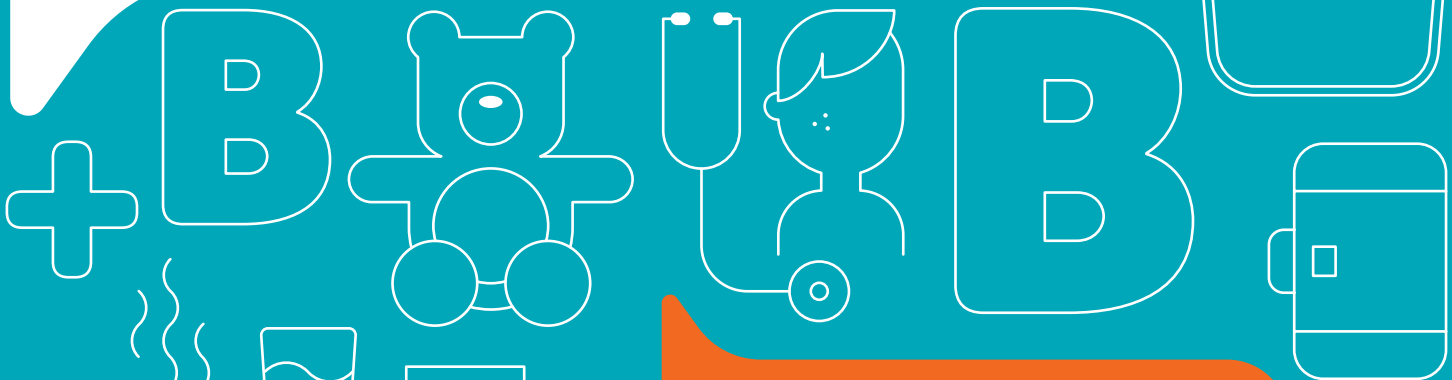
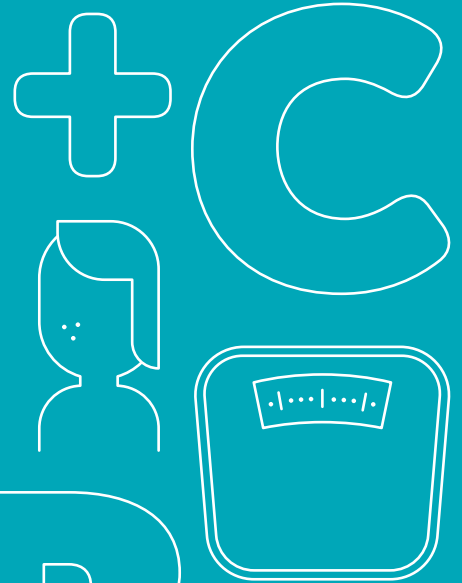




Report Card 2020



**Is Government
keeping its promises
to children?**



**CHILDREN'S
RIGHTS
ALLIANCE**
Uniting Voices For Children



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Foreword



The next Programme for Government will need to work even harder to ensure that every child can reach their full potential and that families are supported through the significant social crises we are now living in like health, homelessness, climate change and the economic uncertainty of Brexit.



This is the twelfth Report Card for the Children's Rights Alliance and the final under *A Programme for a Partnership Government*. Once again, we convened an independent panel of experts to grade the Government's performance.

This year the Government gets a 'C+' up from a 'C' in 2019. This is due to the Government largely reaching its commitments across a few key areas.

Looking back over the year, we saw some positive changes for children and young people. Budget 2020 included important measures to address the scale of child poverty we have in Ireland today. Right now, there are over 100,000 children living in consistent poverty. The extension of the hot school meals programme to 37 primary schools and the welcome commitment to trial a Free School Books Pilot in fifty schools will go a long way to supporting families grappling with the rising tides of back to school costs. The increases in the income thresholds for families in receipt of the Working Family Payment and the income disregard for lone parents receiving this payment will further support some of the most vulnerable families in the country. Following through on commitments for the provision of paid parental leave for each parent and the extension of free GP cards and dental care for children under the age of six resulted in higher grades for **Parental Leave and Income Supports** (awarded a 'B-') and **Primary Care** (awarded a 'B'). While we welcome incremental measures, far more is needed if we want to end child poverty. The next Programme for Government needs to be ambitious in its thinking and commitments in order to make a long and lasting difference.

The year was also a significant one in a *Programme for a Partnership Government*, with the commencement of the new National Childcare Scheme. **Subsidised and School-Age Childcare** is awarded a 'B' because of the implementation of the National Childcare Scheme (NCS) and successive budget investments now amounting to €628 million. The NCS now provides a universal subsidy to all parents to support them with their childcare needs with parents on lower incomes benefiting the most. However, supports for after school costs were identified during the year by organisations such as Single Parents Acting for Rights of Kids (SPARK). The Government addressed these concerns by extending the numbers of hours available for working parents and by extending the Community Childcare Subvention Scheme. Going forward the NCS will need to be looked at when it comes to the needs of children and families living in poverty. The subsidies provided are not enough to cover afterschool costs in some parts of the country. At the same time, the important value of community childcare facilities in providing prevention and early intervention supports to vulnerable children and families must be retained. Recognising that quality in early years' starts with the people that work with children, the next Programme for Government will need to address systemic issues within the sector such as recognition of the staff, low pay and poor staff retention.

The Government grade for **Refugee and Asylum Seeking Children** increases from a 'C' in 2019 to a 'C+' in 2020. This is because the Government committed in December 2019 to accept a further 2,900 refugees over the next four years through a new phase of the Irish Refugee Protection Programme (IRPP). It also increased the weekly Direct Provision payment for children from €22.60 to €29.80 in March 2019. In addition, the Government published new National Standards for reception accommodation for refugees – a key commitment from the McMahon Working Group. These Standards have the capacity to end direct provision as we know if they are implemented and resourced. However, the reliance on inappropriate emergency accommodation for children and families is unacceptable and must stop. In reforming reception accommodation, the Government must avoid institutional settings and invest in good quality, own-door accommodation in local communities if the Standards are to be implemented effectively.

Progress under many of the commitments made under **Mental Health** has been slow (awarded a 'D'). Within the context of a worldwide shortage of mental healthcare professionals, the Government has managed to deliver on some recommendations from the National Taskforce on Youth Mental Health including the establishment of a 24/7 contact line. However, the fact still remains that there are 1,876 children and young people waiting on a first time appointment with CAMHS; a challenge that the next Government must meet with greater urgency. We are also still waiting for the review of *A Vision for Change* which has yet to be published and the promise of a Pathfinder Project has yet to be fulfilled, both of which will be instrumental in providing the support services that are needed.

In many ways, it is not surprising to see that the two lowest grades in *Report Card 2020* are in areas that have consistently showed the least amount of progress over the course of this Government. What is perhaps even more disappointing, is that many of these commitments and actions are in the Government's control.

The Report Card series has consistently recorded a poor performance year-after-year under commitments to **Traveller and Roma Children**, which receives a 'D' grade this year. This grade reflects sustained inequalities in the accommodation circumstances for Traveller and Roma children. Little has been done to address that fact that Traveller families are disproportionately affected by the housing crisis. While Traveller families make up less than one per cent of the population, they make up nine

per cent of the homeless population and face the highest levels of discrimination when accessing housing. Traveller and Roma children are more likely to report being bullied and many children report hiding their identity. In 2019, there were some good examples of new approaches to support Traveller children. For example, the Tusla Education Support Service (TESS) piloted a pilot project in 2019 to improve school attendance for Traveller children in three sites involving people from Traveller and Roma communities as the education workers. Initiatives like this are a welcome development but we will need to see action in the next Programme for Government if we are to truly improve the lives of Traveller and Roma children.

The lowest grade received in *Report Card 2020* is for **Child and Family Homelessness** for which the Government receives an 'F' – or a FAIL. Children now make up the largest population in homelessness with child homelessness rising by a staggering 400% from 2014 to 2019, but neither the response nor the follow through on commitments already made by this Government would suggest that anything has changed in the last five years. The Rapid Build Programme has delivered just 423 homes out of a planned 1,500. The over-reliance on family hubs has resulted in hundreds of families living in what was introduced as a temporary solution for up to, and sometimes over, two years. What we have witnessed over the last five years has been a grave social injustice and now we face a homelessness crisis that is depriving thousands of children of a childhood. The next Government must acknowledge this crisis for what it is and commit to build, to legislate and to plan with children and families in mind.

Report Card 2020 is the last Report Card in this series, and it is apparent that the Government did deliver on several key commitments. The next Programme for Government will need to work even harder to ensure that every child can reach their full potential and that families are supported through the significant social crises we are now living in like health, homelessness, climate change and the economic uncertainty of Brexit. I write this following an historic election where the electorate have made a resounding call for change. It is now on the next Government to ensure that they answer it.



Tanya Ward
Chief Executive

Children's Rights Alliance members (as of January 2020)

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.

- 22q11
- Ag Eisteacht
- Alcohol Action Ireland
- Amnesty International Ireland
- An Cosán
- ASH Ireland
- AsIAM
- Assoc. for Criminal Justice Research and Development (ACJRD)
- Association of Secondary Teachers Ireland (ASTI)
- ATD Fourth World – Ireland Ltd
- Atheist 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
- Daughters of Charity Child and Family Service
- 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
- Extern Ireland
- Focus Ireland
- Foróige
- Gaelscoileanna Teo
- Good Shepherd Cork
- Home-Start National Office
- Immigrant Council of Ireland
- Inclusion Ireland
- Independent Hospitals Association of Ireland
- Institute of Guidance Counsellors
- Irish Aftercare Network
- 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
- Lifestart National Office
- Mecpaths
- Mental Health Reform
- Mercy Law Resource Centre
- Migrant Rights Centre Ireland
- Mothers' Union
- Mounttown Neighbourhood Youth and Family Project
- Museum of Childhood Project
- Music Generation
- My Mind
- National Childhood Network
- National Parents Council Post Primary
- National Parents Council Primary
- National Youth Council of Ireland
- Novas
- One Family
- One in Four
- Parentstop
- Pavee Point
- Peter McVerry Trust
- Rainbows Ireland
- Rape Crisis Network Ireland (RCNI)
- Realt Beag
- Respond Housing
- 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
- SPHE Network
- 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
- Young Social Innovators
- Youth Advocate Programme Ireland (YAP)
- Youth Work Ireland



Acknowledgements

The Children's Rights Alliance wishes to thank all those who contributed to researching and compiling this report. In particular, the Children's Rights Alliance would like to thank our partners in helping to produce *Report Card 2020* including The Community Foundation for Ireland, Pobal, the Department of Rural and Community Development, the Tomar Trust and the Katharine Howard Foundation.

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

- An Garda Síochána
- Department of Children and Youth Affairs
- Department of Education and Skills
- Department of Housing, Planning, Community and Local Government
- Department of Health
- Department of Justice and Equality
- Department of Public Expenditure and Reform
- Department of Employment Affairs and Social Protection
- Dublin Region Homeless Executive
- Health Service Executive
- International Protection Accommodation Service (IPAS)
- Irish Refugee Protection Programme
- National Vetting Bureau
- National Council for Special Education
- Pobal
- Tusla, the Child and Family Agency

The expert contributions of Children's Rights Alliance member organisations are gratefully acknowledged, in particular:

- Alcohol Action Ireland
- Barnardos
- BeLongTo
- Child Care Law Reporting Project
- Cybersafe Ireland
- Dublin Rape Crisis Centre
- Educate Together
- Focus Ireland
- Inclusion Ireland
- Irish Heart Foundation
- Irish Traveller Movement
- ISPCC
- Irish Penal Reform Trust
- Jesuit Centre for Faith and Justice
- One Family
- Rape Crisis Network Ireland
- Safe Ireland
- St. Patrick's Mental Health Services
- Department of Occupational Science and Occupational Therapy, UCC

Thanks also to Professor Geoffrey Shannon, Child Law Expert and Founding Patron of the Children's Rights Alliance; Dr. Conor O'Mahony, Special Rapporteur on Child Protection and Faculty of Law, University College Cork, Tom Costello and Maria Corbett.

This year, the Children’s Rights Alliance engaged external authors to draft the individual chapters of the report, and we would like to thank each of them for their insights and expertise:

- Right to Education: Dr. Ger Scanlon, School of Human Development, DCU
- Right to an Adequate Standard of Living: Caroline Fahey, Social Policy Analyst
- Right to Health: Aisling Mulligan, BL
- Rights in the Family Environment and Alternative Care: Dr. Fiona Donson, School of Law, UCC
- Rights in Early Childhood: Grainne McKenna, Early Childhood Education, DCU Institute of Education
- Right to Equality: Judy Walsh, School of Social Policy, Social Work and Social Justice, UCD

Special thanks to Margaret Burns for her sterling work in editing the document this year. Particular thanks are due to the Children’s Rights Alliance Board for their support and oversight of the process. The Alliance would also like to acknowledge the work of Children Now, based in California, whose annual report card provided the initial inspiration for this series.

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

- Seamus Boland, Chief Executive Officer, Irish Rural Link
- Professor Maurice Devlin, Director of the Centre for Youth Research and Development, School of Applied Social Studies, National University of Ireland, Maynooth
- Catherine Ghent, Solicitor, Gallagher Shatter Solicitors
- Áine Hyland, Emeritus Professor of Education and former Vice-President of University College Cork
- David Joyce, Equality Officer, Irish Congress of Trade Unions
- Emma Kerins, Head of Policy and Public Affairs, Chambers Ireland
- Judge Catherine McGuinness, former member of the Supreme Court of Ireland and member of the Council of State (Chair)
- Dr Aisling Parkes, Law Lecturer, University College Cork

Finally, massive thanks go to the *Report Card* team in the Children’s Rights Alliance for their incredible hard work and commitment to produce a superb publication once again this year.

Grading for Report Card 2020

	2017	2018	2019	2020
Overall Grade	D+	C-	C	C+
Right to Education				
Educational Disadvantage	D	C	C	C+
Religious Diversity in Schools	D	C-	B-	B-
Disability and Additional Needs in Education	C+	B-	B-	B-
Right to an Adequate Standard of Living				
Child and Family Homelessness	E	E	F	F
Parental Leave and Income Supports	C+	C	B-	B-
Prevention and Early Intervention	C+	C	C+	C+
Right to Health				
Primary Care	D	C-	C+	B
Mental Health	D-	D+	D-	D
Physical Health	C	C-	B	B+
Rights in the Family Environment and Alternative Care				
Guardian <i>ad Litem</i> Service	D	C+	C+	C+
Child Protection	C	B	B	B
Child Victims of Crime	D	C+	B-	B-
Rights in Early Childhood				
Quality in Early Childhood Education and Care	C-	D	C-	C-
Subsidised and School-Age Childcare	B	C	C+	B
Childminding	C	D	C	C+
Right to Equality				
Traveller and Roma Children	E	D+	D-	D
Refugee and Asylum-Seeking Children	D-	D+	C	C+
LGBTI+ Children and Young People	C+	B-	A-	B

⊕ Explanation of Grades:

A: Excellent, making a real difference to children's lives
B: Good effort, positive results for children
C: Satisfactory attempt, but children still left wanting
D: Barely acceptable performance, little or no positive impact on children

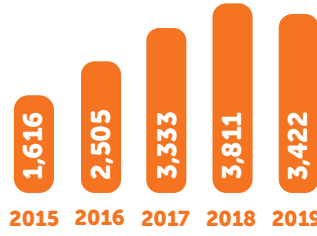
E: Unacceptable, taking steps in the wrong direction, no positive impact on children
F: Fail, taking steps that undermine children's wellbeing
N/A: Not applicable, due to vague nature of Government commitment

Key Facts & Statistics



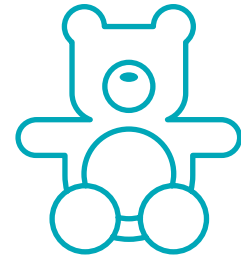
GP Card

Extension of Free GP scheme to include 6 and 7 year olds



Rise

Rise in child homelessness over the last five years



€628m

budget allocation to childcare



Hot school meals

Pilot programme in 37 schools



2,000

under 18s in Direct Provision



1,876

children waiting for CAMHS appointment



Parent's Benefit

Estimated 60,000 parents to receive new Parent's Benefit of €245 per week



Free School Books

pilot in 50 primary schools

1

Right to Education



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

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

Chapter Grade:

B-

1.1 Educational Disadvantage

Section Grade:

C+

⊕ Government Commitment

A Programme for a Partnership Government commits to:

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

▶ **Progress: Some**

Publish a new School Completion Strategy.

▶ **Progress: Some**

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

Every child has a right to education and should have an equal opportunity to participate in education.¹ The UN Committee on the Rights of the Child has stated that the goal of education is to 'empower the child by developing his or her skills, learning and other capacities, human dignity, self-esteem and self-confidence'.² The Committee states further that education goes beyond formal schooling to embrace the broad range of life experiences and learning processes which enable children, individually and collectively, to develop their personalities, talents and abilities and to live a full and satisfying

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

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

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

► Retention and Attainment:

In general, Ireland has a high rate of school completion: a 2017 study found that, 'among countries and economies with comparable data' in the OECD (Organisation for Economic Co-operation and Development), Ireland had the third highest completion rates for girls and the second highest for boys.⁵ Of the 60,000 children in the 2012 entry cohort to post-primary schools, 97.6 per cent sat the Junior Certificate examination in 2015 or 2016 and 91.5 per cent sat the Leaving Certificate examination in 2017 or 2018.⁶ The completion rate to Leaving Certificate has shown significant improvement over the past decade – the rate for the 2003 cohort, for example, was 82.2 per cent.⁷

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

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



gap between pupils in DEIS and non-DEIS schools. The completion rate for the most recent (i.e., 2012) cohort is therefore 14.8 percentage points above the rate for the 2003 cohort. *The Action Plan for Education 2016–2019* had as one of its objectives, the continued improvement in the second-level completion rates in DEIS schools 'to the national norm' by 2025.⁸

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

³ *ibid.*

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

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

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

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

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

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

expected to lead to high-earning occupations.¹⁰

► DEIS Programme:

Since its launch in 2005, the DEIS programme has been the State's main vehicle for supporting children who experience educational disadvantage. *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* includes a commitment to '[c]onsider the recommendations of the review of the DEIS programme and use it as a platform for the new initiatives to deliver better outcomes for students in disadvantaged areas'.¹¹ It also commits to '[s]trengthen social inclusion measures and re-invigorate efforts to improve educational outcomes among, and integration of, Travellers, Roma and migrant children and young people, and all those with special needs'.¹² Following a commitment in the *Action Plan for Education 2016–2019* to publish a revised action plan for educational inclusion,¹³ a new DEIS Plan was published in 2017.¹⁴ This outlines the Government's vision for social inclusion in education policy, sets down five key goals, and identifies 108 actions towards achieving these.¹⁵ As of November 2019, almost 90 per cent of the actions outlined in the 2017 Plan have been implemented or work is ongoing on their implementation.¹⁶

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

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

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

► Other Measures to Address Educational Disadvantage:

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

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

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

12 *ibid* Commitment 2.22.

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

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

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

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

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

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

19 *ibid* 25.

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

21 *ibid*.

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



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

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

Cuts in educational expenditure during the recession impacted on the general capacity of primary and post-primary schools to respond to the particular needs of disadvantaged pupils. Additional allocations in Budget 2019 and Budget 2020 have gone some way to reversing cuts that had been imposed and are very welcome but it remains the case that the average class size in Irish primary schools is higher than the EU average.²³ Even though there were increases in Budget 2019 and Budget 2020 in the capitation grant for schools, this is still below the level it was in 2010.²⁴ It is unlikely that these increases in capitation will lead to a reduction, much less the abolition, of the so-called 'voluntary contributions' which are routinely requested by both primary and post-primary schools and which have a particular impact on low-income families.²⁵ Welcome features of Budget 2020 were the allocation of €1 million for a pilot free books scheme in 50 primary schools, and the provision of €4 million for school meals in primary schools. The Back to School Clothing and Footwear Allowance was increased by €25 in Budget 2019 but no increase was provided for in Budget 2020; the value of this allowance has not yet been restored to its 2010 level.²⁶

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

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

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

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

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

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

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

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

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

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

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

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

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

31 *ibid.*

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

33 *ibid.*

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

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

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

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

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

34 *ibid.*

35 *ibid.*

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

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

38 *ibid.*

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

40 *ibid.*

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

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

43 *ibid.*

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

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

Educational Disadvantage

Immediate Actions for 2020



Publish an updated action plan for educational inclusion.

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



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

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



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

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

Educational Disadvantage

Immediate Actions for 2020



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

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

1.2 Religious Diversity in Schools

Section Grade:

B-

➔ Government Commitment

A Programme for a Partnership Government commits to:

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

▶ **Progress: Limited**

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

▶ **Progress: Slow**

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

▶ **Progress: Good**

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

Every child has a right to education 'on the basis of equal opportunity'⁴⁶ and the right to respect for their freedom of thought, conscience and religion.⁴⁷ Children have the right to be free from discrimination of any kind, irrespective of, amongst other things, the child's, or their parent's or guardian's, religion or beliefs. The State is under a duty to 'take all appropriate measures' to ensure that the child is protected against all forms of discrimination based on their beliefs or expressed opinions.⁴⁸ In 2016, the UN Committee on the Rights of the Child recommended to Ireland that it should promote the establishment of non-denominational or multi-denominational schools and amend existing legislation

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

47 *ibid* 14(1).

48 *ibid* Art 2.

to eliminate discrimination in school admissions.⁴⁹

► Non- and Multi- Denominational Schools:

The UN Committee's 2016 recommendation called on the State to '[e]xpediently undertake concrete measures to significantly increase the availability of non-denominational or multi-denominational schools'.⁵⁰ A non-denominational school is defined as a school which is 'under the patronage of a secular body and which has an explicitly secular ethos'.⁵¹ A multi-denominational school is a school which does not provide classes in religious formation as part of the school day but does provide education about religions and beliefs.⁵² Both *A Programme for a Partnership Government* and the *Action Plan on Education 2016–2019* commit to a target of 400 multi- and non-denominational schools by 2030.⁵³

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

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

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

► Provision of New Schools:

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

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

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

50 *ibid.*

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

52 *ibid.*

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

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

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

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

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

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

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

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

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

► Divesting and Reconfiguration Processes:

A second mechanism for the creation of multi-denominational schools is through a patronage divesting process, whereby property owned by a denominational school which is closing or amalgamating is transferred to a multi-denominational patron. This process arose from recommendations of the 2012 report of the Advisory Group to the Forum on Patronage and Pluralism in the Primary Sector.⁶² In 2012/2013, the DES undertook surveys of parental preferences in 43 areas of stable population to establish the level of parental demand for a wider choice in the patronage of primary schools in these areas. The results indicated that there was sufficient parental demand to support changes in school patronage in 28 of the areas surveyed. However, 15 of the towns in which families expressed a preference for a multi-denominational school in the 2012/2013 consultation did not have a 'divested' school by 2019.⁶³

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

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

the 'Schools Reconfiguration for Diversity' process, announced in January 2017.⁶⁶ This provides for the transfer of 'live' schools (as opposed to the amalgamation and closure of schools in the patronage divesting model) and it is through this process that the greater part of the target of 400 multi-denominational and non-denominational schools by 2030 is intended to be achieved.⁶⁷

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

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

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

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

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

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

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

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

65 *ibid.*

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

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

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

69 *ibid.*

70 *ibid.*



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

No non-denominational school opened in 2019.⁷¹

The DES has stated that there is no one solution as to how greater choice of school type will be provided and that the establishment of new schools, the transfer of school properties, the reconfiguration of 'live' schools, as well as other options, will all contribute to achieving the Government's objective of having 400 multi- and non-denominational schools by 2030.⁷²

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

► School Admissions:

In 2016, the UN Committee on the Rights of the Child recommended that the State amend the 'existing legislative framework to eliminate discrimination in school admissions, including the Equal Status Act'.⁷³ *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People*, commits to reducing discrimination and intolerance of all types experienced by marginalised groups including religious minorities.⁷⁴ In July 2018, the Education (Admission to Schools) Act 2018 was signed into law. The aim of the legislation was to increase 'the transparency and fairness' of admission to primary schools⁷⁵ by amending the Equal Status Acts 2000–2015 to remove the provision that enabled recognised denominational schools to use religion as an eligibility criterion for admission. This was a recurring recommendation in this *Report Card* series and the passing of the 2018 Act, and the commencement of its key provisions in

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

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

71 *ibid.*

72 *ibid.*

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

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

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

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

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

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

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

Religious Diversity in Schools

Immediate Actions for 2020



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

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



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

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



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

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

1.3 Disability and Additional Needs in Education

Section Grade:

B-

➔ Government Commitment

A Programme for a Partnership Government commits to:

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

▶ **Progress: Complete**

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

▶ **Progress: Some**

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

▶ **Progress: Some**

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

Under the provisions of the UN Convention on the Rights of the Child, every child has a right to education, regardless of their needs or ability.⁸⁰ From a rights perspective, the goal of education is 'to empower the child by developing his or her skills, learning and other capacities, human dignity, self-esteem and self-confidence'.⁸¹ The right to education extends beyond formal school to embrace a wide range of life experiences and learning processes so as to enable children 'to develop their personalities, talents and abilities and to live a full and satisfying life within society'.⁸² States must ensure, as a

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

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

82 *ibid.*

priority, that children with disabilities 'have equal opportunities to participate fully in education and community life, including by the removal of barriers that impede the realization of their rights'.⁸³

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

Ireland ratified the UN Convention on the Rights of Persons with Disabilities on 20 March 2018.⁸⁷ The Convention recognises the rights of people with disabilities to an education that is inclusive, free from discrimination and directed to the 'full development of the human potential and sense of dignity and self-worth'.⁸⁸ Under the Convention, children with special educational needs have a right to individualised support and reasonable accommodations to enable their effective participation in the general education system.⁸⁹ The UN Committee on the Rights of Persons with Disabilities emphasises the central importance of inclusion in the education system, stating that this 'involves a process of systemic reform ... to provide all students ... with an equitable and participatory learning experience and environment that best corresponds to their requirements and preferences. Placing students with disabilities within mainstream classes without accompanying structural changes ... does not constitute inclusion'.⁹⁰

► Special Education Provision:

Over €1.8 billion was spent on special education services in 2019. Budget 2020 allocated approximately €1.9 billion to these services for 2020. This amounts to 20 per cent of the overall education budget and represents an increase of more than 50 per cent since 2011.⁹¹ The vast majority of students with special educational needs attend mainstream schools with additional supports.⁹² There are currently 13,518 Special Education Teachers (SETs), of whom 9,311 work in primary schools and 4,207 in post-primary schools. The number of SETs is due to increase by 120 in 2020.⁹³ There are 15,950 Special Needs Assistants (SNAs) working in primary, post-primary and special schools; this number is due to rise by 1,064 in 2020 (bringing the total to 17,014), following an increased allocation in Budget 2020.⁹⁴

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

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

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

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

85 *ibid* para 48 (a).

86 *ibid* para 48.

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

88 *ibid* Article 24.

89 *ibid*.

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

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

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

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

94 *ibid*.

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

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

school place has not been made available⁹⁷ meaning they are missing out on the key social development elements of being in an educational setting.

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

Section Eight was commenced in December 2018 and the legislation was formally activated for the first time in April 2019, following a report from the NCSE outlining insufficient special education capacity in Dublin 15.⁹⁹ This statutory process was again activated in November 2019 following a NCSE report identifying shortages of places across south Dublin.¹⁰⁰

Inadequate levels of supports may also result in children being placed on a reduced timetable.¹⁰¹ The widespread resort to this measure was highlighted in research by Inclusion Ireland, published in 2019.¹⁰² Among the issues which the study noted were the non-recording and lack of monitoring of reduced timetables, the lack of supports and expertise within schools, and the lack of accessible information for parents on their rights and their exclusion from decisions affecting their children. In September 2019, the Department of Education and Skills announced it had prepared draft guidelines on the use of reduced timetables and the procedures to be followed by schools where this option 'is being considered and

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

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

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

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

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

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

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

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

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

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

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

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

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

107 *ibid* 3.

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

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



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

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

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



A review of the Special Needs Assistant (SNA) Scheme, carried out by the NCSE, was published in May 2018.¹¹⁶ The report concluded that, overall, the scheme was working well and had many positive and worthwhile features.¹¹⁷ However, it noted that the SNA system has to deal with a very diverse range of needs, age groups, developmental stages and school settings, and it suggested that a 'broader range of support options [is] required to address students' additional care needs'.¹¹⁸ In light of these findings, the Government approved the trialling of a new School Inclusion Model for the 2019/2020 school year. This model is being implemented in 75 schools in one Health Service Executive Community Health Organisation area.¹¹⁹ Its principal features include a new frontloaded allocation of SNAs in line with profiled needs of participating schools, additional provision for these schools under the National Educational Psychological Service (NEPS), and the establishment on a pilot basis of a NCSE Regional Support Team, which includes specialists in relevant disciplines. The initiative also includes the development of a national training programme for SNAs and a pilot roll-out of this, and the provision of a nursing service for children with complex medical needs. €4.75m has been allocated for the piloting of

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

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

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

113 *ibid.*

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

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

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

117 *ibid.* 20.

118 *ibid.* 21.

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

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

► Consultation on EPSEN Act:

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

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

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

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

► In-School Speech and Language Service:

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

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

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

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

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

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

125 *ibid.*

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

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

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

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

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

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

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

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

In May 2018, the Ministers for Education and Skills, Children and Youth Affairs, and Health, along with the HSE, launched a demonstration project providing in-school and pre-school speech and language and occupational therapy services.¹³⁷ The aim of the project, which is managed and coordinated by the NCSE, is to test a model of tailored early intervention supports within educational settings.¹³⁸ In Phase One of the initiative, a budget of €2.25 million was allocated to enable 75 primary and post-primary schools and 75 pre-schools in one HSE Community Health Organisation region to test the model over the 2018–2019 school year.¹³⁹ In July 2019, the Minister for Children and Youth Affairs, Dr Katherine Zappone TD, announced that the project would continue in the academic year 2019–2020.¹⁴⁰ An evaluation of the project is being carried out.¹⁴¹

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

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

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

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

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

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

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

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

138 *ibid.*

139 *ibid.*

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

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

Disability and Additional Needs in Education

Immediate Actions for 2020



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

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



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

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

2

**Right to
an Adequate
Standard
of Living**



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

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

Chapter Grade:

D+

2.1 Child and Family Homelessness

Section Grade:

F

➔ Government Commitment

A Programme for a Partnership Government commits to:

End the use of unsuitable long-term emergency accommodation for homeless families in part by providing 1,500 rapid-delivery housing units.

▶ **Progress: Poor**

'Child and Family Homelessness' receives an 'F' grade in *Report Card 2020*, the same as in *Report Card 2019*. This grade reflects a deepening housing crisis which has resulted in a significant increase in child and family homelessness since the *Programme for Government* was agreed in May 2016. Family hubs are being heavily relied upon to accommodate homeless families and the Government commitment to end the use of unsuitable emergency accommodation was never achieved. Output of social and affordable housing falls far below what is required. The Rapid Build Programme has so far delivered just 423 homes out of a planned 1,500.

Every child has the right to an adequate standard of living for his or her physical, mental, spiritual, moral and social development.¹⁴² The UN Convention on the Rights of the Child requires the State to assist parents and guardians who are in need by providing 'material assistance and support programmes particularly with regard to nutrition, clothing and housing'.¹⁴³ The right to adequate housing is defined as a right to housing that is accessible, habitable and affordable with certain 'facilities essential for health, security, comfort and nutrition'.¹⁴⁴ Households should have legal security of tenure¹⁴⁵ and States must take steps

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

143 *ibid* Art 27 (3).

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

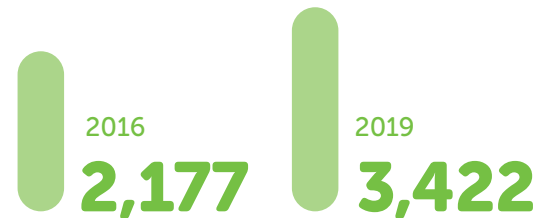
145 *ibid*.

to prevent illegal evictions.¹⁴⁶ The right to housing also means that States must 'progressively and to the extent allowed by their available resources, prevent and address homelessness; provide the physical infrastructure required for housing to be considered adequate ... or ensure adequate housing to individuals or groups unable, for reasons beyond their control, to enjoy the right to adequate housing, notably through housing subsidies and other measures'.¹⁴⁷ In 2016, the UN Committee on the Rights of the Child expressed its concern that families with children in Ireland were 'facing significant delays in accessing social housing and frequently living in inappropriate, temporary or emergency accommodation on a long-term basis'.¹⁴⁸ It called on the State to undertake measures to increase the availability of social housing and emergency housing support.¹⁴⁹ The UN Committee on Economic, Social and Cultural Rights has said that children, as a priority group, must be 'accorded full and sustainable access to adequate housing resources'.¹⁵⁰

► Homeless Families:

Throughout most of 2019, homelessness continued to increase with numbers reaching a peak in October, when there were 10,514 people in total in emergency accommodation, including 3,826 children living in 1,733 families.¹⁵¹ There was a slight decline in homelessness in November 2019, followed by a more marked fall in December when the overall number in emergency accommodation was 9,731, of which, 3,422 were children in 1,548 families.¹⁵² However, data on homelessness for December relates to the week including Christmas and so this figure may not be indicative of a trend: in both 2017 and 2018 declines in homelessness in December were followed by increases in the following January. When the *Programme for Government* was concluded in May 2016 the number of families in emergency accommodation was 1,054 and the

Children homeless in Ireland



Source: Department of Housing, Planning and Local Government, Homelessness Report.

number of children in these families was 2,177.¹⁵³

The official statistics do not include families that are homeless but are accommodated in own-door accommodation or transitional housing. Neither do they include women and children in domestic violence refuges, asylum seekers living in emergency accommodation, or people who have been granted asylum or some other form of protection but cannot find accommodation outside the direct provision system.¹⁵⁴

Children are the single largest group within the homeless population and during 2019 accounted for around 35 per cent of those who were homeless.¹⁵⁵ On average throughout 2019, lone parent families represented 57 per cent of the total number of families in emergency accommodation.¹⁵⁶ Almost 40 per cent

146 *ibid* Para 8 (e).

147 UN & Habitat, *The Right to Adequate Housing*, Factsheet No 21/Rev. 1 (Office of the High Commissioner for Human Rights, 2014) 34.

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

149 *ibid* Para 62.

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

151 DHPLG, 'Homelessness Report October 2019' <<https://bit.ly/2SMerPY>> accessed 10 February 2020.

152 DHPLG, 'Homelessness Report December 2019' <<https://bit.ly/3bC8pDH>> accessed 10 February 2020.

153 DHPLG, 'Homelessness Report May 2016' <<http://bit.ly/383f8Ed>> accessed 7 January 2020.

154 Focus Ireland, 'Latest figures on homelessness in Ireland' <<https://bit.ly/35TAB1f>> accessed 2 December 2019; Colette Bennett 'Rebuilding Ireland for Everyone: A review of the government's housing strategy for young and old' in Brigid Reynolds and Sean Healy (eds) *The Challenges of Success: Addressing population growth in Ireland* (Social Justice Ireland 2019).

155 DHPLG, 'Homelessness Data', <<https://bit.ly/2SNYDWN>> accessed 11 February 2020.

156 *ibid*.



of families presenting as homeless in the Dublin region in 2018 were migrant families.¹⁵⁷ Almost 900 people who have been granted asylum or leave to remain in Ireland are living in Direct Provision centres because they have been unable to find suitable and affordable accommodation elsewhere.¹⁵⁸ Travellers are more likely to be homeless than the general population, with some Travellers experiencing difficulty in accessing emergency accommodation and a high level of 'hidden homelessness' and overcrowding among Traveller families.¹⁵⁹ No official figures exist on the extent of 'hidden homelessness' – where individuals or families are in effect homeless but are not accessing emergency accommodation, and are instead couch-surfing or living in overcrowded conditions with friends or family members.

