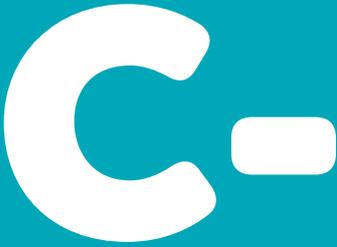


6. RIGHT TO EQUALITY

Chapter Grade



Unicef Ireland
@UnicefIRLyouth



Slavery. Trafficking. Forced labour. These are the reality for too many refugee & migrant children. #AChildIsAChild Up to 77% of children and youth face trafficking and exploitation on Mediterranean migrant routes.



19 Sept 2017

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



© Grand Marshals of Limerick Pride, Members of the LGBTI+ Youth Strategy Youth Advisory Panel and BeLong To Youth Services. Photo: Alex Ricoller/ilovelimerick



IN THE NEWS

GALWAY TRAVELLER MOVEMENT DELIGHTED THAT ETHNICITY FINALLY RECOGNISED

Galway Advertiser, 09 March 2017

Galway Traveller Movement have this week welcomed the recognition of Traveller ethnicity enacted through a Dail statement by an Taoiseach Enda Kenny on March 1. It was an historic day for the Traveller community that released a torrent of emotions from the community in Galway City and County. Although it was a week of mixed emotions, given the deferment of a decision on Traveller housing in the city, the group were in celebratory mood at the arrival of a keystone moment in their long battle to have their ethnicity recognised officially.

Recognising Travellers as a minority ethnic group is not a panacea and will not address all of the challenges faced by the Traveller community; however GTM will use it as a stepping stone in its continued call for full equality for the community. (...) Both young and old celebrated the announcement.

Mary Ward, a community health worker from Portumna believes that "It is a hugely positive step forward that will bring hope to my community. Recognition is about showing respect and dignity for all people, especially respecting Traveller culture and acknowledging the valuable contribution Travellers have made to Irish society"

She welcomed the statement from the Irish Human Rights Equality Commission which said that recognition of the Traveller ethnicity will be the catalyst for a rethink of how we focus resources on policies affecting Travellers, for example in accessing education, in accessing culturally - appropriate and safe accommodation and in accessing health care amongst other priority areas. After the announcement on March 1, Mary Ward talked to Travellers in South East Galway and recorded some of the following reactions. (...)

Ian Mc Donagh, BT Young Scientist winner – "Recognition of Traveller ethnicity made me feel so proud of my culture and identity I hope this recognition will boost the confidence of the young members of the Traveller community.(...)

6.1

Traveller and Roma Children**GOVERNMENT COMMITMENT**

A Programme for a Partnership Government commits to:

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



Progress: Complete

'Traveller and Roma Children' is awarded a 'D+' in *Report Card 2018*, an improvement on last year's 'E' grade. This reflects the historic step taken by the Government to recognise Traveller ethnicity in March 2017. The publication of the *National Traveller and Roma Inclusion Strategy* in June 2017 is welcome as it recognises key children's rights principles; however, no implementation plan has yet been published. Publication of the *Roma Needs Assessment*, due in 2017, has been deferred to 2018. Despite some positive developments, the situation for Traveller children and young people has not changed significantly.

Every child has the right to life, survival and development⁸²³ and to an adequate standard of living⁸²⁴ which allows them to develop fully – physically, mentally, spiritually, morally and socially.⁸²⁵ The State must take measures, to the maximum of its available resources, to ensure this adequate standard of living. Furthermore, every child has the right to live free from discrimination of any kind, including on the grounds of

the race, ethnic or social origin or other status of the child or their parent or guardian.⁸²⁶ 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.⁸²⁷

In 2016, the UN Committee on the Rights of the Child expressed its deep concern about 'structural discrimination' against Traveller and Roma children in Ireland 'including as regards their access to education, health and an adequate standard of living'.⁸²⁸ The Committee made recommendations in relation to Traveller and Roma children across a range of areas, including discrimination,⁸²⁹ adequate standard of living⁸³⁰ and health.⁸³¹ It 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.⁸³²

Better Outcomes, Brighter Futures: The National Policy Framework on Children and Young People 2014–2020

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

824 *ibid* Art 4.

825 *ibid* Art 27.

826 *ibid* Art 2.

827 *ibid* Art 30. *ibid* Art 2.

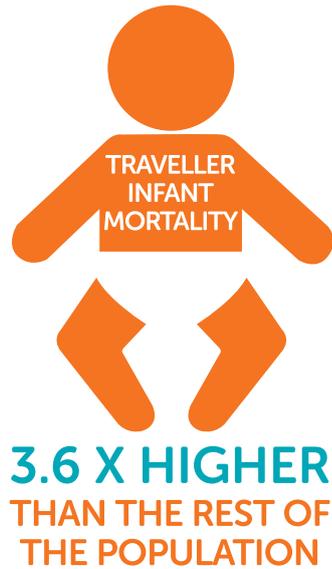
828 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4, para 27, para 30.

829 *ibid* para 28(a).

830 *ibid* para 60.

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

832 *ibid* para 69.



recognises the particular challenges and obstacles faced by Traveller and Roma children and young people.⁸³³ Through the Framework, the Government commits to implementing and monitoring the *National Traveller and Roma Integration Strategy*, with a particular focus on Traveller accommodation and the engagement of Roma children in education.⁸³⁴ It also commits to tackling health inequalities,⁸³⁵ strengthening social inclusion measures,⁸³⁶ renewing efforts towards improving educational outcomes for Travellers and Roma⁸³⁷ and reducing discrimination and intolerance experienced by marginalised groups.⁸³⁸

Census 2016 indicated that 30,987 people identified as Irish Traveller, a five per cent increase since 2011.⁸³⁹

Of this population, 15,184 (almost 50 per cent) were 19 years or under.⁸⁴⁰ The number of Irish Traveller children below the age of four fell by almost eight per cent between 2011 and 2016, while the number of children aged five to 14 years rose by just over seven per cent (from 7,459 to 7,996).⁸⁴¹

There is limited data available on the Roma population in Ireland (no separate question in relation to this group is included on the Census form) but in 2014 it was estimated to be around 5,000.⁸⁴² A National Roma Needs Assessment was commissioned by the Department of Justice and Equality in 2015 with a view to identifying how best to improve State agencies' interaction with the Roma community in Ireland.⁸⁴³ Pavee Point Traveller and Roma Centre was contracted to carry out the assessment. This Assessment has not yet been published; it is expected to be launched in 2018.⁸⁴⁴

National Traveller and Roma Inclusion Strategy

2017–2021: In 2015, the Department of Justice and Equality established a National Traveller and Roma Inclusion Strategy Steering Group tasked with advising on the development of a revised and updated Strategy through a consultation process.⁸⁴⁵ The revised *Inclusion Strategy* was published in June 2017.⁸⁴⁶ It is welcome that the Strategy contains a dedicated section on children and young people which refers to a number of key children's rights principles, including the right of children and young people to be consulted.⁸⁴⁷ It is also welcome that a 'key theme and objective' of the Strategy is 'a special focus on Traveller and Roma children's rights' by all relevant departments and agencies. However, the 'actions' outlined under

833 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.

834 *ibid* Commitment 4.19.

835 *ibid* Commitment 1.4.

836 *ibid* Commitment 2.22.

837 *ibid* Commitment 2.22.

838 *ibid* Commitment 5.6.

839 Central Statistics Office, *Census of Population 2016 – Profile 8: Irish Travellers, Ethnicity and Religion* (Central Statistics Office 2017).

840 *ibid*.

841 *ibid*.

842 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.

843 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 10 January 2018.

844 Communication received by the Children's Rights Alliance from Pavee Point, 6 December 2017.

845 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's representatives and education stakeholders.

846 Department of Justice and Equality, *The National Traveller and Roma Inclusion Strategy 2017–2021* (DJE 2017).

847 *ibid* 29.

this theme are mainly concerned with family support and child protection issues within Traveller and Roma families.⁸⁴⁸ While these are obviously important, a focus on Traveller and Roma children's rights should apply in all policy areas affecting their lives and to all government departments.

The Department of Justice and Equality is to consult and coordinate with other government departments to agree a set of key performance and output indicators for each year the *Inclusion Strategy* is in place.⁸⁴⁹ To ensure transparency in the measurement of progress, then clear timeframes for the delivery of each objective and an outline of requisite resources need to be made public. An annual report on progress will be issued by the Steering Group in 2018.

