2017) <<https://bit.ly/38qQcXG>> accessed 20 January 2020.

109 Carl O'Brien, 'Changes in appeals process for learning supports at schools', *The Irish Times*, 27 March 2017.



**Inadequate levels of supports may also result in children being placed on a reduced timetable. The widespread resort to this measure was highlighted in research by Inclusion Ireland.**

school's Board of Management.<sup>110</sup> To inform parents of this process, and about the new system in general, the Department has published guidance documents.<sup>111</sup> However, the absence of any form of independent appeal mechanism may place parents in a vulnerable position. The new model has effectively changed the power relations between parents and schools. Parents dissatisfied with the resource allocation for their child should have access to an independent and transparent process through which to express their concerns and seek further support for their child.

Schools have the right to appeal the resource allocation they have been given if they feel this is insufficient to meet the needs of their pupils. The review of such appeals is carried out by the NCSE and involves investigating if the correct data was correctly applied to one or all of the components of the school's profile and if a correct calculation was made.<sup>112</sup> In 2019, the NCSE received and processed 180 appeals but none were upheld.<sup>113</sup> There is also an 'Exceptional Circumstances Review Mechanism' whereby a school may appeal on the grounds that an exceptional occurrence or event has had a very significant effect on its profile of need.<sup>114</sup> The Department of Education and Skills has indicated that an evaluation of the operation of the new model of resource provision is being completed.<sup>115</sup>



A review of the Special Needs Assistant (SNA) Scheme, carried out by the NCSE, was published in May 2018.<sup>116</sup> The report concluded that, overall, the scheme was working well and had many positive and worthwhile features.<sup>117</sup> However, it noted that the SNA system has to deal with a very diverse range of needs, age groups, developmental stages and school settings, and it suggested that a 'broader range of support options [is] required to address students' additional care needs'.<sup>118</sup> In light of these findings, the Government approved the trialling of a new School Inclusion Model for the 2019/2020 school year. This model is being implemented in 75 schools in one Health Service Executive Community Health Organisation area.<sup>119</sup> Its principal features include a new frontloaded allocation of SNAs in line with profiled needs of participating schools, additional provision for these schools under the National Educational Psychological Service (NEPS), and the establishment on a pilot basis of a NCSE Regional Support Team, which includes specialists in relevant disciplines. The initiative also includes the development of a national training programme for SNAs and a pilot roll-out of this, and the provision of a nursing service for children with complex medical needs. €4.75m has been allocated for the piloting of

110 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 6 December 2019.

111 DES, *A New Model for Allocating Special Education Teachers to Mainstream Schools: A better and more equitable way* <<https://bit.ly/2vhqAhs>>; DES, *A New Model for Allocating Special Education Teaching Support to Mainstream Primary Schools: A quick reference guide for parents/guardians* <<https://bit.ly/31UTlaE>>; Department of Education and Skills, *A New Model for Allocating Special Education Teaching Support to Mainstream Post Primary Schools: A quick reference guide for parents/guardians* <<https://bit.ly/2tPBCdl>> accessed 20 January 2020.

112 Communication received by the Children's Rights Alliance from the National Council for Special Education, 17 December 2019.

113 *ibid.*

114 To date, 19 schools have requested a review under this mechanism. Ten did not meet the criteria for review; in seven cases, reviews were scheduled for December 2019 and January 2020; the remaining two are undergoing screening (Communication received by the Children's Rights Alliance from the NCSE, 17 December 2019).

115 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 6 December 2019.

116 National Council for Special Education, *Comprehensive Review of the Special Needs Assistant Scheme: A New School Inclusion Model to Deliver the Right Supports at the Right Time to Students with Additional Care Needs*, NCSE Policy Advice Paper No. 6 (NCSE 2018).

117 *ibid.* 20.

118 *ibid.* 21.

119 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 6 December 2019.

this new model.<sup>120</sup> An independent evaluation of the pilot project will be undertaken to test its effectiveness and identify issues to be considered in any proposals to translate it into a mainstream provision.<sup>121</sup>

### ► Consultation on EPSEN Act:

*A Programme for a Partnership Government* commits to stakeholder consultation on how to progress sections of the Education for Persons with Special Educational Needs Act 2004 which 'were introduced on a non-statutory basis'. The Act (hereinafter referred to as the EPSEN Act) is the key statute governing the education of children with special needs in Ireland.<sup>122</sup> Fifteen years on from the passing of the Act, a number of its key provisions have not been commenced and as a consequence, important education rights of children with disabilities and special educational needs remain unfulfilled.<sup>123</sup>