While the majority of families that are homeless are located in Dublin, there is a significant level of family homelessness outside Dublin: there were 386 families with 869 children living in emergency accommodation in the regions other than Dublin in December 2019 (the figures for November were

429 families with 970 children).¹⁶⁰ The growth in family homelessness outside Dublin since May 2016, when the *Programme for Government* was agreed, is striking: in that month, there were 141 families with 330 children registered as homeless in these regions.¹⁶¹ Homeless families in the regions outside Dublin represented 13.4 per cent of the national total in May 2016 but throughout 2019 families in these regions represented around 25 per cent of the total.

Rebuilding Ireland: Action Plan for Housing and Homelessness, published in July 2016, included a commitment that, by mid-2017, 'emergency hotel and B&B type accommodation for families' would be used only 'in limited circumstances'.¹⁶² This deadline was not met. 2,038 families presented as homeless in the Dublin region in 2019; however, as a result of the intervention of services almost half of these families did not have to enter emergency accommodation.¹⁶³ Nationally, 5,971 adults exited homelessness to a home during 2019.¹⁶⁴ In some instances, these adults were accompanied by dependent children but the published data does not include a figure for the number of

157 Holly Morrin, *A Profile of Families Experiencing Homelessness in the Dublin Region: 2016–2018 Families* (Dublin Region Homeless Executive 2019) 30 <<https://bit.ly/35Ug5xC>> accessed 2 December 2019.

158 Sarah Burns, 'Direct provision risk reversals, refugee service warns', *The Irish Times*, 27 September 2019.

159 Independent Expert Group on behalf of the Minister of the Department of Housing, Planning and Local Government, *Traveller Accommodation Expert Review* (DHPLG 2019) <<https://bit.ly/2LLuWD5>> accessed 7 December 2019.

160 DHPLG, 'Homelessness Report November 2019' <<http://bit.ly/2FMjkw2>> DHPLG, 'Homelessness Report December 2019', <<https://bit.ly/38v2fU3>> accessed 10 February 2020.

161 DHPLG, 'Homelessness Report May 2016' <<http://bit.ly/383f8Ed>> accessed 7 January 2020.

162 Government of Ireland, *Rebuilding Ireland: Action Plan for Housing and Homelessness* (Government of Ireland 2016) 13.

163 DHPLG, *Summary Analysis of Homelessness Quarterly Performance Reports, Quarter 4 2019* <<https://bit.ly/2S6aGyh>> accessed 1 February 2020.

164 *ibid.*

children concerned. Such exits are obviously very welcome. Nevertheless, in December 2019, 70 per cent of homeless children in the Dublin region had spent longer than six months living in emergency accommodation, with 17 per cent spending more than two years in such accommodation.¹⁶⁵ Between January and August 2019, 15 families that had previously exited homelessness in the Dublin region became homeless for a second or subsequent time.¹⁶⁶

The monthly homelessness reports published by the Department of Housing, Planning and Local Government (DHPLG) are based on data provided by local authorities through the Pathway Accommodation and Support System (PASS).¹⁶⁷ Details on the number of exits from homelessness and the duration of time spent by individuals in emergency accommodation are submitted to the DHPLG by local authorities in Quarterly Performance Reports; however, no breakdown is available for families.¹⁶⁸ The PASS system is currently being upgraded, and the DHPLG is developing a revised methodology for the collection and publication of homelessness data.¹⁶⁹ It is expected that, when this work is completed, national data on the length of time children and families are spending in emergency accommodation will be available.¹⁷⁰ Currently, this information is available only for the Dublin Region.¹⁷¹

Despite the commencement of legislation to protect tenants in January 2017¹⁷² and May 2019,¹⁷³ high rents, lack of security of tenure and overall lack of housing supply, particularly of properties falling within stated rent limits for the purposes of Rent Supplement or the Housing Assistance Payment (HAP),¹⁷⁴ have fuelled the housing crisis. The gap between the HAP limits and actual rents in the private rental sector can result in households paying an unofficial 'top-up' directly to the landlord in addition to their differential rent

contribution which is paid to the local authority.¹⁷⁵

A survey in January/February 2019 by Threshold and the Society of St Vincent de Paul showed that the average top-up of this type being paid by the study's respondents was €177 per month, in addition to an average differential rent contribution of €233 per month.¹⁷⁶ This level of 'top-up' represents a significant financial outlay which may become unsustainable for families over time.

Each local authority has statutory discretion to agree to a HAP payment of up to 20 per cent above the prescribed maximum rent limit to secure appropriate accommodation for a household that requires it; in the Dublin Region there is discretion of up to 50 per cent above rent limits to enable homeless households, or those at risk of homelessness, to secure a HAP tenancy.¹⁷⁷ This additional support is welcome; however, the study by Threshold and the Society of St Vincent de Paul study shows that not all households who would benefit from receiving a higher rate of HAP are actually receiving it.¹⁷⁸ A Focus Ireland research study published in 2019 showed that most of the families involved in the study had stable housing histories and that, prior to becoming homeless, had been living in the private rental sector in receipt of Rent Supplement or HAP.¹⁷⁹ More than half of these families reported leaving their rental accommodation due to the property being removed from the market (for example, due to the landlord selling) or other issues in the private rental sector, including rent increases and overcrowding.¹⁸⁰ In spite of this, the reliance on the private rental sector as a means of responding to social housing need continues. For example, nationally, 64 per cent of those who exited homelessness in 2019 were accommodated in the private rental sector, whereas just 20 per cent exited into local authority housing and 16 per cent were accommodated under long-term

165 *ibid.*

166 Focus Ireland, 'Latest figures on homelessness in Ireland' <<https://bit.ly/35TAB1f>> accessed 2 December 2019.

167 Communication received by the Children's Rights Alliance from the DHPLG, 6 December 2019.

168 *ibid.*

169 *ibid.*

170 *ibid.*

171 *ibid.*

172 Planning and Development (Housing) and Residential Tenancies Act 2016.

173 Residential Tenancies (Amendment) Act 2019.

174 Simon Communities in Ireland, *Locked Out of the Market XVI: The Gap between Rent Supplement/HAP Limits and Market Rents, Snapshot Study December 2019* (Simon Communities in Ireland 2020) <<https://bit.ly/31Uujxz>> accessed 11 February 2020.

175 Threshold and Society of St Vincent de Paul, *The Housing Assistance Payment (HAP): Making the Right Impact?* (Threshold and SVP 2019) <<https://bit.ly/2RjMgT7>> accessed 5 December 2019.

176 *ibid.*

177 Communication received by the Children's Rights Alliance from the DHPLG, 30 January 2020.

178 Threshold and Society of St Vincent de Paul, *The Housing Assistance Payment (HAP): Making the Right Impact?* (Threshold and SVP 2019) <<https://bit.ly/2RjMgT7>> accessed 1 February 2020.

179 Alice Emily Long, Sarah Sheridan, Letizia Gambi and Daniel Hoey, *Family Homelessness in Dublin: Causes, Housing Histories and Finding a Home* (Focus Ireland 2019) <<https://bit.ly/2rJyWNc>> accessed 2 December 2019.

180 *ibid.*

leasing schemes or by approved housing bodies.¹⁸¹

In July 2017, the roll-out of family supported accommodation facilities or 'family hubs'¹⁸² began as a way of transitioning families out of unsuitable emergency hotel and B&B accommodation and of providing 'a greater level of stability than is possible in hotel accommodation'.¹⁸³ Nationally, there are now 32 family hubs in operation, providing almost 720 units of accommodation for homeless families.¹⁸⁴ Twenty-five family hubs are located in Dublin, two in Kildare and one each in Clare, Cork, Galway, Limerick and Louth.¹⁸⁵ Family hubs have been provided through procuring and adapting properties, as well as by reconfiguring existing emergency accommodation facilities such as hotels and B&Bs into hubs.¹⁸⁶ Accommodation standards in hubs vary considerably. Some hubs are run by non-governmental homeless service providers; others are run by private, commercial operators, in which case supports are provided to resident families by local authorities and contracted NGO service providers.¹⁸⁷ The operational costs of the hubs programme to end quarter 3 2019 was in the region of €16.8 million.¹⁸⁸ In 2017 and 2018, capital payments amounting to €8.7 million and €21.96 million respectively were made in respect of family hubs.¹⁸⁹ The funding to be provided in 2020 will depend on the extent to which local authorities develop additional family hubs.¹⁹⁰

The stated aim of policy is that families will exit from family hubs and move into a home within six months

as provided for in Service Level Agreements.¹⁹¹ The DHPLG contends that families will transition more quickly from hubs into tenancies than from other types of emergency accommodation.¹⁹² However, no data is currently being collected by the Department on the length of time families are, in fact, spending in family hubs.¹⁹³ It is important that such data be collected and published. A consultative study on family hubs, carried out by the Ombudsman for Children's Office in 2019, showed that while some parents living in hubs identified a number of positive features of this form of accommodation (for example, the stability and facilities, including cooking facilities, that they provided, as well as the support of staff) they also described very challenging living situations. Participants pointed out that the rules of the hub, noise levels, living in close proximity to strangers and the lack of space and privacy impacted on normal parenting routines and practices.¹⁹⁴ Children who participated in the consultation expressed feelings of shame, sadness, anger, embarrassment, confusion, frustration and worry as well as a sense of injustice at being homeless while other people have a secure home.¹⁹⁵ The lack of space and privacy was particularly difficult for teenagers having to share a room with parents and younger siblings.¹⁹⁶ A number of parents and older children living in hubs expressed the view that family hubs are not appropriate accommodation for families, and some expressed concern that the hubs are being seen as a longer-term solution to family homelessness.¹⁹⁷

Hubs may represent a more suitable alternative than hotel and B&B accommodation but they remain a temporary, short-term solution and the scale of investment in hubs is misplaced. More sustainable solutions are needed to provide families with a place to call home. Meanwhile, in light of the emphasis on and investment in family hubs as a response to family homelessness, there is an urgent need to implement consistent standards in the hubs, and to independently evaluate the suitability of family hubs as an approach to providing emergency, temporary accommodation to families.¹⁹⁸

181 DHPLG, *Summary Analysis of Homelessness Quarterly Performance Reports, Quarter 4 2019* <<https://bit.ly/2S6aGyh>> accessed 11 February 2020.

182 Olivia Kelly, 'Family hub centres to open at 19 sites in Dublin', *The Irish Times*, 25 July 2017.

183 *Rebuilding Ireland, Action Plan for Housing and Homelessness: Third Quarterly Progress Report* (DHPLB 2017).

184 Communication received by the Children's Rights Alliance from the DHPLG, 30 January 2020.

185 Minister for Housing, Planning and Local Government Eoghan Murphy TD, Written Answers, Homeless Persons Supports, 5 November 2019 [44233/19].

186 Ombudsman for Children's Office, *No Place Like Home: Children's Views and Experiences of Living in Family Hubs* (Ombudsman for Children's Office 2019) 7.

187 Communication received by the Children's Rights Alliance from the DHPLG, 30 January 2020.

188 Department of Housing, Planning and Local Government, 'Summary analysis of homelessness quarterly financial and performance reports Quarter 3 2019' <<https://bit.ly/2Yi5kCJ>> accessed 5 December 2019.

189 Communication received by the Children's Rights Alliance from the DHPLG, 6 December 2019.

190 *ibid.*

191 *ibid.*

192 *ibid.*

193 Communication received by Children's Rights Alliance from the DHPLG, 6 December 2019.

194 Ombudsman for Children's Office, *No Place Like Home: Children's Views and Experiences of Living in Family Hubs* (Ombudsman for Children's Office 2019).

195 *ibid.*

196 *ibid.*

197 *ibid.*

198 *ibid.*



**The scale of investment
in hubs is misplaced.
More sustainable
solutions are needed to
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a place to call home.**

The Joint Committee on Housing, Planning and Local Government¹⁹⁹ and the Joint Committee on Children and Youth Affairs,²⁰⁰ in separate reports published in November 2019, made a number of recommendations on the issue of child and family homelessness. These include considering enumerating the right to housing in the Constitution, ensuring that the best interests of the child are taken into account when responding to families that are homeless, placing a limit on the time a family may have to spend in emergency accommodation, the ending of self-accommodating and 'one night only' accommodation for families, the phasing out the use of hotel and B&B accommodation for families. Both reports recommend that the effectiveness of the overall response to family homelessness be reviewed, including the use of family hubs.²⁰¹ They also stress the need to accelerate the delivery of social and affordable housing in response to the crisis. The DHPLG, in consultation with local authorities, is undertaking a detailed analysis of the recommendations of these two reports.²⁰² Given that a number of the recommendations relate to the roles of other departments and agencies, the Homeless Inter-Agency Group (see below) is also examining the reports.²⁰³

► Inter-Agency and Consultative Structures:

A Homeless Inter-Agency Group was formed in 2017 to ensure the effective coordination of the supports provided by the various government departments and agencies involved in the delivery of services to individuals and families experiencing homelessness.²⁰⁴ This group meets on a bi-monthly basis and it has established a sub-group to examine issues relating to family homelessness.²⁰⁵ The Inter-Agency Group last reported to the Minister for

Housing, Planning and Local Government in June 2018.²⁰⁶ A National Homelessness Consultative Forum (NHCF), comprising representatives of homeless service-provider organisations and members of the Homeless Inter-Agency Group, met for the first time in April 2019.²⁰⁷ This group, which will meet biannually, is intended to provide a forum for engagement between state agencies, government departments and NGOs.²⁰⁸ A sub-group of the NHCF focusing on families and children experiencing homelessness has been established and met for the first time in December 2019.²⁰⁹

► Right to Housing:

Despite Ireland having long since ratified a series of human rights treaties, including the Convention on the Rights of the Child, which specify a right to housing, successive policy statements on housing, including the current Action Plan, *Rebuilding Ireland*, have failed to acknowledge that housing is a right. No concrete steps have been taken to respond to repeated calls for constitutional recognition of a right to housing in Ireland.²¹⁰ No action has been taken to fulfil the commitment in the *Programme for Government* that the question of constitutional recognition of economic and social rights, including the right to housing, would be examined by an Oireachtas Committee.²¹¹

► National Standards Quality Framework:

The *National Standards Quality Framework for Homeless Services in Ireland*²¹² has been fully operational in the Dublin region since February 2019. The framework is being implemented in other regions over a twelve-month period, which commenced in July 2019.²¹³ Full compliance with the standards in these regions will be required by 30 June 2020.²¹⁴ The standards are applicable to all homelessness service provision in receipt of funding under Section

199 Houses of the Oireachtas, Joint Committee on Housing, Planning and Local Government, *Family and Child Homelessness* (2019) <<http://bit.ly/3a2BkAa>> accessed 10 January 2020.

200 Houses of the Oireachtas, Joint Committee on Children and Youth Affairs, *Report on the Impact of Homelessness on Children* (2019) <<http://bit.ly/2tX50hq>> accessed 10 January 2020.

201 Joint Committee on Housing, Planning and Local Government, *Family and Child Homelessness* (2019) <<http://bit.ly/3a2BkAa>> accessed 10 January 2020; Joint Committee on Children and Youth Affairs, *Report on the Impact of Homelessness on Children* (2019) <<http://bit.ly/2tX50hq>> accessed 10 January 2020.

202 Communication received by the Children's Rights Alliance from the DHPLG, 30 January 2020.

203 *ibid.*

204 Membership of the group includes representatives from the DHPLG, DEASP, HSE, DCYA and Tusla. Representatives from the DES joined the group in May 2019.

205 Communication received by the Children's Rights Alliance from the DHPLG, 6 December 2019.

206 *ibid.*

207 *ibid.*

208 *ibid.*

209 *ibid.*

210 Jerome Connolly, 'A Constitutional Right to Housing: A Tale of Political Side-Stepping', *Working Notes*, Issue 80, October 2017.

211 Department of the Taoiseach, *A Programme for a Partnership Government 2016* (Department of the Taoiseach 2016) 20.

212 Dublin Region Homeless Executive, *National Quality Standards Framework for Homeless Services in Ireland* (Dublin Region Homeless Executive 2019) 10 <<https://bit.ly/34QS3mY>> .

213 Communication received by the Children's Rights Alliance from the DHPLG, 30 January 2020.

214 *ibid.*

10 of the Housing Act 1988.²¹⁵ A requirement of the Framework is that a homelessness service working with families and children should consult with children who use the service, provide information in an age and developmentally appropriate way to children, provide food preparation and storage facilities and provide access to outdoor play space for children.²¹⁶

► Rapid-Build Housing:

The rapid-build housing scheme initiated in 2016 has been slow to progress. In July 2016, *Rebuilding Ireland* set as a target the provision of 1,500 rapid-build homes.²¹⁷ By the end of 2018, however, just 423 units had been delivered.²¹⁸ A further 215 are expected to be completed in 2019²¹⁹ – fewer than the 270 indicated at the beginning of the year.²²⁰ A Design-Build Contractor Framework has been established by Dublin City Council and the DHPLG which aims to deliver up to 1,000 rapid-build homes across the Dublin region in the coming years.²²¹

► Investment in and Delivery of Social Housing Units:

Budget 2020 allocated €2.6 billion for housing to the DHPLG. The Minister for Housing, Planning and Local Government has stated that ‘the social housing needs’ of 27,517 additional households will be met in 2020.²²² It is proposed that 7,736 new social homes owned by local authorities or voluntary housing bodies will be provided; this a welcome increase in new social housing. However, such new provision would represent just over a quarter (28 per cent) of the target of meeting the housing needs of 27,517 households.²²³ A further 2,631 homes are to be provided through

long-term leasing and 800 through purchase.²²⁴ This means that ‘meeting the social housing needs’ of the remainder of the 27,517 households (i.e., 16,350 households, or 59 per cent of the total) is intended to be brought about through the creation of an additional 16,350 tenancies in the private rental sector with the rents publicly subsidised, primarily through the use of HAP. Tenants in these arrangements, unlike tenants of local authority or voluntary social housing, will have no long-term security of tenure; there is no guarantee the accommodation secured will meet minimum standards and some tenants may find they have to make significant ‘top-up’ payments directly to landlords.²²⁵

Investment in affordable rental and social housing owned by local authorities and voluntary housing bodies is essential to provide people with long-term and sustainable homes. This would help ensure that families would be less at risk of entering homelessness in the first place and, where they do, that children would not spend long periods living in inappropriate accommodation without access to their own space to play and learn. It would mean that families exiting homelessness would be moving into more secure and affordable housing than they are ever likely to access in the private rental sector. It is estimated that in total around 34,000 new dwellings each year are needed until 2030 to meet projected long-run housing demand in Ireland.²²⁶ Social housing provision is central to resolving the housing crisis and at least 10,000 newly built social housing units need to be delivered each year for the immediate future. In addition, more must be done to utilise vacant dwellings and encourage construction of affordable housing.

215 Section 10 of the Housing Act 1988 provides the legislative basis for funding for local authorities to enable them to provide homeless accommodation or contribute to the cost of providing such accommodation.

216 Dublin Region Homeless Executive, *National Quality Standards Framework for Homeless Services in Ireland* (Dublin Region Homeless Executive 2019) <<https://bit.ly/34QS3mY>> accessed 24 February 2020.

217 Government of Ireland, *Rebuilding Ireland: Action Plan for Housing and Homelessness* (Government of Ireland 2016) 17.

218 Minister for Housing, Planning and Local Government, Eoghan Murphy TD, Written Answers, Social and Affordable Housing Provision, 5 November 2019 [44980/19].

219 *ibid.*

220 Communication received by the Children’s Rights Alliance from the DHPLG, 8 January 2019.

221 Communication received by the Children’s Rights Alliance from the DHPLG, 6 December 2019.

222 DHPLG, ‘Minister Eoghan Murphy welcomes €2.6 billion housing budget’ <<https://bit.ly/2OQsLzO>> accessed 5 December 2019.

223 *ibid.*

224 Calculated from data in: Government of Ireland, *Budget 2020: Expenditure Report*, ‘Public Expenditure Allocations 2019–2021’, Vote 34, Housing, Planning & Local Government, Programme A – Housing (Stationery Office 2019) and in DHPLG, ‘Minister Eoghan Murphy welcomes €2.6 billion housing budget’ <<https://bit.ly/2OQsLzO>> accessed 5 December 2019.

225 See: Threshold and Society of St Vincent de Paul, *The Housing Assistance Payment (HAP): Making the Right Impact?* (Threshold and SVP 2019) <<https://bit.ly/2RjMgT7>> accessed 1 February 2020.

226 Thomas Conefrey and David Staunton, *Population Change and Housing Demand in Ireland*, Central Bank of Ireland Economic Letter, Vol. 2019, No. 14 (Central Bank of Ireland 2019) <<https://bit.ly/2sdGec9>> accessed 11 January 2020.

Child and Family Homelessness

Immediate Actions for 2020



Base housing legislation and policy measures on a recognition that housing is a human right, to be enjoyed by all persons without exception.

The UN Convention on the Rights of the Child and other international human rights treaties recognise housing as a fundamental human right, the realisation of which is essential not just to meeting the human need for adequate shelter but for the realisation of other rights, such as the right to development, health, personal security, education, and recreation. Through its ratification of these international treaties, Ireland assumed an obligation to adopt and implement housing policies that treat housing as a right.



Commit to the principle that long-term social housing need will be met through social housing provided by local authorities, voluntary housing bodies or some other new not-for-profit entities.

While supplementation of rents in the private rental sector can play an important role in meeting social housing need in the short-term, the policy of increasingly relying on such supplementation to respond to long-term social housing need has proven to be an expensive failure, and is a key factor in the creation of the current homelessness crisis.



Legislate to end the long-term use of unsuitable emergency accommodation for families and implement, as a matter of urgency, the recommendations of the reports on homelessness issued by two Oireachtas committees in November 2019.

Prioritise families with children and move them from unsuitable emergency accommodation, including hotels, into long-term sustainable housing. Children should be able to access play and recreational facilities while in homelessness accommodation. In order to avoid the risk of institutionalisation and the 'normalisation' of homelessness, families should not have to live for more than six months in family hubs before being re-housed. In order to hold the Government accountable for delivering on this aim, legislate to limit the use of emergency and temporary accommodation.



Fully implement the National Quality Standards Framework for Homeless Services and establish a robust compliance framework with an independent inspectorate.

In order to ensure that the standards are adhered to and applied consistently across all forms of homelessness accommodation, including family hubs, implementation of the Standards Framework must be accompanied by the establishment of an independent inspectorate.



Commission an independent evaluation of the use of family hubs as an approach to providing emergency, temporary accommodation to families.

A review of the family hub system has been urged by the Ombudsman for Children as well as by the Oireachtas Joint Committee for Housing, Planning and Local Government and the Oireachtas Joint Committee for Children and Youth Affairs.



Complete the Rapid-Build Programme as a matter of urgency.

Complete the programme as a way to deliver more social housing units.

2.2 Parental Leave and Income Supports

Section Grade:

B-

➔ Government Commitment

A Programme for a Partnership Government commits to:

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

▶ **Progress: Good**

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

▶ **Progress: Partial**

'Parental Leave and Income Supports' receives a 'B-' grade in *Report Card 2020*, the same grade as in the 2019 Report Card. This grade reflects the introduction of two weeks' parent's leave, along with a new payment, Parent's Benefit, for each parent in the first year of a child's life. It also reflects increases in the income thresholds for receipt of the Working Family Payment and an increase in the income disregard for lone parents receiving this payment.

Every child has the right to an adequate standard of living for his or her physical, mental, spiritual, moral and social development.²²⁷ Parents and guardians have the primary responsibility to provide for the child's material needs but the State is also responsible for assisting parents and guardians to alleviate poverty, where necessary.²²⁸ In 2016, the UN Committee on the Rights of the Child expressed its deep concern at the 'significant increase in the number of children living in consistent poverty' in Ireland and referred in particular to single-parent households.²²⁹ Article 18 of the UN Convention on the Rights of the Child recognises that support for parents in the early years of a child's life is particularly important. In interpreting this provision, the UN Committee requires the State 'to take all appropriate measures to ensure that children of working parents have the right to benefit from childcare services, maternity

227 UN Convention on the Rights of the Child (20 November 1980) 1577 UNTS 3 (UNCRC) Art 27.

228 *ibid.*

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

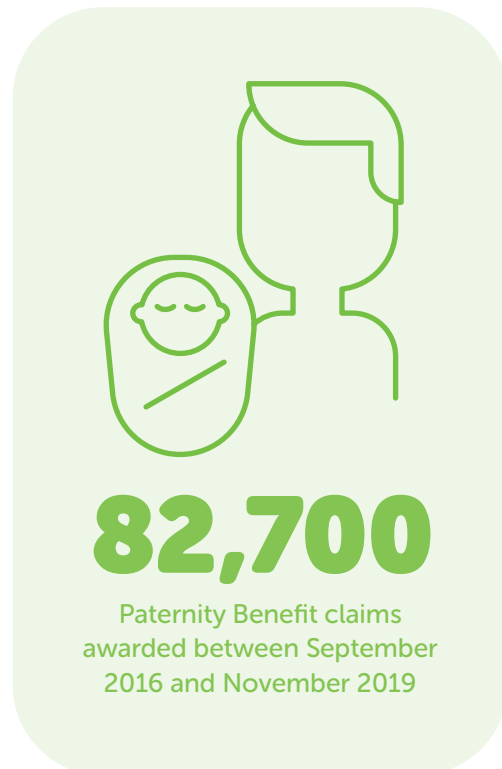
protection and facilities for which they are eligible'.²³⁰ The UN Committee also advocates 'an integrated approach' which focuses on health and education supports for new parents and includes 'interventions that impact indirectly on parents' ability to promote the best interests of children (e.g. taxation and benefits, adequate housing, working hours)'.²³¹

► Leave for Parents:

The Parent's Leave and Benefit Act 2019 gives parents a new statutory entitlement to parent's leave, that is, two weeks leave from employment per parent for the parents of a child born or adopted on or after 1 November 2019. This leave may be taken at any time during the first year of a child's life or during the first year of placement following adoption. Parent's leave cannot be transferred between parents except in specified circumstances, such as the death of one of the parents.²³² Parents availing of parent's leave may qualify for Parent's Benefit of €245 per week: this is available to employed and self-employed parents with the required number of social insurance contributions. It is estimated that 60,000 parents will receive Parent's Benefit each year, at a projected cost of €32 million.²³³

Parent's leave is distinct from parental leave, which is not covered by a state income support payment. The Parental Leave (Amendment) Act 2019 extended the period of parental leave from 18 weeks to 22 weeks for parents of children up to the age of 12 years (16 for a child with a disability) from September 2019.²³⁴ The Act also provided for a further four weeks' leave from 1 September 2020; this will bring the total period of parental leave up to 26 weeks.

Parent's leave is also distinct from paternity leave; this is an entitlement to two weeks' leave from work, which can be taken by fathers or same-sex partners during the first six months after the birth of a baby or an adoption placement. Those availing of paternity leave are entitled to Paternity Benefit of €245 per week if they have the required number of social insurance contributions. It is estimated that between September 2016, when the payment was introduced,



and the end of 2019 the total number of Paternity Benefit claims awarded was more than 82,700.²³⁵ The number of claims for Paternity Benefit each year equates to approximately 60 per cent of the number of claims for Maternity Benefit.²³⁶ Estimated expenditure on Paternity Benefit in 2019 was just below €11.7 million; the estimate for 2020 is €15.1 million.²³⁷

Research suggests that most children do best when cared for at home during at least the first year of their life.²³⁸ The combined effect of Parent's Benefit (two weeks for each parent), Maternity Benefit (26 weeks) and Paternity Benefit (two weeks) is that parents may receive state income support while caring full-time for their child for between the first 28 and 32 weeks of the child's life, depending on whether they are parenting jointly or alone. The *First 5: A Whole-of-Government Strategy for Babies*,

230 UNCRRC, 'General Comment No. 7 on Implementing Rights in Early Childhood' (2006) UN Doc CRC/C/GC/7 Rev.1 Para 21.

231 *ibid* Para 20 (a).

232 Citizens Information Board, 'Parent's Leave' <<https://bit.ly/37QAndd>> accessed 12 February 2020.

233 Minister for Employment Affairs and Social Protection, Regina Doherty TD, Written Answers, Parental Leave Expenditure, 13 November 2018 [46883/18].

234 Citizens Information Board, 'Parental leave' <<https://bit.ly/2OXA0ET>> accessed 12 February 2020.

235 Communication received by the Children's Rights Alliance from DEASP, 15 November 2019.

236 *ibid*.

237 Government of Ireland, *Budget 2020: Expenditure Report*, 'Estimate of Income and Expenditure of the Social Insurance Fund' (Stationery Office 2019) 221.

238 M. Marmot, J. Allen, P. Goldblatt, T. Boyce, D. McNeish, M. Grady and I. Geddes, *Fair Society Healthy Lives: Strategic Review of Health Inequalities in England Post-2010* (The Marmot Review 2010).

Young Children and their Families 2019–2028 commits to introducing an individual entitlement for each parent of seven weeks' paid parental leave by 2021.²³⁹ However, even if this commitment were to be met, Ireland would still be at least 10 weeks short of providing income-supported family leave to cover the first year of a child's life in the case of those parenting jointly, and would fall even further short of this in the case of those parenting alone.

The European Union Work-life Balance Directive entered into European law on 1 August 2019 and must be transposed into Member States' national law by 23 August 2022.²⁴⁰ The Department of Justice and Equality has responsibility for transposition of the Directive into Irish law.²⁴¹ The objectives of the Directive are to improve access to work-life balance arrangements for parents in employment and to increase the take-up of family leave and flexible working arrangements by men. The Directive is part of a package of measures to address the under-representation of women in employment, and to support women's career progression through improved conditions to reconcile working and private lives.²⁴² Measures under the Directive include the introduction of paid paternity leave, ensuring that some parental leave is non-transferable between parents, extending the right to request flexible working arrangements to carers and working parents of children aged up to 12 years old and policy measures which aim to remove economic disincentives for second earners within families.²⁴³

The commitments to increase state income-supported leave for parents in employment are welcome but momentum needs to be maintained to meet the target of having such supports for the duration of the first year of a child's life, in line with the strategic action outlined in the Government's strategy, *First 5*. It is also important to ensure that all children regardless of the relationship status of their parents, are able to benefit equally and fully from the extensions to state income-supported parent's leave. People who are parenting alone and their children, may be unable to benefit from the two weeks of parent's leave per parent which is now available because

this leave is non-transferrable between parents, even where it can be demonstrated that the second parent is not availing of the leave. There are, at present, no legislative proposals to address this issue.²⁴⁴

Overall, given the significant developments in recent years regarding the provision of increased entitlement to leave for parents so that they can care for their children, and the provision of state income supports for parents during this leave, it would be appropriate in the near future to review how parents, and in particular fathers, are availing of these entitlements.

► Additional Supports for Low-Income Families:

Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020 included a commitment that by 2020 there would be 70,000 fewer children living in consistent poverty, implying a reduction of two-thirds on the number in 2011.²⁴⁵ The 'consistent poverty' rate for children fell from 10.9 per cent in 2016 to 7.7 per cent in 2018, and the 'at risk of poverty' rate declined from 19.1 per cent to 15.9 per cent.²⁴⁶ While these reductions are very welcome they still mean that large numbers of children are growing up in poverty: over 200,000 children are in households at risk of poverty, and among these children more than 100,000 are in consistent poverty.²⁴⁷ A worrying development in 2018 was that the rate of consistent poverty in households comprised of two adults with one to three children showed an increase on the 2017 figure, rising from 3.9 per cent to 5 per cent (though this is still lower

239 Government of Ireland, *First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019–2028* (DCYA 2018) Strategic Action 1.1.

240 Communication received by the Children's Rights Alliance from DEASP, 15 November 2019.

241 *ibid.*

242 *ibid.*

243 European Commission, 'EU Work-life Balance Directive enters into force' <<https://bit.ly/2UNe3gy>> accessed 12 February 2020.

244 Communication received by the Children's Rights Alliance from DEASP, 15 November 2019.

245 DCYA, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (Stationery Office 2014) Commitment 4.2.

246 Central Statistics Office, *Survey on Income and Living Conditions (SILC) 2018 Results* (CSO 2019), Table 3.1: 'At Risk of Poverty, Deprivation and Consistent Poverty Rates by Year' <<https://bit.ly/37RuM6w>> and Central Statistics Office, *Survey on Income and Living Conditions (SILC) 2017 Results* (CSO 2018), Table 3.1: 'At Risk of Poverty, Deprivation and Consistent Poverty Rates by Year' <<https://bit.ly/2wbgclA>> accessed 10 February 2020. The 'at risk of poverty' figures reflect the number and percentage of children living in households with a disposable income below 60 per cent of the national median income. The 'consistent poverty' figures indicate the percentage that are not only at risk of poverty but are unable to afford two or more items from a list of deprivation indicators.

247 Social Justice Ireland, *Poverty Focus 2019* (SJI April 2019) 3; Social Justice Ireland, 'More than 689,000 living in poverty in Ireland, over 200,000 are children', 28 November 2019 <<https://bit.ly/2HioOdS>> accessed 10 February 2020.

than the rate in 2016, which was 6.5 per cent).²⁴⁸

Data on poverty highlights the very significant role played by income transfers in alleviating poverty in Ireland, with this country being 'among the best performing EU States for reducing poverty through social transfers'.²⁴⁹ *A Programme for a Partnership Government* committed to introduce a Working Family Payment with the aim of reducing in-work poverty for families with children and to incentivise employment by making work pay.²⁵⁰ In 2017, the Family Income Supplement (FIS), a weekly tax-free payment for low-paid employees with children, was renamed the Working Family Payment.²⁵¹ To qualify for the payment, the applicant (and their partner where relevant) must be employed for at least 19 hours per week or 38 hours per fortnight, have at least one qualified child and have a weekly family income which is less than the set limit for their family size.²⁵² Families in receipt of the Working Family Payment receive an average payment of €135 per week.²⁵³ A nationwide information campaign on local and national media aimed at raising awareness of the Working Family Payment was undertaken in summer 2019.²⁵⁴

The requirement to work for 19 hours per week in order to qualify for the Working Family Payment poses difficulties for some families, particularly lone parents who must reach the 19 hours per week threshold alone, whereas a couple who are living in the same household can combine their hours of employment to reach the threshold. A review of the Working Family Payment published in November 2018 considered the argument that the requirement to work at least 19 hours per week to qualify for the payment should be reduced to 15 hours or below. The review concluded that the minimum number of hours should not be lowered as this could run counter to the policy

objective of increasing hours of employment.²⁵⁵ Other reasons for this conclusion included concerns about increasing rates of unsustainably low-hour and low-paid employment, the interaction with other schemes such as Jobseeker's Allowance, and concerns about increased expenditure implications.²⁵⁶ The review acknowledged that if a lone parent worked fewer than 19 hours per week and did so over more than three days in the week they would qualify for neither Working Family Payment nor Jobseeker's Allowance. This is highly unlikely to occur in the case of couple households due to the structure of the payments.²⁵⁷ It is not possible to estimate the number of additional families that would qualify for Working Family Payment if the minimum hours requirement were to be reduced to 15 hours per week, nor the cost of introducing such a change.²⁵⁸

Budget 2020 increased income thresholds for the Working Family Payment by €10 per week for families with up to three children from January 2020. In spite of various measures in Budget 2020 to reduce child poverty through child income supplement increases and investments in services, it has been estimated that the 'at risk of poverty' rate for children will increase in 2020. This is because of the failure to index link taxes and social welfare payments to wages and/or prices, although increased expenditure in areas such as childcare may offset some of the loss of disposable income.²⁵⁹

A Programme for a Partnership Government committed to tackling low pay by increasing the minimum wage to '€10.50 per hour over the next five years', strengthening the role of the Low Pay Commission to examine the gender pay gap and in-work poverty, and strengthening regulations on precarious work.²⁶⁰ The Low Pay Commission recommended that the rate of the National Minimum Wage (NMW) for an experienced adult worker be increased to €10.10 per hour in 2020, an increase

248 Central Statistics Office, *Survey on Income and Living Conditions (SILC) 2018 Results* (CSO 2019), Table 3.1: 'At Risk of Poverty, Deprivation and Consistent Poverty Rates by Year' <<https://bit.ly/37RuM6w>> accessed 10 February 2020.