Equality and Non-Discrimination: Irish Traveller and Roma communities continue to experience discrimination.⁸⁵⁰ The Strategy acknowledges the seriousness of this issue and its impact on different aspects of the lives of these communities, including in relation to employment and access to health services. Among the recommendations of the Strategy are that 'direct and indirect discrimination should be addressed through targeted interventions for Travellers and Roma' and that 'robust measures to address racism and hate speech in the mainstream media and the public sphere should be adopted and implemented'.⁸⁵¹ Furthermore, the Strategy says that public services 'should be provided in a way that is non-discriminatory and respectful of Traveller and Roma culture and identity'.⁸⁵²

An objective of the Strategy is to ensure that all government departments and statutory agencies collect and collate data disaggregated by ethnicity and gender 'to monitor and evaluate the impact of existing policies and strategies and to support evidence-based policy making'.⁸⁵³ This is welcome: without accurate data, public services cannot adequately serve the needs of service users, especially where they have a specific need or require specific supports. The Strategy proposes the development of 'an ethnic identifier on

all data sets'; the Department of Justice and Equality is to chair a cross-Departmental working group, which will include representatives of Traveller and Roma communities to develop this.⁸⁵⁴ It is essential that the introduction of this ethnic identifier takes full account of data protection considerations and is done in a sensitive and culturally appropriate way.

Ethnicity: On 1 March 2017, former Taoiseach, Enda Kenny TD,⁸⁵⁵ made a statement in the Dáil on behalf of the Government to formally recognise Traveller ethnicity.⁸⁵⁶ This followed a public commitment made in 2016. The statement outlined the importance of recognising the Traveller community but made clear that recognition 'will create no new individual, constitutional or financial rights'.⁸⁵⁷ The Report Card series has recommended the recognition of Traveller ethnicity each year since 2012 so it is welcome that this long-awaited step was taken in 2017.

The key objectives of the *National Traveller and Roma Inclusion Strategy* include ensuring that 'Traveller culture, identity and heritage is supported and valued within Irish society' and that the Traveller and Roma communities 'should be supported to develop, preserve and promote their cultural heritage'.⁸⁵⁸ While

The Department of Justice and Equality is to consult and coordinate with other government departments to agree a set of key performance and output indicators for each year the *Inclusion Strategy* is in place. To ensure transparency in the measurement of progress, clear timeframes for the delivery of each objective and an outline of requisite resources need to be made public.

848 *ibid* 31–32.

849 Department of Justice and Equality, *The National Traveller and Roma Inclusion Strategy 2017–2021* (DJE 2017) 18.

850 See for example, Frances McGinnity, Raffaele Grotti, Oona Kenny and Helen Russell, *Who Experiences Discrimination in Ireland? Evidence from the QNHS Equality Modules* (Irish Human Rights and Equality Commission & Economic and Social Research Institute 2017) iv; Department of Justice and Equality, *The National Traveller and Roma Inclusion Strategy 2017–2021* (DJE 2017).

851 Department of Justice and Equality, *The National Traveller and Roma Inclusion Strategy 2017–2021* (DJE 2017) 39.

852 *ibid* 43.

853 *ibid*.

854 *ibid*.

855 An Taoiseach, Enda Kenny TD, 'Statement by An Taoiseach Enda Kenny TD on the recognition of Travellers as an ethnic group', Dáil Éireann, 1 March 2017.

856 *ibid*.

857 *ibid*.

858 Department of Justice and Equality, *The National Traveller and Roma Inclusion Strategy 2017–2021* (DJE 2017) 24

these statements are welcome; the Expenditure Allocations in Budget 2018 do not indicate what new funding, if any, is to be devoted to achieving these objectives.⁸⁵⁹ It is essential that the necessary resources to ensure their implementation are provided.

Children and Youth Participation: The commitment in the Strategy to consult with Traveller and Roma children and young people 'in the development of policy, legislation, research and services'⁸⁶⁰ reflects the fundamental right of the child to be heard, as enshrined in the UN Convention on the Rights of the Child.⁸⁶¹ However, the Strategy limits this commitment to certain actions by Tusla, the Child and Family Agency; the Health Service Executive (HSE); the Department of Children and Youth Affairs, and the Department of Education and Skills. Traveller and Roma children and young people should have a say on decisions or developments affecting all aspects of their lives, including those related to certain aspects of health, accommodation and access to public services.

Education: School completion rates have improved significantly for Traveller children but remain considerably lower than those of the majority population. The 2016 Census showed that almost 40 per cent of Travellers aged 15 years and over had finished education at primary level, or had no formal education, as against 10.1 per cent of the general population.⁸⁶² The Inclusion Strategy acknowledges the importance of education for Traveller and Roma children and states that improving school retention rates is a priority. In August 2017, following the completion of the Strategy, the Steering Group established a sub-committee to examine and report back on the retention of Traveller and Roma children in the education system; this is a positive development.⁸⁶³

A further welcome development is a new pilot project to be implemented by Tusla in four locations with the aim of supporting Traveller and Roma school attendance.⁸⁶⁴

Early school leaving by Traveller children has been linked to negative experiences in schools and they are significantly more likely to report being bullied at school.⁸⁶⁵ The review of the anti-bullying strategy should address this issue. The Department of Education and Skills has stated its support for developing awareness of Traveller and Roma culture through the existing curriculum⁸⁶⁶ and has developed intercultural guidelines to support schools, in collaboration with Traveller and Roma organisations, to develop education resources on Traveller and Roma culture and history for use in primary, post primary and adult education settings.⁸⁶⁷ However, schools have to bear the financial costs involved in the development of extra resources or rely on non-government organisations to assist. Specific funding to support this aim should be allocated through the Department or the National Council for Curriculum and Assessment.

A high percentage of Traveller children attend schools participating in the Delivering Equality of Opportunity in Schools (DEIS) Programme. The *DEIS Review*, published in 2017, highlighted the difficulties caused by the discontinuation, from 2011, of specialised educational supports for Traveller children, including Resource Teachers for Travellers and the Visiting Teachers Service for Travellers.⁸⁶⁸ The commitment in the *DEIS Plan 2017* to evaluate 'current additional Traveller-specific resources ... in the context of the Report and Recommendations for a Traveller Education Strategy'⁸⁶⁹ is welcome. The use of an ethnic identifier in data collection should help to 'better target the particular

859 Budget 2018, *Expenditure Report 2018: Part 111, Expenditure Allocations* (Stationery Office 2017).

860 Department of Justice and Equality, *The National Traveller and Roma Inclusion Strategy 2017–2021* (DJE 2017) 29.

861 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 12.

862 Central Statistics Office, 'Census of Population 2016 – Profile 8: Irish Travellers, Ethnicity and Religion' <<http://bit.ly/2AtCuoX>> accessed 5 December 2017.

863 Minister of State for Integration, Immigration and Equality, David Stanton TD, Written Answers, Departmental Strategies, 3 October 2017 [41748/17].

864 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 14 December 2017. The Department of Education and Skills, Department of Justice and Equality and Traveller Representatives are partners in this project.

865 Department of Education and Skills, *Action Plan on Bullying* (DES 2013) 36.

866 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 14 December 2017. The Department of Education and Skills has highlighted a number of areas in both the primary and post-primary curricula where there are opportunities for schools to incorporate the development of awareness and understanding of Traveller and Roma culture. The Department continues to facilitate the Yellow Flag programme, run by the Irish Traveller Movement; this is an award for schools promoting intercultural understanding and celebrating diversity.

867 *ibid* 37.

868 Lauren Kavanagh, Susan Weir and Eva Moran, *The Evaluation of DEIS: Monitoring achievement and attitudes among urban primary school pupils from 2007 to 2016* (Educational Research Centre 2017) 53.

