

Submission to the Select Oireachtas Committee on Children and Youth Affairs on the Childcare Support Bill 2017

16 February 2018



Founded in 1995, the Children's Rights Alliance unites over 100 members working together to make Ireland one of the best places in the world to be a child. We change the lives of all children in Ireland by making sure that their rights are respected and protected in our laws, policies and services.

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Ag Eisteacht
Alcohol Action Ireland
Amnesty International Ireland
An Cosán
ASH Ireland
Assoc. for Criminal Justice Research and Development (ACJRD)
Association of Secondary Teachers Ireland (ASTI)
ATD Fourth World – Ireland Ltd
Atheist Ireland
Autism Network Ireland
Barnardos
Barretstown Camp
Bedford Row Family Project
BeLonG To Youth Services
Care Leavers' Network
Catholic Guides of Ireland
Child Care Law Reporting Project
Childhood Development Initiative
Children in Hospital Ireland
COPE Galway
Cork Life Centre
Crosscare
Cybersafe
Dental Health Foundation of Ireland
Department of Occupational Science and Occupational Therapy, UCC
Disability Federation of Ireland
Down Syndrome Ireland
Dublin Rape Crisis Centre
Early Childhood Ireland
Educate Together
EPIC
EQUATE
Extern Ireland
Focus Ireland
Foróige
Future Voices Ireland
Gaelscoileanna Teo
GLEN- the LGBTI equality network
Immigrant Council of Ireland
Inclusion Ireland
Independent Hospitals Association of Ireland
Institute of Guidance Counsellors
Irish Association for Infant Mental Health
Irish Association of Social Workers
Irish Centre for Human Rights, NUI Galway
Irish Congress of Trade Unions (ICTU)
Irish Council for Civil Liberties (ICCL)
Irish Foster Care Association
Irish Girl Guides
Irish Heart Foundation
Irish National Teachers Organisation (INTO)
Irish Penal Reform Trust
Irish Primary Principals Network
Irish Refugee Council
Irish Second Level Students' Union (ISSU)
Irish Society for the Prevention of Cruelty to Children
Irish Traveller Movement
Irish Youth Foundation (IYF)
Jack & Jill Children's Foundation
Jesuit Centre for Faith and Justice
Jigsaw
Kids' Own Publishing Partnership
Law Centre for Children and Young People
Lifestart National Office
Mental Health Reform
Mercy Law Resource Centre
Migrant Rights Centre Ireland
Mounttown Neighbourhood Youth and Family Project
MyMind
National Childhood Network
National Museum of Childhood
National Organisation for the Treatment of Abusers (NOTA)
National Parents Council Post Primary
National Parents Council Primary
National Youth Council of Ireland
One Family
One in Four
Parentstop
Pavee Point
Peter McVerry Trust
Rape Crisis Network Ireland (RCNI)
Realt Beag
SAFE Ireland
Saoirse Housing Association
SAOL Beag Children's Centre
Scouting Ireland
School of Education UCD
Sexual Violence Centre Cork
Simon Communities of Ireland
Social Care Ireland
Society of St. Vincent de Paul
Sonas Domestic Violence Charity
Special Needs Parents Association
SpunOut.ie
St. Nicholas Montessori College
St. Nicholas Montessori Teachers' Association
St. Patrick's Mental Health Services
Step by Step Child & Family Project
Suas Educational Development
Teachers' Union of Ireland
Terenure Rugby Football Club
The Ark, A Cultural Centre for Children
The Prevention and Early Intervention Network
The UNESCO Child and Family Research Centre, NUI Galway
Traveller Visibility Group Ltd
Treoir
UNICEF Ireland
youngballymun
Youth Advocate Programme Ireland (YAP)
Youth Work Ireland

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1. Introduction

The Children’s Rights Alliance welcomes the Childcare Support Bill 2017 and the opportunity to make a written submission to the Select Oireachtas Committee on Children and Youth Affairs in advance of its meeting with the Minister for Children and Youth Affairs, Katherine Zappone TD on 27 February 2018.

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

The Alliance is a member of the National Advisory Council for Children and Young People as part of the implementation structures for *Better Outcomes, Brighter Futures, the National Policy Framework for Children and Young People 2014-2020*. The Alliance is a member of the Working Group on the Reform and Support of the Childminding Sector that recently submitted proposals to the Minister for Children and Youth Affairs (the Minister) on reforming and supporting the sector. The Alliance is also a member the Working Group on School-age Childcare Quality Standards chaired by the Department of Children and Youth Affairs (DCYA) that recently finalised a set of draft quality standards for public consultation.