249 Minister for Employment and Social Protection, Regina Doherty TD, Written Answers, Child Poverty, 31 January 2019 [4892/19].

250 Minister for Employment Affairs and Social Protection, Regina Doherty TD, Written Answers, Working Family Payment, 13 November 2018 [46862/18].

251 DEASP, 'Ministerial Brief June 2017 – Part A' <<http://bit.ly/2AQrDXI>> accessed 12 February 2020.

252 Government of Ireland, 'Working Family Payment (WFP), formerly known as Family Income Supplement: Operational Guidelines' <<https://bit.ly/2tNbfQu>> accessed 12 February 2020.

253 DEASP, 'Minister Doherty launches Working Family Payment Information Campaign', Press Release, 10 June 2019 <<https://bit.ly/2DxhfCY>> accessed 12 February 2020.

254 *ibid.*

255 DEASP, *Review of the Operation of the Working Family Payment* (2018) <<https://bit.ly/2P544Pg>> accessed 12 February 2020.

256 *ibid.*

257 *ibid.*

258 Minister for Employment Affairs and Social Protection, Regina Doherty TD, Written Answers, Working Family Payment Eligibility, 24 October 2019 [44088/19].

259 Karina Doorley, 'The distributional impact of Budget 2020 tax and welfare measures', ESRI Post-Budget Briefing, 11 October 2019 <<https://bit.ly/2Y1TkF4>> accessed 10 November 2019.

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

of €0.30.²⁶¹ The increased rate came into effect on 1 February 2020.²⁶² The current rate is slightly lower than the target in the Programme for Government but that commitment was to reach €10.50 over a five-year period, which will not conclude until May 2021.

The Home Carer's Tax Credit reduces the tax payable by married couples or civil partners where one partner works in the home caring for a child or other dependent person and they are jointly assessed for tax purposes.²⁶³ Budget 2020 increased the Home Carer's Tax Credit for the fifth time in five years. The credit is now worth €1,600, where the home carer has an annual income of less than €7,200.²⁶⁴

► Low Income in One-Parent Families:

In 2016, there were 218,817 one-parent families in Ireland, of which almost 190,000 were headed by women.²⁶⁵ More than 350,000 children live in a household headed by a lone parent.²⁶⁶ In 2018, over one-third of one-parent families were at risk of poverty and almost one-fifth were living in consistent poverty.²⁶⁷ There has been a small decrease in the rates of poverty among families headed by a lone parent which is welcome; however, one-parent families are still almost four times more likely to live in consistent poverty than two-parent families (the rates being 19.2 per cent and 5 per cent respectively).²⁶⁸

The employment rate for lone parents in 2019 was 64.3 per cent, as compared to 78.5 per cent in the case of couples living with their children.²⁶⁹ An ESRI study in 2018 revealed that changes to the One Parent Family Payment eligibility criteria between 2011 and 2018 reduced the income of lone parents in employment.²⁷⁰ The study found that 16 per cent of

lone parents were financially better off not working due to the cost of childcare; however, it was expected that this would fall to 13 per cent with the coming into operation of affordable childcare subsidies.²⁷¹ In spite of the challenges facing lone parents in employment, the proportion of lone parents in work has increased significantly in recent years. However, this increase has been accompanied by a marked rise in the rate of in-work poverty among lone parents, which doubled between 2012 and 2017.²⁷² Lone parents in Ireland are almost five times more likely to experience in-work poverty than other households with children.²⁷³

Income disregards are a support to lone parents in work in that a certain portion of earned income is not counted in means-tests for a social welfare payment. Budget 2020 increased the earnings disregard for the One Parent Family Payment and Jobseeker's Transitional Payment from €150 per week to €165 per week. This is a welcome development.

The 2017 policy paper, *Better Outcomes, Brighter Futures: Whole of Government Approach to Tackling Child Poverty*, recognised that lone parent families are 'significantly more at risk of poverty compared to the population as a whole'.²⁷⁴ It committed to reform the One Parent Family Payment 'so that lone parents have access to a range of supports and services designed to provide them with pathways to work while acknowledging their caring responsibilities'.²⁷⁵ The review of the payment has not yet been completed.

261 Low Pay Commission, *Recommendations for the National Minimum Wage* (Low Pay Commission 2019) 61.

262 *National Minimum Wage Order 2020* (S.I. 8/2020) (Stationery Office 2020).

263 Revenue, 'Home Carer Tax Credit' <<https://bit.ly/31ScUG2>> accessed 12 February 2020.

264 Citizens Information Board, 'Home Carer Tax Credit' <<https://bit.ly/34ClPvw>> accessed 12 February 2020.

265 Central Statistics Office, *Census of Population 2016 – Profile 4 Households and Families* (CSO 2017).

266 *ibid.*

267 Central Statistics Office, *Survey on Income and Living Conditions (SILC) 2018 Results* (CSO 2019).

268 *ibid.* Table 3.1: 'At Risk' of Poverty, Deprivation and Consistent Poverty Rates by Year'.

269 Central Statistics Office, *Labour Force Survey Households and Family Units Q2 2019* (CSO 2019).

270 Mark Regan, Claire Keane & John R. Walsh, *Lone Parent Income and Work Incentives* (ESRI 2018).

271 *ibid.*

272 Society of St Vincent de Paul, *Working, Parenting and Struggling? An analysis of the employment and living conditions of one parent families in Ireland* (2019) <<https://bit.ly/33FYs3e>> accessed 12 February 2020.

273 *ibid.*

274 DEASP, *Better Outcomes, Brighter Futures: Whole of Government Approach to Tackling Child Poverty* (DEASP 2017) 23.

275 *ibid.* 17.

Parental Leave and Income Supports

Immediate Actions for 2020



Ensure that all children, regardless of the relationship status of their parents, can benefit equally and fully from parent's leave.

Where a parent is parenting alone and it can be demonstrated that the second parent is not taking up the available two-weeks of parent's leave, then it should be possible to transfer that leave to the lone parent. This parent should then become eligible to receive Parent's Benefit for four weeks, rather than two.



Complete and publish the review of the One Parent Family Payment in 2020.

In line with the commitment in *Better Outcomes, Brighter Futures: The Whole of Government Approach to Tackling Child Poverty*, complete the review of the One Parent Family Payment and introduce the necessary changes to ensure that lone parents can have the security of an adequate level of income support while also being enabled to enter employment.

2.3 Prevention and Early Intervention

Section Grade:

C+

➔ Government Commitment

A Programme for a Partnership Government commits to:

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

▶ **Progress: Steady**

Ensure the sharing and implementation of learning from such programmes.

▶ **Progress: Good**

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

▶ **Progress: Complete**

'Prevention and Early Intervention' receive a 'C+' grade in *Report Card 2020*, the same grade as in *Report Card 2019*. This grade reflects the continued funding for the ABC Programme and its move into Tusla. It also reflects developments in the areas of data, information, leadership and networking for policy, practice and service provision for children and young people, particularly through the What Works initiative. However, in order to achieve a broader and more systemic impact, current measures need to be enhanced and further action at a 'whole-of-government' level should be taken.

Every child has a right to survival and development.²⁷⁶ The UN Committee on the Rights of the Child recognises that prevention and intervention strategies during early childhood have the potential to impact positively on young children's current well-being and future prospects.²⁷⁷ Prevention is defined as stopping a problem from happening in the first place; early intervention means acting at the first signs of trouble; treatment means responding once what could go wrong, has gone wrong.²⁷⁸ Prevention and early intervention mean intervening at a young age, early in the onset of difficulties, or at points of increased vulnerability, such as school transitions, adolescence and parenthood.²⁷⁹ The Recommendation of the

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

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

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

279 DCYA, *Better Outcomes, Brighter Futures: The National*

Council of Europe²⁸⁰ with regard to fulfilling children's rights in social services planning, delivery and evaluation states that social services delivery for the protection of vulnerable children 'should, *inter alia*, adhere to the following principles: (a) prevention and early intervention; (b) child-focused partnership with parents; (c) careful assessment of the child's needs with regard to protective factors ... as well as risk factors in the child's environment'²⁸¹

The UN Committee on the Rights of the Child requires States to take all possible measures to improve perinatal care for mothers and babies, reduce infant and child mortality, and create conditions that promote the well-being of all young children.²⁸² Young children are especially vulnerable to the harm caused by unreliable, inconsistent relationships with parents and caregivers, by growing up in extreme poverty and deprivation, or by being surrounded by conflict and violence.²⁸³ States are required to render appropriate assistance to parents, guardians and extended families in the performance of their child-rearing responsibilities.²⁸⁴ An integrated approach would include interventions that impact indirectly on parents' ability to promote the best interests of children (for example, taxation and benefits, adequate housing, working hours) as well as those that have more immediate consequences (for example, perinatal health services, parent education, home visitors).²⁸⁵ The UN Committee calls on States to create a safe and supportive environment for adolescents, including within their family, in schools, in all types of institutions in which they may live, within their workplace and/or in the society at large.²⁸⁶

International evidence suggests that prevention and early intervention approaches achieve much better results for children than later intervention, and can reduce the need for costly, less effective interventions later in life.²⁸⁷ However, Ireland's balance of public spending is skewed towards crisis rather than preventative spending.²⁸⁸ For example, only five per cent of expenditure on homelessness services comes under the heading of prevention, tenancy sustainment and resettlement supports, while 83 per cent is spent on emergency accommodation.²⁸⁹

Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020 identifies prevention and early intervention as one of six 'transformational goals'.²⁹⁰ These goals aim to strengthen the system of supports for children and young people by improving the timeliness, effectiveness and responsiveness of policy and services, leading to better outcomes for children and young people in the future.²⁹¹ Strategically, *Better Outcomes, Brighter Futures* considers universal services as the main source of prevention and early intervention, naming specifically early childhood education and care services, schools, youth, community and health services.²⁹² Prevention and early intervention is also central to *First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019–2028*, which was published in November 2018.²⁹³ The Strategy adopts a progressive approach, focused on providing universal services and programmes in child health, parenting and family supports, early learning and care with targeted services for families needing additional support.²⁹⁴ In the Strategy, there is a commitment to achieving four overarching

Policy Framework for Children and Young People 2014–2020 (Stationery Office 2014) 29.

280 The Council of Europe is a human rights institution. It includes 47 member states, 27 of which are in the EU. It promotes human rights through international conventions, monitoring member states' implementation progress and making recommendations through independent expert monitoring bodies. It oversees the European Convention on Human Rights. The European Court of Human Rights is a key institution.

281 Council of Europe, *Council of Europe Recommendation on children's rights and social services friendly to children and families* (Council of Europe 2011) 9.

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

283 *ibid* para 36.

284 *ibid* para 20.

285 *ibid* para 20a.

286 UNCRC, 'General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child' (2003) UN Doc CRC/GC/2003/4/ para 39a.

287 Early Intervention Foundation, *Realising the Potential of Early Intervention* (Early Intervention Foundation 2018) 18; Prevention and Early Intervention Network, *The Case for Prevention and Early Intervention: Promoting Positive Outcomes for Children, Families and Communities* (PEIN 2013) 3.

288 Eilis Lawlor and Sinead McGilloway, *An Economic Appraisal of the youngballymun Initiative* (Just Economics 2012) 36.

289 Department of Housing, Planning and Local Government, 'Summary analysis of homelessness quarterly financial and performance reports Quarter 3 2019' <<https://bit.ly/2Yi5kCJ>> accessed 12 February 2020.

290 DCYA, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (Stationery Office 2014) 23.

291 *ibid* 23.

292 *ibid*.

293 Government of Ireland, *First 5 – A Whole-of-Government Strategy for Babies, Young Children and their Families 2019–2028* (Government Publications 2018).

294 *ibid* 26 and 102.

goals: Goal A: Strong and supportive families and communities; Goal B: Optimum physical and mental health; Goal C: Positive play-based early learning; and Goal D: An effective early childhood system.²⁹⁵

► Community-based Early Intervention Programmes:

From 2004, the State and The Atlantic Philanthropies co-funded evidence-informed programmes aimed at improving outcomes for children in areas of urban disadvantage, by intervening in their lives from the pre-natal stage to 18 years.²⁹⁶ The Area Based Childhood (ABC) Programme, operating since 2013, offers interventions in 12 urban sites around the country addressing child health and development, children's learning, parenting and integrated service delivery.²⁹⁷ Between 2013 and 2017, the programme was funded by The Atlantic Philanthropies and the Department of Children and Youth Affairs (DCYA), with a total investment of €30.7 million.²⁹⁸ The DCYA is now the sole funder of the ABC programme.²⁹⁹ In September 2019, the ABC programme transferred to Tusla as part of the national Prevention, Partnership and Family Support Programme (PPFS).³⁰⁰ The transfer is intended to enable the 'ongoing delivery of innovative measures, and mainstream evidence-based practice to improve outcomes for children and families'³⁰¹ and build on the Tusla PPFS programme.³⁰² The ABC programme continues to operate in the same 12 areas of urban disadvantage.³⁰³ As part of the ongoing work to integrate the ABC programme into the PPFS programme, two national ABC posts will be created in Tusla.³⁰⁴ €9.5 million was secured for the PPFS programme in 2019.³⁰⁵ Tusla area managers will agree

the budget for individual ABC sites with the local ABC manager on the basis of need and in consultation with internal and external stakeholders across each ABC area.³⁰⁶ This complex work requires investment in the relevant workforces in Tusla, early care and education services, and the HSE's public health nursing service. Consideration should also be given as to how to ensure the learning and mainstreaming from these initiatives are extended to rural locations.

► Sharing and Implementing Learning:

On 19 July 2019, What Works (formerly the Quality and Capacity Building Initiative, QCBI) was launched by the DCYA.³⁰⁷ What Works is an initiative which aims to maximise the potential of prevention and early intervention to improve the lives of children and young people, by providing practitioners with an evidence-supported approach to their work.³⁰⁸ Its objective is to enhance the use and availability of data and evidence, support capacity development and ensure quality at the levels of policy, service and provision.³⁰⁹ It is funded through Dormant Accounts Funding.³¹⁰ In 2019, Tusla received funding of €615,000 from the DCYA for What Works.³¹¹

The Network Support Fund was launched in 2018 to provide financial support for efforts to promote increased understanding and use of evidence-informed approaches to prevention and early intervention services for children, young people and their families. The Fund, which was part of What Works, supported organisations seeking to enhance their practice and to share experiences and knowledge in a more systematic and reflective manner. It was open to statutory as well as community and voluntary organisations involved in leading or co-ordinating networks, and to learning communities and forums.³¹² Awards totalling €379,012 were made to 30 networks in 2019.³¹³

295 *ibid* 28.

296 The Atlantic Philanthropies, 'Children and Youth: Prevention and Early Intervention' <<https://bit.ly/2OOkb48>> accessed 12 February 2020.

297 Pobal 'Area Based Childhood Programme' <<https://bit.ly/2SFxAN5>> accessed 12 February 2020.

298 C. Hickey, A. O'Riordan, S. Huggins and D. Beatty, *National Evaluation of the Area Based Childhood Programme: Summary Report* (DCYA, The Atlantic Philanthropies and the Centre for Effective Services 2018) 7 <<https://bit.ly/2RsVmwQ>> accessed 12 February 2020.

299 Minister for Children and Youth Affairs, Katherine Zappone TD, Written Answers, Area Based Childhood Programme, 24 October 2019 [43956/19].

300 *ibid*.

301 Government of Ireland, *First 5 – A Whole-of-Government Strategy for Babies, Young Children and their Families 2019–2028* (Government Publications 2018) 48.

302 *ibid* 127.

303 Communication received by the Children's Rights Alliance from the DCYA, 11 November 2019.

304 *ibid*.

305 *ibid*.

306 *ibid*.

307 *ibid*.

308 DCYA, 'Minister for Children and Youth Affairs launches What Works, a transformative new approach to policy, programmes and practice for children and young people', Press Release, 19 June 2019 <<https://bit.ly/31HayJP>> accessed 12 February 2020.

309 Minister for Children and Youth Affairs, Katherine Zappone TD, Written Answers, Child Protection, 22 October 2019 [43399/19].

310 DCYA, 'What Works FAQs' <<https://bit.ly/2YsqZbp>> accessed 12 February 2020.

311 Minister for Children and Youth Affairs, Katherine Zappone TD, Written Answers, Child and Family Agency Funding, 6 September 2019 [35433/19].

312 DCYA, '2019 Network Support Grant Guidance Information' <<https://bit.ly/39qPOJ9>> accessed 12 February 2020.

313 Communication received by the Children's Rights

A key project over 2018 to 2019 was the QCBI Innovation Fund (in 2019, renamed the Innovation Fund of What Works). This measure was designed specifically for innovative, one-off, time-bound initiatives aimed at improving the lives of children, young people and their families in local communities and nationally.³¹⁴ DCYA continued to support Innovation Fund grantees in 2019 where funding was needed to finalise activities or resource outputs relating to projects begun in 2018. The total amount awarded under this Fund in 2019 was €383,615.³¹⁵

A national programme of Action Learning Sets was announced by the Minister for Children and Youth Affairs, Dr. Katherine Zappone TD, in September 2019.³¹⁶ Action Learning is an approach to problem-solving and learning in small groups ('sets') which aims to bring about significant change in individuals, teams, organisations and systems.³¹⁷ Action learning uses a group process to help members reflect on their work and plan for future action.³¹⁸

In 2018, the DCYA and the University of Limerick developed a pilot Executive Leadership Programme for service providers and practitioners in Dublin North East inner city under the Quality and Capacity Building Initiative (QCBI).³¹⁹ This programme (now under the aegis of What Works) has now been extended outside the North East inner city, with a second executive leadership programme currently underway with practitioners and community leaders in Limerick.³²⁰ The focus of these programmes is on supporting groups and communities to develop their own solutions to some of the more intractable difficulties they are facing; further programmes will be rolled out in 2020.³²¹

Alliance from DCYA, 17 January 2020.

314 DCYA, 'Minister for Children and Youth Affairs launches What Works, a transformative new approach to policy, programmes and practice for children and young people', Press Release, 19 June 2019 <<https://bit.ly/31HayJP>> accessed 12 February 2020.

315 Communication received by the Children's Rights Alliance from DCYA, 21 January 2020.

316 DCYA, 'Minister Zappone launches What Works national programme to deliver learning and development opportunities for professionals working with children and young people' (Press Release, 12 Sept 2019) <<https://bit.ly/2Rq5BSJ>> accessed 12 February 2020.

317 Communication received by the Children's Rights Alliance from the DCYA, 11 November 2019.

318 *ibid.*

319 Dublin North East Inner City, 'Executive Leadership Course' (NEIC 2018) <<https://bit.ly/2RBKNSH>> accessed 12 February 2020.

320 Communication received by the Children's Rights Alliance from the DCYA, 11 November 2019.

321 *ibid.*

The 'Outcomes for Children National Data & Information Hub' was launched in July 2019.³²² This data hub is an online, interactive, area-based geo-mapping system, based on the five *Better Outcomes, Brighter Futures* national indicators.³²³ It has been developed in conjunction with Tusla, in order to support those working with children and young people to access and use published data sets to inform their work.³²⁴ The Hub is funded under What Works in alignment with that initiative's objective of enhancing the availability and use of data for those working with children, young people and their families.³²⁵

► Research:

In 2019 the Department of Children and Youth Affairs commenced a phased programme of research, funded through the What Works initiative, with the aim of deepening understanding of the persistence and effects of child poverty in Ireland. The first phase of this programme was a study begun in late 2019 which used existing data to establish a statistical baseline on children's and families' financial circumstances. The second phase is due to begin in early 2020 and will be realised through a Research Partnership between the ESRI and the DCYA. An element of the work in this phase will be an exploration of how to leverage the full value of the longitudinal data in the Growing Up in Ireland study for policy development in relation to preventing and responding to poverty.³²⁶

► Prevention and Early Intervention Unit:

The Prevention and Early Intervention Unit (PEIU) was established in the Department of Public Expenditure and Reform in May 2017. The unit focuses on prevention and early interventions that can improve the life outcomes of children as well as the quality of life of older people. In 2019, the PEIU published two Focused Policy Assessments (FPAs) in relation to families and children: *Family Services Supporting Children and their Parents* and *Programmatic Interventions for Children, Young People and their Parents*.³²⁷ These FPAs are part of the first phase

322 *ibid.*

323 *ibid.*

324 *ibid.*

325 *ibid.*

326 DCYA, 'Minister Zappone hosts Open Policy Debate on child poverty in Association with the Children's Rights Alliance', Press Release, 13 December 2019 <<https://bit.ly/2Hha43N>> accessed 12 February 2020.

327 Fiachra Kennedy, *Family Services Supporting Children and their Families*, Prevention & Early Intervention Series, Focused Policy Assessment No.6, October 2019 (Prevention and Early

of the work of the unit.³²⁸ It is intended that the second phase of the PEIU's work will build on the evidence from the FPAs and draw on the dialogue sessions which were held with key stakeholders in 2018 in order to provide a general understanding of prevention and early intervention as an approach to policy-making as well as a more specific examination of this approach in an Irish context.³²⁹

While this is welcome, the unit should broaden its work programme to develop a framework to estimate the benefits of frontloading investment across government in prevention and early intervention services for children and families, and to examine how to incorporate this into its work in progress on policy design and implementation guidance. There is evidence that organisations to the forefront of prevention and early intervention delivery are currently suffering squeezed budgets that particularly affect their ability to provide prevention and early intervention services.³³⁰ Since many of the savings from prevention and early intervention actions are realised in the long term, a commitment to future planning and cost-benefit analysis is required. Efforts to rebalance resource allocation towards placing greater emphasis on prevention and earlier intervention are required.³³¹

The PEIU should set out how it intends to support all relevant government departments to identify their current prevention and early intervention expenditure on children and families and identify targets for increased investment over the next 10 years. The unit could undertake and support reviews, evaluations and cost-benefit analyses of existing and new initiatives in order to identify the potential maximum impact on the needs of target populations requiring support and in achieving prevention and early intervention.

Outside the role of the PEIU, consideration needs to be given to how the principles of prevention and early intervention could be strengthened through

government and state funded programmes which get the balance right between universal and targeted services. For example, the Government launched a consolidated new scheme that brings together four existing funding streams to reach young people who are marginalised, disadvantaged or vulnerable.³³² While the rationalisation of funding streams to support youth work services is welcome, the funding for universal youth services also needs to be looked at. Universal youth service provision was cut by 31 per cent between 2008 and 2015 and while funding has been increased in recent years it is still 20 per cent below pre-recession levels.³³³ Building on the learnings of *What Works* and *Better Outcomes, Brighter Futures*, the development of the next national policy framework for children and young people provides an opportunity to look at how prevention and early intervention can be further mainstreamed across government.

Intervention Unit, DPER, 2019) Fiachra Kennedy, *Programmatic Interventions for Children, Young People and their Parents*, Prevention & Early Intervention Series Focused Policy Assessment No.7, October 2019 (Prevention and Early Intervention Unit, DPER 2019) <<https://bit.ly/2PyN5Fb>> accessed 12 February 2020.

328 Communication received by the Children's Rights Alliance from the Department of Public Expenditure and Reform, 3 December 2019.

329 *ibid.*

330 Just Economics, *Breaking Point: Why Investment is Needed Now to Ensure the Sustainability of Quality Services for Children and Families* (Barnardos 2019).

331 DCYA, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (Stationery Office 2014) 28-29.

332 'UBU – Your Place, Your Space' <<https://ubu.gov.ie/>> accessed 12 February 2020.

333 National Youth Council of Ireland, 'Future Proof with Investment in Youth', 2019 <<http://bit.ly/2SJ1eRw>> accessed on 10 February 2020.

Prevention and Early Intervention Immediate Actions for 2020



The PEIU should consider publishing a two-year plan, identifying objectives and activities.

A two-year plan for the PEIU is needed to enable the core objectives of the unit to be publicly outlined and the activities to achieve these clearly identified. An official definition of prevention and early intervention would be necessary for such a plan. A published plan would ensure that it is made clear how the PEIU can deepen awareness and understanding of prevention and early intervention approaches, enhance the value placed on evidence and how it informs decisions, and improve understanding of the processes required to deliver effective services and supports.



Consider how prevention and early intervention can be adopted further.

Building on the What Works initiative and the learnings from *Better Outcomes, Brighter Futures*, consideration could be given to how prevention and early intervention is further adopted as a principle and an approach throughout all government funded programmes relating to children and young people.

3

Right to Health



Every child has the right to enjoy the highest possible standard of health, to access health and other related services and to facilities for the treatment of illness and rehabilitation of health. Children with disabilities have the right to a full and decent life within the community, and to special care.

Summary of Article 24 of the UN Convention on the Rights of the Child

Chapter Grade:

C+

3.1 Primary Care

Section Grade:

B

➔ Government Commitment

A Programme for a Partnership Government commits to:

Extend, in phases, free GP care to all under 18s, subject to negotiation with GPs.

▶ **Progress: Some**

Introduce a dental health package for children under six.

▶ **Progress: Steady**

Extend the entitlement to a medical card for all children in receipt of Domiciliary Care Allowance in Budget 2017.

▶ **Progress: Delivered**

'Primary Care' receives a 'B' grade in *Report Card 2020*, an improvement on the 'C+' grade awarded in *Report Card 2019*. Budget 2020 committed to extending the free GP scheme to include children aged six and seven. The National Oral Health Policy, *Smile agus Sláinte*, was launched in April 2019 and Budget 2020 committed to fund a dental health package for children under six.

Every child has the right to enjoy the highest attainable standard of physical and mental health.³³⁴ Article 24 of the UN Convention on the Rights of the Child places particular emphasis on the development of primary healthcare, which includes access to General Practitioner (GP) care.³³⁵ The UN Committee on the Rights of the Child has stressed that primary care should include the provision of information and services, as well as the prevention of illness and injury.³³⁶ *Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014–2020* reiterated a commitment, first articulated in the 2012 Future Health Framework, to introduce universal GP services.³³⁷

334 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 24.

335 *ibid* Art 24 (b).

336 UN Committee on the Rights of the Child, 'General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art 24)' (2013) UN Doc CRC/C/GC/15 para 26.

337 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (Stationery Office 2014) Commitment G9, 30; Department of Health, *Future Health: A Strategic Framework for Reform of the Health Service 2012–2015* (DOH 2012) ii.

► Free GP Care:

In July 2015, entitlement to free GP care was provided for all children under the age of six years; this followed the enactment of the Health (General Practitioner Service) Act 2014 and the negotiation of a new contract with GPs.³³⁸ As of November 2019, 2,407 GPs are participating in the free GP scheme for the under-sixes; this represents approximately 96 per cent of GPs with a GMS contract.³³⁹ Children under six can access GP care without fees through eligibility to either a medical card or a GP visit card. The scheme includes the provision of wellbeing and prevention assessments at age two, and again at five years, as well as an agreed cycle of care for children diagnosed with asthma.³⁴⁰ Although all children under six are eligible to avail of the free GP scheme without their parents having to undergo a means test, only 93.5 per cent (approximately 357,276 children) in this age group are registered under the scheme.³⁴¹ Information needs to be collected as to why a significant percentage of children are not availing of this free service and to establish if there are access issues preventing any particular groups from availing of it.

Budget 2020 committed to expanding the free GP scheme to include children aged six and seven. Legislation will be required for this extension.³⁴² Negotiations with the Irish Medical Organisation regarding the provision of the service will begin in early 2020.³⁴³ While the extension of free GP care to the cohort of children aged six and seven is very welcome, the reality is that this is the only step towards achieving the Programme for Government target of extending care for all children up to 17 years taken since the Programme was agreed in May 2016.

In 2017, the all-party Oireachtas Committee on the Future of Healthcare in its report, *Sláintecare*,

recommended that Ireland should move towards universal health coverage. In making this proposal, the Oireachtas Committee referred to the 2005 Resolution of the World Health Organization (WHO) endorsing universal health coverage as a central goal for healthcare systems and urging WHO member states to commit to planning for transition to universal coverage for their citizens.³⁴⁴ The WHO points out that universal health coverage makes healthcare more equitable for individuals and cost-effective for States and at the same time can bring significant long-term health, economic, and political benefits to countries.³⁴⁵

A key recommendation in the *Sláintecare* report was that there should be a reorientation of the health system towards primary care, involving a significant expansion of community-based services and their better integration. The Committee proposed free universal access to primary care services, including access to GP care without fees.³⁴⁶ It recommended extending GP care to an additional 500,000 people each year for five years at an estimated cost of €91 million per year.³⁴⁷

In July 2018, the *Sláintecare* Programme Office was established and an Executive Director appointed.³⁴⁸ In October 2018, the newly-established *Sláintecare* Implementation Advisory Council met for the first time.³⁴⁹ *The Sláintecare Implementation Strategy*, published in August 2018, outlines 10 key strategic actions including: 'Expand eligibility on a phased basis to move towards universal healthcare and support a shift to community-based care'.³⁵⁰ The Strategy does not contain any new child-specific measures to increase access to primary care.³⁵¹

338 Minister for Public Expenditure and Reform, Brendan Howlin TD, Address to Dáil Éireann on Expenditure Estimates 2014, 15 October 2013.

339 Communication received by the Children's Rights Alliance from the Department of Health, 13 November 2019.

340 Health Service Executive, 'Form of Agreement with Registered Medical Practitioners for Provision of Services to Children Under 6 Years Old Pursuant to The Health (General Practitioner Service) Act 2014 (Under 6 Year Olds)' (2015) <<https://bit.ly/32cstZk>> accessed 6 February 2020.

341 Communication received by the Children's Rights Alliance from the Department of Health, 13 November 2019. This figure is based on CSO population projections; the actual figure may be different.

342 Communication received by the Children's Rights Alliance from the Department of Health, 29 January 2020.

343 Communication received by the Children's Rights Alliance from the Department of Health, 13 November 2019.

344 WHO, 'Sustainable health financing, universal coverage and social health insurance', WHO Resolution 58.33, 25 May 2005 <<https://bit.ly/2vLyAC>> accessed 11 February 2020.

345 WHO, *Arguing for Universal Health Coverage* (WHO 2013) 10–14.

346 Houses of the Oireachtas, Committee on the Future of Healthcare, *Sláintecare Report* (Houses of the Oireachtas 2017) 24; 60.

347 *ibid* 65.

348 Department of Health, 'An Taoiseach and Minister Harris announce Executive Director of *Sláintecare* Programme Office and Chair of Advisory Council to lead health reform', Press Release, 12 July 2018 <<https://bit.ly/2ugQkHj>> accessed 9 January 2019.

349 Department of Health, 'Inaugural meeting of *Sláintecare* Advisory Council', Press Release, 24 October 2018 <<https://bit.ly/2D2E6YU>> accessed 17 January 2019.

350 Government of Ireland, *Sláintecare Implementation Strategy* (Government of Ireland 2018) 48.

351 The Strategy proposes the design of new models of care in respect of certain groups or cohorts including children, the implementation of a national acute Electronic Health Record system, starting with the new Children's Hospital,

Although the roll-out of universal access to primary healthcare has been slow in progress, a number of developments have increased access to free GP care. In July 2018, following the passage of the Health (General Practitioner Service) Act 2018, all carers in receipt of full or half-rate Carer's Allowance or Carer's Benefit became automatically entitled to free GP care. As a result, an additional 14,000 carers were eligible for this service.³⁵² This is a welcome measure that helps ease the financial strain on families caring for a person with disabilities. In Budget 2019, the Government announced that, from 1 April 2019, there would be a 10 per cent increase in the weekly income threshold for eligibility for a GP visit card; it was estimated that this change would benefit 100,000 people on low incomes.³⁵³

The right to health means that all children, without exception, should be able to access appropriate healthcare; the roll-out of free GP care on a universal basis would be an important move towards ensuring that this right is upheld in Ireland. Removing financial barriers to healthcare for children 'has a significant positive impact on child health, and later-life outcomes'.³⁵⁴ The evidence indicates that where a child's parents 'face the full out-of-pocket cost of GP care' they have fewer GP visits than their peers covered by a medical card, or a GP visit card, or private health insurance with GP cover.³⁵⁵ Children with GP visit cards or medical cards have a significantly higher number of GP visits per annum than children with 'no cover'; however, it is not possible from the data available to determine whether parents of children without cover are foregoing 'necessary' GP visits due to cost.³⁵⁶

the design and roll out of community-based Electronic Health Records, as well as ongoing reforms in relation to GP care and medical cards for children with disabilities.

352 Department of Health, '14,000 Additional Carers to Receive Free GP Care following the Passing of the Health (General Practitioner Service) Bill', Press Release, 12 July 2018 <<https://bit.ly/2zZgwwF>> 4 November 2018.

353 Department of Health, 'Slaintecare top priority in health budget 2019; investment and improved access to GP services; more help for families and older people with health costs – Health Ministers' Press Release, 9 October 2018.

354 Anne Nolan and Richard Layte, *Understanding Use of General Practitioner Services Among Children in Ireland*, Growing up in Ireland, National Longitudinal Study, Infant Cohort (Stationery Office 2017) 8.

355 *ibid* 7.

356 *ibid* 7.

► Dental Health:

A Programme for a Partnership Government committed to introducing a dental health package for children under six.

Currently, children's dental health services in the public system are delivered through the HSE Public Dental Service, which has responsibility for providing dental examinations and some targeted treatments for primary school children at second, fourth and sixth class stages and for providing an emergency service for all children up to the age of 16.³⁵⁷ However, in many areas of the country the service is not operating as intended due to staff shortages, and so, for example, examinations are taking place only at the second and sixth class stages, or even at sixth class only, and there are long delays in accessing services for which a child has been referred.³⁵⁸

The National Oral Health Policy, *Smile agus Sláinte*, was launched in April 2019.³⁵⁹ The policy is intended to align with other national policies, including *Sláintecare* and *First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019–2028*.³⁶⁰ The timeframe for the delivery of *Smile agus Sláinte* is 2019 to 2026. Consultations during the development of the policy showed that while dental care professionals emphasise the importance of dental care in very early childhood in reality children under the age of six rarely attend a dentist.³⁶¹

The new National Oral Health Policy proposes that eight 'preventive oral healthcare packages' will be provided from birth until a child reaches his or her sixteenth birthday. One package of care will be provided during the age band from birth up to the child's second birthday; three packages of care will be provided during the age band 2–5 years; two packages during the age band 6–11; and two during the age band 12–15 years. No specific provision is made for public dental care for those aged 17 and 18; presumably, they are to come within the

357 Department of Health, *Smile agus Sláinte, National Oral Health Policy* (DOH 2019) 57.

358 Catherine Shanahan, 'Dental health crisis: Children forced to wait years for treatment' and 'School dental scheme failing children', *Irish Examiner*, 9 December 2019; Leo Stassen, 'Gaps in dental plan will cause damage', *Irish Examiner*, 9 December 2019.

359 Department of Health, *Smile agus Sláinte* (DOH 2019).

360 Houses of the Oireachtas, Joint Committee on Health, 'National Oral Health Policy: Discussion (Resumed)', Presentation by Dr. Dymphna Kavanagh 26 June 2020 (House of Oireachtas 2019) <<https://bit.ly/2V3J287>> accessed 3 February 2020.

361 *ibid*.

“

**Children with GP cards
or medical cards have
a 'significantly higher
number of GP visits per
annum than children
with no cover'...**

scope of services provided for adults. Under the policy's proposals, the packages of care for children will be delivered by local private dental practices, rather than through the Public Dental Service.

Budget 2020 allocated funding for the provision of dental packages of care for children under six, with the service due to be introduced in September 2020 and provided by contracted dentists.³⁶² However, some uncertainty as to whether this will happen must arise from the fact that the Irish Dental Association has expressed opposition to the National Oral Health Policy proposal to provide public dental services through contracted private dentists rather than through greater resourcing of the Public Dental Service.³⁶³

It has been estimated that the annual expenditure needed to provide a primary dental care service, as envisaged under the *National Oral Health Policy*, to all children up to the age of 16 years would be €26.5 million, with expenditure of up to €41.1 million needed to provide more comprehensive services.³⁶⁴ Given the expenditure required to make real progress in this area, it is clear that there will need to be a strong commitment in annual budgets to continue providing additional resources for much-needed improvements in public dental services for children.