The Department of Education and Skills has stated that a financial assessment in 2005 showed that implementation of all sections of the Act would entail a substantial annual increase in expenditure on services in the areas of health and education, and that legal advice indicated it would not be possible to introduce sections of the Act on a phased, or age cohort, basis. There has not been a more recent analysis of the cost of full implementation of the Act.<sup>124</sup> The Department says that it will continue 'to prioritise investment' in special education and will introduce reforms and improvements in services, taking account of the provisions of the EPSEN Act, policy advice provided by the NCSE, and the findings of research. However, these improvements will be 'on a non-statutory basis initially'.<sup>125</sup>

In November 2019, the NCSE issued a progress report on its work in developing policy advice for the Minister for Education and Skills in relation to 'the educational provision that should be in place for students educated in special schools and classes [with] recommendations on the provision required to enable them to achieve better outcomes'.<sup>126</sup> The Council's considerations of this issue to date have included a review of current provision, detailed literature reviews, examination of fully inclusive school systems in two jurisdictions, as well as consultation with 30 stakeholder groups, including parents, students, schools, advocacy groups, and government officials.<sup>127</sup> A survey seeking the views of the public is now being undertaken. As part of this advice the NCSE is also examining the implications following ratification of the Convention on the Rights of Persons with Disabilities (UNCRPD) in 2018 for the right to an inclusive education.<sup>128</sup> The Council's policy advice on the issue of special schools and special classes is due to be submitted to the Minister in 2020.

A review of the EPSEN Act should be considered given that it is 15 years since it was passed and given Ireland's ratification of the Convention on the Rights of Persons with Disabilities, which includes significant obligations in regard to realising the right to education on the basis of equality and without discrimination.

### ► In-School Speech and Language Service:

*A Programme for a Partnership Government* commits to introducing a new in-school speech and language service at primary level and to support children in early years. Developmental language disorders are among the most common neuro-developmental disorders of childhood;<sup>129</sup> internationally, children with such difficulties are the largest single group among children with additional needs.<sup>130</sup> The extent of these disorders in Ireland is unclear; however, one estimate,

120 DES, 'Minister McHugh announces trial of a new School Inclusion Model to provide the right supports at the right time to students with additional needs', Press Release, 27 March 2019 <<https://bit.ly/37eKpmE>> accessed 22 January 2020.

121 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 6 December 2019.

122 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'.

123 For a commentary on some of the implications of the failure to commence sections of the Act, see: Children's Rights Alliance, *Report Card 2018* (CRA 2019) 25–26.

124 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 6 December 2019.

125 *ibid.*

126 DES, 'Minister McHugh welcomes progress report from National Council for Special Education (NCSE) on policy advice on special schools and special classes', Press Release, 19 November 2019 <<https://bit.ly/37d342t>> accessed 21 January 2020.

127 National Council for Special Education, *Policy Advice on Special Schools and Classes: An inclusive education for an inclusive society?* Progress Report (NCSE 2019) <<https://bit.ly/2H9y3lx>> accessed 20 January 2020.

128 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 19 February 2020.

129 Irish Association of Speech and Language Therapists, *Supporting Children with Developmental Language Disorder in Ireland*, IASLT Position Paper and Guidance Document (IASLT 2017) <<https://bit.ly/2P2aYFq>> accessed 22 January 2020.

130 Dublin South-West Inner City NEYAI Consortium, *Preschoolers Get Talking and Communicating* (Dublin South-West Inner City NEYAI Consortium 2013).

based on a review of international prevalence studies, indicated that there are in the region of 70,000 children and young people under the age of 18 in Ireland with a developmental language disorder.<sup>131</sup>

Typically, speech and language disorders first become apparent in a child's pre-school years.<sup>132</sup> Where these difficulties can be resolved by the age of five, a child is unlikely to experience long-term effects, but the later the intervention, the more likely the child is to experience negative academic and/or social consequences.<sup>133</sup> Therefore, the availability and location of speech and language services in early years and at primary school age are particularly important issues.<sup>134</sup>

Speech and language services are provided by the HSE. Figures for the third quarter of 2019 show there were 20,346 people on HSE waiting lists for speech and language services. Of this total, 12,760 were waiting for an initial assessment, with 1,077 waiting for more than one year; 7,586 were waiting for treatment, of whom just over 1,000 were waiting for longer than one year.<sup>135</sup> The figures do not indicate what percentage of the total are children. However, data made available following a Dáil question in November 2019 revealed that, of the overall number of people on waiting lists for speech and language services, 19,000 (90 per cent) were children.<sup>136</sup> Poor public access may mean that parents may have to pay privately for diagnosis and treatment or that early intervention does not take place.