The political and public focus is predominantly on ‘childcare’¹ as a service to parents and the high costs to parents paying for these services. There are concerns that the cost negatively affects parents’ capacity to engage in paid employment and training/education, contributing to child poverty rates and gender inequality. However, ‘childcare’ is more complex: it is primarily a children’s service. Children are the actual beneficiaries of the service. Yet parents’ ability to afford childcare services is central to ensuring a child’s access to childcare services. From a child’s perspective there is more at stake in getting the Scheme right than parental employment.

The UN Convention on the Rights of the Child requires States to provide appropriate assistance to parents and guardians in relation to their child-rearing responsibilities.² Children of working parents have the right to benefit from childcare services and facilities for which they are eligible.³ The UN Committee on the Rights of the Child calls on States to ensure that all young children are guaranteed access to appropriate and effective services, including programmes of health, care and education specifically designed to promote their well-being, paying particular attention to the most vulnerable groups of young children, including those experiencing poverty, and those at risk of discrimination.

The Alliance welcomes the opportunity to engage with the debate on the proposed legislation and is encouraged that the revised Bill has been strengthened by reflecting a number of recommendations made by the Alliance and our members in our initial submission on the DCYA’s Policy Paper and General Scheme and the Heads of Bill. The Alliance also recognises the important work carried out by the Minister and DCYA officials in the design of the scheme, following the pre-legislative scrutiny process, to make it more child-centred and rights-focused.

As requested by the Joint Oireachtas Committee, section 2 of this submission provides comments and observations on a section-by-section basis as they arise in the Bill. Section 3 is a summary of our recommendations to the Committee and also offers further conclusions on the Scheme’s design and implementation.

1 By ‘childcare’, we mean Early Childhood Education and Care for children aged up to six years and not attending primary school, and School-age Childcare for school-going children aged up to 15 years.

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

3 *ibid* Art 18(3).

2. Sections of the Bill

Section 1: Interpretation & Section 8: Approved Childcare Services Provider

The Alliance strongly welcomes that the Bill defines an ‘approved services provider’ for childcare supports as ‘the provider of a pre-school service or a school-age service whose name is entered in the register of prescribed early years services established and maintained in accordance with section 58C of the Child Care Act 1991’.⁴ This means that only services registered with the national childcare regulator – Tusla, the Child and Family Agency – can participate in the Affordable Childcare Scheme.

Section 8 (1) of the Act provides that an ‘approved childcare services provider’ means a provider who has a written agreement with the Minister ‘as to the conditions under which financial support is to be paid for the purpose of receiving payments under the Scheme’. It is vital that only Tusla-registered childcare services with an agreed contract can participate in the Scheme. From a child’s perspective, the contract is the State’s mechanism to mandate adherence with quality criteria and engagement with the DCYA’s structures and processes to improve quality such as Better Start, the Department of Education and Skills’ quality mentors and the City/County Childcare Committees.⁵

Current national policy restricts participation in national childcare funding programmes⁶ to childcare services providers (primarily centre-based) on Tusla’s national register. There are many positives for children, parents and services:

- The inspection and regulation regime ensures that childcare services in receipt of public monies are accountable to the State for their actions;
- The Inspectorate aims to standardise minimum service standards for children nationwide;
- The State has the legal basis to protect children should a service not be fit for purpose, or judged dangerous to children;
- Tusla’s Inspectorate enforces Garda-vetting legislation and is the complaints mechanism for parents; and
- Regulation supports parents’ confidence that their children are safe and well when they are placed in the care of a childcare service provider.

Every child has the right to development, to care and assistance, to education, and to be protected from any form of harm, abuse or neglect. Ensuring the protection of these rights applies with particular urgency in the case of young children, who are least able to defend themselves against any infringement of their rights, to comprehend what may be happening in the case of abuse or neglect, or to seek the protection of others. Where a child’s right has been violated, there must be an effective accountability process, including the availability of remedies and sanctions. Regardless of whether early childhood services are supplied by public authorities or by non-state providers, the State is obliged to regulate and monitor the quality of provision to ensure that children’s rights are protected and their best interests served.⁷

A challenge for the Government is to bring childminding and school-age childcare services into the national regulatory framework in order to publically fund them and thus support children and parents. It is positive that the Government already has the legislative basis to regulate and register

4 Childcare Support Bill 2017, Dáil Bill, No. 153 of 2017, <http://affordablechildcare.ie/wp-content/uploads/2017/12/171214-Childcare-Support-Bill-2017.pdf>, 5

5 These public agencies are concerned with quality improvement in early childhood education and care services.

6 The ECCE Programme (the Free Preschool Scheme) and the ‘September Measures’ currently being implemented until the implementation of the Scheme..