► DCA and Medical Card Entitlement:

Since June 2017, all children who qualify for the Domiciliary Care Allowance (DCA) are eligible for a medical card without having to undergo a means-test; they may retain the medical card up to their sixteenth birthday.³⁶⁵ A medical card provides entitlement to a range of health services free of charge, including GP visits and hospital care.³⁶⁶ DCA is a monthly payment for children under 16 with a severe disability who require ongoing care and attention, substantially over and above what is usually needed by a child

of the same age.³⁶⁷ The granting of a medical card for those in respect of whom the DCA is paid is an important step in realising the right to health and healthcare of children who have exceptional care needs.³⁶⁸ This measure also has a positive impact on the lives of the families of these children, as it alleviates the burden of high healthcare costs.

The processing time for DCA claims received by the Department of Employment Affairs and Social Protection (DEASP) remained the same in 2019 as it had been in 2018 – that is, an average of 10 to 12 weeks.³⁶⁹ Up to the end of October, 7,659 new DCA applications had been processed during 2019.³⁷⁰ On initial assessment, 67 per cent of applications were approved.³⁷¹ There were 1,193 appeals finalised by September 2019. In the case of 356 (30 per cent) of these appeals, the initial decision was reversed on further review by a Deciding Officer of the DEASP; of the appeals considered by an Appeals Officer of the DEASP 70 per cent were allowed.³⁷² During 2019, the average time taken to complete an appeal was 27.7 weeks; where an oral hearing was involved the average time was 31 weeks.³⁷³ This represented an improvement of the situation in 2018. Nevertheless, the high rate of success of appeal raises questions as to why so many ultimately successful applications are rejected at the initial stage; it suggests that improved systems are needed to ensure that the correct decision is made at the first stage of the process. With entitlement to the DCA meaning access not just to the payment itself but to a medical card, it is vitally important that decisions made at the first instance are correct, so that applicants who are, in fact, eligible do not have to experience the delay involved in going through the appeals process.

362 Communication received by the Children's Rights Alliance from the Department of Health, 21 November 2019.

363 Martin Wall, 'No prospect of free dental care for children under 6 from next year, dentists warn', *The Irish Times*, 9 December 2020; Leo Stassen, 'Gaps in dental plan will cause damage', *Irish Examiner*, 9 December 2019.

364 Anne Nolan, *Reforming the Delivery of Public Dental Services in Ireland: Potential Cost Implications* ESRI Research Series No 80 (ESRI 2019) x; 29–32.

365 DEASP, 'Domiciliary Care Allowance' <<https://bit.ly/2wpHif2>> accessed 3 February 2020.

366 Health Service Executive, *Medical Cards* <<http://bit.ly/1UEJl9p>> accessed 6 February 2020.

367 DEASP, 'Domiciliary Care Allowance' <<https://bit.ly/2wpHif2>> accessed 3 February 2020.

368 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 24.

369 Minister for Employment Affairs and Social Protection, Regina Doherty TD, 'Social Welfare Benefits Waiting Times', *Dáil Éireann Debate*, 4 December 2019.

370 Communication received by the Children's Rights Alliance from the Social Welfare Appeals Office, 15 November 2019.

371 *ibid.*

372 *ibid.*

373 *ibid.*

Primary Care

Immediate Actions for 2020



Continue the phased expansion of free GP care for all children under the age of 18.

Although there is clear cross-party agreement, as reflected in the 2017 *Sláintecare* Report, on the goal of providing universal access to free GP care, progress towards implementing this measure for all children under 18 has been slow. A clear and comprehensive plan with associated timelines for the achievement of this aim should be developed and published.



Implement dental care packages for children under six and continue the phased implementation of the National Oral Health Strategy.

Ensure that the required funding is provided for the implementation of the National Oral Health Strategy.



Adequately resource the Department of Employment Affairs and Social Protection to reduce processing times for Domiciliary Care Allowance applications and appeals.

The DEASP should be adequately resourced to reduce the waiting times for processing applications and appeals in relation to the Domiciliary Care Allowance (DCA). It is essential that, in so far as is possible, initial decisions are correct so that eligible applicants do not have to resort to appeals, with resultant delays in receiving the payment and in obtaining the medical card to which they become entitled on qualifying for DCA.

3.2 Mental Health

Section Grade:

D

➔ Government Commitment

A Programme for a Partnership Government commits to:

Conduct an evidence-based expert review of the current status of implementation of *A Vision for Change* in Ireland and of international best practice in the area of mental health within the frame of human rights. The review will advise on building further capacity in Child and Adolescent Mental Health Services (CAMHS) and the introduction of more 24/7 service support and liaison teams in primary and emergency care.

▶ **Progress: Slow**

Establish a National Taskforce on Youth Mental Health to consider how best to introduce and teach resilience, coping mechanisms, greater awareness to children and young people, and how to access support services voluntarily at a young age.

▶ **Progress: Inconsistent**

'Mental Health' receives a 'D' grade in *Report Card 2020*, an increase in last year's grade of 'D-'. The review of *A Vision for Change* has not been published and requires a greater sense of urgency. There has been a slight reduction in the number of children waiting for a first appointment with Child and Adolescent Mental Health Services. There has been progress implementing some of the recommendations of the National Taskforce on Youth Mental Health, including the establishment of a 24/7 contact line and the commencement of work on a new strategy for HSE mental health communications. However, progress on establishing the Pathfinder Project has been slow.

All children have a right to enjoy the highest attainable standard of physical and mental health under Article 24 of the UN Convention on the Rights of the Child. The UN Committee on the Rights of the Child has emphasised the importance of the mental health of children and the need to tackle 'behavioural and social issues that undermine children's mental health, psychosocial wellbeing and emotional development'.³⁷⁴ In 2016, the UN Committee expressed its concern about access to mental health treatment in Ireland, highlighting the inadequate availability of age-appropriate mental health units, long waiting lists to access mental health supports and the lack of out-of-hours services.³⁷⁵ The Committee called on

374 UNCR, 'General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art 24)' (2013) UN Doc CRC/C/GC/15 para 38.

375 UNCR, 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4, para 53 (b).

the State to improve its mental healthcare services for children and adolescents, particularly in the areas of 'inpatient treatment, out-of-hours facilities and facilities for treating eating disorders'.³⁷⁶

Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020 includes a commitment to implement *A Vision for Change* (the national policy for mental health services in Ireland) as it relates to children and young people.³⁷⁷ It also aims to improve equity of access to services and coordination of service supports, with a focus on improving mental health awareness and reducing incidents of self-harm and suicide.³⁷⁸

In October 2018, the Joint Oireachtas Committee on the Future of Mental Health Care, established in July 2017,³⁷⁹ published its final report.³⁸⁰ It set out a long-term vision for mental healthcare including a focus on timely access to appropriate care 'on a no wrong door basis'³⁸¹ which would require officials to signpost individuals who present at the wrong service to the correct service rather than leave them without any assistance.³⁸² The Committee also highlighted the importance of early intervention in primary and community services, adequate resourcing for acute services available on an immediate basis and the need to target resources for 'at risk' groups including Travellers and young LGBTI+ people.

► Review of *A Vision for Change*:

A Vision for Change, published in 2006,³⁸³ is the national policy for mental health. It was due to be fully implemented by the end of 2016 but progress has been 'slow and inconsistent'³⁸⁴ and

parts of the policy remain unimplemented.³⁸⁵

The review of *A Vision for Change* commenced in 2016³⁸⁶ with an expert evidence review of best practice mental health service developments in Ireland and internationally.³⁸⁷ The Department of Health established an independent Oversight Group to oversee the development of the 'refreshed' mental health policy that reflects the present-day context in Ireland.³⁸⁸ The revised *Vision for Change* will look not only at service delivery but at the social determinants of mental health and prevention and early intervention.³⁸⁹ The recommendations of the expert review will inform the revised national policy and will be an outcomes-based framework 'which sets out current and future service priorities within a time-bound implementation plan'.³⁹⁰

The Oversight Group consulted with an expert review group comprising members from the statutory, voluntary and community sectors,³⁹¹ and it also consulted service users and professionals working in the mental health area.³⁹² In addition, the Oversight Group considered and incorporated relevant findings of the Youth Mental Health Taskforce report, data received from the consultation process and other relevant youth-related strategies.³⁹³ The Oversight Group was originally due to conclude its work in December 2018,³⁹⁴ however, it was extended to

376 *ibid.*

377 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (Stationary Office 2014) Commitment 1.8 and 1.9.

378 *ibid.*

379 Department of Health, Minister Daly confirms the establishment of the Joint Committee on the Future of Mental Health Care (Department of Health) <<http://bit.ly/2xa60yn>> accessed 11 February 2020.

380 Joint Committee on the Future of Mental Health Care, *Final Report* (Houses of the Oireachtas, 2018).

381 *ibid.* 6.

382 Communication received by the Children's Rights Alliance from the HSE Mental Health Services, 4 December 2018.

383 Department of Health, *A Vision for Change: Report of The Expert Group on Mental Health Policy* (Stationery Office 2006).

384 Mental Health Commission, 'Implementation of a Vision for Change is slow and inconsistent across the country, according to the Mental Health Commission' (Mental Health Commission, January 2013) <<http://bit.ly/2kR1D3B>> accessed 11 February 2020.

385 For example, commitment 10.2 that child and adolescent mental health services should provide mental health services to all aged 0 to 18 years. For more on the gaps in the implementation of *A Vision for Change* see: Mental Health Reform, *A Vision for Change Nine Years On* (MHR 2015).

386 Joint Oireachtas Committee on the Future of Mental Health Care, *A Vision for Change: Engagement with Department of Health Oversight Group*, 30 May 2018.

387 Kevin Cullen and David McDaid, *Evidence Review to Inform the Parameters for a Refresh of A Vision for Change (AVFC): A wide-angle international review of evidence and developments in mental health policy and practice* (Department of Health 2017) 5.

388 Joint Oireachtas Committee on the Future of Mental Health Care, *A Vision for Change: Engagement with Department of Health Oversight Group*, 30 May 2018.

389 Communication received by the Children's Rights Alliance from the HSE Mental Health Services, 30 January 2020.

390 Joint Oireachtas Committee on the Future of Mental Health Care, *A Vision for Change: Engagement with Department of Health Oversight Group*, 30 May 2018.

391 Communication received by the Children's Rights Alliance from the Department of Health, 30 January 2020.

392 Joint Oireachtas Committee on the Future of Mental Health Care, *A Vision for Change: Engagement with Department of Health Oversight Group*, 30 May 2018.

393 Communication received by the Children's Rights Alliance from the Department of Health, 30 January 2020.

394 Joint Oireachtas Committee on the Future of Mental Health Care, *A Vision for Change: Engagement with*

June 2019 following recommendations from public consultations and the Joint Oireachtas Committee on the Future of Mental Health Care. The Oversight Group report was submitted to the Department of Health for consideration and was discussed at the Government Cabinet Committee for social inclusion and health in December 2019.³⁹⁵ The policy is expected to be launched in early 2020³⁹⁶ and the *HSE Service Plan 2020* commits to commence implementation of the policy.³⁹⁷ It is important that the revised framework has a strong emphasis on the development of child and youth mental health services including improving service coordination and increasing timely access to appropriate mental health supports and services at a primary level.³⁹⁸

Child and Adolescent Mental Health Services (CAMHS) is a specialist clinical service that provides assessment and treatment to children and young people up to the age of 18 who are experiencing mental health difficulties.³⁹⁹ In September 2019 there were 1,876 children waiting for a first appointment with CAMHS, a reduction of 577 on the number in 2018.⁴⁰⁰ It is worth noting that this is in the context of CAMHS receiving 13,719 referrals from January to September 2019 where 70 per cent of these referrals were seen within 12 weeks and 95 per cent seen within one year.⁴⁰¹ Staff shortages and recruitment difficulties remain an issue despite a 'significant number' of staff having been recruited.⁴⁰² This is due to the international demand for mental health staff and a worldwide shortage.⁴⁰³

Currently, the majority of children and young people can only access out-of-hours mental health treatment through hospital emergency departments as most CAMHS do not offer this support. Young service users have highlighted difficulties in accessing CAMHS including long waiting times and differences in availability and consistency of services across the



country.⁴⁰⁴ In the development of a revised *Vision for Change*, out-of-hours services for children should be prioritised and strengthened in line with the 2016 recommendation of the UN Committee on the Rights of the Child.⁴⁰⁵ In the context of staff shortages, there are challenges in delivering an out-of-hours CAMHS service.⁴⁰⁶ The *HSE Service Plan 2019* included a welcome commitment to develop a seven day per week CAMHS service, however, as of the date of publication this commitment remains unfulfilled.⁴⁰⁷ The HSE mental health service, working in collaboration with the National Ambulance Service, established the Your Mental Health Information Line in November 2019. The line is open 24/7 and is managed by the National Ambulance Service. It provides information to the public on supports available and other helplines.⁴⁰⁸ It is essential that 24/7 support and liaison staff be deployed in sufficient numbers at primary care level and in community

Department of Health Oversight Group, 30 May 2018.

395 Communication received by the Children's Rights Alliance from the Department of Health, 30 January 2020.

396 *ibid.*

397 Health Service Executive, *National Service Plan 2020*, (HSE 2019) 60.

398 Ombudsman for Children, *Take My Hand: Young People's Experiences of Mental Health Services* (OCO 2018) 29.

399 Communication received by the Children's Rights Alliance from the HSE Mental Health Services, 4 December 2018.

400 Communication received by the Children's Rights Alliance from HSE Mental Health Services, 30 January 2020.

401 *ibid.*

402 Communication received by the Children's Rights Alliance from the Department of Health, 22 November 2019.

403 *ibid.*

404 Ombudsman for Children, *Take My Hand: Young People's Experiences of Mental Health Services* (OCO 2018) 40.

405 UNCRC, 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4, para 53–54.

406 Communication received by the Children's Rights Alliance from the HSE Mental Health Services, 30 January 2020.

407 Health Service Executive, *National Service Plan 2019*, (HSE 2018) 41.

408 Communication received by the Children's Rights Alliance from the HSE Mental Health Services, 30 January 2020.

mental health teams, so that children and young people can more readily access help without having to attend a hospital emergency department.

There are currently 74 CAMHS inpatient beds plus two high dependency beds across four inpatient units in Galway, Cork and Dublin. However, whether all of these beds are operational at any given time depends on the staffing available and the complexity of the needs of patients.⁴⁰⁹

The new National Children's Hospital, due to open in 2023, will have an additional 20 inpatient CAMHS beds and the New Forensic Hospital will have an additional 10 inpatient beds for children.⁴¹⁰

Of the children requiring inpatient mental healthcare between January and September 2019, 85 per cent were admitted to child and adolescent inpatient units, an increase of 15 per cent on the same period in 2018.⁴¹¹ Thirty-five children were admitted to adult units: these admissions were due to capacity issues or arose from the clinical needs of the children concerned.⁴¹²

While it is welcome that there has been a reduction in the number of children being admitted to adult inpatient units, children under the age of eighteen should never be inappropriately admitted to an adult unit. Both the UN Committee on the Rights of the Child⁴¹³ and the Mental Health Commission⁴¹⁴ have criticised the continued admission of under 18s to adult facilities.⁴¹⁵

The review of *A Vision for Change* should be published as a matter of urgency to address the significant shortcomings across all levels of mental health service provision for children and young people. The development of a multi-annual

implementation plan and the establishment of an independent monitoring group are essential. The revised policy should also align with commitments in *First 5: A Whole-of-Government Strategy for Babies Young Children and their Families 2019–2028* on early identification of mental health issues.⁴¹⁶

► National Youth Mental Health Taskforce:

The National Youth Mental Health Taskforce, established in August 2016⁴¹⁷ as a government priority,⁴¹⁸ had a year to complete its work focusing on the mental health needs of children and young people from birth to 25 years.⁴¹⁹ The Taskforce published its report in December 2017.⁴²⁰ The recommendations are set out under 10 headings, and include amending the Mental Health Act 2001 on consent to mental health treatment for 16 and 17 year olds,⁴²¹ improving accessibility and alignment of mental health services through the Pathfinder Project⁴²² and using digital technologies in the delivery of mental health supports to children and young people.⁴²³ The *HSE National Service Plan 2019* committed to introducing a 24/7 contact line, crisis text line and other digital responses.⁴²⁴ The 24/7 text service is now being provided by the HSE, in conjunction with SpunOut.ie, and is a welcome development. Telepsychiatry pilots (remote psychiatric consultations) commenced in February 2019 across six sites nationally including in one CAMHS area and will run until the end of 2020.⁴²⁵ There has also been work undertaken in the

409 Communication received by the Children's Rights Alliance from the Department of Health, 22 November 2019.

410 *ibid.*

411 Communication received by the Children's Rights Alliance from HSE Mental Health Services, 30 January 2020.

412 *ibid.*

413 UNCRC, 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4, para 53.

414 Mental Health Commission, *Annual Report 2017* (MHC 2018) 7. The Mental Health Commission's Code of Practice (2009) states that the placement of children in adult wards would be phased out by the end of 2011. Mental Health Commission, *Code of Practice Relating to Admission of Children under the Mental Health Act 2001: Addendum* (MHC 2009).

415 UNCRC 'General Comment No. 4 on The Implementation of the Rights of the Child during Adolescence (2016) UN Doc CRC/GC/20 para 29.

416 Government of Ireland, *First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019 – 2028* (DCYA 2018) Objective 6.1.

417 Department of Health, 'Minister McEntee establishes a community-led taskforce to take action to improve the mental health and wellbeing of children and young people in Ireland' (Press Release, 5 August 2016) <<https://bit.ly/2amT3ar>> accessed 18 January 2019.

418 Department of Health, 'National Youth Mental Health Taskforce – Extracts from *A Programme for a Partnership Government* & Taoiseach's 100 day priority commitment' (Department of Health) <<http://bit.ly/2IXjYMX>> accessed 11 February 2020.

419 Department of Health, 'National Taskforce on Youth Mental Health', <<https://bit.ly/2QVnNQ8>> accessed 18 January 2019.

420 National Youth Mental Health Task Force, *National Youth Mental Health Task Force Report 2017* (Department of Health 2017).

421 *ibid.* 9.

422 *ibid.* Recommendation 8. The Youth Mental Health Pathfinder project is an internal process designed to effectively collaborate across departments on an issue that spans more than one department.

423 *ibid.* Recommendation 3.

424 Health Service Executive, *National Service Plan 2019*, (HSE 2018) 41.

425 Communication received by the Children's Rights Alliance from HSE Mental Health Services, 30 January 2020.

area of awareness and training, with a working group being established in March 2019 to develop a new strategy for HSE mental health communications. The working group has completed two reviews focusing on public attitudes to mental health and evidence of effectiveness in public mental health campaigning.⁴²⁶ A mental health communications framework that will be available to guide all public sector communications on mental health is being prepared and is due to be published in 2020.⁴²⁷

A key recommendation of the Taskforce Report was to establish an independent National Youth Mental Health Advocacy and Information Service.⁴²⁸ Access to such an independent advocacy service for children and young people is particularly important as children under 18 cannot consent to, or refuse, mental health treatment, including admission for inpatient treatment. The pilot advocacy project run in Merlin Park has been extended to Linn Dara CAMHS Service Dublin.⁴²⁹ The project is currently being evaluated and draft findings were expected in December 2019.⁴³⁰ Following the completion of the evaluation, the service is expected to be rolled out nationally to all CAMHS services in early 2020.⁴³¹

Two years on from the publication of the report of National Youth Mental Health Taskforce there has been progress in relation to a number of its recommendations. These include the pilot advocacy and information service, the establishment of a 24/7 contact line and the commencement of work on a new strategy for HSE mental health communications. These are very positive steps in the provision of youth mental health treatment. However, there are a number of recommendations where progress has been slow. There is no overall implementation plan for the Taskforce recommendations⁴³² and there has been no dedicated funding within successive budgets, including Budget 2020.

The Department of Health has initiated work on a Pathfinder Project to examine cross-departmental collaboration on youth mental health⁴³³ which has the potential to achieve a whole-of-government approach and deliver improved access to child-friendly mental health services. The Project has ministerial approval⁴³⁴ and was due to be established in 2019 but is not yet operational.⁴³⁵ The project and associated team will require budgetary, governance and legal arrangements to be put in place. The Department of Public Expenditure and Reform is currently working with the Department of Health to see how best these arrangements can be put in place.⁴³⁶ There is no clear date for when the project is expected to commence.

426 *ibid.*

427 *ibid.*

428 National Youth Mental Health Taskforce, *National Youth Mental Health Task Force Report 2017* (Department of Health 2017) recommendation 1.4.

429 Communication received by the Children's Rights Alliance from the Department of Health, 25 November 2019.

430 *ibid.*

431 Communication received by the Children's Rights Alliance from the Department of Health, 22 November 2019.

432 *ibid.*

433 Minister for Education and Skills, Richard Bruton TD, Schools Mental Health Strategies, Dáil Debates, 31 May 2017 [26132/17].

434 Communication received by the Children's Rights Alliance from the Department of Health, 10 January 2019. Section 12 of the Public Service Management Act 1997 will be used to enable a new collaborative model of working across Government.

435 Communication received by the Children's Rights Alliance from the Department of Health, 30 January 2020.

436 Communication received by the Children's Rights Alliance from the Department of Health, 22 November 2019.

Mental Health

Immediate Actions for 2020



Complete the review of *A Vision for Change* in 2020.

The review of *A Vision for Change* should be delivered in 2020. Building further Child and Adolescent Community Mental Health Services capacity and adequate provision of 24/7 services to deal with emergency needs should form two core components of the service to be developed following the review. A multi-annual implementation plan is required with the appointment of an independent monitoring group to ensure that the reforms suggested by the review are translated into practice.



Ensure that all children under 18 have access to mental health services in a timely manner.

Achieving this requires ongoing investment in the development of CAMHS. Greater efforts should be made to reduce waiting times for services, which remain unacceptably high.



Prioritise the establishment of the Youth Mental Health Pathfinder Project.

The Pathfinder Project should be established early in 2020 to ensure that it can drive action on youth mental health including recommendations in the Report of the Youth Mental Health Taskforce. The project must be properly funded to achieve the intended outcomes.

3.3 Physical Health

Section Grade:

B+

→ Government Commitment

A Programme for a Partnership Government commits to:

Commence the Public Health (Alcohol) Bill

▶ **Progress: Steady**

Implement a national obesity plan

▶ **Progress: Limited**

Implement a sexual health strategy

▶ **Progress: Limited**

'Physical Health and Wellbeing' receives a 'B+' grade in *Report Card 2020*, an increase on last year's 'B' grade. The enactment and commencement of the Public Health (Alcohol) Act in 2018 was a significant measure for children with aims to reduce the age at which they start drinking and to reduce alcohol consumption overall. The commencement of the sugar levy and the funding allocation for a hot meals pilot project in DEIS primary schools are positive developments in combatting food poverty and childhood obesity. The review of Relationships and Sexuality Education in schools was also very welcome.

Every child has the right to enjoyment of the highest attainable standard of physical health⁴³⁷ and the right to an adequate standard of living for their physical, mental, spiritual, moral and social development.⁴³⁸ This section examines three concrete and measurable commitments in *A Programme for a Partnership Government* which focus on physical health and wellbeing – namely, those relating to alcohol, obesity and sexual health.

▶ **Public Health (Alcohol) Act 2018:**

An estimated 1.34 million people in Ireland drink harmfully and 176,999 are dependent drinkers.⁴³⁹ Recent Growing Up In Ireland studies found that

437 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 24.

438 *ibid* Art 27.

439 Jean Long and Deirdre Mongan, *Alcohol Consumption in Ireland: Analysis of a national alcohol diary survey* (HRB 2014).

89 per cent of 17 and 18 year olds, and 15 per cent of 13 year olds, drink alcohol.⁴⁴⁰ The average age at which children have their first drink is 15.9 years. In one study, over three quarters of young people aged between 13 and 17 reported exposure to online marketing for alcohol.⁴⁴¹

In October 2018, the Public Health (Alcohol) Act was passed with the aims of reducing Ireland's overall average alcohol consumption to the OECD average by 2020;⁴⁴² regulating the supply and price of alcohol to reduce alcohol-related harm; and delay the age at which children first drink alcohol.⁴⁴³ The Act was a key step towards curbing children's early introduction to alcohol and tackling Ireland's high levels of alcohol consumption among children and young people. Its long-awaited passage into law is welcome. Measures to reduce adult consumption are also beneficial for children where parental alcohol consumption has a negative impact. The Act restricts alcohol advertising at events where children are present and at places frequented by children including public transport, sports events or in grounds where the majority of competitors or participants are children. It also prohibits alcohol advertising targeted at children.⁴⁴⁴ Other positive measures include the introduction of minimum unit pricing;⁴⁴⁵ mandatory health warnings in advertisements;⁴⁴⁶ a prohibition on price-based promotions; mandatory health warnings on labels and structural separation.⁴⁴⁷

In November 2019, three sections of the Act came into operation including a prohibition on alcohol advertising in or on public service vehicles, at public transport stops or stations and within 200 metres of a school, early years centre or a local authority playground.⁴⁴⁸ A prohibition on alcohol advertising in a cinema except in the case of films with an 18 classification or in a licensed premises in

a cinema and a prohibition on children's clothing which promotes alcohol were also introduced.⁴⁴⁹ However, the control of minimum unit pricing,⁴⁵⁰ the content of advertising⁴⁵¹ and the introduction of a broadcast watershed for advertising⁴⁵² have yet to be commenced. These sections are vital, especially given that proposed legislative amendments to limit this type of marketing simpliciter were not passed,⁴⁵³ these sections are more vital than ever to assuage concerns that the legislation does not address the issue of alcohol sports sponsorship more generally. Young people can be exposed to alcohol marketing which encourages, normalises and glamorises alcohol consumption.⁴⁵⁴ There remains a need to address the digital marketing of alcohol to children and young people⁴⁵⁵ and the failure of government to progress the commencement of these sections undermines the impact of the Public Health Alcohol Act.

► National Obesity Plan:

Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014-2020 commits to tackling the issue of childhood obesity through a range of legislative, policy and public awareness initiatives.⁴⁵⁶ The UN Special Rapporteur on the Right to Food has highlighted five priority actions to combat obesity: regulating the sale of 'junk food'; restricting the advertising of 'junk food'; overhauling agricultural subsidies to make healthier foods cheaper than less healthy alternatives; taxing unhealthy products; and supporting local food production so that consumers have access to healthy, fresh and nutritious food.⁴⁵⁷

440 Growing up In Ireland, Key Findings: Cohort '98 at 20 years old in 2018/19, No. 2 Physical Health <<https://bit.ly/2OIJMAj>> accessed 2 February 2020.

441 Alcohol Action Ireland and the Health Promotion Research Centre NUI Galway, *Alcohol marketing and young people's drinking behaviour in Ireland* (Alcohol Action Ireland 2015) 4.

442 In 2016, alcohol consumption per capita in Ireland was 11.64 litres. The OECD average is 9.1 litres per person over the age of 15.

443 Communication received by the Children's Rights Alliance from the Department of Health, 22 November 2017.

444 Public Health Alcohol Act 2018, section 17 to 19.

445 *ibid* s 11.

446 *ibid* s13.

447 *ibid* s 11.

448 Communication received by the Children's Rights Alliance by the Department of Health, 10 December 2019.

449 *ibid*.

450 Public Health (Alcohol) Act 2018 s 11.

451 *ibid* s 13.

452 *ibid* s 14.

453 Ailbhe Conneely, 'Sinn Fein Amendment to Public Alcohol Bill Opposed by Government' (RTE, 26 September 2018) <<https://bit.ly/2vETOCj>> accessed 3 February 2020.

454 Alcohol Action Ireland and the Health Promotion Research Centre NUI Galway, *Alcohol marketing and young people's drinking behaviour in Ireland* (Alcohol Action Ireland 2015) 2.

455 Seventy-seven per cent of children aged 13 to 17 have reported exposure to online marketing. Alcohol Action Ireland and the Health Promotion Research Centre NUI Galway, *Alcohol marketing and young people's drinking behaviour in Ireland* (Alcohol Action Ireland 2015) 4.

456 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (Department of Children and Youth Affairs 2014) Commitment 1.1.

457 Human Rights Council, 'Report submitted by the Special Rapporteur on the right to food, Olivier De Schutter' (2012) UN Doc A/HRC/19/59, 17-18.

A quarter of children living in Ireland are obese or overweight.⁴⁵⁸ Childhood obesity has long-term effects on children's physical and emotional wellbeing.⁴⁵⁹ *A Healthy Weight for Ireland: Obesity Policy and Action Plan 2016–2025* focuses on prevention of obesity and enabling a greater proportion of the population maintain a healthy weight.⁴⁶⁰ A progress report is currently being finalised for presentation to the Obesity Policy Implementation Oversight Group.⁴⁶¹

In December 2017, the Department of Health published the *Non-Broadcast Advertising and Marketing of Food and Non-Alcoholic Beverages, including Sponsorship and Retail Product Placement: Voluntary Codes of Practice*.⁴⁶² The voluntary nature of the codes mean that companies have no legal obligations in relation to marketing and advertising and there are no restrictions on how they market their products to children. The Department of Health is working to establish a monitoring mechanism for the voluntary codes of practice.⁴⁶³ The problem with voluntary codes is that they allow for self-regulation which may not sufficiently reduce the advertising of unhealthy foods, nor reduce children's exposure to this advertising.⁴⁶⁴ Ireland is currently engaging with other EU countries to potentially establish an initiative to address issues concerning the marketing of unhealthy food to children.⁴⁶⁵ The Joint Oireachtas Committee on Children and Youth Affairs recommended the introduction of a statutory code for the advertising and marketing of food and non-alcoholic beverages in the non-broadcast media and called for an independent monitoring body to be established as

a matter of priority to monitor compliance with the effectiveness of the *Voluntary Codes of Practice*.⁴⁶⁶

The Joint Oireachtas Committee on Education and Skills has also recommended that digital marketing aimed at children, by the food and drinks industries, be appropriately regulated to reduce the influence on their eating habits and that advertising on school grounds be banned.⁴⁶⁷

► Sugar Levy:

The levy on sugar-sweetened drinks, committed to in the *Obesity Policy*,⁴⁶⁸ commenced on 1 May 2018.⁴⁶⁹ The levy introduced a rate of 30 cent on any water or juice based drink with over eight milligrams of sugar per litre and 20 cent on the same drinks with five to eight milligrams of sugar per litre.⁴⁷⁰ The purpose of the levy is to help tackle obesity by encouraging a reduction in the consumption of sugar-sweetened drinks.⁴⁷¹ The levy was expected to raise €27 million in 2018 and €40 million in a full year.⁴⁷² However, the yield for the Sugar Sweetened Drinks Tax for 2018 was €16.3 million. This was below expectations, which may mean that industry has adapted to the tax by reformulating its products. More detailed evaluation of the effects of the tax will be carried out in 2020.⁴⁷³ While the introduction of the sugar levy is a public health measure, the Minister for Finance, Paschal Donohoe TD, has indicated that the revenue raised will not be ring-fenced for investment in obesity reducing initiatives.⁴⁷⁴ This is disappointing as there are long waiting lists for obesity treatment for children around the country.⁴⁷⁵ Ring-fencing revenue from the sugar levy could be used to address issues such as this.

458 Department of Health, *A Healthy Weight for Ireland: Obesity Policy and Action Plan 2016–2025* (Stationery Office 2016) 14.

459 *ibid* 30.

460 Minister of State for Health Promotion, Marcella Corcoran Kennedy TD, Written Answers, School Meals Programme, Dáil Debates, 24 January 2017 [2868/17].

461 Communication received by the Children's Rights Alliance from the Department of Health, 6 December 2018.

462 Healthy Ireland, *No-Broadcast Media Advertising and Marketing of Food and Non-Alcoholic Beverages, including Sponsorship and Retail Product Placement: Voluntary Codes of Practice* (Department of Health 2017). The membership of the Working Group included the Department of Health, IBEC, the Food Safety Authority of Ireland, advertisers, the Health Service Executive, Advertising Standards Authority of Ireland, Department of Agriculture Food and the Marine, Food Drink Ireland, Broadcasting Authority of Ireland, and Safefood.

463 Communication received by the Children's Rights Alliance from the Department of Health, 30 January 2020.

464 Galbraith-Emami, S., and Lobstein, T. 'The impact of initiatives to limit the advertising of food and beverage products to children: a systemic review' (2013) 14 *Obesity Reviews* 960 – 74.

465 Communication received by the Children's Rights Alliance from the Department of Health, 30 January 2020.

466 Joint Oireachtas Committee on Children and Youth Affairs, *Report on Tackling Childhood Obesity* (Houses of the Oireachtas, 2018) 7.

467 *ibid* 16.

468 Department of Health, *A Healthy Weight for Ireland: Obesity Policy and Action Plan 2016–2025* (Stationery Office 2016) Action 1.9.

469 Minister for Finance, Paschal Donohoe TD, Written Answers, Tax Code, 8 May 2018 [19737/18].

470 Minister for Finance and Public Expenditure and Reform, Paschal Donoghue TD, Budget Statement 2018, Dáil Éireann Debate, 10 October 2017.

471 Minister for Finance, Paschal Donohoe TD, Written Answers, Tax Yield, 16 May 2018 [21527/18].

472 Minister for Finance, Paschal Donohoe TD, Written Answers, Tax Yield, 10 May 2018 [20534/18].

473 Communication received by the Children's Rights Alliance from the Department of Health, 6 December 2019.

474 Minister for Finance, Paschal Donohoe TD, Written Answers, Tax Code, 22 May 2018 [22028/18].

475 Prof Donal O'Shea 'Ireland's Obesity Epidemic', Irish Independent, Real Health Podcast, 8 August 2019.

► Food Poverty:

Clear health inequalities exist between children who live in disadvantaged areas and the general population.⁴⁷⁶ *A Healthy Weight for Ireland Strategy* recognises this stark inequality and commits to prioritising vulnerable groups, including ‘families, children, low-income groups and people living in deprived areas.’⁴⁷⁷ A needs assessment for resource allocation ‘for preventative and treatment services for children and adults’ was due to take place in the first year of the policy.⁴⁷⁸ The HSE will carry out the needs assessment under the aegis of the Obesity Policy Implementation Oversight Group.⁴⁷⁹

Food poverty is one of the driving forces behind higher rates of obesity and ill-health in disadvantaged communities.⁴⁸⁰ It is defined as the inability to have an adequate and nutritious diet due to issues of affordability and accessibility.⁴⁸¹ In 2016, almost 10 per cent of the population experienced food poverty.⁴⁸² Current rates of social welfare payments and earnings based on the minimum wage make it difficult to follow a healthy diet⁴⁸³ as nutrient-dense foods such as lean meat, fruit and vegetables are more expensive than energy-dense, cheaper foods.⁴⁸⁴ The age of a child also impacts on the cost of food as infants have specific dietary requirements and teenagers require greater quantities of food.⁴⁸⁵



While the short-term impact of food poverty is poor diet and lack of nutrients, the long-term effects can lead to diet-related illnesses, including obesity.⁴⁸⁶

There was a four per cent decrease in the proportion of household take-home income required for a healthy food basket between 2016 and 2018 for both urban and rural families.⁴⁸⁷ Factors contributing to this included both a decrease in average food prices over the two-year period and an increase in household incomes including the increase of the minimum wage and the increase in social welfare payments.⁴⁸⁸

The introduction of hot school meals is an important measure for tackling food poverty experienced by children as it means that they will receive at least one nutritious meal a day in a non-stigmatising manner. Building on the expansion of the scheme in 2017 to provide breakfast in 175 non-DEIS schools,⁴⁸⁹ an additional €1 million was allocated in Budget 2019 to establish a hot school meals pilot programme for DEIS schools.⁴⁹⁰ In August 2019, Minister for Employment Affairs and Social Protection, Regina Doherty TD, announced that 37 primary schools had been selected for the Hot School Meals Pilot Project, an initiative

476 Department of Health, *A Healthy Weight for Ireland: Obesity Policy and Action Plan 2016–2025* (Stationery Office 2016) Action 1.8.