869 Department of Education and Skills, *DEIS Plan 2017* (DES 2017) 18.

identified needs of schools on an ongoing basis'.⁸⁷⁰ Following the publication of the *DEIS Review* and the *National Traveller and Roma Strategy in 2017*, a desk review of the 2006 *Report and Recommendations for a Traveller Education Strategy* is due to be completed in 2018.⁸⁷¹ Since a significant proportion of children from the Traveller and Roma communities attend primary and post-primary schools which are not part of the DEIS Programme, it is essential that the review takes adequate account of the question of how schools are being enabled and supported to respond to the needs of children from these communities.⁸⁷²

Housing: There are two separate sets of official data relating to Traveller accommodation – an Annual Count carried out by local authorities which refers to ‘families’ and information collected through specific questions on housing in the Census which relates to ‘households’. In 2016, there were 10,364 Traveller families recorded in the local authority Count,⁸⁷³ the 2016 Census data refers to 8,717 households.⁸⁷⁴ Both sets of data indicate that Travellers are facing increasing accommodation problems. The local authority Annual Counts show that while the number of families on unauthorised sites was down to 330 in 2012 there has been a marked increase since then, and by 2016 there were 536 families on such sites (5.2 per cent of the total).⁸⁷⁵ The 2016 Census showed that 1,015 Traveller households were living in ‘caravans or other mobile or temporary structures’, an increase of 10.3 per cent since 2011, when the number was 920.⁸⁷⁶ The number of persons from the Traveller community recorded as homeless was 517.⁸⁷⁷ Census 2016 also revealed that within an overall context of increased overcrowding in Irish housing,⁸⁷⁸ the

situation of Traveller households is significantly worse than that of the general population with 40 per cent living in overcrowded accommodation compared to less than six per cent of all households.⁸⁷⁹ No specific data is available on the housing situation of the Roma population, but as a vulnerable group, this community may be seriously affected by the overall deterioration in the housing situation in terms of affordability, security and overcrowding.

Budget 2018 allocated €12 million for Traveller-specific accommodation, an increase of €3 million on the previous year, but given the current scale of need the commitment to provide 110 additional Traveller-specific accommodation units is clearly inadequate.⁸⁸⁰

In June 2017, a *Review of Funding for Traveller-Specific Accommodation and the Implementation of Traveller Accommodation Programmes*, commissioned by the Housing Agency, was published.⁸⁸¹ The Review examined the funding made available for Traveller-specific accommodation since 2000, in the context of the delivery and implementation of local authority Traveller Accommodation Programmes under the Housing (Traveller Accommodation) Act 1998. It found that, since 2000, €355.7 million has been spent on these programmes; expenditure has fallen from a high of €143.9 million during the 2005–2008 phase to €20.8 million in the 2014–2018 phase.⁸⁸² The Review highlights planning issues as a key challenge to the delivery of Traveller-specific accommodation, in particular ‘opposition to planning applications by settled residents and Elected Representatives’.⁸⁸³

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- 870 *ibid.* However, it must be noted that under the Data Protection Acts 1988–2003, ethnic or cultural background is deemed sensitive personal data so the explicit written consent of the parent/guardian (or student, where deemed old enough to provide consent) is required for the school to collect this data and share it with the Department.
- 871 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 14 December 2017.
- 872 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) 17.
- 873 Department of Housing, Planning and Local Government, ‘Annual Count 2016 – Total Number of Traveller Families in all Categories of Accommodation’ <<http://bit.ly/2kjGq3g>> accessed 5 December 2017
- 874 Central Statistics Office, ‘Census of Population 2016 – Profile 8: Irish Travellers, Ethnicity and Religion’ <<http://bit.ly/2AtCuoX>> accessed 5 December 2017.
- 875 Department of Housing, Planning and Local Government, ‘Annual Count 2016 – Total Number of Traveller Families in all Categories of Accommodation’ <<http://bit.ly/2kjGq3g>> accessed 5 December 2017
- 876 Central Statistics Office, ‘Census of Population 2016 – Profile 8: Irish Travellers, Ethnicity and Religion’ <<http://bit.ly/2AtCuoX>> accessed 5 December 2017.
- 877 *ibid.*
- 878 Central Statistics Office, ‘Census of Population 2016 – Profile 1: Housing in Ireland’, <<http://bit.ly/2DmQ3Zc>> accessed 17 January 2018.
- 879 Central Statistics Office, ‘Census of Population 2016 – Profile 8: Irish Travellers, Ethnicity and Religion’ <<http://bit.ly/2AtCuoX>> accessed 5 December 2017.
- 880 Pavee Point, ‘Budget 2018 for Travellers – Running to Standstill’ (Pavee Point 11 October 2017) <<http://bit.ly/2zPRhXT>> accessed 4 December 2017.
- 881 RSM PACEC Ltd and Michelle Norris, *Research Report: Review of Funding for Traveller-Specific Accommodation and the Implementation of Traveller Accommodation Programmes*, (Housing Agency 2017).
- 882 *ibid.*
- 883 *ibid.*

The *National Traveller and Roma Inclusion Strategy* highlights the role of the National Traveller Accommodation Consultative Committee (NTACC) in monitoring delivery of the commitments on accommodation. Following a recommendation by the NTACC, the Minister for State with special responsibility for Urban Planning and Housing stated in the Dáil in November 2017 that he will establish an Expert Group 'to examine and make recommendations on issues regarding Traveller accommodation policy, strategy and implementation'.⁸⁸⁴ The Expert Group will also conduct a review of the Housing (Traveller Accommodation) Act 1998.⁸⁸⁵ Local Authorities, which are responsible for Traveller accommodation, routinely fail to draw down allocated funding for the Traveller Accommodation Programmes which they themselves have developed.⁸⁸⁶ Sanctions must be put in place for failure to address accommodation needs of Travellers.⁸⁸⁷

Health: Studies have consistently shown that Travellers in Ireland have significantly poorer health and lower life expectancy than the general population.⁸⁸⁸ The Census 2016 returns on reported health status showed that the health of 73.2 per cent of Traveller children aged 14 and under was described as 'very good', as compared to 83 per cent for the overall child population in this age category.⁸⁸⁹ The gap in health status is evident given that 0.17 of the general child population (aged 14 or under) was reported as having 'bad' or 'very bad' health, while the corresponding figure for Traveller children was 6.18 per cent.⁸⁹⁰ In relation to disability, the Census returns show that while 5.9 per cent of the overall child population up to the age of 14 were reported to have a

disability of some kind, 9.2 per cent of Traveller children in this age category had a disability.⁸⁹¹

The *National Traveller and Roma Inclusion Strategy* noted that Travellers faced significant barriers in accessing healthcare including '[w]aiting lists, embarrassment, lack of information, cost, difficulty getting to services, health settings and refused services'.⁸⁹² A welcome commitment in the Strategy is that the HSE will 'develop and implement a detailed action plan', based on the findings of the All-Ireland Traveller Health Study of 2010, to address the specific health needs of Travellers.⁸⁹³

Given the high rate of suicide and mental health issues experienced by young Travellers, the proposed recruitment of nine Mental Health Service Co-ordinators to support access to and delivery of services to Travellers in each Community Health area is a welcome move. The Strategy commitment to the development of culturally appropriate child and youth mental health programmes⁸⁹⁴ is also welcome; however, it is essential that these be designed in consultation with Traveller and Roma children and young people.

Studies have consistently shown that Travellers in Ireland have significantly poorer health and lower life expectancy than the general population.

884 Minister of State with responsibility for Urban Planning and Housing, Damien English TD, Written Answers, Traveller Accommodation, 28 November 2017 [50489/17].

885 *ibid.*

886 In 2016, local authorities spent only €4.2 million of the €5.5 million allocated for the purpose of providing accommodation for Travellers. By 21 November 2017, local authorities had drawn down less than €3.2 million of the €9 million allocation for the year; some authorities had not drawn any funding at all. See: Minister of State with responsibility for Urban Planning and Housing, Damien English TD, Written Answers, Traveller Accommodation, 21 November 2017 [49197/17].

887 Representative groups consulted in the Independent Review pointed out that the Housing (Traveller Accommodation) Act 1998 does not provide for sanctions, penalties or other measures of enforcement for local authorities which do not reach their own targets for provision of Traveller accommodation. Addressing this issue should form part of the review of the legislation.

888 See, for example, *Our Geels: All Ireland Traveller Health Study, Summary of Findings* (School of Public Health, Physiotherapy and Population Science, UCD 2010); Department of Justice and Equality, *The National Traveller and Roma Inclusion Strategy 2017–2021* (DJE 2017) 10–11. An important indicator of this is the fact that, in 2016, only three per cent of the Traveller population was aged 65 years and over, as opposed to 13.4 per cent in the case of the country's population as a whole. Central Statistics Office, 'Census of Population 2016 – Profile 8: Irish Travellers, Ethnicity and Religion' <<http://bit.ly/2AtCuoX>> accessed 5 December 2017.