7 UNCRC, ‘General Comment No.7: Implementing child rights in early childhood’ (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 3.

4 Children’s Rights Alliance (2018) *Submission to the Select Oireachtas Committee on Children and Youth Affairs on the Childcare Support Bill 2017*

school-age childcare services.⁸ Also, the Department is well-advanced in the development of draft school-age childcare quality standards to inform regulatory standards and is implementing, with the Department of Education and Skills, a national *School-age Childcare Action Plan*.⁹ The Minister, when introducing the Bill to the House, announced that regulations, initially for registration, will be progressed to enable school-age childcare services register and provide the Scheme.¹⁰ That the Scheme is not to be implemented before September 2019¹¹ provides Government and the DCYA with the opportunity to make the necessary amendments to the Child Care Act 1991 to provide the legal basis for the regulation and registration of childminding services and to develop the necessary inspection infrastructure and supports for childminders. By ‘childminders’, we do not mean the child’s granny or grandad, auntie or uncle. We mean professional childminders running childminding businesses in their homes for payment.

The State’s oversight of and supports to childminding services has been poor to date. There are at least 35,000 children in Irish childminding services; the State cannot currently evidence that children in these settings are safe and protected, and that their learning and development is being optimally enhanced. Equally, the State is not recognising all of the good practice and quality services that childminders may be providing.

Some children have been placed in unsafe and abusive situations in childcare settings.¹² We know that this can have a devastating impact on children’s lives, and long into adulthood, when the State does not protect children in services. The current Bill, and the development of a regulated and safe childcare support system, with the appropriate checks and balances, will ensure that the State has learned the lessons of the past.

Recommendation 1 : Maintain the current interpretation of ‘approved services provider’ for childcare supports in the Bill as ‘the provider of a pre-school service or a school-age service whose name is entered in the register of prescribed early years services established and maintained in accordance with section 58C of the Child Care Act 1991’. Only services registered with the national childcare regulator – Tusla, the Child and Family Agency – should be allowed to participate in the Affordable Childcare Scheme.

Section 7: Persons eligible to apply for financial support

The Bill sets out the person eligible to apply for financial support in respect of a child ‘if the person or his or her partner is a parent of the child’ and ‘the person or his or her partner has care of the child for the period time each week in respect of which the financial support is payable’.

The Alliance welcomes this sensible approach, whereby both parents, in cases of separation, can be eligible for a subsidy for the period of time they have care of the child (ren) as it supports co-parenting, shared access and joint custody arrangements. The detail of how this element of eligibility might operate was detailed in the Heads of Bill and General Scheme. In such cases, each parent may be approved a subsidy for hours of childcare that fall within the time the child is living with that parent, provided the two applications for subsidised hours do not overlap and provided the combined hours of subsidy do not exceed the limits specified under the Scheme.

Recommendation 2: Maintain the eligibility to apply provision in the Bill whereby both parents can apply for childcare support for the period of time that the child spends in each parent’s care.

⁸ A 2013 amendment to the 1991 Child Care Act supports the regulation of school age childcare services. <<http://www.irishstatutebook.ie/eli/2013/act/40/section/92/enacted/en/html#>>, accessed 14 February 2018.

⁹ Childcare Support Bill 2017: Second Stage, Dáil Debates 31 January 2018’ <<https://beta.oireachtas.ie/en/debates/debate/dail/2018-01-31/35/>> accessed 14 February 2018.

¹⁰ Childcare Support Bill 2017: Second Stage, Dáil Debates 31 January 2018’ <<https://beta.oireachtas.ie/en/debates/debate/dail/2018-01-31/35/>> accessed 14 February 2018.

¹¹ Opening Statement by Minister Dr Katherine Zappone - Meeting of Joint Oireachtas Committee on Children and Youth Affairs <<https://www.dcy.gov.ie/viewdoc.asp?Docid=4573&CatID=11&mn=&StartDate=1+January+2018>> accessed 14 February 2018.

¹² ‘Criminal investigation into alleged crèche abuse’ (RTE) accessed 15 November 2017.