477 *ibid.*

478 *ibid.*

479 Communication received by the Children’s Rights Alliance by the Department of Health, 6 December 2018.

480 Irish Heart Foundation, *Investing in children’s future health*, Pre-Budget Submission (IHF July 2015) <<http://bit.ly/2bLAW5v>> accessed 30 January 2017.

481 Caroline Carney and Bertrand Maitre, *Constructing a Food Poverty Indicator for Ireland using the Survey on Income and Living Conditions, Social Inclusion Technical Paper No. 3* (Department of Social Protection 2012) 7.

482 Communication received by the Children’s Rights Alliance by the Department of Employment Affairs and Social Protection, 27 November 2018. The figure is calculate using EU SILC data analysed by the Economic and Social Research Institute.

483 Bernadette MacMahon and Noreen Moloney, *What is the cost of a healthy food basket in the Republic of Ireland in 2016?* (Safefood 2016).

484 Nicole Darmon & Adam Drewnowski, Contribution of food prices and diet cost to socioeconomic disparities in diet quality and health: a systematic review and analysis; *Nutrition Reviews*, 73 (10), 1 October 2015 643-660. David Madden, ‘The Poverty Effects of a ‘Fat Tax’ in Ireland’ (2015) 24 *Health Economics*, 4.

485 Bernadette MacMahon, Gráinne Weld, Robert Thornton and Micheál Collins, *The Cost of a Child: A consensual budget standards study examining the direct cost of a child across childhood* (Vincentian Partnership for Social Justice 2012) 32.

486 Irish Heart Foundation & Social Justice Ireland, *Reducing Obesity and Future Health Costs*, (IHF and SJI 2015) 7.

487 Safe Food, *What is the cost of a healthy food basket in the Republic of Ireland in 2018?*, June 2019.

488 *ibid.*

489 Communication received from the Department of Employment Affairs and Social Protection, 13 November 2017.

490 Minister for Employment Affairs and Social Protection, Regina Doherty TD, Written Answers, School Meals Programme, 6 November 2019.



to provide to primary school children on a pilot basis from September.⁴⁹¹ The 37 schools chosen to participate in the pilot hot school meals programme were selected randomly, having regard to geographical spread, numbers enrolled, range of suppliers and the overall budget available for the pilot. Of the 37 schools, 12 are non-DEIS with the remaining 25 having DEIS status.⁴⁹² All schools are required to provide the meals in compliance with the 'Nutrition Standards for School Meals', issued by Healthy Ireland.⁴⁹³ Schools are required to submit detailed records at the end of each school year. Expenditure on unhealthy food items is deducted from the funding allocation. Where schools do not have kitchen or canteen facilities the meals are prepared off-site. Schools are not permitted to seek any additional contribution from parents for the food.⁴⁹⁴ An evaluation of the project will be undertaken in quarter two of 2020 which will include consultation with schools, parents and suppliers participating on the pilot.⁴⁹⁵

491 Communication received by the Children's Rights Alliance from the Department of Employment Affairs and Social Protection, 15 November 2019.

492 *ibid.*

493 *ibid.*

494 Communication received by the Children's Rights Alliance from the Department of Employment Affairs and Social Protection, 24 January 2020.

495 Communication received by the Children's Rights Alliance from the Department of Employment Affairs

Project Ireland 2040: The National Development Plan commits to spending €2.5 billion on the refurbishment of the existing school stock over the next 10 years.⁴⁹⁶ This presents an opportunity to make funding for the school buildings programme and refurbishment grants contingent upon the inclusion of a school kitchen.

From January 2018, the new Nutrition Standards for the School Meals Programme were applied and all participating schools were required to be fully compliant with the standards from September 2018⁴⁹⁷ and were to be monitored through the inspection process from the 2018/2019 academic year.⁴⁹⁸ The Standards aim to ensure that schools provide children and young people with 'healthy balanced meals that follow the Healthy Eating Guidelines'.⁴⁹⁹ The Department of Health is currently examining how monitoring nutritional standards can be achieved more effectively including drafting specific nutritional

and Social Protection, 15 November 2019.

496 Department of Public Expenditure and Reform, *Project Ireland 2040: The National Development Plan* (DPER 2018) 86.

497 Department of Health, 'New Healthy Eating Standards for School Meals launched' (Department of Health 2017) <<http://bit.ly/2yBXJS9>> accessed 13 February 2020.

498 Minister for Employment Affairs and Social Protection, Regina Doherty TD, Written Answers, School Meals Programme, 30 May 2018 [23982/18].

499 Department of Health, 'New Healthy Eating Standards for School Meals launched' (Department of Health 2017).

standards for the 'hot meals' in consultation with the Department of Health, the HSE and the Food Safety Authority of Ireland.⁵⁰⁰ Healthy eating guidelines for children aged between one and five years are currently in development and are expected to be published in the coming months.⁵⁰¹

The Joint Oireachtas Committee on Children and Youth Affairs has recommended that Government establish clear targets for reducing socio-economic inequalities in childhood obesity, including food poverty, and implement an evaluation framework to monitor progress.⁵⁰² The issue of food poverty falls within the remit of several key government departments yet there continues to be a lack of coordination and leadership on the issue. Given the shared responsibility, a single government department should hold primary responsibility for the coordination and centralisation of food poverty measures in Ireland.

► Sexual Health Strategy:

All children have the right to the highest attainable standard of health, including sexual health.⁵⁰³ States have an obligation to take measures to ensure that children and young people have access to education that provides them with a basic knowledge of health in order for them to make informed choices.⁵⁰⁴ The education should be age-appropriate and accessible.⁵⁰⁵ The UN Committee on the Rights of the Child has specified that sexual health education should be 'based on scientific evidence and human rights standards'⁵⁰⁶ and should be 'designed in a manner through which children are able to gain knowledge regarding reproductive health and the prevention of gender-based violence, and adopt responsible sexual behaviour'.⁵⁰⁷ In 2016, the UN

Committee expressed concern at the 'lack of access to sexual and reproductive health education' for young people in Ireland and recommended that it should be included as a mandatory part of the school

curriculum as well as the adoption of a sexual and reproductive health policy for young people.⁵⁰⁸

The National Sexual Health Strategy 2015–2020 aims to improve sexual health and wellbeing and reduce negative sexual health outcomes.⁵⁰⁹ The Strategy acknowledges the State's responsibility to ensure that children and young people receive comprehensive sex education and it recognises the need for a 'partnership approach between parents, statutory and non-statutory organisations'.⁵¹⁰ It commits to ensuring that children and young people will have access to 'age-appropriate sources of trustworthy and accurate information and support on relationships and sexual health'⁵¹¹ as well as to undertaking an evaluation of the State-funded Relationships and Sexuality Education (RSE) programmes.⁵¹² In April 2018, the HSE launched a new website on sexual wellbeing which includes age-appropriate resources for parents of children aged two to 12 years on how to talk to their children about relationships, sexuality and growing up.⁵¹³

Currently, sex and relationship education in schools is conducted as part of the RSE programmes.⁵¹⁴ While the HSE Sexual Health and Crisis Pregnancy Programme has developed materials and programmes (such as b4udecide.ie),⁵¹⁵ a school's Board of Management can exercise discretion in how their 'school's characteristic spirit will inform the teaching of a programme'⁵¹⁶ and

500 Communication received by the Children's Rights Alliance from the Department of Employment Affairs and Social Protection, 15 November 2019.

501 Communication received by the Children's Rights Alliance from the Department of Health on 30 January 2020.

502 Joint Oireachtas Committee on Children and Young Affairs, *Report on Tackling Childhood Obesity*, (Houses of the Oireachtas, 2018) 4.

503 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 24 (1).

504 *ibid* Art 24(2)(e).

505 UNCRC, 'General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art 24)' (2013) UN Doc CRC/C/GC/15 para 58.

506 UNCRC, 'General Comment No. 20 on the Rights of the Child During Adolescence' (2016) UN Doc CRC/C/GC/20 para 61.

507 UNCRC, 'General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art 24)' (2013) UN Doc CRC/C/GC/15 para 60.

508 UNCRC, 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 58.

509 Department of Health, *The National Sexual Health Strategy 2015–2020 and Action Plan for 2015–2016* (Department of Health 2015) 17.

510 *ibid* 36.

511 *ibid* action 3.4.

512 *ibid* action 3.8.

513 Communication received by the Children's Rights Alliance from the Department of Health, 6 December 2018. The website www.sexualwellbeing.ie aims to be the trusted source of information on sexual health and wellbeing in Ireland. The website speaks to all people living in Ireland, regardless of their sexual orientation or age/ stage of adult life.

514 Section 4 of the Rules and Programme for Secondary Schools requires schools to have an agreed policy for RSE and a suitable RSE programme in place for all students at both junior and senior cycle. Department of Education and Skills, 'Relationships and Sexuality Education (RSE)' <<https://bit.ly/2Fe9guc>> accessed 18 January 2019.

515 B4udecide 'HSE Crisis Pregnancy Programme' <B4udecide.ie> accessed 13 February 2010.

516 Department of Education and Skills, 'Relationships and Sexuality

there is no onus to refer to the materials produced by the HSE. In April 2018, the Minister for Education and Skills announced a major review of the RSE Programme by the National Council on Curriculum and Assessment (NCCA), examining both the content of the RSE curriculum and the delivery of the curriculum to students.⁵¹⁷ As part of the review, the NCCA examined the 'experience and reality of RSE as delivered in schools.'⁵¹⁸ The review has encompassed consultation with students, teachers, principals and parents on the planning, teaching and standard of the RSE curriculum, the role of teachers and the appropriate level of support provided by external providers, the amount of time dedicated to the subject and the effectiveness of the continuing professional development opportunities for RSE teachers.⁵¹⁹ The final report was published in December 2019 and highlighted the need to create one curriculum that sets out one curriculum, treating Social, Personal and Health Education (SPHE) and Relationships and Sexuality Education (RSE) as a single subject and incrementally provides a continuity of experience in SPHE/RSE from early childhood education to post-primary.⁵²⁰ In the report the NCCA committed to develop and publish Interim Guidelines to support the teaching of SPHE/RSE in the shorter term while the curriculum is being redeveloped. These Interim Guidelines will provide guidance on how the current curriculum can be approached in a more holistic way and provide clarity on how topics can be taught in a fully inclusive manner.⁵²¹

The review of the RSE curriculum is timely as a survey published in April 2018 found that young people do not find teachers a useful source of information, with over 90 per cent of young people regarding the internet as their most trusted source of information on healthy sexual relationships.⁵²² More than 20 per cent of young people found pornography a useful source of information on healthy sexual relationships.⁵²³

Education' <<https://bit.ly/2Fe9guc>> accessed 13 February 2020.

517 Department of Education and Skills, 'Minister Bruton starts major update of Relationships and Sexuality Education' (3 April 2018) <<https://bit.ly/2DksbVi>> accessed 3 February 2020. The Minister asked that specific consideration be given to the matters of consent, developments in contraception, healthy positive sexual expression and relationships, safe use of the internet, social media and its effects on relationships and self-esteem and LGBTI+ matters in the course of the review.

518 *ibid.*

519 NCCA, *Report on the Review of Relationships and Sexuality Education (RSE) in Primary and Post-Primary schools* (Department of Education 2019)

520 *ibid.* 79.

521 *ibid.* 80.

522 Youth Work Ireland, 'Young people turn away from teachers and parents towards the internet for sex education' (*Youth Work Ireland*, 23 April 2018) <<https://bit.ly/2Fe7Rm2>> accessed 3 February 2020.

523 *ibid.*

Physical Health

Immediate Actions for 2020



Allocate adequate resources to ensure commencement of the entirety of the Public Health Alcohol Act 2018.

Given the relatively high levels of alcohol consumption by young people, all remaining sections of the Public Health Alcohol Act 2018 should be commenced without further delay to ensure the Act achieves maximum impact.



Expand the Hot School Meals programme in 2020.

Complete the evaluation of the Hot School Meals programme as soon as possible with a view to extending the programme in 2020.



Implement the recommendations of the NCCA review of Relationships and Sexuality Education (RSE) in primary and post-primary schools.

Prioritise the Social, Personal and Health Education (SPHE)/Relationships and Sexuality Education (RSE) in curriculum redevelopment taking account of the recommendations of the NCCA report and create a national strategy for the implementation of the new unified SPHE/RSE programme.



Ring-fence the revenue from the sugar levy to tackle childhood obesity.

The revenue raised from the sugar levy should be ring-fenced and used to fund childhood obesity programmes and tackle waiting lists for obesity treatment.

4

Rights in the Family Environment and Alternative Care



Every child has the right to be protected from all forms of abuse, violence, punishment and neglect, whether physical or mental. The State has the responsibility to provide support for children who experience abuse and their carers, as well as mechanisms for prevention, reporting, investigation and treatment.

Summary of Article 19 of the UN Convention on the Rights of the Child

Chapter Grade:

B-

4.1 Guardian *ad Litem* Service

Section Grade:

C+

⊕ Government Commitment

A Programme for a Partnership Government commits to:

Review the operation of guardian *ad litem* (GAL) to ensure that a child's view is always effectively represented in Court proceedings.

▶ **Progress: Some**

'Guardian *ad litem* Service' receives a 'C+' grade in *Report Card 2020*, the same grade as last year. The Child Care (Amendment) Bill 2019, providing updated and expanded legislation in relation to the Guardian *ad litem* (GAL) service, concluded its Committee Stage in October 2019 but lapsed with the dissolution of the 32nd Dáil. Completing reform in this area should be a priority for the legislative programme of the 33rd Dáil. There was progress made towards the establishment of a new Executive Office to house the GAL service, to be located under the Department of Children and Youth Affairs but independent of Tusla, the Child and Family Agency. Further reform and enhanced services are needed to ensure that the constitutional right of the child to have his or her views heard is realised in both private and public law proceedings.

Every child has the right to have his or her views heard in any judicial proceedings that affect him or her. The views of the child should be given due weight in accordance with the age of the child and the child's maturity.⁵²⁴ The UN Convention on the Rights of the Child makes specific reference to the child being heard in court proceedings either directly or, indirectly, through a representative body⁵²⁵ such as a Guardian *ad litem* (GAL).⁵²⁶ Under Article 3 of the

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

525 *ibid* Art 12(2).

526 Section 26(1) of the Child Care Act 1991, as amended, provides that in childcare proceedings involving a child (for example, when instituting childcare proceedings or dealing with the accommodation and care of a child), if the court is satisfied

UN Convention on the Rights of the Child, the State is obliged to ensure that the child's best interests are a primary consideration in all actions and decisions that impact on the child, particularly when a decision is being made in proceedings to take a child into care.⁵²⁷

The UN Committee on the Rights of the Child has set out requirements for the appropriate representation of the views of the child. A person who is being appointed as a child's representative must have sufficient knowledge and understanding of the various aspects of the decision-making process, as well as experience of working with children.⁵²⁸ The representative must be aware that they represent the interests of the child exclusively and not the interests of other persons (for example, parents or guardians) or of institutions or bodies.⁵²⁹ The Committee is clear that if a representative is used to hear the voice of the child 'it is of utmost importance that the child's views are transmitted correctly to the decision maker by the representative'.⁵³⁰

In 2016, the UN Committee called on Ireland to '[t]ake measures to ensure the effective implementation of legislation recognising the right of the child to be heard in relevant legal proceedings, particularly family law proceedings, including by establishing systems and/or procedures for social workers and Courts to comply with the principle'.⁵³¹ In *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020*, the Government commits to creating mechanisms to provide children with the opportunity to be heard in judicial proceedings affecting them; this includes independent representatives, where appropriate.⁵³²

Article 42A.4 of the Irish Constitution states that provision shall be made by law for the best interests of the child to be 'the paramount consideration'

that it is necessary in the interests of the child and in the interests of justice, to appoint a Guardian *ad litem* for the child then this should be done. Section 26(2) provides that the costs will be paid by the health board concerned. This now falls to Tusla which subsumed certain functions from the Health Service Executive following its establishment.

527 UNCRC, 'General Comment No. 12 on the Right of the Child to be heard' (2009) UN Doc CRC/C/GC/12 para 53.

528 *ibid* para 36.

529 *ibid* para 37.

530 *ibid* para 36.

531 UNCRC, 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 32(a).

532 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (Stationery Office 2014) Commitment G18.

Who are the Guardians *ad Litem*?



31 Barnardos

22 individuals or small groups

16 TIGAL

5 operating from Northern Ireland

in child protection and care, adoption and family law proceedings, and for the views of the child to be 'ascertained and given due weight'.⁵³³ This constitutional provision therefore refers to two types of proceedings: (1) public law proceedings which deal with issues that are of direct concern to society and which govern relationships between individuals and the State, and (2) private law proceedings which relate to the adjudication of an issue between two private parties. The review of the GAL Service committed to in *A Programme for a Partnership Government* relates to public law proceedings only.

► Reform of the GAL Service:

Throughout 2019, there was ongoing work towards the reform of the GAL service for public law child care cases; this is welcome – such reform is long overdue. Law reform in this area has the potential to make a real impact to the lives of children and to advance the fulfilment of the constitutional right of the child to have his or her voice heard in child care proceedings. GALs have been appointed in public law cases since the commencement, in 1995,

533 Constitution of Ireland, Art 42A.4.

of section 26 of the Child Care Act 1991, which provided for a child's views to be heard through a GAL in child care proceedings.⁵³⁴ However, these appointments have been made in the absence of regulation: the role of the GAL remains undefined and their appointment is at the discretion of the judge, resulting in inconsistencies in access for a child to a GAL, with significant disparity in appointments between court districts within the State.⁵³⁵

Currently, there are 74 GALs operating in the State: 31 working with Barnardos' GAL service, 16 with TIGALA, The Independent Guardian *ad litem* Agency, 22 working as individuals or in a small group, and five GALs operating from Northern Ireland.⁵³⁶

Notwithstanding the range of difficulties associated with an unregulated service, GALs have played an important role in supporting the voice of the child in proceedings and in representing children's interests. For example, the GALs first consult with children and communicate to the Court the views of the child. They also generally provide reports to the judiciary on what is in the best interests of a child, following their direct consultation with the child. The GALs have also been playing other roles. For example, GALs have been able to cross-examine Tusla social workers during care proceedings which can help bring to the attention of the judge an issue of importance. GALs have also been able to seek directions or orders from the District Court under section 47 of the Child Care Act 1991 on any question affecting the welfare of a child. On occasion, GALs have initiated judicial review proceedings against the State on behalf of the child in order to contest a decision or action by Tusla. In short, practices which have emerged over time have meant that instead of being merely the subject of court hearings, children in child care proceedings have been able to participate directly in the proceeding, through their GAL. In some instances, children have been able to have their rights directly vindicated by their GAL.

► Child Care (Amendment) Bill 2019:

Following a period of pre-legislative scrutiny, the Child Care (Amendment) Bill 2019 was introduced in the Dáil in August 2019. The Bill passed the Committee Stage in October⁵³⁷ and was expected

to become law in 2020 but lapsed with the dissolution of the Dáil on 14 January 2020. The Bill aimed to provide a regulatory basis for a GAL service and address many of the challenges associated with the appointment of GALs to date.

Chapter three of the Bill provided for the authorisation of GALs, including powers given to the Minister for Children and Youth Affairs to make regulations relating to who can act as a GAL.⁵³⁸ The development of such regulations, which was to take place once the Bill became law, would serve to further shape the operation of the new GAL system.

Chapter two, section 35E(1), of the Bill set out the functions of a GAL. The first was, in so far as practicable, 'to ascertain any views expressed by the child in relation to the matters to which the proceedings relate'. The second function was 'to make recommendations to the court regarding what is in the best interests of the child'. Section 35E(6) provided that the court or any party to the proceedings may call a GAL as a witness. While section 35E(2) provided that the GAL should inform the court of any additional matters relevant to the best interests of the child, or that might have come to the knowledge of the GAL as a result of their function, significantly section 35E(9) stated that the GAL 'is not a party to the proceedings' which would limit the GAL's role and powers in proceedings. The Special Rapporteur on Child Protection, Dr Conor O'Mahony, has expressed concern about the implications of such provisions if they were to be enacted.⁵³⁹ He suggested that while the District Court might choose to take a flexible approach when it comes to the role of a GAL, the High Court was likely to take a much stricter approach, and would rule that a GAL was not permitted to engage in activities outside submitting a report and appearing as a witness.

Section 25 of the Child Care Act 1991 provides that the court may order a child to be joined as a party to a case where this is necessary and in the interests of the child and of justice to do so.⁵⁴⁰ While

<https://bit.ly/2UlcEHQ> accessed 12 February 2020.

538 *ibid* section 35L.

539 Conor O'Mahony, 'Article 42A.4: The Constitutional Obligation to Ascertain the Views of Children', Paper presented at the Legal Aid Board Annual Conference, Blackhall Place, Dublin, 25 September 2019 (unpublished, but cited with the author's permission).

540 Child Care Act 1991, s 25(1) provides: 'If in any proceedings under Part IV or VI the child to whom the proceedings relate is not already a party, the court may, where it is satisfied having regard to the age, understanding and wishes of the child and the circumstances of the case that it is necessary in the interests

534 Child Care Act 1991, s 26.

535 Carol Coulter, *Interim Report of the Child Care Law Reporting Project* (CLRP 2013) 14.

536 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 15 November 2019.

537 Child Care (Amendment) Bill 2019, as amended in the Select Committee on Children and Youth Affairs, 23 October 2019



GALs have played an important role in supporting the voice of the child in proceedings and in representing children's interests.

this section has been on the legislative books for many years, it is underused. As noted in *Report Card 2019*, consideration could be given to exploring how section 25 is being used in practice and its impact on children as part of the ongoing review of the Child Care Act 1991.⁵⁴¹ The GAL can play an important role in educating children about their rights, including highlighting the opportunity that section 25 provides for their direct participation in proceedings affecting them. However, reliance on section 25 requires a child to have the capacity to understand the relevance of its provisions and the Alliance is concerned that children without such capacity – for example, babies, toddlers, and children with learning difficulties – will be unable to exercise their rights under this section. This needs to be addressed.

► Appointment of a GAL:

Section 35B of the Child Care (Amendment) Bill 2019 provided that the court may appoint a GAL ‘of its own motion or on the application of any party’.⁵⁴² Under the Bill’s proposals, if a judge declined to appoint a GAL they would be required to provide reasons for their decision, and ‘where the court is satisfied that the child is capable of forming his or her own views in the proceedings, determine the means by which to facilitate the expression by the child of those views’.⁵⁴³ The Bill stipulated that the appointment of a GAL would be mandatory in cases where a child was subject to special care proceedings in the High Court⁵⁴⁴ or where a child was subject to an involuntary admission to an approved centre under section 25 of the Mental Health Act 2001.⁵⁴⁵

The Explanatory Memorandum to the Bill stated that section 35B created ‘a presumption in favour of appointment in proceedings before the District Court’. However, the Special Rapporteur on Child Protection, Dr Conor O’Mahony, was of the view that this section would not create a statutory presumption and would give the District Court as much discretion as is currently provided under section

of the child and in the interests of justice to do so, order that the child be joined as a party to, or shall have such of the rights of a party as may be specified by the court in, either the entirety of the proceedings or such issues in the proceedings as the court may direct. The making of any such order shall not require the intervention of a next friend in respect of the child.’

541 Government of Ireland, ‘Review of the Child Care Act 1991’ <<https://bit.ly/2SFmDLC>> accessed 9 December 2019.

542 Child Care (Amendment) Bill 2019, at section 35B(3).

543 *ibid* section 35B(5).

544 *ibid* section 35B.

545 *ibid* section 8.

26 of the 1991 Act.⁵⁴⁶ This could result in judges who routinely do not appoint GALs continuing such practice after the proposed legislation was in place.

► Independence of the GAL Service:

The Department of Children and Youth Affairs (DCYA) is currently in the process of establishing a new national GAL service independent of Tusla, a body that is party to child care cases.⁵⁴⁷ This move was previously welcomed by the Children’s Rights Alliance in *Report Card 2017*. The Ombudsman for Children⁵⁴⁸ and the Comptroller and Auditor General⁵⁴⁹ had likewise urged such a change. A project team to prepare for the establishment of the Guardian *ad litem* Executive Office was set up in 2018 with a programme manager appointed in July 2019. Budget 2020 provided €2.8 million in ‘seed capital’ for the Executive Office. Information from the DCYA indicates that it is intended that the office will be in operation by January 2021.⁵⁵⁰

► Completing Reform of GAL Legislation:

The impetus towards putting in place long overdue legislation to define the powers and functions of GALs must not be lost as a result of the lapsing of the Child Care (Amendment) Bill 2019 following the dissolution of the 32nd Dáil. The need now to introduce a new Bill provides an opportunity to address the concerns raised about some of the provisions of the 2019 Bill. It is vital that the legislative programme of the 33rd Dáil gives priority to finalising legal reform in this area.

546 Conor O’Mahony, ‘Article 42A.4: The Constitutional Obligation to Ascertain the Views of Children’, Paper presented at the Legal Aid Board Annual Conference, Blackhall Place, Dublin, 25 September 2019 (unpublished, but cited with the author’s permission).





547 Department of Children and Youth Affairs, ‘Minister Zappone announces €2.8m for reform of the Guardian *ad litem* service’, Press Release October 2019 <<http://bit.ly/2N0DrKR>> accessed 12 February 2020.

548 Ombudsman for Children, Niall Muldoon, Joint Oireachtas Committee on Children and Youth Affairs, General Scheme of the Child Care (Amendment) Bill 2017: Discussion (Resumed), 5 April 2017.

549 Comptroller and Auditor General, *Report on the Accounts of Public Services 2015* (C&AG 2016) 132.

550 Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 11 November 2019.

Guardian *ad Litem* Service Immediate Actions for 2020

-  Ensure that the reform of legislation in relation to Guardians *ad litem* is completed as early as possible in the life of the 33rd Dáil and that the new legislation gives effect to the constitutional right of the child to be heard.
-  Provide for meaningful consultation with children and young people on proposed reforms in relation to Guardians *ad litem* and on having their voice heard in court proceedings.
-  Carry out a review to determine how the rights of vulnerable children, including infants, non-verbal children, children with learning difficulties and children with behavioural difficulties, may be vindicated in court proceedings affecting them.
-  Ensure an efficient roll-out of the new Guardian *ad litem* Executive Office so that the Department of Children and Youth Affairs meets its 2021 deadline for the establishment of the office

4.2 Child Protection

Section Grade:

B

➔ Government Commitment

A Programme for a Partnership Government commits to:

Implement Child Safeguarding Statements as part of Children First legislation.

▶ **Progress: Good**

Enforce robust and efficient vetting procedures for all positions involving substantial access to children.

▶ **Progress: Steady**

Ensure robust protections are in place to fully protect children while online and propose updated legislation to effectively deal with sexual offences including stronger sanctions aimed at protecting children from online sexual abuse.

▶ **Progress: Steady**

'Child Protection' receives a 'B' grade in *Report Card 2020*, the same as last year's grade. The Child Safeguarding Compliance Unit has led to improvements in compliance by organisations in regard to Child Safeguarding Statements. The Garda Vetting Bureau deals with a large volume of applications, processing the great majority within five days. In a welcome move, legislation was enacted to implement the EU Council Framework Decision on the exchange of criminal records information. Progress was made in implementing the Government's *Action Plan for Online Safety 2018–2019*.

Every child has the right to be protected from abuse, including sexual abuse and exploitation.⁵⁵¹ States must take appropriate legislative, administrative and other measures to protect children from abuse while in the care of parents, guardians or 'any other person who has the care of the child'.⁵⁵² In 2016, the UN Committee on the Rights of the Child welcomed the enactment of the Children First Act 2015. The Committee recommended that Tusla, the Child and Family Agency, be adequately resourced to enable it to respond to child protection referrals and to address the needs of children at risk in a timely manner.⁵⁵³ In addition, it recommended that long-term programmes for addressing the root causes of violence and abuse be implemented. In regard to protection from online

551 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Arts 19 and 34.

552 *ibid* Art 19 (1).

553 UNCRC, 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 38.

abuse, the UN Committee has recommended that States 'should address the risks posed by digital media [and information and communication technologies] to the safety of children, including online harassment, sexual exploitation of children, access to violent and sexual content, grooming and self-generated sexual content' by adopting 'holistic strategies'.⁵⁵⁴ The Committee has also highlighted States' obligations to guarantee the protection of children's privacy rights in relation to Information and Communication Technology (ICT), as well as their obligation to 'develop effective safeguards against abuse without unduly restricting the full enjoyment of their rights'.⁵⁵⁵

► Child Safeguarding Statements:

A *Programme for a Partnership Government* commits to implementing Child Safeguarding Statements as part of the Children First Act 2015. *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* commits to giving effect to *Children First: National Guidance for the Protection and Welfare of Children* in full, including legislating for elements of the guidance, actioning sectoral plans, associated training and ensuring vetting requirements are met.⁵⁵⁶ The Children First Act 2015, which has been fully commenced, provides that every organisation providing a 'relevant service' to children and young people⁵⁵⁷ must prepare a Child Safeguarding Statement, setting out the organisation's procedures to manage and reduce risk for children availing of its services.⁵⁵⁸

Sections 12 and 13 of the Children First Act make provision for Tusla to establish and maintain a register of non-compliance by providers of relevant services who fail to provide a copy of their Child Safeguarding Statement to Tusla when requested to do so. To support implementation of this provision, in March 2018, Tusla established a new Child Safeguarding Statement Compliance Unit⁵⁵⁹ to monitor compliance of Safeguarding Statements submitted voluntarily

by providers referred to it by a regulatory authority or following receipt of unsolicited information.⁵⁶⁰ The Unit reported that in 2019 just under five per cent of Child Safeguarding Statements were fully compliant when initially submitted, meaning that the vast majority were in the non-compliant category.⁵⁶¹ After corrective action was taken, 87 per cent of Child Safeguarding Statements were found to be compliant while one per cent related to services that had closed and the remaining 12 per cent continued to be non-compliant.⁵⁶²

As the Compliance Unit has become embedded, and awareness and understanding of the obligation on providers of relevant services to have a Child Safeguarding Statement in place has increased, there has been a significant increase in the number of statements submitted. Thus, while in 2018 the Unit received 65 safeguarding statements, in 2019 (up to mid-November) it had received and reviewed 647 statements, an increase of nearly 900 per cent.⁵⁶³ It is anticipated that the number of statements submitted will continue to increase in 2020 as awareness of the Unit grows.

In line with the provisions in the Children First Act, where an organisation is found to be non-compliant in terms of its Child Safeguarding Statement this information is published on the Tusla website in a register; the public nature of this register is very welcome.⁵⁶⁴ In addition to dealing with compliance, the Unit supports organisations with the safeguarding statement process by providing information and feedback.

► Vetting:

A *Programme for a Partnership Government* commits to enforcing robust and efficient vetting procedures for all positions conducting relevant work or activities with children as defined in the Act. *Better Outcomes, Brighter Futures* commits to 'ensuring vetting requirements are met'.⁵⁶⁵ The National

554 UNCRRC, 'Report of the 2014 General Day of Discussion, Digital Media and Children's Rights' (OHCHR, 2014) para 105.

555 *ibid* para 102.

556 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (Stationery Office 2014) Commitment 3.6.

557 Schedule 1 of the Act sets out the types of organisations which are deemed to be carrying out 'Relevant Services' for the purposes of the Act.

558 Children First Act 2015, s11.

559 Minister for Children and Youth Affairs, Dr Katherine Zappone TD, Written Answers, Child Protection, 25 September 2018 [38432/18].

560 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 9 January 2019.

561 Communication received by the Children's Rights Alliance from Tusla, 15 November 2019.

562 *ibid*.

563 *ibid*.

564 Tusla 'Register of Non-Compliance with Child Safeguarding Statement requirements (s.11 of Children First Act 2015)' <<http://bit.ly/305jckr>> accessed 12 February 2020.

565 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020*



Vetting Bureau (Children and Vulnerable Persons) Acts 2012–2016 provide for the establishment of procedures in respect of persons who wish to undertake certain work or activities relating to children or vulnerable persons, or provide certain services to children or vulnerable persons. The Acts were commenced on 29 April 2016, with the exception of Section 20 which provides for a re-vetting of people involved in relevant work or activities.⁵⁶⁶

The National Vetting Bureau is led by the Chief Bureau Officer who is a Superintendent. There are also five Sergeants and as of 30 September 2019 there were 145 Garda staff working in the Bureau.⁵⁶⁷ The Bureau received 520,690 vetting applications in 2018 and 491,191 in 2019.⁵⁶⁸ The vast majority of vetting is carried out through the eVetting system; this is described by An Garda Síochána as having been ‘central in transforming

the application process, making it more efficient, effective and reliable.’⁵⁶⁹ At the end of 2019, 85 per cent of applications through the eVetting system were processed within five working days, the same figure as recorded in *Report Card 2019*.⁵⁷⁰

Previous editions of the *Report Card* series highlighted the fact that there was no provision for the National Vetting Bureau to seek information from police authorities abroad when a vetting applicant had spent time living outside Ireland. A welcome development in 2019 was the enactment of the Criminal Records (Exchange of Information) Act 2019.⁵⁷¹ This legislation gives effect to the EU Council Framework Decision 2009/315/JHA of 26 February 2009 on the exchange of criminal records information.⁵⁷² The new legislation does not provide any additional powers to the Garda Vetting Bureau; however, it does codify

(Stationery Office 2014) Commitment 3.6.

566 With the exception of section 20, which relates to re-vetting, the Act was commenced by the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 (Commencement) Order 2016, SI 214 of 2016 (Stationery Office 2016). A number of amendments were made by the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016.

567 Minister for Justice and Equality, Charlie Flanagan TD, Written Answers, Garda Vetting Personnel, 5 November 2019 [45387/19].

568 Garda National Vetting Bureau, ‘Garda Vetting Statistics’ <<http://bit.ly/2TIRZtx>> accessed 12 February 2020.

569 An Garda Síochána, ‘Gardaí advise organisations about need for vetting compliance’ (May 2019) <<http://bit.ly/2Ncn8ed>> accessed 12 February 2020.

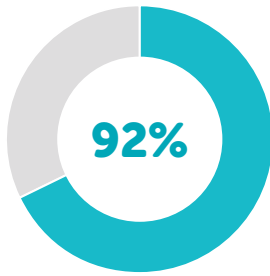
570 Communication received by the Children’s Rights Alliance from the Garda Vetting Bureau, 6 December 2019.

571 The Criminal Records (Exchange of Information) Act 2019 was signed into law on 26 December 2019.

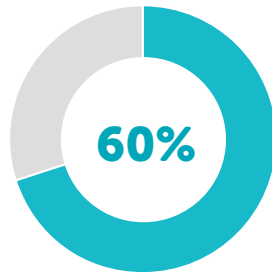
572 Council of the European Union, ‘Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States’ 2009/315/JHA (Council of the European Union 2019).

Source: CyberSafe Ireland Annual Report 2018

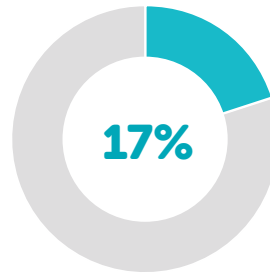
CyberSafe Ireland reported that of the 3,867 children it surveyed:



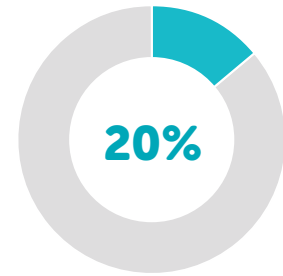
8 - 13 year olds who owned a smart device



Used social media and messaging apps



Online two to four hours daily



of 8 - 10 year olds are in contact with a stranger every day

● Percentage of children

procedures relevant to the exchange of criminal records information and should make the vetting system more efficient and consistent when dealing with information held by other EU jurisdictions.

