

4. RIGHT TO EQUALITY

Chapter Grade

D

“

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

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

Right to Equality and Non-Discrimination

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

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



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IN THE NEWS

CORK SCHOOL FLIES THE FLAG FOR GAY STUDENTS

Evening Echo, 14 November 2016

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

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

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

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

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

help end prejudice and discrimination against gay people.'

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

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

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

4.1

Traveller and Roma Children

GOVERNMENT COMMITMENT

A *Programme for a Partnership Government* commits to:

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

Progress: Slow



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

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

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

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

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

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

391 *ibid* Art 27.

392 *ibid* Art 2.

393 *ibid* Art 6.

394 *ibid* Art 30.

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

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

397 *ibid* para 60.

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

399 *ibid*.

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

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

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

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

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

401 *ibid* Commitment 4.19.

402 *ibid* Commitment 1.4.

403 *ibid* Commitment 2.22.

404 *ibid* Commitment 2.22.

405 *ibid* Commitment 5.6.

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

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

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

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

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

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

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

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

414 Department of Justice and Equality, 'National Traveller and Roma Strategy: Phase 3 Consultation Document' <<http://bit.ly/2kkZU66>> accessed 3 February 2017.

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

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

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

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

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

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

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

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

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

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

418 *ibid.*

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

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

421 *ibid.*

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

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

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

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

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

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

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

429 *ibid.*

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

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

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

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

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

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

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

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

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

434 *ibid.*

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

436 *ibid.*

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

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

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

440 *ibid.*

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

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

443 *ibid.*

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

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

446 *ibid.*

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



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

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

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

447 *ibid.*

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

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

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

451 *ibid.*

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

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

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

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

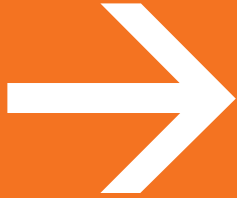
456 Dorothy Watson, Oona Kenny and Frances McGinnity, *A Social Portrait of Travellers in Ireland* (Economic Social and Research Institute 2017) 17.

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

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

Traveller and Roma Children

Immediate Actions for 2017



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

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

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

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

4.2

Refugee and Asylum-Seeking Children

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

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

Progress: Slow

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

Progress: Limited

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

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

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

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

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

461 *ibid* Art 22(1).

462 *ibid* Art 22(2).

463 *ibid*.

464 *ibid* Art 20(2).

465 *ibid* Art 20(3).

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

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

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

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

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

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

468 *ibid.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

486 *ibid.*

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

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

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

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

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

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

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

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

495 *ibid.*

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

507 *ibid.*

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

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

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

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

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

513 *ibid* para 4.178.

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

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

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

Extension of remit of the Ombudsman for Children:

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

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

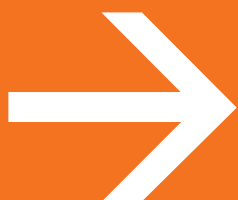
517 Department of Justice and Equality, *Working Group to Report to Government Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers* (2015).

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

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

Refugee and Asylum-Seeking Children

Immediate Actions for 2017



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

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

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

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

4.3

LGBT+ Children and Young People**GOVERNMENT COMMITMENT**

A Programme for a Partnership Government commits to:

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



Progress: Some

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

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

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

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

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

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

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

524 *ibid*.

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

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

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

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

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

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

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

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

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

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

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

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

532 *ibid.*

533 *ibid.*

534 *ibid.*

535 *ibid.*

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

537 *ibid* 23.

538 *ibid* 1.

539 *ibid* 109.

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

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

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



Although transgender children and young people fall within the remit of the Strategy, it should be noted that young people under the age of 18 continue to face challenges in gaining legal recognition of their gender. While the Gender Recognition Act 2015 allows for a legal change of gender without any medical prerequisites,⁵⁴⁴ applicants aged 16 or 17 can apply for a court exemption to overcome the age barrier for legal recognition but this requires consent of a parent or guardian along with the approval of two medical professionals.⁵⁴⁵ According to the recent annual report on the implementation of the 2015 Act, four young people aged 16 or 17 availed of legal gender recognition provision between 4 September 2015 and 30 June 2016.⁵⁴⁶ Given the evidence that some children become aware of their gender identity at a young age,⁵⁴⁷ some as young as three,⁵⁴⁸ the Strategy must ensure that the views of transgender children are heard in line with Article 12 of the UN Convention and their rights are recognised.

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

In 2016, the UN Committee on the Rights of the Child called on the State to 'strengthen its efforts to combat discrimination against and stigmatization and social exclusion' of children including that based

541 Agnes Higgins et al, *The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (GLEN and BeLonGTo 2016) 58.

542 *ibid* 230.

543 *ibid*.

544 Gender Recognition Act 2015, s 10.

545 *ibid*, s 12(4)(b). These professionals include the young person's primary medical care practitioner and an impartial endocrinologist or psychiatrist.

546 Department of Social Protection, *First Annual Report under section 6 of the Gender Recognition Act 2015* (DSP 2016) 4.