Section 14: Provision for vulnerable children

The Alliance welcomes section 14 of the Bill which makes provision for ‘vulnerable children’, permitting the Minister to enter into an agreement with a statutory body specified in Schedule 2 for purposes specified in the same schedule.

This section provides an alternative eligibility and access route for children and families that is not based on income or parental employment. This includes supporting teen parents to continue their education and ensuring that asylum seeking and programme refugee families, homeless children and their families, and children and families referred by Tusla or the Health Service Executive (HSE) can avail of the subsidy. Children and families in these groups may be eligible for a greater level of childcare subsidy without having to fulfil the work/training eligibility criteria where a named government department or agency decides it is necessary. It also provides for flexibility in the age of the child (below six months or over 15 years); could allow for 100 per cent subsidy provided in respect of a child, and additional hours of support.¹³

The section provides the Minister with the power to make written agreements with named statutory bodies¹⁴ and provides flexibility in areas like the number of hours of financial support for which children/parents are eligible, the amount of financial supports allocated, the period of support, and the conditions of support. The Minister identified the importance of including a section providing eligibility grounds based on identified child development or child welfare needs.¹⁵

A consistent critique of the Scheme since it was first announced in Budget 2017 is that the main focus has been childcare support to support parental employment and employment activation rather than quality childcare that benefits children.¹⁶ There is also concern that some groups of vulnerable parents and children who have been receiving 100 per cent targeted subsidies or who had a set and low/nil co-payment under existing arrangements will not be able to afford the co-payments required under the Scheme.¹⁷ The Committee, in its pre-legislative scrutiny process of the Affordable Childcare Heads of Bill and General Scheme in 2017, expressed similar concerns, recommending that the needs of vulnerable children need to be further assessed in relation to the Scheme.¹⁸

It is very positive that Section 14 provides an opportunity for the Department and the statutory bodies named in Schedule 2 of the Bill to support vulnerable children and families. The extent to which this opportunity is realised and the lives of children and families are improved will depend on the nature of the agreements made between the Minister and the statutory bodies, the subsequent implementation of these agreements, and the resources made available to the Department and the statutory bodies through the budgetary process.

It is very important that Schedule 2 names all of the agencies responsible for the publically-funded children’s services eligible for the Scheme, and also names the purposes for which an agreement may be made under section 14. The Act will shape the parameters of the agreements that will be made between the Minister and the statutory agencies and determine legal eligibility for groups of vulnerable children.

13 Childcare Support Bill 2017, Dáil Bill, No. 153 of 2017, s 14(1)(2). Government of Ireland, Childcare Support Bill, Explanatory Memorandum accessed 8 January 2018, 3. Higher rates of subsidy (e.g. provision of childcare at no cost to parents), more hours of financial support each week, or wider child age-limits for participation in the Scheme may be set for these vulnerable groups.

14 The statutory bodies named in the Bill are: the Department of Education and Skills, the Department of Justice and Equality, Local Authorities, the HSE, and Tusla. Childcare Support Bill 2017, Dáil Bill, No. 153 of 2017, s 14, schedule 2.

15 Childcare Support Bill 2017: Second Stage, Dáil Debates 31 January 2018’ <<https://beta.oireachtas.ie/en/debates/debate/dail/2018-01-31/35/>> accessed 14 February 2018.

16 National Childhood Network et al, ‘A Response to the Single Affordable Childcare Scheme: Feedback to Support Successful Implementation’ <<http://bit.ly/2yfA5>> accessed 6 November 2017, 13; Children’s Rights Alliance, ‘Submission to the Department of Children and Youth Affairs on the Development of the Single Affordable Childcare Supplement’, January 2017 accessed 7 November 2017, 13.

17 National Childhood Network et al, ‘A Response to the Single Affordable Childcare Scheme: Feedback to Support Successful Implementation’ <<http://bit.ly/2yfA5>> accessed 6 November 2017.