► Online Protection:

While, undoubtedly, the internet has significant positive impacts both for children and wider society, for too long legislation and policy have not kept pace with the evolution of the online world. This has left children at risk and unprepared to appropriately navigate online platforms. *Better Outcomes, Brighter Futures* commits to supporting efforts to limit children's exposure to age-inappropriate material on the internet.⁵⁷³ It also commits to supporting all efforts to combat child sexual abuse, exploitation and trafficking, including through support for an online filtering system in relation to blocking online child abuse material.⁵⁷⁴

There were a number of welcome developments in the last two years that will help towards ensuring children are better protected online. The enactment of the landmark Criminal Law (Sexual Offences)

Act 2017 in February 2017 closed some significant legislative gaps and loopholes in regard to online sexual offences against children. For example, the Act created a new offence relating to viewing online child sexual abuse material and, in order to address issues such as grooming and solicitation online, created an offence of sexual exploitation using ICT.

The Council of Europe published a Recommendation, *Guidelines to Respect, Protect and Fulfil the Rights of the Child in the Digital Environment*, in 2018.⁵⁷⁵ A key proposal of these Guidelines is that, in relation to the processing of children's personal data, States should require relevant stakeholders to implement safety by design, privacy by design and privacy by default measures, taking into account the best interests of the child.⁵⁷⁶ Legislating to incorporate these principles would help ensure that, from the planning stages of technology development onward, children are protected.

The Data Protection Act 2018 was enacted to comply with the EU General Data Protection Regulation which came into force on 25 May

⁵⁷³ Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (Stationery Office 2014) Commitment 3.8.

⁵⁷⁴ *ibid* Commitment 3.13.

⁵⁷⁵ Council of Europe, *Guidelines to Respect, Protect and Fulfil the Rights of the Child in the Digital Environment*, Recommendation CM/Rec (2018) 7 of the Committee of Ministers (Council of Europe 2018).

⁵⁷⁶ *ibid* Principle 53.

2018. The Act sets the age of digital consent at 16 years, meaning that children under the age of 16 must have the consent of their parent or guardian in order to access certain online services.⁵⁷⁷

The *Action Plan for Online Safety 2018–2019*⁵⁷⁸ published in July 2018, covers an 18-month period to the end of 2019, and is a cross-government initiative involving six departments: Communications, Climate Action and Environment; Education and Skills; Justice and Equality; Children and Youth Affairs; Health, and Business Enterprise and Innovation.⁵⁷⁹ It is overseen at the political level by a Cabinet Committee chaired by the Taoiseach and work is carried out by a cross-departmental Sponsors Group chaired by the Department of Education and Skills. Among the positive features of the Action Plan are its commitments to consult with children and young people and to introduce legislation to create new criminal offences where gaps exist. In September 2018, as part of the Action Plan, a National Advisory Council for Online Safety (NACOS) was established to provide advice to Government on online safety policy issues. The Council's membership includes non-governmental, industry, and academic stakeholders.⁵⁸⁰

The Plan committed to 25 specific actions with 48 constituent actions. By October 2019, 42 constituent actions, linked to 23 specific actions, had been delivered, with 'significant' progress made in relation to the remainder.⁵⁸¹ A follow-on Action Plan is being considered by the Sponsors Group and is expected to be published in early 2020.⁵⁸²

► Online Safety Bill 2019:

Following a commitment made in March 2019 by the Minister for Communications, Climate Action and Environment, Richard Bruton TD, the General Scheme of the Online Safety and Media Communications Bill 2019 was published in January 2020.⁵⁸³ The Scheme indicates that provision will be made for the creation of a new office of an Online Safety Commissioner, which will be part of a broader Media Commission replacing the Broadcasting Authority of Ireland.⁵⁸⁴ However, it appears that the proposals as published would not provide the full legal basis for an Online Safety Commissioner.⁵⁸⁵ This Bill lapsed with the dissolution of the Dáil in January 2020. It is vital that all future legislative proposals in regard to online safety are scrutinised in terms of their compliance with the core children's rights principles in this area as outlined by the UN Committee on the Rights of the Child⁵⁸⁶ and in the Council of Europe Recommendation, *Guidelines to Respect, Protect and Fulfil the Rights of the Child in the Digital Environment*.⁵⁸⁷

577 European Parliament and Council of the European Union, *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)*, Article 8.

578 Government of Ireland, *Action Plan for Online Safety 2018–2019* (Government of Ireland 2018).

579 MerrionStreet.ie, Irish Government's News Service, 'Taoiseach launches Government's Action Plan for Online Safety', 11 July 2018 <<http://bit.ly/2tG6Hjk>> accessed 12 February 2020.

580 Department of Communications, Climate Action and Environment, 'The National Advisory Council for Online Safety (NACOS)' <<http://bit.ly/2T9rJBM>> accessed 12 February 2020.

581 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 6 December 2019. The First Progress Report on the implementation of the Action Plan was published in February 2019 – see Government of Ireland, *Action Plan for Online Safety 2018–2019: 2018 Progress Report* (Government of Ireland 2019).

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

583 Department of Communication, Climate Action and Environment, General Scheme of the Online Safety & Media Regulation Bill 2019 <<https://bit.ly/2UHvLX>>, accessed 10 February 2020.

584 Department of Communications and Environment 'General Scheme Online Safety Media Regulation Bill 2019' <<https://bit.ly/3bGbJOq>> accessed on 12 February 2020.

585 Eoin O'Dell, 'Cearta Blog', January 2020 <<https://bit.ly/37fVYKp>> accessed 21 January 2020.

586 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 19 (1); UNCRC, 'Report of the 2014 General Day of Discussion, Digital Media and Children's Rights' (OHCHR, 2014) <<http://bit.ly/2TfIcel>> accessed 6 January 2020, para 105.

587 Council of Europe, *Guidelines to Respect, Protect and Fulfil the Rights of the Child in the Digital Environment*, Recommendation CM/Rec (2018)7 of the Committee of Ministers (Council of Europe 2018).

Child Protection

Immediate Actions for 2020



Publish a new Bill providing for the establishment of an office of Online Safety Commissioner.



Make digital rights and online safety central to the next national strategy for children and young people which is due to be published in 2021.

The *Action Plan for Online Safety 2018–2019* was for eighteen months duration and this period has now ended. It is important to maintain the commitment to addressing the issues with which the Action Plan is concerned and to develop a new plan setting out the Government's approach to online safety. The next national strategy for children and young people would be an appropriate vehicle through which to address this issue.

4.3 Child Victims of Crime

Section Grade:

B-

➔ Government Commitment

A Programme for a Partnership Government commits to:

Publish legislation to implement in full the EU Victims of Crime Directive and develop victim support services, including the Garda Victims Services Offices, which provide a single point of contact in accessing support and information.

▶ **Progress: Steady**

'Child Victims of Crime' receives a 'B-' grade in *Report Card 2020*, the same as last year's grade. This grade reflects ongoing practice improvements in the support of child victims and the opening of the Barnahus, Onehouse Galway, pilot project providing services and supports for child victims of sexual abuse under one roof. More is needed, however. In particular, Ireland needs to ratify without further delay the **Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography**. In addition, a commitment to provide adequate regional services for child victims is essential. A specific strategy should be adopted aimed at prevention of sexual violence against children and for the provision of comprehensive services for those who have been victims of such violence.

The State has a duty to take all appropriate measures to promote physical and psychological recovery and social reintegration of child victims of 'any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment'.⁵⁸⁸ Such recovery and reintegration should take place in an environment that 'fosters the health, self-respect and dignity of the child'.⁵⁸⁹ Ireland continues to be the only European Union (EU) Member State that has not ratified the Second Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child

588 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 39.

589 *ibid* Art 39.

Prostitution and Child Pornography.⁵⁹⁰ The Protocol requires States to adopt appropriate measures to protect the rights and interests of child victims at all stages of the criminal justice process, including measures recognising their vulnerability, and the adaptation of procedures to recognise their needs.⁵⁹¹ Child victims must be informed of their rights and role within proceedings, and they should be provided with information regarding the timing and progress of proceedings.⁵⁹² Unnecessary delays in processing their cases should be avoided.⁵⁹³ The Second Optional Protocol to the UN Convention on the Rights of the Child also provides that the best interests of the child shall be a primary consideration in the criminal justice system's treatment of child victims.⁵⁹⁴

Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020 commits to providing 'effective and timely protection and support services, including therapeutic services for victims of abuse and crime'.⁵⁹⁵ It also commits to reforming domestic violence legislation, including providing greater protection for victims, and to a legal and policy framework for child victims of trafficking and measures for their identification.⁵⁹⁶ In 2016, the UN Committee on the Rights of the Child recommended that the State provide redress and rehabilitation to victims of domestic violence.⁵⁹⁷

► Criminal Justice (Victims of Crime) Act 2017:

The Criminal Justice (Victims of Crime) Act 2017 was signed into law in November 2017.⁵⁹⁸ This legislation transposes into Irish law the 2012 EU Directive on the rights of victims of crime. The Directive focuses on strengthening 'the rights of victims and their family members to information, support and protection, and victims' procedural rights in criminal proceedings'.⁵⁹⁹

The Directive also requires that officials coming into contact with victims have appropriate training and that EU Member States take 'appropriate action to facilitate cooperation between Member States to improve the access of victims to the rights set out in this Directive and under national law'.⁶⁰⁰

The Criminal Justice (Victims of Crime) Act 2017 is victim-centred in its approach and requires the specific characteristics of the victim to be considered and the views of the victim to be heard. The Act sets down a range of rights for victims, including the right to receive information relating to their case, and to the criminal justice process, in simple and accessible language.⁶⁰¹ The Act also provides for a wide definition of the types of offences for which victim impact statements will be heard.⁶⁰² The 2017 legislation was broadly welcomed, but it has been recommended that supports are strengthened under the Act – for example, in relation to the provision of information to (non-accused) parents of child victims.⁶⁰³

The publication by the Department of Justice and Equality in 2019 of a review of evidence-based data on the interactions of victims with the criminal justice system is a welcome step in informing practice in light of the legislative changes.⁶⁰⁴ The aim of the report was to provide policy makers and other stakeholders with a deeper understanding of victim interactions with the criminal justice system and an evidence base that can be used to enhance victims' experiences within the criminal justice system.⁶⁰⁵

The Department of Justice and Equality is now at an advanced stage in production of a new Victims Charter, reflecting the position following enactment of the 2017 Act. The draft Charter sets out, in a clear and accessible way, the services available to victims of crime from criminal justice agencies as well as other services, including the Crime Victims Helpline.

The draft Victims Charter has been prepared by the Department in collaboration with the relevant agencies and services. To ensure that it as fully as

590 UNCRC, 'Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography' (2000) A/RES/54/263.

591 *ibid* Art 8(1) (a).

592 *ibid* Art 8(1) (b).

593 *ibid* Art 8(1) (g).

594 *ibid* Art 8(3).

595 DCYA, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (Stationery Office 2014) Commitment 3.10.

596 *ibid* Commitments 3.13, 3.14 and 3.15.

597 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 38.

598 Most provisions of the Act commenced on 27 November 2017, with remaining sections commenced on 30 May 2018.

599 European Commission, 'Victims' Rights' <<http://bit.ly/2tLj0B>> accessed 12 February 2020. See also: EU Council Directive (EC) 29/EU establishing minimum standards on the rights, support and

protection of victims of crime [2012] OJ L 315/57 of 14.11.2012.

600 EU Council Directive (EC) 29/EU establishing minimum standards on the rights, support and protection of victims of crime [2012] OJ L 315/57 of 14.11.2012, Article 25 and Article 26.

601 Criminal Justice (Victims of Crime) Act 2017 ss 7–8.

602 *ibid* s 31.

603 Professor Geoffrey Shannon, *Eleventh Report of the Special Rapporteur on Child Protection* (DCYA 2018) 249.

604 See Deirdre Healy, *Exploring Victims' Interactions with the Criminal Justice System: A Literature Review* (DoJE 2019).

605 *ibid*.

possible meets the needs of victims, it has also been the subject of a formal consultation, facilitated by the University of Limerick, with stakeholders in the sector. The text is now being finalised and will be published as soon as possible.⁶⁰⁶

Following the enactment of the 2017 Act, Irish law is broadly in compliance with the Second Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.⁶⁰⁷ However, as noted, Ireland as not yet ratified the Protocol despite the Minister for the Children and Youth Affairs, Dr Katherine Zappone TD, affirming in early January 2019 the Government's commitment to move quickly towards doing so.⁶⁰⁸ There should be no further delay in Ireland's ratification of this Protocol.

Positive practice developments in 2019 include the extension to all victims under 18 years of age of the facility of recording statements they make to the Gardaí.⁶⁰⁹ This creates a possibility that such statements could replace live witness evidence under section 16 of the Criminal Evidence Act 1992. In relation to An Garda Sochána practice, Garda Victim Support Offices are now open in all Garda Divisions, and 15 Garda Divisional Protective Service Units have been rolled out as of December 2019,⁶¹⁰ although concern remains about the speed of progress and about overall resource levels.⁶¹¹ Trauma-informed skills training for lawyers working with children is now being provided by the Law Society of Ireland as part of CPD (Continuous Professional Development). At the policy level, a review of current mechanisms for the protection of vulnerable witnesses is being undertaken by the Review Group on the Investigation and Prosecution of Sexual Offences, which was

established in autumn 2018.⁶¹² This review process is an important opportunity to inform policy and practice in this area and the report is nearing completion and is expected to be published in the coming weeks.⁶¹³

► Victim Support Services:

A key provision of the EU Directive on victims' rights requires Member States to make available 'confidential victim support services, free of charge, acting in the interests of the victims before, during, and for an appropriate time after criminal proceedings'.⁶¹⁴ Arising from its ratification of the UN Convention on the Rights of the Child, Ireland has an obligation to 'take all appropriate measures' to promote the recovery of child victims.⁶¹⁵ The UN Committee on the Rights of the Child has outlined the supports that child victims may need, including medical treatment, mental health treatment, social and legal services and long-term follow-up services.⁶¹⁶

During a visit to Ireland in May 2018, the UN Special Rapporteur on the Sale and Sexual Exploitation of Children, Maud de Boer-Buquicchio, was critical of the absence in Ireland of a dedicated national strategy to prevent and respond to sexual violence against children.⁶¹⁷ Furthermore, she highlighted the lack of national data on reported incidents of child abuse, noting that such data is necessary for policy development, and she drew attention to the need for further development of care services around the country.⁶¹⁸

The 24/7 Child Sexual Abuse Reporting Line launched by An Garda Síochána in 2017 received a total of 97 calls in 2019 compared with 71 in 2018. In 2019, the Victims of Crime Office provided €1.9 million in

606 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 11 February 2020.

607 Optional Protocol to the Convention on the Rights of the Child on sale of children, child prostitution and child pornography A/RES/54/263 of 25 May 2000.

608 Department of Children and Youth Affairs, 'Ireland joining international stand against sale of children, child pornography and child prostitution; Minister Zappone says all legal requirements now in place' (DCYA 2 January 2019) <<http://bit.ly/2QVN9zA>> accessed 12 February 2020.

609 Communication received by the Children's Rights Alliance from the Rape Crisis Network Ireland, 11 November 2019.

610 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 11 February 2020.

611 Communication received by the Children's Rights Alliance from Safe Ireland, 8 November 2019. See also: Cormac O'Keefe, 'Staffing Problems hitting key Garda units', *Irish Examiner*, 6 September 2019.

612 Department of Justice and Equality, 'Minister Flanagan publishes Terms of Reference for review of the investigation and prosecution of sexual offences', Press Release, 7 September 2018 <<https://bit.ly/37kPrOw>> accessed 12 February 2020.

613 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 11 February 2020.

614 EU Council Directive (EC) 29/EU establishing minimum standards on the rights, support and protection of victims of crime [2012] OJ L 315/57 of 14.11.2012 Article 8 (1).

615 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 39.

616 UNCRC, 'General Comment No. 13 on the right of the child to freedom from all forms of violence' (2011) UN Doc CRC/C/CG13 para 52.

617 UN Special Rapporteur, 'End of mission statement of the UN Special Rapporteur on the sale and sexual exploitation of children, Maud de Boer-Buquicchio, on her visit to Ireland', 21 May 2018 <<https://bit.ly/2APog1d>> accessed 12 February 2020.

618 *ibid.*

funding for voluntary sector organisations to support victims of crime.⁶¹⁹ In addition, €25.3 million was allocated to Tusla in 2019 to support domestic and sexual violence sector organisations. The National Office for the Prevention of Domestic, Sexual and Gender-based Violence, Cosc, no longer exists but specialist teams within the Department of Justice and Equality now focus on specific functions relating to domestic, sexual and gender-based violence.⁶²⁰ This change is as a result of a transformation programme in the Department of Justice and Equality to improve its overall effectiveness.⁶²¹

The availability of assessment and treatment services for children and young people under the age of 14 who have been subjected to abuse remains limited, with significant geographic variances in provision. For children in this age category, there are two statutory sexual abuse assessment units, both located in Dublin;⁶²² one 24-hour state medical forensic service, located in Galway, providing forensic examinations,⁶²³ and two specialist therapy services, provided by CARI, in Limerick and Dublin.⁶²⁴ Children have to travel long distances to access assessment and treatment services. This can 'compound the harm imposed on child victims' and increase the risk of forensic evidence of crimes against children being compromised.⁶²⁵ Where services do exist, child victims face significant delays in accessing counselling support, and this problem is deepening as increasing numbers of young people seek access to services. In its Annual Report for 2018, CARI noted a 'significant increase' in the number of children being referred to its services for 'sexually harmful behaviour'.⁶²⁶ For survivors aged 14 years and upwards, there are effectively seven sexual assault treatment units across the country providing specialist care⁶²⁷ and victims

also have access to a range of specialist voluntary and statutory therapy services.⁶²⁸ However, as the UN Special Rapporteur on the Sale and Sexual Exploitation of Children pointed out following her 2018 visit to Ireland, specialised and local counselling services are not guaranteed to child victims of sexual violence⁶²⁹ and medium-to long-term tailored specialised therapeutic services and supports for older children aged 12–18 years of age are required.

A specific strategy should be put in place for the prevention of sexual violence against children and for the provision of comprehensive services for those who have been victims of such violence. This strategy could include a plan for the development of specialist services to assess and treat child victims of sexual violence either independently of, or within, the services for over 14s, with staffing by trained professionals who are able to respond to the particular needs of child victims. The launch in September 2019 of the inter-agency Barnahus, Onehouse pilot project, based at the Institute for Lifecourse and Society NUI Galway, is a very positive development.⁶³⁰ *Report Card 2017* recommended that the possibility of establishing such a service should be explored.⁶³¹ The project involves a multi-disciplinary team of Gardaí, social workers, health professionals and lawyers working together in one location, to carry out interviews and assessments where there are concerns that a child has been sexually abused.⁶³²

► Domestic Violence Act 2018:

The Domestic Violence Act 2018 was commenced on 1 January 2019.⁶³³ It includes specific provisions relating to children, such as protection from cross-examination by the applicant or respondent in the course of an application for a domestic violence order.⁶³⁴ An important and welcome feature of the

619 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 11 February 2020.

620 *ibid.*

621 *ibid.*

622 St Clare's Unit at Children's Health Ireland (CHI) Temple Street and St Louise's Unit at Children's Health Ireland (CHI), Crumlin.

623 Child and Adolescent Sexual Assault Treatment Services (CASATS), Galway.

624 CARI, 'Our Services' <<http://bit.ly/2Qrq88h>> accessed 12 February 2020.

625 UN Special Rapporteur 'End of mission statement of the UN Special Rapporteur on the sale and sexual exploitation of children, Maud de Boer-Buquicchio, on her visit to Ireland', 21 May 2018 <<https://bit.ly/2APog1d>> accessed 12 February 2020.

626 CARI, *Annual Report 2018* (CARI 2019) 18.

627 These are: Cork SATU; Donegal SATU; Dublin SATU; Galway SATU; Mullingar SATU; Mid-West SATU; Waterford SATU. Adult Sexual Assault Treatment Units and most Rape Crisis Centres nationwide see child victims over the age of 14.

628 These include the Rape Crisis Network and the Dublin Rape Crisis Centre.

629 UN Special Rapporteur 'End of mission statement of the UN Special Rapporteur on the sale and sexual exploitation of children, Maud de Boer-Buquicchio, on her visit to Ireland', 21 May 2018 <<https://bit.ly/2APog1d>> accessed 12 February 2020.

630 'Centre for children suspected of suffering sexual abuse opens in Galway', *TheJournal.ie*, 16 September 2019, accessed 9 December 2019.

631 Children's Rights Alliance, *Report Card 2017*, (CRA 2018) 104.

632 Government of Ireland, 'One House' model to ease trauma for children who have been sexually abused: Ministers announce pilot project for Galway', Press Release, 30 October 2019 <<https://bit.ly/37gqnZa>> accessed 12 February 2020.

633 Domestic Violence Act 2018 (Commencement) Order 2018 SI No. 532 of 2018 (Stationery Office 2018), s2.

634 *ibid* s16.

Act is its provision that a judge may, taking account of the age and maturity of a child, ascertain their views where an order is sought on their behalf, or may appoint an expert to obtain their views.⁶³⁵

Although the Act directs the Court Service to provide an applicant with information and contact details in relation to support services for victims of domestic violence,⁶³⁶ it does not require that information be provided on child-specific services, such as counselling, for children who experience domestic violence. Neither does it make provision to allow children to make court applications in their own right, which means they must rely on a parent to do this.⁶³⁷ The Act creates a new offence of coercive control (section 39). It is essential that adequate training is provided for judges, Gardaí, social workers and lawyers regarding the nature and impact of this form of abuse.⁶³⁸

A welcome development in 2019 was Ireland's ratification, in March, of the *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, commonly known as the Istanbul Convention.⁶³⁹ Ireland signed this Convention in 2015 but ratification had to await the completion of a number of legislative reforms, including the commencement of the Domestic Violence Act 2018, and administrative actions such as the training of public sector officials in understanding domestic violence issues.⁶⁴⁰

The Convention recognises that 'children are victims of domestic violence, including as witnesses to violence in the family'.⁶⁴¹ It draws attention to the need to raise awareness of the consequences of domestic violence for children and it requires that legal and policy responses to such violence take account of the rights of children who may be affected.⁶⁴²

635 *ibid* s27.

636 *ibid* s28.

637 Professor Geoffrey Shannon, *Eleventh Report of the Special Rapporteur on Child Protection* (DCYA 2018) 265–66.

638 Communication received by the Children's Rights Alliance from Safe Ireland, 2 December 2019.

639 Council of Europe, *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence* (Istanbul Convention) 2011 <<https://bit.ly/2OOF7YP>> accessed 12 February 2020.

640 Department of Justice and Equality. 'Minister Flanagan announces ratification of the Istanbul Convention by Ireland on International Women's Day, Press Release, 8 March 2019 <<https://bit.ly/2vp7Tsb>> accessed 12 February 2020.

641 Council of Europe, *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence* (Istanbul Convention), 2011, Preamble.

642 Arising from ratification of the Istanbul Convention, Ireland will be open to international monitoring of its progress in preventing and responding to domestic violence against women; this monitoring is undertaken by an independent monitoring body, GREVIO (Group of Experts on Action against Violence against Women and Domestic Violence).

Child Victims of Crime

Immediate Actions for 2020



Ratify the Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Pornography and Child Prostitution.

While the commitment given in January 2019 to ratify the Optional Protocol is welcome this has not yet been put into effect. Ratification of the Protocol should be prioritised in 2020.



Develop a dedicated strategy for the prevention of sexual violence against children and for the provision of treatment services for children who have been victims of such violence.

A dedicated strategy should be put in place to prevent and respond to sexual violence against children. Such a strategy could include a plan for the development of specialist assessment and treatment services for children and young people who experience sexual violence. Medium- to long-term planning for tailored services for older children and a plan to eliminate waiting lists for long-term specialist counselling for child victims of sexual violence would be an important part of a strategy. Data must be collected at the national level on reported incidents of child abuse; this data should be published and also referenced in the development of the strategy.



Provide sufficient statutory funding to ensure adequate services for children and the effective implementation of the Istanbul Convention.

In order to ensure children receive the services they need in a timely manner, the government must ensure sufficient and sustainable funding. While new pilot projects are welcome, successful projects need to be guaranteed on a long-term basis, and where possible rolled out on a broader, national basis. In addition, in order to fully realise the recently ratified Istanbul Convention, resources, services, training, policies and awareness programmes are needed to ensure effective implementation.

5

**Rights
in Early
Childhood**



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

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

Chapter Grade:

C+

5.1 Quality in Early Childhood Education and Care

Section Grade:

C-

➔ Government Commitment

A Programme for a Partnership Government commits to:

Review and reform the inspection regime in respect of the Early Childhood Care and Education (ECCE) Scheme.

▶ **Progress: Steady**

Assess the quality of the first pre-school scheme, withdrawing funding from providers who do not meet quality standards.

▶ **Progress: Limited**

'Quality in Early Childhood Education and Care' receives a 'C-' grade, the same as last year's grade. This reflects the fact that while the process of reviewing and reforming the inspection regime for early childhood care and education (ECCE) has been steady, poor quality and non-compliance with regulations continues in some instances. There has been limited progress in the development of a quality assurance instrument that can provide a comprehensive picture and assure the quality of ECCE services. However, the Programme for Government commitment has been superseded by a new approach to measuring quality through self-assessment. Work began on this new system in 2019. An ongoing challenge to the quality in this area is the fact that while the qualifications profile of the workforce continues to increase, working conditions and low rates of pay is contributing to high staff turnover.

The UN Committee on the Rights of the Child recognises that young children, from birth, throughout infancy and during the pre-school years, are holders of all rights enshrined in the Convention on the Rights of the Child.⁶⁴³ Early childhood is a time of rapid growth and development when children form important emotional attachments and relationships with family, peers, caregivers and early childhood professionals.⁶⁴⁴ The Committee urges State Parties to develop comprehensive frameworks for early childhood services based on systematic approaches

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

644 ibid para 6.

to law and policy development and supported by information and monitoring systems that are planned and developed in consultation with parents.⁶⁴⁵ Early childhood services and facilities must conform to quality standards; this includes access to appropriate child-centred care practices, curricula and pedagogies, provided by early childhood professionals who are socially valued and adequately paid.⁶⁴⁶

In November 2018, the Government launched Ireland's first ever cross-departmental strategy to support babies, young children and their families; *First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019 – 2028*.⁶⁴⁷ The strategy sets out an ambitious ten year plan that prioritises affordable and accessible childcare and aims to 'drive quality throughout the sector by investing in the professionalisation of the workforce'.⁶⁴⁸ The *First 5 Implementation Plan 2019–2021* builds upon significant developments which have taken place in the area of early childhood care and education (ECCE) and aligns with existing commitments under the Programme for Government.⁶⁴⁹ The plan outlines five 'Building Blocks' that will improve affordability, accessibility and quality of services to develop an effective early childhood system.⁶⁵⁰

► Review and reform of Inspection Regimes:

High-quality ECCE services are supported and developed by meaningful systems of evaluation, inspection and monitoring. Such systems should be based on regulatory aspects that assure children's safety and wellbeing, as well as a shared understanding of 'quality' among stakeholders, professionals and parents. Effective inspection and monitoring can also hold the State accountable for the establishment and maintenance of proper standards and inform the development of policy and resource allocation.⁶⁵¹

The *Programme for a Partnership Government* commits to reviewing and informing the inspection

645 *ibid* para 21.

646 UNCRC, 'General Comment No.7: Implementing Child Rights in Early Childhood' (2006) para 23.

647 Government of Ireland, *First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019 – 2028* (Government of Ireland 2018).

648 *ibid*.

649 Government of Ireland, *A Programme for a Partnership Government* (Government of Ireland 2016) 76.

650 Government of Ireland, *First 5: Implementation Plan 2019–2021* (Government of Ireland, 2019).

651 OECD, *Starting Strong IV: Monitoring Quality in Early Childhood Education and Care* (OECD 2015) 76.

➔ **First 5: What does it do for quality?**

First 5 includes the following Strategic Actions to enable access to early learning and care supports and services:

- Improve initial training and CPD for all early childhood staff.
- Professionalise ELC; support employers to attract and retain a high-quality workforce.
- Develop, enhance and implement national standards for early childhood supports and services.
- Develop mechanisms to raise the professional status of the ELC (and school-age childcare) workforce and support employers to offer more favourable working conditions to attract and retain staff.

regime in respect of ECCE services. Such services in Ireland are subject to multi-agency compliance and inspection regimes that regulate, monitor and evaluate 'various categories of risk'.⁶⁵² This includes inspection of financial compliance, regulatory aspects and evaluation of the quality of educational provision from three separate agencies and government departments. The Early Years Inspectorate, is the independent statutory regulator of early years services in Ireland and it functions under Tusla's Children's Service Regulation, located within the Quality Directorate. The role of the Inspectorate is to promote compliance within the sector by inspecting and monitoring the safety, quality of care and support provided to children.⁶⁵³ The Early Years Inspectorate

652 Office of the Comptroller and Auditor General, *Report on the Accounts of the Public Services 2018*, Chapter 16: Delivery of Early Learning and Childcare Programmes' (2019) para 29.

653 Helen Rouine, Tusla: Early Years Inspectorate-the

has been significantly reformed and developed since the commencement of the Child and Family Agency Act 2013 and the Child Care Act 1991 (Early Years Services) Regulations 2016. The Regulations build on Part 12 of the 2013 Act and provide for the inclusion of school age services within the definition of 'early years', as well as enhancing the enforcement powers of the Inspectorate.

Since 30 June 2016, it is a legal requirement for all early years' services to register with Tusla.⁶⁵⁴ The Early Years Inspectorate has responsibility for the statutory registration of early years' services and has the authority to prosecute services that operate without registration and may put in place conditions, or may refuse to register, or may remove from the register, a service that is not compliant with the Regulations.⁶⁵⁵ Since the commencement of the 2016 Regulations, a total of 12 services have been removed from the register, a number of them in 2019.⁶⁵⁶

On 24 July 2019, the RTÉ Primetime Investigates programme *Behind Closed Doors* drew public attention to the current system of inspection and registration, in particular, Tusla's powers to de-register and close services where there are severe breaches of the Regulations. In response to the investigation, the Minister for Children and Youth Affairs made a commitment to work with Tusla to explore additional powers, by way of Ministerial Order or legislative reform, to ensure the safety and welfare of children attending early childhood settings. These include:

- Power to close a service immediately where it has failed to register and powers to immediately close a registered service where Tusla has evidence of a serious breach of the Regulations.
- When a service is to be removed from the register, provision for the continuation of the service under interim management where appropriate.
- Powers to inform parents as early as possible regarding ongoing investigation and proceedings.⁶⁵⁷

Statutory Regulator (Child links, Barnardos 2019).

654 Child and Family Agency Act 2013 2015 s 58 (12).

655 Joint Oireachtas Committee on Children and Youth Affairs, 'Tusla, Child and Family Agency: Opening Statement to Members of the Joint Committee of the Oireachtas on Children and Youth Affairs. Wednesday 31st July 2019.' (2019)

656 Sean McCárthaigh, 'Two Dublin crèches ordered to close over serious safety failures', *The Irish Times*, 10 December 2019. .

657 Minister for Children and Youth Affairs, Written Answers, Early Years Sector, 19 November 2019 [47855/19]

The Tusla Early Years Inspectorate evaluates whether a service is well-governed, safe, suitable and promotes the health, welfare and development of each child attending. A risk profile informs the schedule of inspections of the service using a 'traffic light' system of red, amber and green to denote a critical to a low-risk service. In July 2019, it was stated that 37 childcare settings were deemed to be at 'critical' status owing to repeated non-compliance with the Regulations.⁶⁵⁸ A total of 2,513 inspections were conducted in 2018, an increase of 90 per cent since 2014 (1,326), with 1,323 inspections completed in the first six months of 2019.⁶⁵⁹ A comprehensive analysis of inspection report outcomes and non-compliances was provided in 2017.⁶⁶⁰ The Early Years Inspectorate indicates that comprehensive reports on compliance levels in 2018 and 2019 will be provided in 2020.⁶⁶¹

Tusla Early Years Inspection Reports are published on the Tusla website, with 6,452 reports available as of December 2019.⁶⁶² In October 2019, the Inspectorate was subject to criticism for the time taken to make Inspection Reports publicly available, with concern raised about the fact that in one instance there had been an interval of 14 months between an inspection taking place and the report being published.⁶⁶³ However, it is acknowledged that within this period there can be ongoing engagement between the Inspectorate and the registered provider to address non-compliances, as well as time-frames to allow for due process and fair procedures including a registered provider's right to challenge and appeal Inspection Report findings before final publication.⁶⁶⁴

► The Quality and Regulatory Framework:

The Quality and Regulatory Framework (QRF) details the requirements for compliance with the Child Care Act 1991 (Early Years Services) Regulations 2016 under the headings of governance, health, welfare and development of the child, safety, premises

658 Joint Oireachtas Committee on Children and Youth Affairs, Early Years, 31 July 2019.

659 Joint Oireachtas Committee on Children and Youth Affairs, Tusla, Child and Family Agency: Opening Statement to Members of the Joint Committee of the Oireachtas on Children and Youth Affairs, 31 July 2019.

660 Tusla, *Annual Report 2017 of Tusla Child and Family Agency's Early Years Inspectorate* (Tusla 2018).

661 'Communication Received by the Children's Rights Alliance from Tusla, Early Years Inspectorate on 28 January 2020.'

662 *ibid.*

663 Aoife Hegarty, 'Tusla Criticised for Not Alerting Parents to "shocking" Crèche Findings' (www.rte.ie, 18 October 2019).

664 Communication Received by the Children's Rights Alliance from Tusla, Early Years Inspectorate on 28 January 2020.

and facilities. The Framework was developed in consultation with registered providers, parents, sectoral stakeholder organisations, international peers and regulatory organisations. The QRF aims to support registered providers in meeting their regulatory obligations as well as providing clarity about the standards applied during inspections. The QRF sets out the Inspectorate's interpretation of the Regulations and defines the parameters against which services are inspected. In January 2019, the Early Years Inspectorate commenced a pilot implementation of inspections using the Framework, with findings from the pilot used to finalise the inspection tool and adjust the inspection reporting template to make it more accessible to parents and stakeholders.

In 2018 and 2019, the Inspectorate delivered information sessions to over 1,000 registered providers nationally and ECCE trainers (Level 4 to Level 10 in the NFQ (National Framework of Qualification)). In 2019, Tusla commissioned the development of content and support materials to guide service providers in application and implementation of the QRF and the online learning resource will be launched in the first quarter of 2020.

► Department of Education and Skills (DES), Early Years Inspectorate:

In 2016, the Inspectorate of the Department of Education and Skills introduced Early Years Education Inspections (EYEIs) to provide 'evaluative information, advice and support regarding the quality of education provision' with the early-years education-focused Inspection (EYEI).⁶⁶⁵ Early years education inspections are based on a quality assessment framework informed by the principles of *Aistear: the Early Childhood Curriculum Framework*, and *Siolta: the National Quality Framework for Early Childhood Education*.⁶⁶⁶ The inspection framework considers four broad areas of quality: context to support learning and development; processes to support children's learning and development; children's learning experiences and achievements; and management and leadership for learning.⁶⁶⁷ The inspections are based on observation and co-professional dialogue, focusing on the quality of the educational experiences for children participating in the ECCE Scheme.

665 European Commission, 'Ireland: Assessment in Early Childhood Education and Care' (European Commission 2018) EACEA National Policies Platform.