889 Figures on reported health status and disability have been calculated from data contained in 'Census of Population 2016 – Profile 8: Irish Travellers, Ethnicity and Religion' and in Central Statistics Office, 'Census of Population 2016 – Profile 9: Health, Disability and Carers' <<http://bit.ly/2mNp67E>> accessed 17 January 2018.

890 *ibid.*

891 *ibid.*

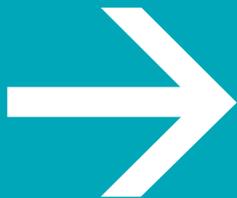
892 Department of Justice and Equality, *The National Traveller and Roma Inclusion Strategy 2017–2021* (DJE 2017) 11.

893 *ibid.* 34.

894 *ibid.*

Traveller and Roma Children

Immediate Actions for 2018



DEVELOP AND PUBLISH AN IMPLEMENTATION PLAN WITH A CLEAR TIMEFRAME TO DELIVER THE ACTIONS OUTLINED IN THE *NATIONAL TRAVELLER AND ROMA INCLUSION STRATEGY 2017–2021* AND ALLOCATE ALL RESOURCES NECESSARY FOR ACHIEVING ITS OUTCOMES.

The publication of the National Strategy, which includes a specific section on Traveller and Roma children, is a positive step forward. The development of a plan for the implementation of the Strategy's proposals should now be a priority; the preparation of this should involve meaningful consultation with children and young people to ensure that their rights as ethnic minority groups are respected, protected and fulfilled.

PUBLISH THE ROMA NEEDS ASSESSMENT TO INFORM IMPLEMENTATION OF THE *NATIONAL TRAVELLER AND ROMA INCLUSION STRATEGY*.

The Roma Needs Assessment is due to be published in 2018. It is essential that measures are put in place to ensure that the information and recommendations of the Assessment will be acted upon, so that children in the Roma population can benefit from public services that are culturally sensitive and appropriate to their needs.

ESTABLISH THE EXPERT GROUP ON TRAVELLER ACCOMMODATION, POLICY, STRATEGY AND, IMPLEMENTATION AS A PRIORITY.

The Expert Group promised by the Minister of State with responsibility for Urban Planning and Housing should take full account of the recommendations of the *Review of Funding for Traveller-Specific Accommodation and the Implementation of Traveller Accommodation Programmes*, published in 2017. In light of continued under-spending by local authorities of funding allocated for Traveller accommodation, the Expert Group's review of the relevant legislation must consider how effective accountability mechanisms and sanctions to address this issue can be established.

6.2

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: Steady

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

Progress: Some

'Refugee and Asylum-Seeking Children' receives a 'D+' grade in *Report Card 2018*, an increase on last year's 'D-' grade. This grade reflects the progress made in the resettlement and relocation of refugees and asylum-seekers from Lebanon and Greece respectively. It also reflects the fact that there have been some reforms of the Direct Provision system, including the development of National Standards and the clarification of the remit of the Ombudsman for Children to include complaints from children in Direct Provision. The Irish Government's intention to sign up to the EU Receptions Directive is a positive development; among the provisions of the Directive is a requirement that EU Member States consider the best interests of refugee and asylum-seeking children in decision-making.

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.⁸⁹⁵ Children outside their country of origin seeking refugee protection are entitled to special protection, regardless of whether they are accompanied by their parents/guardians, or are unaccompanied.⁸⁹⁶ The State must take steps to facilitate family reunification where possible,⁸⁹⁷ 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 family⁸⁹⁸ or who are placed in the care of the State.⁸⁹⁹ The child's ethnic, religious, cultural and linguistic background must be taken into account when deciding what is best for that child.⁹⁰⁰ In 2016, the UN Committee on the Rights of the Child called on Ireland to bring its 'asylum policy,

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

896 *ibid* Art 22(1).

897 *ibid* Art 22(2).

898 *ibid*.

899 *ibid* Art 20(2).

900 *ibid* Art 20(3).

procedures and practices into line with its international obligations' and assure to asylum seeking and refugee children the 'same standards and access to support services as Irish children'.⁹⁰¹

International Protection: Globally, there are now more displaced people than ever before.⁹⁰² In 2016, 1.5 million people sought asylum in EU Member States.⁹⁰³ Approximately 30 per cent of persons who sought protection in Europe in 2015 and 2016 were children, of whom nearly 70 per cent were fleeing conflict in Syria, Afghanistan and Iraq.⁹⁰⁴ In 2015, the European Council established the European Resettlement Scheme and Relocation Scheme, as part of the EU response to the growing refugee crisis. To date, 17,000 people have been resettled under this scheme, predominantly from Turkey, Jordan and Lebanon.⁹⁰⁵

The programme was originally intended to relocate 160,000 asylum-seekers; however, by November 2017 only 31,503 had been relocated from Greece and Italy.⁹⁰⁶ This was due in part to the registration of fewer asylum-seekers than expected because of changing eligibility criteria and changes to EU policy.⁹⁰⁷ All eligible

asylum-seekers who arrived in Greece and Italy up to 26 September 2017 have the right to be relocated and to be transferred to the Member State of destination within a reasonable timeframe.⁹⁰⁸

The vast majority of children arriving in Italy have made the dangerous journey alone and have faced the risk of drowning in the Mediterranean.⁹⁰⁹ The Central Mediterranean route to Italy is particularly dangerous as it involves travelling through Libya; one study revealed that 79 per cent of young people who had travelled alone on this route had been subjected to some form of exploitation.⁹¹⁰ The relocation process from Italy to other EU Member States has been slow, due to delays in the identification and registration of eligible refugees, as well as the pace of case-processing.⁹¹¹ To date, no child has been relocated from Italy to Ireland.⁹¹²

In 2015, the Irish Government committed to accepting 4,000 refugees and asylum seekers through the Irish Refugee and Protection Programme (IRPP). The following table sets out the situation in November 2017.⁹¹³

Number of Refugees Accepted Under the Irish Refugee Protection Programme (IRPP)

Scheme under IRPP	Government Commitment	Number of people arrived to date	Number of people due to arrive in 2018
Relocation	2622	775 (Greece)	259 (Greece)
Resettlement	1040	792	248
Calais	200	30	11
Total	3862	1577	518

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

902 United Nations High Commissioner for Refugees (UNHCR), *Global Trend: Forced Displacement in 2016* (UNHCR 2017) 5.

903 United Nations International Children's Emergency Fund (UNICEF), *A Child is a Child: Protecting children on the move from violence, abuse and exploitation* (UNICEF 2017).

904 Council of Europe, *Thematic Report on Migrant and Refugee Children* (Council of Europe 2017) <<http://bit.ly/2nJKDAj>> accessed 17 October 2017.

905 European Commission, *Relocation and Resettlement: Sharing responsibility and opening legal pathways to Europe* (European Commission 2017) <<http://bit.ly/2ytVEbh>> accessed 16 October 2017.

906 European Commission, 'Relocation: EU solidarity between member states' (European Commission 2017) <<http://bit.ly/2mEC6yB>> accessed 6 December 2017.

907 European Commission, *Relocation and Resettlement: Sharing responsibility and opening legal pathways to Europe* (European Commission 2017) <<http://bit.ly/2ytVEbh>> accessed 16 October 2017. Under the two-year EU relocation programme, asylum seekers from nationalities with a 75 per cent or higher average recognition rate for international protection have been relocated from Greece and Italy to other EU Member States where their asylum applications are processed. The EU-Turkey Agreement, whereby the EU and Turkey agreed to return people arriving in the Greek islands to Turkey, has also resulted in fewer people applying for asylum in the EU.

908 European Commission, *Relocation and Resettlement: Sharing responsibility and opening legal pathways to Europe* (European Commission 2017) <<http://bit.ly/2ytVEbh>> accessed October 2017.

909 United Nations Children's Fund (UNICEF) and International Organization for Migration (IOM) *Harrowing Journeys: Children and youth on the move across the Mediterranean Sea, at risk of trafficking and exploitation* (UNICEF and IOM 2017) 6.

910 bid 10.

911 European Commission, Fifteenth 'Report on Relocation and Resettlement', Report from the Commission to the European Parliament, the European Council and the Council (European Commission 2017) <<http://bit.ly/2vOm09Y>> accessed 16 October 2017.

912 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 12 December 2017.

913 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 1 December 2017.