In May 2018, the Ministers for Education and Skills, Children and Youth Affairs, and Health, along with the HSE, launched a demonstration project providing in-school and pre-school speech and language and occupational therapy services.<sup>137</sup> The aim of the project, which is managed and coordinated by the NCSE, is to test a model of tailored early intervention supports within educational settings.<sup>138</sup> In Phase One of the initiative, a budget of €2.25 million was allocated to enable 75 primary and post-primary schools and 75 pre-schools in one HSE Community Health Organisation region to test the model over the 2018–2019 school year.<sup>139</sup> In July 2019, the Minister for Children and Youth Affairs, Dr Katherine Zappone TD, announced that the project would continue in the academic year 2019–2020.<sup>140</sup> An evaluation of the project is being carried out.<sup>141</sup>

The introduction of this pilot project and its continuation in the 2019–2020 academic year are welcome developments. Given the importance of addressing speech and language disorders as early as possible, and the role that early learning settings and primary schools can potentially play in helping to address such problems, the evaluation of the pilot project and the roll-out of programmes based on its findings should be advanced without delay.

131 Irish Association of Speech and Language Therapists, *Supporting Children with Developmental Language Disorder in Ireland*, IASLT Position Paper and Guidance Document (IASLT 2017) 7.

132 Irish Association of Speech and Language Therapists, *Supporting Children with Developmental Language Disorder in Ireland*, IASLT Position Paper and Guidance Document (IASLT 2017) 26; Dublin South-West Inner City NEYAI Consortium, *Preschoolers Get Talking and Communicating* (Dublin South-West Inner City NEYAI Consortium 2013).

133 N. Hayes, I. Siraj-Blatchford, S. Keegan and E. Goulding, *Evaluation of the Early Years Programme of the Childhood Development Initiative* (Childhood Development Initiative 2013) 7.

134 N. Hayes and J. Irwin, *Chit Chat: Early Intervention Speech and Language Therapy Model and Linkages to the Education Sector* (Childhood Development Initiative 2016).

135 HSE, *Performance Profile, July–September 2019 Quarterly Report* (HSE 2019) 20 <<https://bit.ly/3bsnQhK>> accessed 20 January 2020.

136 Sarah Burns and Vivienne Clarke, 'More than 200,000 children on waiting lists for health care services', *The Irish Times*, 6 December 2019. The HSE data was made available following questions in the Dáil by Stephen Donnelly TD regarding speech and language therapy waiting lists, 19 November 2019 [47140/19 & 47141/19].

137 Department of Education and Skills, 'Government launch new project to bring specialised therapists into schools and pre-schools', Press Release, 14 May 2018 <<https://bit.ly/2AYutHX>> accessed 20 January 2020.

138 *ibid.*

139 *ibid.*

140 Minister for Children and Youth Affairs, Katherine Zappone TD, Written Answers, Speech and Language Therapy Provision, 23 July 2019 [34241/19].

141 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 6 December 2019.

## Disability and Additional Needs in Education

### Immediate Actions for 2020



#### **Publish the findings of evaluations of the changes and innovations in the provision of special education services in recent years and outline plans for responding to the recommendations of these reviews.**

An evaluation is currently being undertaken of the revised system (introduced in 2017) for allocating special education resources to schools. In addition, the pilot project for the provision of in-school therapy services and the trialling of a new School Inclusion Model for providing SNA and other supports are both being evaluated. The findings of the reviews should be published as soon as possible. Following stakeholder consultation on the recommendations of these reviews, plans for necessary reforms of the resource allocation system and for the mainstreaming of in-school therapy services and of a new School Inclusion Model should be published.



#### **Review key legislation and policy approaches regarding special education in light of the obligations arising from ratification of the UN Convention on the Rights of Persons with Disabilities.**

Ireland's ratification of the UN Convention on the Rights of Persons with Disabilities took place subsequent to the passage of the EPSEN Act in 2004. Significant obligations in relation to special educational provision arise from ratification of the Convention. In light of these obligations, and given that fifteen years have elapsed since the passage of the EPSEN legislation, it would seem appropriate to review both the provisions of the Act and the main policy developments that have occurred over the past decade in terms of their compliance with the Convention.