666 *ibid.*

667 Department of Education and Skills, *Guide to Early Years Education Inspection (EYEI)* (DES 2018) 16.

At present, the Early Years Education Inspectorate evaluates provision for children participating in the ECCE Scheme, and educational provision in other rooms not operating the ECCE Scheme is not subject to inspection. *First 5* commits to extending EYEIs to younger children to promote and assure quality educational experiences and align with the work of the Tusla Early Years Inspectorate.⁶⁶⁸ The DES is currently reviewing the EYEI model to facilitate its extension to all ECCE provision to children from birth to six years/primary school entry.⁶⁶⁹ In May 2019, the DES opened a dialogue and consultation phase to take account of the expert advice and guidance available across the early childhood sector in Ireland and to begin work alongside partners and stakeholders to develop an extended Early Years Education Inspection from birth to six years.⁶⁷⁰ The initial phase of research and consultation was completed in 2019, and it is hoped that a draft framework will be made available for more extensive consultation in 2020, with the commencement of field trials of the new model in early 2020.⁶⁷¹

The *Education Action Plan 2016-2019* committed to complete 1,200 Early Years Inspections. As of November 2019, 2,407 inspections have been completed; this includes 121 'Follow Through Inspections' to evaluate how settings have implemented the actions advised in previous inspection reports.⁶⁷²

A review of inspections from the first year of implementation was published in 2018.⁶⁷³ The report indicated that settings provide a rich range of learning experiences and enjoyable, play-based opportunities. However, it recognised challenges such as the need for providers to work closely with parents as well as further support for the implementation of the national curriculum and quality frameworks, *Aistear* and *Siolta*.⁶⁷⁴ A composite report of inspection activity from September 2017

668 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 21 December 2018.

669 'Communication received by the Children's Rights Alliance from the Department of Education and Skills, 3 December 2019.'

670 Department of Education and Skills, 'Chief Inspector Invites Views to Inform Development of New Early Years Education Inspection – with a Particular Focus on 0-3' (2019).

671 'Communication received by the Children's Rights Alliance from the Department of Education and Skills, 3 December 2019.' (n 62).

672 'Communication Received by the Children's Rights Alliance from the Department of Education and Skills, 3 December 2019.'

673 Department of Education and Skills Inspectorate, *A Review of the Early-Years Education-Focused Inspection April 2016-June 2017, Insights and Future Developments*, (DES 2018).

674 *ibid* 14.

to September 2019 is currently being finalised.⁶⁷⁵

There remains a need to align and coordinate the policy, practice and implementation of inspection systems for early childhood settings. The current fragmentation of monitoring and evaluation results in multiple 'inspection' visits which can result in duplication and inefficiencies as well as systems that are confusing for providers, parents and stakeholders.⁶⁷⁶ Concerns have also been raised about disparities in the appraisal of quality and regulatory compliance of settings, in particular those that were de-registered by Tusla in 2019.⁶⁷⁷ *First 5* aims to 'integrate and coordinate inspection and quality supports, building on the existing practice between the Inspectorates and Better Start's National Quality Development Service'.⁶⁷⁸ This includes the establishment of formal mechanisms to align and coordinate the policy, practice and implementation work of the Departments of Children and Youth Affairs, and Education and Skills, through a high-level Operations and Systems Alignment Group (OSAG)⁶⁷⁹ and memoranda of understanding (MOU).⁶⁸⁰

In 2018, a joint memorandum of understanding between Tusla and Better Start was developed to allow for the Early Years Inspectorate to make referrals to the Better Start National Quality Development Service where registered providers agreed to seek mentoring supports to improve the quality of their service.⁶⁸¹ In 2019, a joint MOU between the DES

Inspectorate and the Tusla Early Years Inspectorate was developed and included protocols to be followed where possible breaches of the Child Care Act 1991 (Early Years Services) Regulations 2016 are observed during education inspections or reported to the DES Inspectorate. Any such concerns are to be forwarded immediately to Tusla using its unsolicited communications protocols.⁶⁸² The DES Early Years Education Inspectorate has indicated that it is working with Tusla's Early Years Inspectorate to develop and establish self-evaluation systems that will support the early childhood sector to engage with external evaluation and monitoring at all stages of the quality continuum. A consultation document, detailing suggested materials and processes, will be published in 2020.⁶⁸³

It is recommended that consideration be given to coordination of the separate inspection regimes for ECCE delivered by Tusla and the Department of Education and Skills. This could include a Single Quality Framework⁶⁸⁴ that values the experience and expertise of both inspectorates in a joint inspection system.

► Quality Audit of the ECCE Scheme:

A Programme for a Partnership Government commits to develop and implement an integrated quality assurance measurement instrument to evaluate the quality of early childhood services participating in the ECCE Scheme⁶⁸⁵ and provide a baseline for the subsequent assessment of the impact of quality-raising measures and policy decisions.⁶⁸⁶ A procurement process in 2018 did not result in the award of a tender as no bid met the specified requirements.⁶⁸⁷ In a change of direction, the First 5 Implementation Plan includes a commitment to develop a revised 'self-evaluation framework' for early learning care⁶⁸⁸ that will support providers in self-evaluating their quality performance and provide a basis for the development of an external monitoring

675 'Communication Received by the Children's Rights Alliance from the DES, 3 December 2019.' (n 53).

676 Early Childhood Ireland, 'Rising to the Challenge: Budget 2020 Submission' (Early Childhood Ireland 2019).

677 Inspections reports in relation to Hyde and Seek, the subject of the Primetime Investigates programme, varied significantly between the Tusla Early Years' Inspectorate and the DES Inspectorate.

678 Government of Ireland, *First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019 – 2028* (Government of Ireland 2018) 108.

679 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017. The OSAG is led by the DCYA and comprises representatives from the Department of Education and Skills Inspectorate, Tusla's Early Years Inspectorate, Pobal, and the Better Start National Quality Development Service, managed by Pobal on behalf of the Department of Children and Youth Affairs.

680 Memoranda of Understanding (MoU) were signed in 2018 to support coordination between the DES Inspectorate and Tusla's Early Years Inspectorate, as well as between Tusla's Inspectorate and Better Start Quality Development Service. Communication received by the Children's Rights Alliance from the DCYA, 21 December 2018.

681 Communication received by the Children's Rights Alliance from Tusla, Early Years Inspectorate, 28 January 2020.

682 Communication received by the Children's Rights Alliance from the DES, 3 December 2019. (n 62).

683 *ibid.*

684 Llywodraeth Cymru. The Welsh Government. *Independent Review of Childcare and Early Education Registration, Regulation and Inspection* (Welsh Government 2014).

685 *A Programme for a Partnership Government* commits to 'review and assess the quality of the first pre-school year'.

686 *ibid.*

687 Information received by the Children's Rights Alliance from the DCYA in 2018.

688 Government of Ireland, *First 5: Implementation Plan 2019–2021* (Government of Ireland, 2019) 116.



There remains a need to align and coordinate the policy, practice and implementation of inspection systems for early childhood settings.

tool to evaluate policies aimed at raising quality standards.⁶⁸⁹ Work on the development of a self-evaluation framework commenced in 2019, with a national baseline study of the quality of practice to be commissioned and carried out by the end of 2021.⁶⁹⁰

The development of a quality audit tool is welcomed, the ECCE sector requires a robust system of ongoing evaluation that can provide indicators of the quality of children's experiences. Any such 'external' monitoring tool must allow for multi-dimensional and continuous assessment of the early childhood system as experienced by children, families, the workforce, communities and society as well as other relevant stakeholders. The planning and development of both the self-evaluation framework and the 'external' monitoring tool will require considerable training for staff on how to monitor quality. It must also include meaningful opportunities for consultation with children and their families in keeping with Article 12 of the UN Convention on the Rights of the Child, which states that, where children are capable of forming views, they have the right to express those freely in all matters affecting them.

► Withdrawal of Funding:

A Programme for a Partnership Government commitment to improve the regulatory regime in regard to early years care extended to the withdrawal of funding from providers that do not meet quality standards. In 2019, a total of seven services were removed from the Early Years Register by Tusla as a result of severe and prolonged non-compliance with the Regulations, public funding was withdrawn from these services. The removal of funding from settings that do not comply with regulations or meet contractual requirements⁶⁹¹ is welcomed as no child should experience low-quality early care and education, and such services should not receive public funding.

Notwithstanding developments in inspections and evaluation, a big challenge for quality in early years care and education is the professionalisation and recognition of the staff working in centres and home-based care. Well-educated, well-trained professionals are the critical factor in providing high-quality ECCE

that promotes favourable cognitive and social outcomes for children.⁶⁹² The professionalisation of the early childhood sector includes enhancement of the qualifications profile, as well as the development of professional identities and competencies.⁶⁹³ While work has begun on a Workforce Development Plan and groups have joined forces to establish a professionalisation body,⁶⁹⁴ the sector continues to experience difficulties with recruitment and retention of staff that can be attributed to low pay and poor working conditions.⁶⁹⁵ Despite increased public investment in capitation grants,⁶⁹⁶ the average hourly wage of staff working in the early childhood sector is €12.55 and the hourly rate for ECCE assistants, who constitute 49 per cent of all staff working with children, is €11.46, significantly below the Living Wage of €12.30 per hour in 2019.⁶⁹⁷ Future efforts to drive quality need to speed up the professionalisation of the sector and resolve the problem of poor pay and conditions in the sector.

689 *ibid*

690 Communication Received by the Children's Rights Alliance from the DCYA, 15 November 2019.

691 *ibid*; *Government of Ireland, First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019 – 2028* (Government of Ireland 2018) 107.

692 OECD, 'Encouraging Quality in Early Childhood Education and Care (ECCE): Research Brief: Qualifications, Education and Professional Development Matter.' <<https://bit.ly/37zAlzB>> accessed 17 February 2020.

693 Mathias Urban et al, 'Towards Competent Systems in Early Childhood Education and Care: Implications for Policy and Practice', *European Journal of Education* (47 (4) 2012) 508.

694 'ACP, SIPTU and PLE move to establish professional body for Early Childhood Education and Care', Press Release 26 August 2019, <<https://bit.ly/2uVoHXZ>> accessed on 10 February 2020.

695 Early Childhood Ireland, 'Staffing crisis in female-led childcare sector threatens future of services', Press Release, 8 March 2019.

696 DCYA, 'Over 800,000 Children Avail of First Decade of Free Pre-School | Annual Budget Jumps 172% since First Roll out | Steep Rise in the School-Starting Age. Press Release 7 May 2019.'

697 Pobal, *Annual Early Years Sector Profile Report 2018/2019* (Pobal 2019) 135..

Quality in Early Childhood Education and Care

Immediate Actions for 2020



Ensure early childhood educators are supported to professionalise and become a recognised profession.

As part of the Workforce Development Plan for the Early Learning and Care (ELC) and School-Age Childcare (SAC) sectors, consideration could be given to measures by which the Government ensures that early childhood educators are socially valued, fairly remunerated and supported in their professional development. This could include funding the establishment of a professional representative group and providing additional funds for an SEO fund.



Improve the integration and coordination of inspection processes to ensure quality and consistency across the sector.

It is recommended that consideration be given to coordination of the two separate inspection regimes for early childhood care and education operated by Tusla and the Department of Education and Skills. Prioritise *First 5* actions that improve the integration and coordination of inspection regimes with the review, collation and analysis of the results of all inspection types.

5.2 Subsidised and School-Age Childcare

Section Grade:

B

➔ Government Commitment

A Programme for a Partnership Government commits to:

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

▶ **Progress: Steady**

Introduce a new system to support and expand quality after-school care for school-age children.

▶ **Progress: Steady**

'Subsidised and School-Age Childcare' receives a 'B' grade in *Report Card 2020*, up from last year's 'C+'. This grade acknowledges the progress that has been made in implementing the National Childcare Scheme which went live in 2019 and the additional funding that has been allocated for the scheme in Budget 2020. It will take time to understand how the introduction of the scheme will improve affordability of childcare for different income groups, particularly given the variance in costs across the country. The Government is urged to publish the findings of the independent review of the cost of quality childcare and provide evidence of the appropriateness of the National Childcare Scheme (NCS) subsidy rates. It is also urged to make childcare free for families on low incomes. Steady progress has been made on the development of school-aged childcare with the implementation of systems of registration for school-aged services. Further support is required for the implementation of quality standards and systems of inspection. It is recommended that a comprehensive mapping of all school-aged services be completed to identify areas of demand and over-supply.

The UN Convention on the Rights of the Child requires States to provide appropriate assistance to parents and guardians concerning their child-rearing responsibilities.⁶⁹⁸ Children of working parents have the right to benefit from childcare services and facilities for which they are eligible.⁶⁹⁹ The UN

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

699 *ibid* Art 18(3).

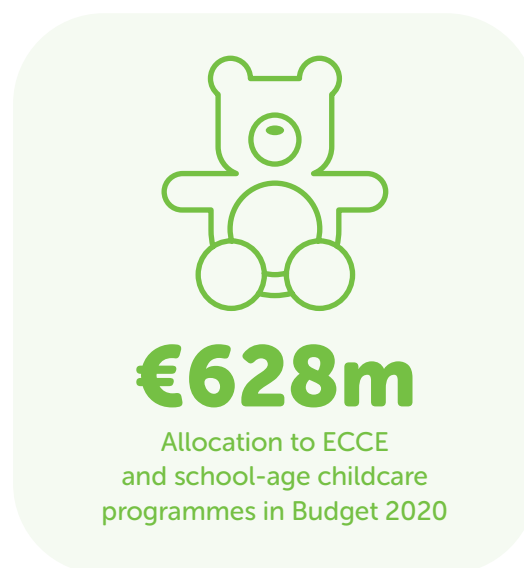
Committee on the Rights of the Child calls on States to ensure that all young children are guaranteed access to appropriate and effective services. This includes programmes of health, care and education specifically designed to promote their well-being, paying particular attention to the most vulnerable groups of young children, including those experiencing poverty and those at risk of discrimination.⁷⁰⁰

A Programme for a Partnership Government commits to 'a robust model for high-quality subsidised childcare for children aged 9-36 months for children and families'. It acknowledges the OECD recommendation that affordability and quality can be achieved through subsidised childcare places and pledges the development of supports to reduce childcare costs, broaden parental choice and increase supports for stay-at-home parents.⁷⁰¹

► National Childcare Scheme (NCS):

First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families states that high-quality, affordable and accessible early childhood and school-age care is central to the strategy, in particular supports for children from vulnerable backgrounds.⁷⁰² Data provided by Pobal indicates that, during the 2019 calendar year, 191,025 children had approved registrations on one or both of the universal schemes (Early Childhood Care and Education (ECCE) and Universal Childcare Subsidy); there were 57,597 children with an approved registrations on a targeted childcare scheme.⁷⁰³ A further 1,454 children availed of school-aged childcare support with approved registrations as part of the Training and Employment Childcare (TEC) Scheme.⁷⁰⁴

Launched in November 2019, the National Childcare Scheme will largely replace targeted childcare subsidies and the universal childcare subsidy by 2021.⁷⁰⁵ The NCS aims to provide a streamlined, user-friendly single subsidy scheme (excluding the ECCE Scheme) and 'a system of progressive



financial support towards the cost of childcare aligned with the Government's efforts to support access to education and employment and to reduce poverty'.⁷⁰⁶ The Scheme assists families to access services registered with Tusla⁷⁰⁷ using an income assessment process to determine eligibility, including support for families seeking to enter the labour market or with a low or moderate level of income.⁷⁰⁸

Budget 2020 allocated an additional €54.5 million to ECCE and school-age childcare programmes, a 9.3 per cent increase on the 2019 allocation, which will bring expenditure in this area to €628 million in 2020.⁷⁰⁹ The qualifying income thresholds for the NCS were raised in Budget 2019,⁷¹⁰ with the maximum net income threshold increased enabling some families with a gross income of €100,000 per annum to qualify for income-related subsidies. There was an increase in the lower income threshold, meaning that maximum subsidy rates will be paid to all families with a net annual income of up to €26,000 (up from €22,700). This means that families on lower incomes or below the relative income poverty line will benefit from the very highest subsidy rates under the new

700 UNCRC, 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 24.

701 Government of Ireland, *A Programme for a Partnership Government*, 77.

702 Government of Ireland, *First 5: Implementation Plan 2019–2021* (Government of Ireland, 2019) 87.

703 Communication Received by the Children's Rights Alliance from Pobal on 21 November 2019.

704 *ibid.*

705 Department of Children and Youth Affairs, *Policy Paper on the Development of a new Single Affordable Childcare Scheme* (DCYA 2016).

706 Communication Received by the Children's Rights from the DCYA, 15 November 2019.

707 Childcare Support Act 2018, s 1.

708 Government of Ireland, *A Programme for a Partnership Government Annual Report 2019* (2019) 58.

709 DCYA, 'Minister Zappone announces €94 million budget package', Press Release, 9 October 2019 <<https://bit.ly/3bN0qUo>> accessed 17 February 2020.

710 Communication Received by the Children's Rights Alliance from DCYA, on 28 January 2020.



Scheme.⁷¹¹ Budget 2020 also increased the weekly hours of subsidised care available for families from 40 to 45 hours for full-time care and from 17.5 hours to 23 hours for children in afterschool care. For parents not working or studying, the number of hours of subsidised care per week was increased from 15 to 20 (this applies only in the case of young children).

The extent to which children will benefit from the targeted subsidy under the NCS will depend on their parents' engagement in training and work. Early childhood organisations and advocacy groups are concerned that children will be negatively impacted by the transition from targeted schemes such as the Childcare Employment and Training Support (CETS) and Community Childcare Subvention Scheme (CCS) to the National Childcare Scheme. Where a parent is not working or participating in training, children are likely to face a reduction in subsidised hours, and for some, the level of subsidy provided by NCS could be considerably less than that available under the previous scheme, for example, CETS.⁷¹² Single Parents Acting for Rights of Kids (SPARK) provided an example of a lone parent who would face increased costs of up to €350 per month to avail of full-time provision (40

hours per week) under the NCS.⁷¹³ In response, the Minister for Children and Youth Affairs, Dr Katherine Zappone TD, announced that she had secured additional funding had been secured to allow these parents to remain on their current schemes until September 2021.⁷¹⁴ In January 2020, the Minister also directed her officials in to undertake research and analysis to examine any adjustments to the NCS might be required to address unusual cases, to protect and benefit lower-income parents.⁷¹⁵ Such research and analysis is welcomed, with a particular focus on the impact of NCS on children from low income families at risk of poverty, including lone-parent families and families experiencing unemployment or disability.

The Child Support 2018 Act enables special provision for vulnerable children by permitting the Minister for Children and Youth Affairs to enter agreements with five named statutory agencies to refer and sponsor children to receive subsidised services, for example, on child welfare or family support grounds, or to support homeless or asylum-seeking families to

711 Communication Received by the Children's Rights from the DCYA, 15 November 2019.

712 Communication Received by the Children's Rights Alliance from One Family on 8 November 2019.

713 Minister for Children and Youth Affairs, Katherine Zappone TD, Oral Answers, Childcare Services, 10 July 2019 [30421/19].

714 Kitty Holland 'Childcare workers and some lone parents dismayed at €94 million package', *Irish Times*, <<https://bit.ly/2uJGm4W>> accessed on 10 February 2020.

715 Communication Received by the Children's Rights Alliance from DCYA on 28 January 2020.

access education and integration supports.⁷¹⁶ The NCS makes special arrangements for some children to be referred for childcare support by a specified 'Sponsor Body', which will make a recommendation for hours of care. In such cases, the family will not be required to satisfy the scheme's eligibility, income or enhanced hours requirements and the Scheme will cover the cost of childcare, with no requirement for any parental co-payment.⁷¹⁷ It is important that these agreements are flexible and child and family-centred, and that the DCYA and the agencies provide the necessary funding to deliver on the NCS's objectives to reduce child poverty and improve child outcomes.⁷¹⁸

As part of the proposed reform of the funding model under *First 5*, the Government committed to developing an appropriate mechanism to control fees charged to parents.⁷¹⁹ The Eurydice 2019 report on Early Childhood Education and Care in Europe revealed that childcare fees are highest in Ireland, the Netherlands, the United Kingdom and Switzerland⁷²⁰ and that across all four jurisdictions there is no regulation of fees and providers have autonomy in setting the price.⁷²¹ The extent to which the NCS can reduce childcare costs for parents depends on a variety of factors such as the rising costs in childcare, service type, level of deprivation and location (county and rural/urban). In 2019, the average weekly fee for a full-day place was €184.36,⁷²² a 3.6 per cent increase on 2018 and the third consecutive year of noticeable fee increases after several years of fee stagnation. Pobal reports that on average, fees charged by services in 'affluent' locations are 39 per cent higher than those situated in disadvantaged areas, and costs are also higher in urban areas than in rural areas (€184.70 and €161.40 respectively for full day-care per week).⁷²³

In September 2019, the Minister for Children and Youth Affairs announced the initiation of a project to develop a new Funding Model for Early

Learning and Care and School Age Childcare and the establishment of an Expert Group to lead this work.⁷²⁴ The purpose of the group is to ensure that the fees charged to parents reflect actual costs and a reasonable profit only, with income used reasonably to provide appropriate terms and conditions for staff in the sector. In addition to the establishment of the Working Group, the publication of an independent review of the cost of delivery of quality childcare in 2020 will provide evidence on the appropriateness of the DCYA's subsidy rates.⁷²⁵ The report will detail the results of a 10-month study into the cost of affordable childcare in Ireland, meeting a commitment within the Programme for Government. The results from a review exploring financial sustainability issues and the potential impact of the regulations in regard to parents' participation in employment or study for children at risk of poverty and social isolation will be finalised in 2020. It is hoped that both studies will provide further understanding and analysis of the cost base of childcare services and play a critical role in helping the Government to address these issues from both policy and budgetary perspectives.

The development of a new funding model, together with the focus on affordability, is welcome. However, consideration needs to be given to making childcare free for low income families living in poverty. In a Resolution of 24 November 2015, the European Parliament called for a 'European Child Guarantee'; this call was re-affirmed in a Resolution of 4 April 2019 on the European Social Fund Plus (ESF+). The Guarantee centres on free access for every child in poverty to quality early childhood care and education, education, health, decent housing and adequate nutrition. The European Commission is currently in the final stages of establishing the Child Guarantee. Recognising the benefits of early years education for children in poverty and the fact that supporting parents to enter training/employment often results in a substantial reduction in family poverty,⁷²⁶ implementing the Child Guarantee in Ireland should involve free childcare for families living in poverty.

716 Childcare Support Act 2018, s 14 and Schedule 2.

717 Government of Ireland, Press Release 'National Childcare Scheme Sponsor Referral' (10 January 2020) <<https://bit.ly/2SW8ycC>> accessed 17 February 2020'.

718 Children's Rights Alliance, Report Card 2019 (2019) 104.

719 Government of Ireland, *First 5, A Whole of Government Strategy for Babies, Young Children and their Families 2019-2028* (Government of Ireland 2018) 143.

720 European Commission, European Commission/EACEA/Eurydice, *Key Data on Early Childhood Education and Care in Europe*, 2019 Edition (Publications Office of the European Union 2019)11.

721 *ibid* 57.

722 Communication Received by the Children's Rights Alliance from Pobal on 21 November 2019.

723 Pobal, *Annual Early Years Sector Profile Report 2018/2019* (Pobal 2019) Chapter 6.

724 DCYA, 'Minister Zappone announces Expert Group to develop a new funding model for early learning and care and school age childcare', Press Release, 18 September 2019 <<https://bit.ly/2UUU06e>> accessed 17 February 2020.

725 Communication received by the Children's Rights Alliance from the DCYA, 20 December 2018.

726 Mary Daly, 'Fighting Child Poverty The Child Guarantee: Briefing Requested by the EMPL committee' (European Parliament 2019) <<https://bit.ly/322LNb7>> accessed 17 February 2020.

► Supporting Quality School-Age Childcare:

A *Programme for a Partnership Government* commits to developing a system to support and expand quality care for school-age children. This includes the use of primary school buildings for school-age care provision and where demand exists, additional capitation to the provision of premises for school-age care, and exploring the potential for community groups and private providers to tender to use school facilities (outside school hours).⁷²⁷ This *Report Card* series has analysed the Government commitment to develop a school-age childcare system because these services are availed of by four and five-year-olds in primary school and Ireland has the highest proportion of four-year-olds in primary school (31%) in the OECD.⁷²⁸ The total number of children availing of school-age childcare (SAC) and the extent of school, community and youth service provision of such services across Ireland is unknown⁷²⁹ with figures from the Pobal Service Profile 2018/19 suggests that a total of 40,588 children are availing of school-age childcare in registered childcare services.⁷³⁰ Pobal also indicates that in 2018, 1,138 children benefitted from subsidised school-aged care, with 1,138 approved registrations on Training and Employment Childcare programmes which are exclusive to school-age children.⁷³¹ Children may also avail of school-age provision under CCS and CCSP; however, the breakdown of these numbers for school-aged childcare is not available in the Pobal dataset.

First 5 builds upon the *Action Plan on School-Age Childcare* Ireland's first policy on school-age services during term-time and out-of-school services during school holiday periods.⁷³² It commits to improved access and affordability for families,⁷³³ the development of quality standards, systems of registration and regulation⁷³⁴ as well as a SAC

qualification for practitioners.⁷³⁵ The Implementation Plan for *First 5* also includes provision for capital investment, including the use of schools and existing community facilities that have suitable environments for high-quality, child-centred school-age childcare.⁷³⁶

There has been significant progress made in the development of school-aged childcare. In February 2019, the Child Care Act 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018 came into effect. Providers of school-age childcare must now register with Tusla.⁷³⁷ Once registered, school-age childcare services can participate in the NCS.

In May 2019, the draft National Quality Standards developed by the National Working Group on School Age Childcare were published as part of public and stakeholder consultation on future regulations and a quality improvement framework for school-age childcare.⁷³⁸ The standards are, at present, non-regulatory quality standards, informed by an international evidence-base and national expertise. It is anticipated that the standards will form the foundation for a quality assurance system for school-age childcare services in Ireland and include criteria on leadership, governance, service management and a programme of activities for SAC settings.⁷³⁹ A detailed consultation on the development of regulations and a quality framework for school-age childcare took place during 2019, and the final report on the consultation will be published in early 2020.⁷⁴⁰

During the 2019 calendar year, 238 applications for capital funding were approved to a total value of €6,255,964 under DCYA Capital Programmes. This included €2.2 million for the development of school-age childcare services, with an additional €4 million allocated to ECCE settings.⁷⁴¹ This level of investment provides the Government with an opportunity to assess and forecast the demand for

727 Government of Ireland, *A Programme for a Partnership Government Annual Report 2019* (2019) 78.

728 Department of Education and Skills, 'Education at a Glance OECD Indicators, A Country Profile for Ireland, September 2018' <<https://bit.ly/2FZ9tEnf>> accessed 24 January 2019, 7.

729 *Inter-Departmental Group, Report on Future Investment in Childcare in Ireland* (DCYA 2015) 56 <<http://bit.ly/1GDVkBn>> accessed 6 February 2017, 56.

730 Pobal, *Annual Early Years Sector Profile Report 2018/2019* (Pobal 2019).

731 *ibid* 34.

732 Department of Children and Youth Affairs and Department of Education and Skills, *Action Plan on School-Age Childcare* (Government publications 2017) 4.

733 Government of Ireland, *First 5: Implementation Plan 2019–2021* (Government of Ireland, 2019) 138.

734 *ibid* 113.

735 *ibid* 109.

736 Government of Ireland, *First 5: Implementation Plan 2019–2021* (Government of Ireland, 2019) 139.

737 Tusla, 'School Aged Services' <<https://bit.ly/2vHCHV4>> accessed 17 February 2020.

738 DCYA, 'Have your say on school age childcare: public consultation launched ahead of national childcare scheme', Press Release, 21 May 2019 <<https://bit.ly/38Dp487>> accessed 17 February 2020.

739 Dublin City University, 'Publication of school age childcare quality standards from National Working Group', Press Release, 21 May 2019 <<https://bit.ly/37wGzFL>> accessed 17 February 2020.

740 Communication Received by the Children's Rights Alliance from DCYA on 28 January 2020.

741 *ibid*.



**The European Child
Guarantee centres on
free access for every
child in poverty to
quality early childhood
care and education,
education, health,
decent housing and
adequate nutrition.**

quality SAC and ECCE services and the capacity in these sectors to meet demand. It also serves to address under- and over-supply in communities around the country through existing public and private facilities and new builds. The *First 5 Implementation Plan* commits to developing the use of schools and existing facilities that have suitable environments for high-quality, child-centred school-age childcare. Pending actions include a survey of a representative sample of schools on the use of school buildings to facilitate after-school care/ clubs, the results of which will inform a review of the Guidelines on the use of School Buildings outside of School Hours.⁷⁴²

⁷⁴² Government of Ireland, *First 5: Implementation Plan 2019–2021* (Government of Ireland, 2019) 84.

Subsidised and School-Age Childcare Immediate Actions for 2020



Continue to increase investment in high-quality ECCE and SAC services through the National Childcare Scheme.



Recognising the benefits of early years education for children in poverty, implementing the European Child Guarantee in Ireland should involve free childcare for families living in poverty.



Adopting a prevention and early intervention approach, ensure that vulnerable children do not lose out on full-time care and after-school care in the negotiation of new agreements with sponsor bodies.



Publish the independent review of the cost of delivery of quality childcare in Ireland.



Complete the survey on the use of school buildings to facilitate after-school care and review the Guidelines on the use of School Buildings outside of School Hours. Make available supports to encourage and assist school-age providers in meeting the draft National Quality Standards.

5.3 Childminding

Section Grade:

C+

➔ Government Commitment

A Programme for a Partnership Government commits to:

Support the development of a phased programme of reforms for childminding.

▶ **Progress: Good**

'Childminding' receives a 'C+' grade in *Report Card 2020*, an improvement on last year's 'C' grade. This reflects the launch of the Draft Childminding Action Plan and the process of public consultation. It is welcomed that only childminders that are registered with Tusla can participate in the National Childcare Scheme as government money should not be used for services that cannot assure the safety and welfare of children. It is important to prioritise the final publication of the Childminding Action Plan in 2020 and support the newly appointed Childminding Coordinator and Development Officers to develop systems of registration and quality assurance. Current figures suggest that less than one per cent of all childminders are registered. Careful attention must be given to the preferences of parents as well as to the development of systems of registration, inspection and quality assurance that are proportionate and appropriate to the home setting.

Young children receiving care and education services in the homes of childminders have the same rights under the UN Convention on the Rights of the Child as children receiving centre-based services, including the right to services that conform to quality standards.⁷⁴³ Young children form secure emotional attachments to their parents or other caregivers from whom they seek and

⁷⁴³ UNCRC 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 23.

require nurturing, care, guidance and protection.⁷⁴⁴ The UN Committee on the Rights of the Child calls on all non-state providers of services (whether for-profit or non-profit) to respect the principles and provisions of the UN Convention. The Committee reminds States of their responsibility for service provision for early childhood development,⁷⁴⁵ and their obligation to monitor and regulate the quality of non-state provision to ensure that children's rights are protected, and their best interests served.⁷⁴⁶

A Programme for a Partnership Government recognises the value of informal childcare for families and supports the development of a phased programme of reforms for childminders. Ireland is the only EU Member State with a large unregulated childminding sector.⁷⁴⁷ Figures from the Growing Up in Ireland Study in 2011, suggest that 24 per cent of three-year-old children were looked after by childminders, either in the childminder's home or the child's home⁷⁴⁸ and 2017 figures from the CSO indicate that 29 per cent of children from birth to 12 years were cared for by an unpaid relative or family friend, childminder, nanny or au pair.⁷⁴⁹ The Draft Childminding Action Plan, published by the Department of Children and Youth Affairs in 2019, suggests that there may be up to 19,400 childminders caring for an estimated 84,000 children.⁷⁵⁰

The Child Care Act 1991 (Early Years Services) Regulations 2016 and the Child Care Act 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018 define a childminding service as a pre-school or school-age service offered by a person who single-handedly takes care of pre-school or school-age children⁷⁵¹ in the childminder's home, for more than two hours per

day, except where exemptions apply.⁷⁵² Those caring for four or more unrelated pre-school children or seven or more children of any age (including school-age children) in the childminder's home are required to register with the Tusla Early Years Inspectorate. The Draft Childminding Action Plan notes that in August 2019 there were 81 childminders registered with Tusla⁷⁵³ and Tusla is of the view that a significant number of paid childminders who are not exempt from regulation remain unregistered.⁷⁵⁴

Parents using a childminding service will qualify for a subsidy under the National Childcare Scheme (NCS) only if that service is registered with Tusla (the 2018 Act provides for access to the NCS only where the service used is Tusla-registered). By registering with Tusla, childminders are open to periodic inspection by Tusla's Early Years Inspectorate. In 2017, the Tusla inspectorate carried out 1,563 inspections, among which were 40 relating to registered childminding services.⁷⁵⁵ Of these, 83 per cent were found to comply with the regulations assessed; however, the report acknowledged the low level of data relating to childminding services.⁷⁵⁶ Childminders are not named as mandated persons with a legal obligation to report child protection concerns to Tusla under the Children First Act 2015. However, registered childminders are required to have a Child

744 *ibid* para 5.

745 *ibid* para 32.

746 *ibid*.

747 European Commission, *Key Data on Early Childhood Education and Care in Europe – 2019 Edition*, Eurydice Report (EU Publications Office 2019) 34.

748 Helen Russell, Frances McGinnity, Éamonn Fahey and Oona Kenny, *Maternal Employment and the Cost of Childcare in Ireland* (ESRI 2018).

749 Central Statistics Office, 'Statistical Release: Module on Childcare', Quarterly National Household Survey (QNHS) (CSO 6 July 2017):

750 Department of Children and Youth Affairs, *Draft Childminding Action Plan* (DCYA August 2019) 21.

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

752 Section 58 of the Child Care Act 1991 specifies a number of instances where a childminder is exempt from registering with Tusla. These include: where a childminder is taking care of a child or children of pre-school age who is (are) related to the minder or to the spouse of the minder; where the children being cared for are all members of the same family (that is, other than the minder's own children); where a childminder is taking care of not more than three pre-school children who are from different families (that is, other than the minder's own children). The Child Care 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018 exempts childminders caring for not more than six children (other than childminder's own children) at the same time and not more than three of these children are of pre-school age. For example, a childminder can care for three pre-school and three school-age children at the same time, or five school-age and one pre-school child at the same time, without having to register with Tusla. Department of Children and Youth Affairs, 'Child Care 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018 – Frequently Asked Questions' <<https://bit.ly/2UWQq50>> accessed 17 February 2020.

753 Department of Children and Youth Affairs, *Draft Childminding Action Plan* (DCYA August 2019)19 <<https://bit.ly/39B9Z74>> accessed 17 February 2020, 19.

754 The Working Group on Reforms and Supports for the Childminding Sector, *Pathway to a Quality Support and Assurance System for Childminding*, Volume 1: Summary Report (2018) 21 <<https://bit.ly/2sHd56f>> accessed 17 February 2020, 21.

755 Tusla, *Early Years Inspectorate Annual Report 2017* <<https://bit.ly/2T6zbud>> accessed 17 February 2020, 20.

756 *ibid* 23.



Safeguarding Statement.⁷⁵⁷ While some unregistered childminders undertake Children First Child Protection Training, there is no requirement for them to do so.

First 5 acknowledges that childminders play an essential role for many parents and the extension of regulations and support to all paid childminders⁷⁵⁸ is central to the reform of the early childhood care and education (ECCE) system under the Strategy. Much progress has been made since the establishment of the Working Group on Reforms and Supports for the Childminding Sector in 2016. The Working Group's report in 2018 made 20 key recommendations to reform the childminding sector in Ireland including:

- Legislative amendments to provide a more comprehensive legal definition of a childminding service, so that childminders caring for one or more children of pre-school and school-age in their own home are required to be Tusla-registered and regulated;
- The development of minimum regulatory standards for childminding services for children from birth to 15 years;
- The development of appropriate quality standards for childminding in line with national quality and curriculum frameworks;
- The establishment of a National Childminding Office to promote implementation of the promised Childminding Action Plan, including the creation of a system of staffed childminding networks to support childminders.⁷⁵⁹

In August 2019, the Minister for Children and Youth Affairs launched the Draft Childminding Action Plan for public consultation. The Action Plan sets out proposals for improving access to high quality and affordable ECCE and school-age childcare through childminding. As part of public consultation, the Minister invited childminders, parents and other stakeholders to share their views through submissions, focus groups with

757 Department of Children and Youth Affairs, 'Child Care 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018 – Frequently Asked Questions' <<https://bit.ly/2UWQq50>> accessed 7 January 2019.