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Ireland will have fulfilled its relocation commitment in relation to Greece by early 2018. With regard to the resettlement scheme, 54 per cent of refugees resettled from Lebanon to Ireland are children, the majority of them Syrian.⁹¹⁴ In a welcome step, the Government has increased Ireland's resettlement commitment for 2018 to 600 and has pledged to resettle an additional 600 refugees in 2019.⁹¹⁵ The announcement in November 2017 by the Minister for Justice and Equality, Charlie Flanagan TD, of the Family Reunification Humanitarian Admission Programme (FRHAP) is a further positive step. This scheme will see 530 immediate family members of refugees come to Ireland as part of the IRRP.⁹¹⁶

Unaccompanied Minors: According to UNICEF, at least 300,000 unaccompanied and separated children

were registered in 80 countries worldwide in the period 2015–2016, representing an almost five-fold increase on the number in 2010–2011.⁹¹⁷ More than 65,000 unaccompanied minors applied for asylum in EU Member States in 2017.⁹¹⁸ Children and young people travelling on their own are extremely vulnerable; many fall victim to abuse and violence, or are trafficked into sexual exploitation or forced labour.⁹¹⁹ In establishing the Irish Refugee Protection Programme, the Government committed to prioritising unaccompanied minors,⁹²⁰ an important priority given the vulnerability of these displaced young people and the absence of adequate services in countries of first arrival to ensure their protection. For example, in November 2017, there were an estimated 3,250 unaccompanied minors in Greece but only 1,151 places were available in shelters; 78 young people were held in 'protective custody' in police stations.⁹²¹ Despite a commitment to relocate 20 unaccompanied minors from Greece to Ireland, only six (using the Irish definition of an unaccompanied minor) had been referred and relocated by the end of 2017.⁹²²

In the case of Italy, the other key European destination for migrants and asylum-seekers, 93 per cent of the 11,406 children who arrived in the first half of 2017 were unaccompanied or separated.⁹²³ To date, Ireland has been unable to accept any children from Italy for relocation, as it has not been granted access to undertake additional security interviews in Italy.⁹²⁴

In November 2016, following an all-party motion passed by Dáil Éireann, the Government agreed to relocate up to 200 unaccompanied minors from France following the dismantlement of the unofficial migrant camp in Calais.⁹²⁵ This decision applied

914 *ibid.*

915 Department of Justice and Equality, 'Minister Flanagan and Minister of State Stanton announce new Family Reunification Scheme in support of refugees and their families under the Irish Refugee Protection Programme' (14 November 2017) <<http://bit.ly/2A4u6Nh>> accessed 16 November 2017.

916 *ibid.*

917 United Nations Children's Emergency Fund (UNICEF), *A Child is a Child: Protecting children on the move from violence, abuse and exploitation* (UNICEF 2017) 6.

918 European Asylum Support Office, *Annual Report on the Situation of Asylum in the European Union 2016* (European Asylum Support Office 2017) 128.

919 United Nations Children's Fund (UNICEF) and International Organization for Migration (IOM) *Harrowing Journeys: Children and youth on the move across the Mediterranean Sea, at risk of trafficking and exploitation* (UNICEF and IOM 2017).

920 Department of Justice and Equality, 'Government approves Irish Refugee Protection Programme (IRPP)' (2015) <<http://www.justice.ie/en/JELR/Pages/PR15000463>> accessed 20 December 2017.

921 National Center for Social Solidarity (EKKA) 'Situation Update: Unaccompanied Children (UAC) in Greece' (UNICEF 15 November 2017) <<https://data2.unhcr.org/fr/documents/download/60843>> accessed 2 January 2018.

922 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.

923 UNHCR, UNICEF and IOM, *Refugee and Migrant Children in Europe Accompanied, Unaccompanied and Separated, Mid year Overview of Trends, January–June 2017* (UNHCR, UNICEF and IOM 2017)

924 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 12 December 2017.

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

only to unaccompanied minors in France. Due to administrative difficulties on the French side and based on interest expressed by young people directly, only a small number of young people have come to Ireland. To date, 30 young people have been resettled in Ireland from France. All children who have expressed an interest in coming to Ireland and have been referred to the Irish authorities have been accepted. A further 11 young people have been assessed and are awaiting security clearance. Seven of the unaccompanied minors accepted through the Calais Special Project have been reunited with their families through family reunification.⁹²⁶

Integration of Refugees: The majority of people accepted through the IRPP are accommodated in one of three Emergency Reception and Orientation Centres (EROCs), which are located in Kildare, Roscommon, and Waterford;⁹²⁷ a small number are accommodated in Mosney Accommodation Centre in Meath.⁹²⁸ These centres provide temporary accommodation for recently arrived asylum-seekers; they also provide access to medical services, language training, education, cultural orientation and social protection.⁹²⁹ Although the initial resettlement timescale anticipated by the Department of Justice and Equality was three to four months,⁹³⁰ residents are on average spending nine months in EROCs due to challenges in locating and securing suitable accommodation as a result of the wider housing shortage in Ireland.⁹³¹

The UN Committee on the Rights of the Child is clear 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'.⁹³² This includes access to education. Children should start or resume their education at the earliest possible opportunity,

regardless of their legal status within the host State.⁹³³ Any significant break in access to education 'may negatively affect a child's educational experience ... as well as their chances of a successful integration'.⁹³⁴ In order to facilitate integration, refugee children should be placed within the mainstream education sector, rather than being segregated.⁹³⁵ If a child requires additional help, this extra assistance should 'run parallel to and supplement the mainstream educational programme, rather than replacing it'.⁹³⁶

Transitional primary and post-primary education programmes, monitored by the Department of Education and Skills, are in place onsite in EROCs⁹³⁷ but were designed for three to four months and not what has become an average of nine months waiting time before being settled in the general community. The Department of Education and Skills aims to grant all children 'access to the mainstream education system at the earliest possible opportunity'.⁹³⁸ However, it is of concern that a child of school-going age could potentially miss months in mainstream education due to a lack of school places or because they are not deemed ready for school. The State should 'regularly review the capacity and quality of available services'.⁹³⁹ Government departments should collaborate to ensure that school places are available in the catchment area surrounding EROCs so that the Government fulfils its obligations to children under the Education Act 1998.

The Government's policy on integration is set out in *The Migrant Integration Strategy: A blueprint for the future*, published in February 2017.⁹⁴⁰ The Strategy recognises the importance of integration for people who have been granted refugee or protection status; however, those who are in the process of claiming protection fall outside its remit. Early intervention is crucial in ensuring the successful long-term integration

926 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 12 December 2017.

927 *ibid.*

928 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 1 December 2017.

929 Minister of State at the Department of Justice and Equality, David Stanton TD, Seanad Debates, Commencement Matters, 26 January 2017.

930 Minister for Education and Skills, Richard Bruton TD, Written Answers, Education Schemes, 21 November 2017 [48910/17].

931 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 12 December 2017.

932 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.

933 Rosa Da Costa, *Rights of Refugees in the Context of Integration: Legal standards and recommendation* (UNHCR 2006) 86.

934 *ibid.*

935 *ibid.* 87.

936 *ibid.*

937 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 1 December 2017.

938 Minister for Education and Skills, Richard Bruton TD, Written Answers, Education Schemes, 21 November 2017 [48910/17].

939 UNHCR, *The Integration of Resettled Refugees* (UNHCR 2013) 27.

940 Department of Justice and Equality, *The Migrant Integration Strategy: A blueprint for the future* (DJE 2017)

of refugees and asylum-seekers in the State.⁹⁴¹ The Strategy should consider how their integration needs can be met at local level following their arrival. The UN Committee on Economic, Social and Cultural Rights is clear that the rights set out in the International Covenant on Economic, Social and Cultural Rights are to be enjoyed by 'all people under the jurisdiction of the State', including refugees and asylum-seekers; the Committee emphasises that these rights are of immediate in effect, regardless of legal status.⁹⁴²

The decision by the Irish Government, in November 2017, to take steps towards ending the outright prohibition on applicants for protection engaging in paid employment has significant potential for enabling greater integration of asylum-seekers into local communities, improving the economic situation of applicant parents and their children. This decision followed a ruling by the Supreme Court in May 2017 that the total ban on employment was, in principle, unconstitutional, given that there is no statutory limit on the length of time a person may have to wait for a final decision on their application.⁹⁴³ The Government took the view that the appropriate response to the Court's ruling was for Ireland to opt in to the 2013 EU Reception Conditions Directive, under which the State has to permit access to the labour market where an applicant has not received a first instance decision within nine months of lodging their application and provided that the delay is not within their control. This is a significant and welcome development, as access to paid work is a key way of addressing poverty among families living in Direct Provision.⁹⁴⁴