18 Joint Oireachtas Committee on Children and Youth Affairs, ‘Pre-legislative Scrutiny Report on the Heads of Bill of the Affordable Childcare Scheme Bill 2017’, 7 <<http://www.oireachtas.ie/parliament/media/committees/childrenandyouthaffairs/reports/Pre-legislative-Scrutiny-Report-on-the-Heads-of-Bill-of-the-Affordable-Childcare-Scheme-Bill-2017.pdf>> accessed 8 October 2017

Therefore, we recommend that children in undocumented families are named as a specific group of vulnerable children in Schedule 2 of the Bill. Their parents are legally barred from applying for financial support under section 7 of the Act as they do not have a right to reside in the State. In order to ensure that children in these families do not experience early educational inequality, they should be named as ‘vulnerable children’ in Schedule 2 to ensure their eligibility for childcare support. The Alliance understands, and welcomes, that the Department intends that undocumented children can access a subsidy through referral by the HSE or Tusla.¹⁹

The written agreements will establish the processes, procedures and protocols necessary to implement this section within the context of national policy and services frameworks, for example of that of Tusla.²⁰ Assessments of need for children and families will be central to consideration for supports under the scheme, and referral pathways and protocols require careful consideration.

Section 14 of the Scheme and the agreements implementing it, should ensure equity of access to childcare supports and childcare services for vulnerable children.

Recommendation 3: Name children in undocumented families in the State as eligible for financial support through the Scheme in Section 14, Schedule 2.

Recommendation 4: Maintain the current wording of section 14 and schedule 2 of the Bill.

3. Summary & conclusion

Recommendations

- 1. Maintain the current interpretation in the Bill of “approved services provider” for childcare supports as ‘the provider of a pre-school service or a school-age service whose name is entered in the register of prescribed early years services established and maintained in accordance with section 58C of the Child Care Act 1991’. Only services registered with the national childcare regulator – Tusla, the Child and Family Agency – should be allowed to participate in the Affordable Childcare Scheme.**
- 2. Maintain the eligibility provision in the Bill whereby both parents can apply for childcare support for the period of time they each have care of the child.**
- 3. Name children in undocumented families in the State as eligible for financial support through the Scheme in Section 14, Schedule 2.**
- 4. Maintain the current wording of section 14 and schedule 2 of the Bill.**

Conclusion

- The annual budgetary process is vital to the implementation of the Scheme. The Minister has indicated that the subsidies will need to increase.²¹ This is vital to make them meaningful enough to alleviate the financial burden on parents and at the same time supporting the sustainability of childcare services.
- Given that the majority of childcare providers are private businesses, the State does not control the level of fees charged, potentially affecting the extent to which the Scheme can impact on childcare affordability. As a first step, parents need transparent information on childcare fees. The Department’s independent review of the cost of delivery of quality childcare should provide new evidence to judge whether the Scheme’s subsidy rates are appropriate to provide affordable, accessible, quality childcare to children and their parents.

¹⁹ Children’s Rights Alliance, *Report Card 2018* (Children’s Rights Alliance 2018) 102.

²⁰ ‘Organisational Structure and National Service Delivery Framework’ (Tusla) <<http://www.tusla.ie/services/family-community-support/prevention-partnership-and-family-support-programme/meitheal-national-practice-model/organisational-structure-and-national-service-delivery-framework>> accessed 16 February 2018.

²¹ Childcare Support Bill 2017: Second Stage, Dáil Debates 31 January 2018’ <<https://beta.oireachtas.ie/en/debates/debate/dail/2018-01-31/35/>> accessed 14 February 2018.

- Additional measures are required in order to build the capacity of Irish early childhood care and education services. In our previous submission to the Joint Oireachtas Committee on the Heads of Bill of the Affordable Childcare Scheme²² we suggested that the Scheme is one vital element of a development plan for this sector. Additional policies and funding mechanisms are required for quality improvement of services, the professionalisation of practitioners, and to support the role of services in prevention and early intervention work.
- The implementation of the Scheme is impacted by the available supply of childcare places, in centres and in childminders' homes. Access to services for children is about more than parental affordability. Committee members are well aware of supply issues in their constituencies. The current methods of determining supply via City/County Childcare Committees and gauging the response to childcare funding programme calls are inadequate. We need a more planned approach to ensure that children and their parents can get a suitable place close to home or work. The DCYA is developing a mechanism to gauge supply and demand for childcare into the future, and it is working with other agencies to gather and analyse this data.²³ This data gathered through this mechanism needs to feed into the implementation of the statutory National Planning Framework and allied National Capital Plan.

22 Children's Rights Alliance, 'Submission to the Joint Oireachtas Committee on Children and Youth Affairs on the Heads of Bill and General Scheme of the Affordable Childcare Scheme', February 2017 accessed 7 November 2017 4-5

23 Department of Children and Youth Affairs and Department of Education and Skills, Action Plan on School Age Childcare (DCYA/DES 2017) 6.