547 Transgender Equality Network Ireland, *Gender Recognition and Transgender Young People* (TENI 2015) 2-3.

548 Ruari-Santiago McBride *Grasping the Nettle: The Experiences of Gender Variant Children and Transgender Youth Living in Northern Ireland* (Institute for Conflict Research 2013) cited in Transgender Equality Network Ireland *Gender Recognition and Transgender Young People* (TENI 2015).

549 Transgender Equality Network Ireland, *Gender Recognition and Transgender Young People* (TENI 2015) 4.

550 Agnes Higgins et al, *The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (GLEN and BeLonGTo – 2016) 138.

551 Two per cent of the participants in the *LGBTIreland Report* identified as Intersex. Agnes Higgins et al, *The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (GLEN and BeLonGTo 2016) 19.

on their sexual orientation or gender identity.⁵⁵² The commitment to developing the Strategy is a clear indication that the State takes its responsibilities to LGBT+ children seriously and is a welcome step in implementing the recommendation of the UN Committee. The Strategy must reflect the *National Youth Strategy* and address specific issues faced by young people who identify as LGBT+ in terms of their health, learning and development, protection from harm, economic security and opportunity, and feeling connected to society.⁵⁵³ It is important that young people are consulted on the development of the Strategy and the youth panel convened by BeLonGTo and the National Youth Council must be provided with an opportunity for meaningful input.

Report participants aged between 14 and 18 years had experienced anti-LGBT+ bullying, while 67 per cent had witnessed an incident of anti-LGBT+ bullying.⁵⁵⁷ In relation to LGBT+ young people, international human rights experts have explicitly stated that 'States must act to overcome prejudice and stereotypes through anti-discrimination initiatives in schools and public education campaigns'.⁵⁵⁸ It is welcome that the *Action Plan on Bullying*, published by the Department of Education and Skills in 2013,⁵⁵⁹ will be reviewed in the context of the LGBT Youth Strategy. However, it is not clear whether the review of the *Action Plan on Bullying* will focus only on the LGBT specific sections or whether it will address other forms of bullying and harassment against other children and young people in relation to gender, race, religion or other grounds.

In 2016, the UN Committee on the Rights of the Child called on the State to 'strengthen its efforts to combat discrimination against and stigmatization and social exclusion' of children including that based on their sexual orientation or gender identity.

Review of the Action Plan on Bullying: An estimated 29,000 young people identify as LGBT+ representing a sizeable minority of the school population in Ireland.⁵⁵⁴ Homophobic bullying is 'directly related to poorer mental health outcomes and higher levels of reported self-harm and suicidal behaviour'.⁵⁵⁵ While initiatives to address homophobic and transphobic bullying in schools exist,⁵⁵⁶ almost half of the 416 *LGBTIreland*

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

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

554 Gay and Lesbian Equality Network, 'Being LGBT in School; A Resource for Post-Primary Schools to Prevent Homophobic and Transphobic Bullying and Support LGBT Students' (2016) <<http://www.education.ie/en/Publications/Education-Reports/Being-LGBT-in-School.pdf>> accessed 3 February 2017.

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

556 The *Stand Up!* campaign, run annually by BeLonGTo, is a programme aimed at tackling homophobic and transphobic bullying in schools. This campaign has been endorsed in the current national *Action Plan on Bullying*, which recommended that the project be supported by the Department of Education and Skills. BeLonGTo 'Stand Up Campaign' <<http://www.belongto.org/campaign.aspx>> accessed 3 February 2017. Gay and Lesbian Equality Network, 'Being LGBT in School; A Resource for Post-Primary Schools to Prevent Homophobic and Transphobic Bullying and Support LGBT Students' (2016) <<http://www.education.ie/en/Publications/Education-Reports/Being-LGBT-in-School.pdf>> accessed 3 February 2017.

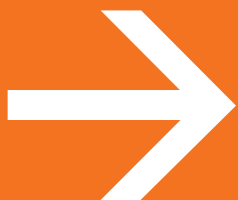
557 Agnes Higgins et al, *The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (GLEN and BeLonGTo 2016) 8.

558 United Nations Human Rights; Office of the High Commissioner, 'Discriminated and made vulnerable: Young LGBT and intersex people need recognition and protection of their rights' (13 May 2015) <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15941&LangID=E>> accessed 3 February 2017.

559 Department of Education and Skills, 'Action Plan on Bullying; Report of the Anti-Bullying Working Group to the Minister for Education and Skills' (DES 2013) <<https://www.education.ie/en/Publications/Education-Reports/Action-Plan-On-Bullying-2013.pdf>> accessed 3 February 2017.

LGBT+ Children and Young People

Immediate Actions for 2017



PUBLISH THE LGBT YOUTH STRATEGY WITH AN IMPLEMENTATION PLAN SETTING OUT ACTIONS AND TIMELINES.

The LGBT Youth Strategy should provide an effective policy framework for meeting the particular needs of LGBT+ children and young people. It should be renamed the 'LGBT+ Youth Strategy' and should also ensure that it addresses specific issues related to intersex children and young people and those who identify in other ways such as non-binary or gender-fluid. The preparatory work for Budget 2018 should inform Government of the necessary resources for the Strategy's implementation and this should be provided for in government estimates. The review of the *Action Plan on Bullying* should play an integral role in this process, in order to better inform the Strategy's outcomes.