Children in Direct Provision: Direct Provision is the system whereby state services are offered and directly provided to international protection applicants through

the relevant government department or agency, while they await a decision on their status.⁹⁴⁵ Residents who accept the offer of contracted accommodation receive room and board, usually within former hotels, hostels or other large buildings, and a weekly allowance of €21.60.⁹⁴⁶ Each centre is managed by a private contractor on behalf of the Reception and Integration Agency (RIA), an agency of the Department of Justice and Equality. Of the 4,727 people living in Direct Provision in October 2017, almost one-quarter (i.e. 1,300) were under the age of 18.⁹⁴⁷

The EU Reception Conditions Directive, which the Government has committed to opt in to, includes important provisions relevant to how the State responds to the needs of children in the protection process. Notably, the Directive requires the State to consider the best interests of the child when making decisions affecting them in relation to their accommodation, care and education; to conduct gender- and age-sensitive vulnerability and needs assessments to identify a child's healthcare, psycho-social and any other material needs, as well as assessing any child protection concerns or identifying child victims of trafficking.⁹⁴⁸

A report on consultations undertaken by the Department of Children and Youth Affairs with children and young people living in Direct Provision was published in July 2017.⁹⁴⁹ The Government is to be commended for undertaking and publishing this research. However, the findings reveal a picture that should give rise to serious concern, demonstrating as it does the impact of institutionalisation on children and young people. The children consulted said they felt that their personal wellbeing, family life, private life and social life were adversely affected by lengthy stays in Direct Provision.⁹⁵⁰ They spoke about feeling 'unsafe', of having to live in overcrowded, dirty accommodation,

941 OECD, *Making Integration Work: Refugees and others in need of protection* (OECD 2016) 13.

942 Committee on Economic, Social and Cultural Rights, *Duties of States towards Refugees and Migrants under ICESCR* E/C.12/2017/1 para 3.

943 N.V.H –v- Minister for Justice and Equality and ors [2017] IESC 35.

944 Communication received by the Children's Rights Alliance from the Irish Naturalisation and Immigration Service on 18 January 2018.

945 Minister for Justice and Equality, Charlie Flanagan TD, *Seanad Statements on Direct Provision*, 4 October 2017.

946 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.

947 Reception and Integration Agency, 'Monthly Statistics Report: October 2017' (Department of Justice and Equality 2017) <<http://bit.ly/2keLPpX>> accessed 8 December 2017.

948 Council Directive 2013/33/EU laying down standards for the reception of applicants for international protection (recast) [2013] OJ L180/96 <bit.ly/2jpxAey> accessed 8 December 2017; European Commission, 'Communication from the Commission to the European Parliament and the Council: The protection of children in migration (SWD(2017) 129 final' (Brussels 2017) 6 and 9.

949 Department of Justice and Equality, *Report of DCYA consultations with children and young people living in Direct Provision* (Department of Justice and Equality 2017).

950 *ibid.*

of rudeness and a lack of respect on the part of staff in accommodation centres, and of unhealthy, often inedible, food being provided.⁹⁵¹

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,⁹⁵² made 173 recommendations, including a series of reforms to address the rights and needs of children living in Direct Provision.⁹⁵³ *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 implementing the McMahon report in full.

National Standards for Direct Provision Centres:

In 2017, a Standards Advisory Committee was established to advise the Department of Justice and Equality on the development of National Standards for all accommodation centres under contract to the Department. These standards will be informed by existing standards for residential settings and reception facilities set down by bodies such as the Health and Information Quality Agency (HIQA), the European Asylum Support Office and the Dublin Region Homeless Executive. National standards are essential to ensuring that asylum-seeking and refugee children receive a consistent standard of high-quality care in all centres and to facilitate open discussion, improve quality, challenge under-performance and provide oversight.⁹⁵⁴

Standards will ensure that the minimum requirements to which centres must adhere will be clearly set out; this should help bring about consistency and transparency and enable residents to know what they should expect from the service. Certain minimum standards must

be met to ensure that the identified needs, and best interests of the child, are considered. The standards should include some that reflect mandatory legal obligations, including those relating to child protection, as well as others that seek to improve quality in certain areas.⁹⁵⁵ They will deal with the physical environment as well as treatment by staff and management. The McMahon report recognised the need for steps 'to ensure that conditions within accommodation centres are more conducive to normal family life' and recommended reconfiguring the system to provide self-contained units or 'own-door' accommodation with access to cooking facilities and private living space for families.⁹⁵⁶

Given that the majority of Direct Provision centres are contracted to private providers, it is essential that where standards are not met residents have access to a redress mechanism to hold the State to account. The development of standards is welcome but without an independent inspectorate undertaking unannounced inspections,⁹⁵⁷ they will lack the necessary oversight to achieve meaningful change. HIQA would appear to be the obvious body to undertake such independent inspections.⁹⁵⁸

Child Protection and Welfare Strategy: In a report in 2015, HIQA raised concerns about the significantly higher child protection and welfare referral rate to Tusla, Child and Family Agency, in respect of children in Direct Provision compared with the general child population.⁹⁵⁹ In a single year, 14 per cent of children living in Direct Provision were referred to Tusla, compared with 1.6 per cent of the general child population.⁹⁶⁰ The McMahon Working Group recommended that Tusla, in conjunction with the Reception and Integration Agency (RIA), develop a child welfare strategy to advise on policy and practice

951 *ibid* 8, 13–14.

952 *Working Group report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, Final Report* (2015). The Working Group was established by the then Minister for Justice and Equality, Frances Fitzgerald TD and the 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.

953 The recommendations include: increase the weekly payment for children to €29.80; provide families with self-contained units with cooking facilities or family quarters together with communal kitchens; provide adequate recreational space for children; 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.

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

955 *ibid*, 4.

956 Department of Justice and Equality, *Working Group 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 4.73.

957 European Union Agency for Fundamental Rights, *Current Migration Situation in the EU: Oversight of Reception Facilities*, (European Union Agency for Fundamental Rights 2017).

958 Geoffrey Shannon, *Fifth Report of the Special Rapporteur on Child Protection: A Report Submitted to the Oireachtas*, (Department of Children and Youth Affairs 2012) 18.

959 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' (25 May 2015) <<http://bit.ly/2jVdCui>> accessed 13 October 2017.

960 *ibid* 3.

matters and to liaise on individual cases as required.⁹⁶¹ HIQA has recommended that Tusla develop an inter-cultural strategy to inform the provision of social services to ethnic minority children and families.⁹⁶² It is welcome that extensive training has taken place with centre managers and staff in relation to their obligations under the Children First Act 2015.⁹⁶³ However, the Child Protection Policy issued by RIA in 2014 will require updating in light of policy developments since then.⁹⁶⁴

RIA intends to develop a child welfare and protection strategy in 2018; this should incorporate the Signs of Safety approach as outlined in Tusla's *Child Protection and Welfare Strategy 2017-2022*⁹⁶⁵ and focus on prevention and early intervention measures to support families.⁹⁶⁶ Currently the Child and Family Unit within RIA has one child protection specialist on secondment from Tusla and two administrative staff. Developing and implementing a strategy with a preventative focus will require a greater compliment of staff with child protection and welfare expertise.

Child's Direct Provision Payment: In June 2017, as one of his last actions as Minister for Social Protection, the incoming Taoiseach Leo Varadkar TD increased the Direct Provision payment for children from €15.60 to €21.60.⁹⁶⁷ The Back to School Allowance, which is available to children in Direct Provision, was increased by 25 per cent.⁹⁶⁸ The June 2017 rise in the Direct Provision payment for children was the second increase in 18 months and represents a welcome step towards addressing the poverty experienced by such children. However, the payment continues to fall short of the McMahon Report recommendation to increase the weekly amount to €29.80, in line with the Qualified

Child Increase (QCI) paid to those receiving social welfare payments who have dependent children. While Budget 2018 increased the QCI rate to €31.80, there was no further increase in the allowance for children in Direct Provision.

Self-Contained Accommodation: There have been improvements to 13 accommodation centres which resulted in 2,504 residents having access to communal kitchens or shared cooking stations.⁹⁶⁹ The number of self-catering centres has not increased (there are only two such centres); however self-catering facilities have been installed in four centres.⁹⁷⁰ The McMahon report noted that self contained units, including cooking facilities and private living space, were the most appropriate option for families. In 2016 the UN Committee called on the State to 'allow for residents to store and cook their own food' as far as possible.⁹⁷¹ In the consultation with children living in Direct Provision accommodation, children described the food as 'inedible' or 'undercooked'.⁹⁷² RIA has commissioned a nutritional audit in three centres in line with the McMahon report.⁹⁷³ The results of this audit should inform the development of minimum nutritional standards for food in all accommodation centres.

Clarification of the Remit for the Ombudsman for Children: The clarification, in April 2017, that children living in Direct Provision are entitled to make complaints to the Office of the Ombudsman for Children (OCO)⁹⁷⁴ means that these children may now access this redress mechanism in the same way that other groups of children can. Teams from the OCO have conducted information sessions and workshops in 10 Direct Provision centres since April 2017.⁹⁷⁵

961 Working Group to Report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, *Final Report* (2015) para 4.199.

962 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 13 October 2017.

963 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 1 December 2017.

964 Reception and Integration Agency, *Child Protection and Welfare Policy and Practice Document for Reception and Integration Agency (RIA) and Centres under Contract to RIA* (RIA 2014).

965 Child and Family Agency, Tusla, *Child Protection and Welfare Strategy 2017-2022* (Tusla 2017).

966 *ibid.*

967 Department of Social Protection, 'Tánaiste & Minister Varadkar increase payments for children & adults in Direct Provision' (7 February 2017) 14 June 2017 <<http://bit.ly/2h1AZDB>> accessed 13 October 2017.

968 *ibid.*

969 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 1 December 2017.

970 Reception and Integration Agency, 'Monthly Statistics Report: September 2017' <<http://bit.ly/2zgyUcH>> accessed 30 October 2017.

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

972 Department of Justice and Equality, *Report of DCYA consultations with children and young people living in Direct Provision* (Department of Justice and Equality 2017) <<http://bit.ly/2tcGyne>> accessed 13 October 2017.

973 Working Group to Report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, *Final Report* (2015) para 4.99.

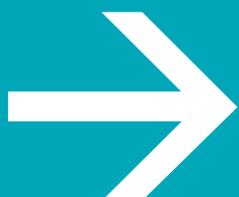
974 Ombudsman for Children, 'Ombudsman for Children can now investigate complaints from those in Direct Provision' (3 April 2017) <<http://bit.ly/2zdJG8C>> accessed 13 October 2017.

975 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 1 December 2017.

976 United Nations High Commissioner for Refugees, 'UNHCR calls for the EU relocation scheme to continue' (26 September 2017) <<http://bit.ly/2CPur43>> accessed 10 January 2018.

Refugee and Asylum-Seeking Children

Immediate Actions for 2018



FULFIL THE INTERNATIONAL COMMITMENTS WHICH IRELAND HAS MADE IN RELATION TO RESETTLEMENT AND RELOCATION, WITH A PARTICULAR FOCUS ON CHILDREN AND UNACCOMPANIED MINORS.

The Government must meet its commitments to relocate and resettle 1,200 migrants by the end of 2018. Children and unaccompanied minors should continue to be prioritised in all further relocation and resettlement actions. 'Swift relocation, including fast registration and transfer of candidates', in particular children, from Greece and Italy is crucial, and the UN High Commissioner for Refugees has called on EU Member States to continue to play a role in solidarity with countries of first arrival in the EU.⁹⁷⁶ In this context, Ireland should support the registration and transfer of asylum-seeking children from these countries. Comprehensive supports should be put in place for children on arrival in the State, including supports and resources to ensure that they can access the formal education system as quickly as possible.

IMPLEMENT WITHOUT DELAY MEASURES TO TRANSFORM THE DIRECT PROVISION SYSTEM AND END THE INSTITUTIONALISATION OF CHILDREN AND FAMILIES.

In order to progress radical reform of the Direct Provision system, the Government should:

- > Develop and introduce National Standards for reception accommodation centres for people seeking protection and establish, as a matter of urgency, an independent inspectorate to ensure consistency and accountability.
- > Provide 'own-door' or self-contained accommodation with private living space for families, and nearby access to appropriate play facilities for children.
- > Develop minimum nutritional standards for Direct Provision accommodation and ensure families have access to their own cooking facilities.
- > Increase the weekly allowance for refugee and asylum-seeking children to €31.80, to ensure equal treatment between these children and other children whose parents are in receipt of a social welfare payment.
- > Develop and implement a dedicated child protection and welfare strategy to address the particular needs of families living in reception accommodation and in Direct Provision centres.

6.3

LGBTI+ 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, as part of this process, review the implementation of the *National Action Plan on Bullying* in schools.



Progress: Good

'LGBTI+⁹⁷⁷ Children and Young People' receives a 'B-' in Report Card 2018. This grade reflects the fact that despite progress in the development of the Strategy promised in the Programme for Government this has not yet been published. It is positive that the Department of Children and Youth Affairs has consulted with LGBTI+ (Lesbian, Gay, Bisexual, Transgender, Intersex and other) children and young people and with key stakeholders to inform the development of the Strategy. The revised name of the Strategy is welcome as it better reflects inclusion of children and young people of all sexual orientations, gender identities or gender expression.

Every child has the right to enjoy their rights without discrimination of any kind. While Article 2 of the UN Convention on the Rights of the Child setting down the

principle of non-discrimination does not specifically refer to discrimination on the grounds of sexual orientation or gender identity, the UN Committee on the Rights of the Child has clarified that sexual orientation is covered by this article.⁹⁷⁸ 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 intersex status⁹⁷⁹ and adopt laws prohibiting discrimination on those grounds'.⁹⁸⁰ 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'.⁹⁸¹ In 2015, a group of international

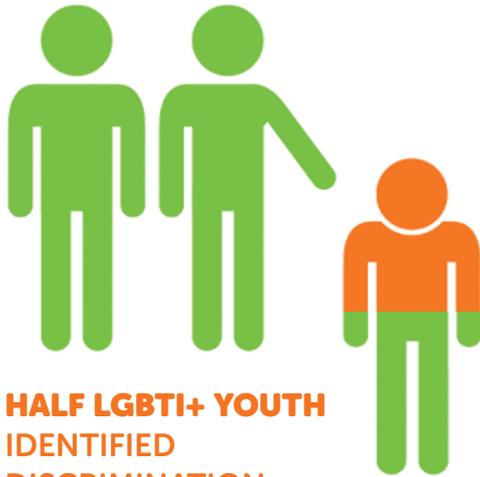
977 The term LGBTI+ is used to denote Lesbian, Gay, Bisexual, Transgender and all other individuals who may identify as intersex or other. The term is inclusive of all sexual orientations and gender identities. With the exception of references to reports published before 2017, this is the preferred term used throughout this section of Report Card 2018, a change from Report Card 2017 to reflect the official title of the National LGBTI+ Youth Strategy.

978 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.

979 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 BeLonG To 2016) 19.

980 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.

981 *ibid.*



HALF LGBTI+ YOUTH IDENTIFIED DISCRIMINATION AS MAJOR ISSUE

human rights experts and UN human rights agencies, including the UN Committee on the Rights of the Child, called on States 'to act to overcome prejudice and stereotypes' in regard to LGBTI+ children and young people 'through anti-discrimination initiatives in schools and public education campaigns'.⁹⁸²

LGBTI+ Youth Strategy: In June 2016, Minister for Children and Youth Affairs, Katherine Zappone TD, announced that a strategy for LGBT young people would be developed by her Department, with support from the Department of Education and Skills.⁹⁸³ It is a welcome development that the title of the strategy has since been changed to the LGBTI+ Youth Strategy to ensure that it encompasses individuals who identify as intersex and is inclusive of all sexual orientations and gender identities. The Strategy is due to be completed in the second quarter of 2018.⁹⁸⁴

In December 2016, journalist and LGBTI+ advocate Una Mullally was appointed as an independent chairperson

to lead the development of the strategy. An Oversight Committee was established, together with a Youth Advisory Group comprising of 13 young people from different parts of the country. Three members of the Group sit on the Oversight Committee including a Transgender young person.⁹⁸⁵ It is welcome that the Youth Advisory Group has played a direct role in the design of the strategy brand, related materials and publications as well as working with the Department to formulate the consultation questions for both the online and group consultations which have been undertaken.⁹⁸⁶

The consultation process was launched in April 2017 with a Facebook Live event. Seven consultation events held in different locations around the country in May and June 2017 were youth-led.⁹⁸⁷ An online consultation, facilitated by Spun Out, received 4,046 responses from young people aged between 16 and 25 years, of whom 3,710 lived in Ireland.⁹⁸⁸ The final consultation results revealed that discrimination, bullying, isolation, health and mental health are key issues impacting on the lives of young LGBTI+ people.⁹⁸⁹

The findings of the consultations show a similar picture to that obtained by a survey undertaken as part of the *LGBTIreland Report*, which was funded by the National Office for Suicide and published in 2016.⁹⁹⁰ This national study of the mental health and wellbeing of LGBTI+ people in Ireland found that the LGBTI+ teens who responded to a survey were four times as likely as other teens to suffer from severe or extremely severe stress, anxiety and depression,⁹⁹¹ one-third had attempted suicide.⁹⁹² Self-harm was also prevalent among this age group with 56 per cent reporting that they had self-harmed.⁹⁹³ The UN Committee on the Rights of the Child has highlighted how negative experiences of LGBTI+ adolescents have been 'linked to low self-esteem, higher rates of depression, suicide

982 'Discriminated and made vulnerable: Young LGBT and intersex people need recognition and protection of their rights', United Nations and international human rights experts call for an end to discrimination and violence against lesbian, gay, bisexual, transgender and intersex young people and children (Office of the United Nations High Commissioner for Human Rights), 13 May 2015) <<http://bit.ly/1QPqBJv>> accessed 3 February 2017.

983 MerrionStreet.ie, Irish Government News Service, 'Homophobia to be challenged in first National LGBT Strategy for Young People' (25 June 2016) <<http://bit.ly/2lggu67>> accessed 3 February 2017; Department of Education and Skills, *Action Plan for Education 2016–2019*, Strategy Statement (DES 2016) 18.

984 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 5 December 2017.

985 Una Mullally, 'LGBTI+ Youth Strategy: Strategy Newsletter #2' (DCYA 2017).

986 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 5 December 2017.

987 *ibid.*

988 Una Mullally, 'LGBTI+ Youth Strategy: Strategy Newsletter #2', (DCYA 2017).

989 *ibid.*

990 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 BeLonG To – 2016).

991 *ibid.* 23.

992 *ibid.* 1.

993 *ibid.* 109.

and homelessness.⁹⁹⁴ The vulnerability of this cohort of children and young people must be addressed in the forthcoming Strategy with tangible measures identified as to how to address mental health difficulties faced by LGBTI+ young people.

The *LGBTIreland* study found that although the average age of identifying as LGBTI+ for the 14–18 year old cohort was 12 years, the average age for telling someone they are LGBTI+ was 13 to 14 years.⁹⁹⁵ Research indicates that parental reaction to a child coming out as LGBTI+ is initially often negative.⁹⁹⁶ The Department of Children and Youth Affairs has indicated that the forthcoming Strategy will examine the need for supports for parents and family members as well as supports for the young person; this is welcome.⁹⁹⁷

In 2016, the UN Committee on the Rights of the Child called on the State to strengthen its efforts to combat discrimination against and stigmatisation and social exclusion of children, including that based on their sexual orientation or gender identity.⁹⁹⁸ The development of the LGBTI+ Youth Strategy will be an important step towards the Government meeting this obligation. The Strategy must address specific issues faced by young people who identify as LGBTI+ in terms of the key outcomes for all young people identified in *National Youth Strategy*: physical and mental well-being; achieving full potential in all areas of learning and development; being safe and protected from harm; economic security and opportunity, and feeling connected to society.⁹⁹⁹ It is important that young people continue to have the opportunity for

meaningful input into the process of developing the Strategy until its finalisation.

In relation to gender identity, it is important that the development of the Strategy takes account of the evidence that for some children self-awareness that their gender identity differs from social expectations occurs at a young age,¹⁰⁰⁰ some as young as three.¹⁰⁰¹ The preparation of the Strategy must include hearing the views of Transgender children in line with Article 12 of the UN Convention, and must propose measures for ensuring that the rights of these children are recognised and protected.¹⁰⁰² Transgender children continue to face discrimination and challenges in the school environment.¹⁰⁰³ This can lead to bullying and harassment which can result in transgender students considering leaving school early.¹⁰⁰⁴

Review of the Action Plan on Bullying: It has been estimated that around 29,000 second-level students in Ireland would identify as LGBTI+, a sizeable minority of the secondary school population.¹⁰⁰⁵ The question

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- 994 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.
- 995 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 BeLonG To 2016) 58.
- 996 *ibid* 230.
- 997 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 5 December 2017.
- 998 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 28.
- 999 Department of Children and Youth Affairs, *National Youth Strategy 2015–2020* (DCYA 2015).
- 1000 Transgender Equality Network Ireland, *Gender Recognition and Transgender Young People* (TENI 2015) 2–3.
- 1001 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).
- 1002 Young transgender people under the age of 18 continue to face challenges in gaining legal recognition of their gender. The Gender Recognition Act 2015 allows those aged 18 and over to apply for a legal change of gender without any medical prerequisites. Applicants aged 16 or 17 can apply to court for an exemption from the age barrier to legal recognition but this requires consent of a parent or guardian along with the approval of two medical professionals. A review of the Gender Recognition Act 2015 was announced in October 2017. The Review Group, chaired by Moninne Griffith, Executive Director of BeLonG To Youth Services, will consider gender recognition for children under the age of 16, arrangements for 16 and 17 year olds and the position of non-binary and intersex persons. The Review Group is expected to complete its work in May 2018.
- 1003 Transgender Equality Network Ireland, *Gender Recognition and Transgender Young People* (TENI 2015) 4. 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.
- 1004 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 BeLonG To 2016) 138.
- 1005 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://bit.ly/1Sxsxub>> accessed 3 January 2018.

Homophobic bullying is 'directly related to poorer mental health outcomes and higher levels of reported self-harm and suicidal behaviour'. While initiatives to prevent and respond to homophobic and transphobic bullying in schools exist, and are supported by the Department of Education and Skills, it is worrying that almost half of the 416 people aged between 14 and 18 years who participated in the survey for the 2016 *LGBTIreland Report* had experienced anti-LGBTI+ bullying, while 67 per cent had witnessed an incident of anti-LGBTI+ bullying.

of homophobic and transphobic bullying in schools is therefore one which needs to be comprehensively addressed. Homophobic bullying is 'directly related to poorer mental health outcomes and higher levels of reported self-harm and suicidal behaviour'.¹⁰⁰⁶ While initiatives to prevent and respond to homophobic and transphobic bullying in schools exist,¹⁰⁰⁷ and are supported by the Department of Education and Skills, it is worrying that almost half of the 416 people aged between 14 and 18 years who participated in the survey for the 2016 *LGBTIreland Report* had experienced anti-LGBTI+ bullying, while 67 per cent had witnessed an incident of anti-LGBTI+ bullying.¹⁰⁰⁸

The review of the *Action Plan on Bullying* is currently focused on the LGBTI+ specific sections. The Department of Education and Skills should build on this review and consider other forms of bullying and harassment against other children and young people in relation to gender, race, religion or other grounds.

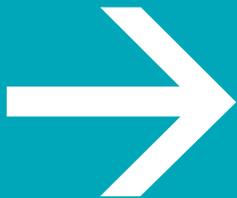
1006 Agnes Higgins et al, *The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (GLEN and BeLonG To – 2016) 8.

1007 The Stand Up! campaign, run annually by BeLonG To, 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. BeLonG To '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://bit.ly/1Sxsxub>> accessed 3 February 2017. The Department has also provided funding to BeLonG To in order to explore ways in which Stand Up! can be adapted for use in primary schools.

1008 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 BeLonG To 2016) 8.

LGBTI+ Children and Young People

Immediate Actions for 2018



PUBLISH THE LGBTI+ YOUTH STRATEGY IN THE FIRST HALF OF 2018 WITH AN IMPLEMENTATION PLAN SETTING OUT ACTIONS AND TIMELINES.

The LGBTI+ Youth Strategy has the potential to significantly tackle the inequality and discrimination faced by LGBTI+ children and young people within a clear policy framework. It is critical that the strategy incorporates and respects the views of LGBTI+ children as expressed in the youth consultations and through the Youth Advisory Group and that it is informed by the review of the Action Plan on Bullying. The strategy must include specific targeted actions towards the safety and inclusion of LGBTI+ children and young people. These actions need to have clear timeframes, accountability measures and adequate funding.