758 Government of Ireland, *First 5, A Whole of Government Strategy for Babies, Young Children and their Families 2019-2028* (Government of Ireland 2018) 9.

759 The Working Group on Reforms and Supports for the Childminding Sector, *Pathway to a Quality Support and Assurance System for Childminding*, Volume 1: Summary Report (2018) <<https://bit.ly/2sHd56f>> accessed 17 February 2020, 13, 24, 27, 35.



**... the extension
of regulations and
support to all paid
childminders is central
to the reform of the
ECCE system ...**

childminders and completion of an online survey.⁷⁶⁰

The Draft Action Plan acknowledges the differences between childminding and centre-based provision and proposes the development of childminder-specific Regulations that are proportionate and appropriate to the home setting. In September 2018, Tusla's Early Years Inspectorate published a document outlining its interpretation of the requirements for childminders' compliance with the 2016 Early Years Services Regulations for pre-school children as part of the new Quality and Regulatory Framework (QRF)⁷⁶¹ with input from Childminding Ireland.⁷⁶² The interpretation of the 2016 Regulations specifically for childminding services, coupled with the dedicated funding to support the registration of childminders with Tusla, are two positive steps to encourage childminding services to register with Tusla. Furthermore, the commitment in *First 5* to conduct a review of the 2016 Regulations and the accompanying QRF considering different settings, including home-based settings, to ensure proportionate regulation.⁷⁶³

In early 2019, a National Childminding Coordinator was recruited who, along with six regional Childminding Development Officers will lead the implementation of the first phase of the forthcoming Childminding Action Plan.⁷⁶⁴ The Action Plan will outline steps to move incrementally towards more comprehensive regulation, support and professional development of childminders, along with a timescale to bring this service into mainstream provision. It is hoped that a formal system of registration and regulation for childminders will add to the range of options open to parents, particularly those who prefer home-based ECCE. A system of registration will support the development of quality measures including a Childminding Development Initiative that provides grants to assist childminders in enhancing the safety and quality of their service through small capital developments, minor adaptations or equipment.

The intention to regulate childminding provision will not only support the health, safety and welfare of children, but also allow parents who use childminders to access subsidies under the NCS where the childminder is a Tusla-registered service provider. This policy is welcome from a children's rights perspective. Public monies should not be used to fund childcare that is of unknown quality and is not subject to regulation and inspection. The NCS offers a significant incentive to encourage childminders to register and the opportunity to receive support to improve the quality of their services.

760 DCYA, 'Minister Zappone launches draft Childminding Action Plan', Press Release, 29 August 2019 <<https://bit.ly/2VOAJKm>> accessed 17 February 2020.

761 Tusla Early Years Inspectorate, *Quality and Regulatory Framework: Childminding* (Tusla 2018).

762 Tusla Early Years Inspectorate, *Report of consultations on the development of the Quality and Regulatory Framework Summary* (Tusla 2018) 5.

763 Government of Ireland, *First 5: A Whole of Government Strategy for Babies, Young Children and their Families 2019-2028* (Government of Ireland 2018) 158.

764 Minister for Children and Youth Affairs, Dr. Katherine Zappone, TD, Written answers, Childcare Services Regulations, 26 March 2019 [13812/19].

Childminding

Immediate Actions for 2020



Publish the finalised action plan on childminding to ensure the gradual reform and support of the childminding sector.

The Government should publish the proposed Action Plan on childminding to reform and support the sector in 2020. The plan must address issues of investment, quality, regulation and inspection as well as outline initiatives to support childminders in improving their facilities and practices to meet appropriate minimum regulatory standards and quality standards.



Prioritise the regulation and registration of childminding services aligned with National Childcare Scheme subsidies.

It is recommended that registration of childminders is prioritised and parents are made aware and supported to avail of registered services in order to access NCS subsidies as outlined in the Childcare Support Act 2018.



Provide adequate resources to Tusla's Early Years Inspectorate to support the registration and regulatory inspection of childminders.

It is essential that Tusla is adequately supported and resourced to manage new childminding registrations. The Early Years Inspectorate will also require adequate resources to develop systems of inspection and quality assurance that are proportionate and appropriate to the home setting.

6

Right to Equality



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

Chapter Grade:

C

6.1 Traveller and Roma Children

Section Grade:

D

➔ Government Commitment

A Programme for a Partnership Government commits to:

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

▶ **Progress: Published but no implementation plan**

'Traveller and Roma Children' is awarded a 'D' grade in *Report Card 2020*, slightly up from last year's 'D-' grade. This grade reflects sustained inequalities in the accommodation circumstances of Traveller and Roma families. In that regard, the publication of the *Traveller Accommodation Expert Review* is positive. It is imperative that concrete measures are undertaken to address its findings in 2020. There has been welcome progress on a number of actions contained in the *National Traveller and Roma Inclusion Strategy 2017-2021*, including the establishment of a pilot project on school attendance, participation and retention. However, the absence of an implementation plan with indicators and an associated timeframe remains a serious concern.

Every child has the right to live free from discrimination and to the protection of their rights irrespective of race, ethnic or social origin or other status of the child or their parent or guardian.⁷⁶⁵ Children have the right to life, survival and development.⁷⁶⁶ 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.⁷⁶⁷ All children have the right to an adequate standard of living which allows them to develop fully – physically, mentally, spiritually, morally and socially.⁷⁶⁸ The State must take measures,

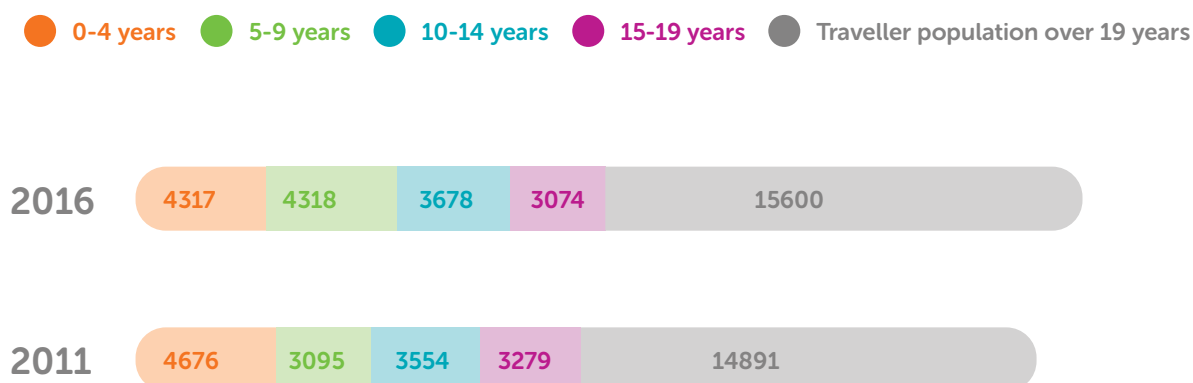
765 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 2.

766 *ibid* Art 6 and 30.

767 *ibid* Art 2.

768 *ibid* Art 27.

Source: Irish Traveller Population Census 2011 and 2016



using its maximum available resources, to ensure this adequate standard of living for all children, including children from ethnic minorities.

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.⁷⁶⁹ 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,⁷⁷⁰ adequate standard of living⁷⁷¹ and health.⁷⁷²

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.⁷⁷³ Through *Better Outcomes,*

Brighter Futures, the Government commits to implement and monitor the former *National Traveller and Roma Integration Strategy*, with a particular focus on Traveller accommodation and the engagement of Roma children in education.⁷⁷⁴ It also commits to tackle health inequalities,⁷⁷⁵ strengthen social inclusion measures,⁷⁷⁶ renew efforts towards improving educational outcomes for Travellers and Roma⁷⁷⁷ and reduce discrimination and intolerance experienced by marginalised groups.⁷⁷⁸

Census 2016 recorded that 30,987 people identified as Irish Travellers representing a five per cent increase since 2011.⁷⁷⁹ In 2016, half of the Traveller population were under the age of 19 years.⁷⁸⁰

There is limited data available on the size of the Roma population in Ireland, but it is estimated to be between 4,000 and 5,000.⁷⁸¹ In a welcome development, Census 2021 will include Roma

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

770 UNCRRC 'Concluding Observations: On the combined third and fourth periodic report of Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 28(a).

771 *ibid* para 60.

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

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

774 *ibid* Commitment 4.19.

775 *ibid* Commitment 1.4.

776 *ibid* Commitment 2.22.

777 *ibid* Commitment 2.22.

778 *ibid* Commitment 5.6.

779 Central Statistics Office, 'Census of Population 2016 – Profile 8 Irish Travellers, Ethnicity and Religion' (Central Statistics Office 2017) <<https://bit.ly/2UDwPH4>> accessed on 10th February 2020.

780 *ibid*.

781 Pavee Point & Department of Justice and Equality *Roma in Ireland: A National Needs Assessment* (Pavee Point 2018) 42.

ethnicity as an individual category.⁷⁸² The *National Roma Needs Assessment* found that members of the Roma community face high levels of discrimination, marginalisation, extreme poverty and social exclusion.⁷⁸³

Reports on Ireland's record under three international human rights conventions were published in 2019.⁷⁸⁴ Each of the three Conventions addresses the State's efforts to combat racism and to protect the human rights of ethnic minorities more generally.

► National Traveller and Roma Inclusion Strategy:

The updated *National Traveller and Roma Inclusion Strategy 2017-2021* (NTRIS) was published in June 2017.⁷⁸⁵ It is organised under 10 strategic themes including one on 'Children and Youth'. The strategy contains 149 actions which if implemented 'holds significant potential to improve the situation and experience of Travellers and Roma in Ireland'.⁷⁸⁶ However, a robust implementation and monitoring mechanism must be put in place. A mid-term review, due in 2019⁷⁸⁷ has to date not been conducted.

A Steering Group was established to oversee the implementation of the actions outlined in the National Strategy.⁷⁸⁸ It is chaired by the Minister of State at the Department of Justice and Equality with special

responsibility for Equality, Immigration and Integration, and includes officials from relevant government departments, as well as Traveller and Roma civil society organisations. Three sub-committees have been established to examine and report on: the need for the collection of data disaggregated by ethnicity across services; the use of mediation in relation to feuds; and the retention of Traveller and Roma children in the education system. The work of the data collection sub-committee ceased following the commissioning of the Economic and Social Research Institute (ESRI) to conduct a mapping and analysis of relevant data held by public bodies.⁷⁸⁹

The second civil society monitoring report on Ireland's progress under the National Strategy was published by the European Commission in February 2019.⁷⁹⁰ According to the report, there has not been a tangible improvement in the situation and experience of Roma and Travellers, and their accommodation circumstances have deteriorated within the wider context of the housing crisis. The civil society report argues that while the Steering Group is welcome, it lacks a rigorous monitoring and evaluation framework.⁷⁹¹ This concern is shared by the UN Committee on the Elimination of Racial Discrimination. In December 2019, the Committee called on the Government to fully implement the National Strategy 'including by developing concrete actions plans with clear targets, indicators, outcomes, time frames and a budget line for the implementation and putting in place a mechanism to coordinate and monitor the implementation'.⁷⁹²

The National Strategy and the *Roma Needs Assessment*⁷⁹³ identify a number of challenges facing Traveller and Roma children and young people including in the areas of discrimination, education and health. This year's *Report Card* focuses on education, housing and criminal justice.

► Education:

The 31 education-related actions set out in the National Strategy aim to tackle the high levels of educational disadvantage experienced by Traveller

782 *Comments of the Government of Ireland on the Fourth Opinion of the Advisory Committee on the implementation of the Framework Convention for the Protection of National Minorities by Ireland*, GVT/COM/IV (2019) 003 (Council of Europe 2019) 5.

783 Pavee Point & Department of Justice and Equality, *Roma in Ireland: A National Needs Assessment* (Pavee Point 2018) 12- 13, 62.

784 European Commission against Racism and Intolerance, *ECRI report on Ireland (fifth monitoring cycle)*, CRI (2019) 18 (Council of Europe 2019); Committee of Ministers, *Resolution CM/ResCMN (2019)14 on the implementation of the Framework Convention for the Protection of National Minorities by Ireland* (Council of Europe 2019); Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined fifth to ninth reports of Ireland*, CERD/C/IRL/CO/5-9 (United Nations 2019).

785 Department of Justice and Equality, *The National Traveller and Roma Inclusion Strategy 2017-2021* (Department of Justice and Equality 2017).

786 Pavee Point, *Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Ireland: Assessing the progress in four key policy areas of the strategy* (European Commission 2019) 7.

787 Department of Justice and Equality, *The National Traveller and Roma Inclusion Strategy 2017-2021* (Department of Justice and Equality 2017) 7, 20.

788 Pavee Point, *Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Ireland: Assessing the progress in four key policy areas of the strategy* (European Commission 2019).

789 *ibid* 7.

790 *ibid*.

791 *ibid* 10-11.

792 Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined fifth to ninth reports of Ireland*, CERD/C/IRL/CO/5-9 (United Nations 2019) para 32.

793 Pavee Point and Department of Justice and Equality, *Roma in Ireland: A National Needs Assessment* (Pavee Point 2018).

and Roma children.⁷⁹⁴ An Education Sub-Committee is tasked with overseeing implementation of actions that address issues such as educational resources on Traveller and Roma culture, measures to improve access and retention rates, teaching supports and training, and anti-racism and anti-bullying initiatives.

School completion rates for Travellers are significantly lower than the general population,⁷⁹⁵ and analysis of census data suggests Travellers benefitted less from overall improvements in educational levels since the 1960s.⁷⁹⁶ The *Needs Assessment*,⁷⁹⁷ found Roma children face significant barriers in education, including financial constraints, yet many Roma families are not deemed eligible for Back to School Footwear and Clothing Allowance due to the Habitual Residence Condition.⁷⁹⁸ Given the high levels of deprivation experienced by the Roma community, it is significant that €500,000 funding was provided in 2019 for seven community-based Roma employment projects.⁷⁹⁹ However, the Habitual Residence Condition continues to pose a barrier to many Roma seeking access to social supports that underpin children's capacity to participate in

education.⁸⁰⁰ A commitment in the NTRIS,⁸⁰¹ that the HSE would review the legislative and policy restrictions preventing Roma with no income from accessing a medical card, has not yet commenced.⁸⁰² The HSE should undertake this action in 2020.

There has been progress on the NTRIS commitment to implement community-based supports aimed at the retention of Traveller and Roma children in the education system.⁸⁰³ A pilot project to improve school attendance, participation and retention commenced at three sites in September 2019. A further site was relocated to Cork for operational reasons and will begin in the first quarter of 2020.⁸⁰⁴ Posts are in place and local pilot steering groups have been established in each area. Each area is supported by two additional posts, an Educational Welfare Officer employed by Tusla, and a Home School Liaison Coordinator employed by the Department of Education and Skills through a nominated school. They are also resourced with two additional Traveller/Roma Education Workers funded by the Department of Justice and Equality and drawn from the local Traveller /Roma communities. A research project to 'establish a baseline scenario of Traveller and Roma students' engagement, attendance, participation and retention has been commissioned. This pilot project will inform future policy initiatives to support children and young people from the Travelling and Roma communities in their education.⁸⁰⁵ Total expenditure for the pilot is approximately €2.2 million.⁸⁰⁶

794 Department of Justice & Equality, *The National Traveller and Roma Inclusion Strategy 2017-2021* (Department of Justice and Equality, 2017). While this report focuses on NTRIS, it should be noted that other government policies address Traveller and Roma education, including the *DEIS Plan 2017: Delivering Educational Opportunity in Schools* (Department of Education and Skills 2017). In a welcome development, the *Action Plan for Increasing Traveller Participation in Higher Education 2019-2021* (Government of Ireland 2019), was launched in November 2019.

795 Central Statistics Office, 'Census of Population 2016 – Profile 8 Irish Travellers, Ethnicity and Religion' <<https://bit.ly/2CGbmTcv>> accessed 12 February 2020.

796 Dorothy Watson, Oona Kenny, and Frances McGinnity, *A social portrait of Travellers in Ireland* (ESRI 2017) 34.

797 Pavee Point & Department of Justice and Equality, *Roma in Ireland: A National Needs Assessment* (Pavee Point 2018) 110-111.

798 Habitual residence in Ireland is a condition that you must satisfy for certain social welfare payments and Child Benefit. This condition took effect from 1 May 2004 and affects all applicants regardless of nationality. Habitual residence means you are residing in Ireland and have a proven close link to the State. The most important factors for providing this link includes: satisfying the right to reside; length of time you have spent in Ireland; continuity of your residence and the general nature of your residence.

799 *Comments of the Government of Ireland on the Fourth Opinion of the Advisory Committee on the implementation of the Framework Convention for the Protection of National Minorities by Ireland*, GVT/COM/IV(2019)003 (Council of Europe 2019) 4.

800 Free Legal Advice Centres, *Annual Report 2018* (Free Legal Advice Centres 2019) 27; Pavee Point, *Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Ireland: Assessing the progress in four key policy areas of the strategy* (European Commission 2019) 25. ECRI has called on the Government 'to implement the recommendation of the UN Committee on the Rights of the Child to make child benefit a universal payment that is not contingent of the fulfilment of habitual residence condition': European Commission against Racism and Intolerance, *ECRI report on Ireland (fifth monitoring cycle)*, CRI(2019)18 (Council of Europe 2019), para 65.

801 Department of Justice and Equality, *The National Traveller and Roma Inclusion Strategy 2017-2021* (Department of Justice and Equality 2017), action 69.

802 Pavee Point, *Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Ireland: Assessing the progress in four key policy areas of the strategy* (European Commission 2019) 26.

803 Department of Justice and Equality, *The National Traveller and Roma Inclusion Strategy 2017-2021*, (Department of Justice and Equality 2017), action 17.

804 Communication received by the Children's Rights Alliance from Tusla, Child and Family Agency, 4 December 2019.

805 *ibid.*

806 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 8 January 2020.

The practice of reduced timetables (reduced school hours) being applied to Traveller children was considered by the Joint Committee on Education and Skills in 2019.⁸⁰⁷ The Department of Education and Skills, in conjunction with the Department of Children and Youth Affairs and Tusla, subsequently began work on preparing guidelines for schools on the use of reduced timetables.⁸⁰⁸ Schools will be obliged to notify Tusla when a reduced timetable is proposed. This will allow the use of reduced timetables to be monitored, and to ascertain the extent of their use. The guidelines are currently being finalised, following consultation with relevant education stakeholders and Traveller representative groups and it is hoped that they will be issued to schools shortly. The purpose of the guidelines is to provide clarity to school authorities and parents/guardians around the use of reduced timetables/reduced days in schools, to ensure that the use of reduced timetables/reduced days is limited to only those circumstances where it is absolutely necessary and, that where such usage occurs, schools follow best practice with the interests of the student to the fore.⁸⁰⁹ While this measure is welcome, it is important that it is underpinned by legislation, which should provide for an appeals process and that use of reduced timetables is addressed in school inspection reports.⁸¹⁰ Roma and Traveller children are more likely to report being bullied⁸¹¹ and many children report hiding their identity.⁸¹² It is therefore, significant that the Department of Education and Skills has commissioned research on bullying experiences of Traveller and Roma children in schools.⁸¹³ A final report is due in May 2020.⁸¹⁴

In a positive development, the Government supported a Private Members' Bill, which aims to formally include Traveller culture and history in the school curriculum.⁸¹⁵ At the end of 2019, the bill had reached Second Stage before Dáil Éireann. The National Council for Curriculum and Assessment (NCCA) has conducted an audit of Traveller culture and history in the current school curriculum, which incorporated consultation with Traveller representative groups.⁸¹⁶ According to the Minister for Education and Skills, the NCCA will source and identify suitable educational resources and materials. When the NCCA report is finalised, DES will be in a position to determine the resources that schools will require in the promotion of Traveller culture and history.⁸¹⁷ It is not clear when the report will be concluded. This audit and the pending report are welcome, but it is important that both Traveller and Roma children and parents are consulted on its implementation. Roma history and culture should also be included in curriculum reform.

There were some positive developments in the area of Traveller and Roma education in 2019. However, the extent to which many NTRIS actions have been progressed is unclear in the absence of a robust accountability mechanism.⁸¹⁸ In 2019, international human rights bodies called on the Government to adopt enhanced measures. Both the Committee on the Elimination of Racial Discrimination (CERD) and the Committee of Ministers, urged the State to develop a Traveller and Roma education strategy.⁸¹⁹ The CERD Committee also called on the Government to publish the 2019 review of the Traveller Education Strategy.⁸²⁰

807 Joint Committee on Education and Skills, *Interim Report on the Committee's Examination on the Current Use of Reduced Timetables* (House of the Oireachtas 2019).

808 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 12 December 2019.

809 *ibid.*

810 Joint Committee on Education and Skills, *Interim Report on the Committee's Examination on the Current Use of Reduced Timetables* (House of the Oireachtas 2019) 17.

811 Department of Children and Youth Affairs, *State of the Nation's Children: Ireland 2016* (Department of Children and Youth Affairs 2016) 58. 40 per cent of the 481 respondents in a 2017 study, reported that they or their children had been bullied at school due to their identity: John O'Mahony, *Traveller Community National Survey 2017* (National Traveller Data Steering Group the Community Foundation for Ireland 2017) 89, <<https://bit.ly/2uBkF6T>> accessed 12 February 2020.

812 Pavee Point & Department of Justice and Equality, *Roma in Ireland: A National Needs Assessment* (Pavee Point 2018) 115.

813 Department of Justice and Equality, *The National Traveller and Roma Inclusion Strategy 2017-2021*, Department of Justice and Equality (2017), action 18.

814 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 12 December 2019.

815 Traveller Culture and History in Education Bill 2018, <<https://bit.ly/2SkrOlg>> accessed 8 February 2020.

816 Minister for Education and Skills, Joe McHugh TD, Seanad Debate, Traveller Culture and History in Education Bill 2018: Report and Final Stages, 16 October 2019. <<https://bit.ly/3bodNKN>> accessed on 11 February 2020.

817 *ibid.*

818 Pavee Point, *Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Ireland: Assessing the progress in four key policy areas of the strategy* (European Commission 2019) 30-34.

819 Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined fifth to ninth reports of Ireland*, CERD/C/IRL/CO/5-9 (United Nations 2019) para 34(b); Committee of Ministers, *Resolution CM/ResCMN (2019) 14 on the implementation of the Framework Convention for the Protection of National Minorities by Ireland* (Council of Europe 2019) 3.

820 Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined fifth to ninth reports of Ireland*, CERD/C/IRL/CO/5-9 (United Nations 2019) para 34(b). Department of Education and Skills completed a desk review of the *Traveller Education Strategy*, which was followed by a consultation workshop with Traveller representative groups in June 2019. According to the Department of Education and

Moreover, the European Commission Against Racism and Intolerance (ECRI) strongly recommended restoration of the visiting teacher service and the provision of specialised resource teachers for Traveller pupils.⁸²¹ These recommendations were echoed by the Joint Committee on Education and Skills, which also sought reinstatement of the Traveller education advisory committee so that issues affecting Traveller progression in education can be brought directly to the Minister.⁸²²

► Housing:

In 2018, around 60 per cent of Traveller families were accommodated by local authorities or lived in housing supported by local authorities (43 per cent lived in local authority housing and 9.5 per cent on local authority halting sites; seven per cent in either voluntary sector or private rental housing with local authority support).⁸²³ Around 20 per cent of families lived in the private rental sector; almost seven per cent were estimated to be accommodated from their 'own resources' and 8.4 per cent were 'sharing housing'.⁸²⁴ The number of Traveller families living on unauthorised halting sites in 2018 was 591 (5.4 per cent of the total).⁸²⁵ This represented an increase of six families on the previous year but of 330 on the 2012 figure. The 2016 Census showed that 40 per cent of Traveller households were living in overcrowded accommodation compared to less than six per cent of households in the general population.⁸²⁶ The Census also showed that Travellers

have a higher risk of experiencing homelessness.⁸²⁷ Moreover, research indicates that Travellers face a high level of discrimination in accessing housing.⁸²⁸

Budget 2020 allocated €14.5 million to Traveller-specific accommodation, an increase of €1.5 million on the previous year.⁸²⁹ Mirroring previous years, in 2018 local authorities drew down just €6.2million of the €12 million funding allocated by the government.⁸³⁰ There was a modest improvement in 2019, with €8.6 million of the €13 million fund drawn down.⁸³¹ In its June 2019 report, the European Commission against Racism and Intolerance stated that it was 'shocked' that this pattern of under-spending continues 'while many Travellers continue to live in squalor and deprivation'.⁸³² It recommended that Ireland find a solution to this failure to spend allocated funding and suggested that options included the imposition of sanctions against local authorities or the removal from them of responsibility for Traveller accommodation and its transfer to a central government body.⁸³³

There are six specific actions on housing and accommodation regarding the Traveller community in the NTRIS, including an undertaking to review the Housing (Traveller Accommodation) Act 1998.⁸³⁴ This commitment was realised in July 2019 with the publication of the *Expert Review Group on Traveller Accommodation*.⁸³⁵ It sets out 32 recommendations, including proposals aimed at addressing the collection of data on and systems for identifying accommodation

Skills, the review showed that many of the recommendations have been implemented and other ongoing recommendations are reflected in current strategies of the Department of Education and Skills and in the education actions of NTRIS: Communication received by the Children's Rights Alliance from the Department of Education and Skills, 12 December 2019.

821 European Commission against Racism and Intolerance, *ECRI report on Ireland (fifth monitoring cycle)*, CRI (2019)18 (Council of Europe 2019), para 75.

822 Joint Committee on Education and Skills, *Report on the Committee's Examination on the Progression of Travellers from Primary, to Secondary- and Third-Level Education* (House of the Oireachtas 2019) 16-17; Joint Committee on Education and Skills, *Interim Report on the Committee's Examination on the Current Use of Reduced Timetables* (House of the Oireachtas 2019) 19.

823 CSO, 'Census of Population 2016 – Profile 8 Irish Travellers, Ethnicity and Religion' <<https://bit.ly/2OLLvQv>> accessed on 10 February 2020.

824 Department of Housing, Planning and Local Government (DHPLG), 'Annual Estimate 2018 - Total Number of Traveller Families in all categories of Accommodation' <<https://bit.ly/2uFFbTZ>> accessed 12 February 2020.

825 *ibid.*

826 CSO, 'Census of Population 2016 – Profile 8 Irish Travellers, Ethnicity and Religion' <<https://bit.ly/2uFFbTZ>> accessed on 10 February 2020.

ly/38jpXCI> accessed on 10 February 2020.

827 Raffaele Grotti, Helen Russell, Éamonn Fahey & Bertrand Maitre, *Discrimination and Inequality in Housing in Ireland* (Irish Human Rights and Equality Commission 2018) ix.

828 *ibid.*

829 Minister of State at the Department of Housing, Planning, Community and Local Government, Damien English TD, Joint Committee on Housing, Planning and Local Government Debate, 5 December 2019.

830 Minister of State at the Department of Housing, Planning, Community and Local Government, Damien English TD, Written Answers, Housing, 28 May 2019 [22780/19].

831 Communication received by the Children's Rights Alliance from the Department of Housing, Planning, Community and Local Government, 17 January 2020.

832 European Commission against Racism and Intolerance, *ECRI report on Ireland (fifth monitoring cycle)* CRI (2019)18 (Council of Europe 2019), para 67.

833 *ibid* para 71.

834 Department of Justice and Equality, *The National Traveller and Roma Inclusion Strategy 2017-2021*, (Department of Justice and Equality 2017), Action 126.

835 David Joyce, Conor Norton, and Michelle Norris, *Traveller Accommodation Expert Review* (Department of Housing, Planning and Local Government 2019).

needs, the planning system, resources and delivery capacity, and governance arrangements. With respect to planning, for instance, the report suggests that in the short term, local authority chief executives should be encouraged to use their emergency powers to provide housing, along with the introduction of legislative provisions to suspend the reserved function of elected members in the approval process for Traveller accommodation. The report underlines that significant governance reforms are necessary. The NTRIS highlights the role of the National Traveller Accommodation Consultative Committee (NTACC) in monitoring delivery of the commitments on accommodation. The seventh NTACC has been established, with its first meeting scheduled to take place on 30 January 2020.⁸³⁶ According to the Expert Review Group, however, the NTACC's current functions are inadequate. It identifies a need for active and ongoing monitoring of the planning and provision of Traveller accommodation and intervention when these functions are not being adequately performed. To that end, it recommends that the NTACC be equipped with additional powers and resources and should be retitled as the National Traveller Accommodation Authority.

The Department of Housing, Planning and Local Government (DHPLG) has commenced a consultation process on the Expert Review Group's proposals and has established subject matter working groups within the Department to consider how best to progress the recommendations.⁸³⁷ A programme board was to be established in late 2019, with responsibility for agreeing which projects to take forward, the scope and timeframe of the projects and overseeing the programme as the projects progress. The Minister of State, the chair of the NTACC, a nominee of Traveller representative organisations,⁸³⁸ and a senior Department official will sit on the board. An envisaged project initiation phase will commence in early 2020. Project teams will be formed and tasked with

completing detailed project plans.⁸³⁹ The Department's prompt response to the Review Group's findings is commendable. A clear plan should be published in due course, detailing actions and timelines.

The *Needs Assessment* found that Roma live in very poor housing conditions and face significant discrimination in accessing accommodation.⁸⁴⁰ The NTRIS does not include actions concerning the housing position of the Roma community.⁸⁴¹ Given the scale of inequalities reported in the *Needs Assessment*, Roma-specific actions should be incorporated in the Strategy.

► Criminal justice:

The NTRIS undertakes to support Travellers and Roma who come into contact with the criminal justice system, but it does not refer to children and young people.⁸⁴² Evidence demonstrates that ethnic minorities, particularly Traveller children, continue to be over-represented in child detention. During the first quarter of 2019, 19 per cent of children in Oberstown Detention Campus were members of the Traveller community.⁸⁴³ The forthcoming Youth Justice Strategy⁸⁴⁴ should ensure that anti-discrimination and equality concerns are addressed and integrated with revised NTRIS actions.

836 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 28 January 2020.

837 Minister of State at the Department of Housing, Planning, Community and Local Government, Damien English TD, Joint Committee on Housing, Planning and Local Government Debate, 5 December 2019.

838 The Irish Traveller Movement (ITM), the National Traveller Women's Forum (NTWF) and Pavee Point are each represented on the NTACC. These organisations were asked to nominate a representative to sit on the programme board, and they recommended Bernard Joyce of ITM: Communication received by the Children's Rights Alliance from the Department of Housing, Planning, Community and Local Government, 17 January 2020.

839 Minister of State at the Department of Housing, Planning, Community and Local Government, Damien English TD, Joint Committee on Housing, Planning and Local Government Debate, 5 December 2019.

840 Pavee Point & Department of Justice and Equality, *Roma in Ireland: A National Needs Assessment* (Pavee Point 2018) 52, 85-92.

841 European Commission against Racism and Intolerance, *ECRI report on Ireland (fifth monitoring cycle)*, CRI(2019)18 (Council of Europe 2019), para 72. Under Actions 141 and 142 of the NTRIS, the Department of Housing, Planning and Local Government undertakes to ensure that Roma are included in the steering groups and consultation processes concerning the development and implementation of Local Economic and Community Plans. Plans address housing requirements in the broader context of economic and community development within each local authority area. However, Roma housing concerns are not specifically addressed in the six accommodation actions under NTRIS.

842 Department of Justice and Equality, *The National Traveller and Roma Inclusion Strategy 2017-2021*, (Department of Justice and Equality 2017), actions 122-125. Children in detention are not specifically mentioned in those actions.

843 Oberstown Children Detention Campus, *Key Characteristics of Young People in Detention: A Snapshot (Q1, 2019)*, <<https://bit.ly/2tOZrJj>> accessed 12 February 2020.

844 Irish Youth Justice Service, 'Youth Justice Strategy' <<https://bit.ly/3bsaXUY>> accessed 12 February 2020.

Traveller and Roma Children Immediate Actions for 2020



Develop and publish an implementation plan for the NTRIS and allocate the necessary resources for its implementation.

There was some progress on the NTRIS actions in 2019. However, a clear implementation plan with indicators is required as a matter of urgency to ensure all of the Strategy's objectives are fully implemented within set timeframes. Traveller and Roma children should be consulted as part of the development of the implementation plan to ensure that their voices as ethnic minority groups are heard.



Review the NTRIS to incorporate the recommendations from the *National Roma Needs Assessment*.

The planned midterm review of the NTRIS, due to take place in 2019, should be expedited and should incorporate actions to address the high levels of discrimination, poverty and marginalisation detailed in the *Needs Assessment*.



Undertake a review of the National Anti-Bullying Strategy in 2020 with a particular emphasis on Traveller and Roma children.

When completed, the findings of commissioned research on the bullying experiences of Traveller and Roma children in schools, should inform a review of the anti-bullying strategy.



Implement the recommendations of the *Expert Review Group on Traveller Accommodation* as a matter of urgency.

To address the significant accommodation issues faced by Traveller families, the report and recommendations of the Expert Group should be implemented as a priority. A clear plan should be published detailing actions and timelines.

6.2 Refugee and Asylum-Seeking Children

Section Grade:

C+

➔ 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: Some**

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

▶ **Progress: Some**

'Refugee and Asylum-Seeking Children' increases from a 'C' to a 'C+' grade in *Report Card 2020*. In a welcome development, the Government has pledged in December 2019 to increase the number of programme refugees to be resettled in Ireland over the next four years. There was also progress on pre-existing resettlement commitments in 2019. The direct provision weekly payment for children increased from €22.60 to €29.80 in March 2019 and *National Standards for accommodation offered to people in the protection process* were published in August 2019. When implemented, the Standards have the capacity to radically improve the experience of children in the protection process. However, these developments were overshadowed by a substantial increase in the number of people placed in emergency accommodation which gave rise to child welfare concerns.

Every child should be free to enjoy their rights without facing discrimination of any kind irrespective of their race, national or ethnic origin or other status.⁸⁴⁵ Children outside their country of origin seeking refugee protection are entitled to appropriate protection regardless of whether or not they are accompanied by their parents/guardians.⁸⁴⁶ The State must take steps to facilitate family reunification where possible,⁸⁴⁷ but in cases where this is not possible, the State must give the same protection to the unaccompanied minor as it would to other

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

846 *ibid* Art 22(1).

847 *ibid* Art 22(2).

children who are separated from their family⁸⁴⁸ or who are placed in state care.⁸⁴⁹ The child's ethnic, religious, cultural and linguistic background must be considered when deciding what is best for that child.⁸⁵⁰ 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 ensure asylum seeking and refugee children have the 'same standards and access to support services as Irish children'.⁸⁵¹

In December 2018, Ireland adopted the *UN Global Compact for Safe, Orderly and Regular Migration*, the first global agreement on a common approach to international migration in all its forms.⁸⁵² It recognises the need for a cooperative approach to optimise the benefits of migration, alongside addressing the risks and challenges of migration for individuals, communities and states.⁸⁵³

The 2018 European Union Regulations governing reception conditions in Ireland require that the best interests of the child be the primary consideration in decisions that impact on children including those made in relation to their accommodation and family situation.⁸⁵⁴ This means that the possibility of family unity, the child's well-being and social development, safety and security considerations, including the risk of human trafficking, and their views in accordance with their age and maturity must be considered when making decisions about them.⁸⁵⁵

► Irish Refugee Protection Programme (IRPP):

The latest figures show that there are 25.9 million refugees worldwide, over half of whom are children.⁸⁵⁶ Despite a global increase in the numbers of people seeking international protection again in 2018, the number of applications for international protection in the EU has declined considerably in recent years, falling from 1.3 million in 2016 to

25.9 million
refugees worldwide



581,000 in 2018.⁸⁵⁷ A third of those applicants were children.⁸⁵⁸ This sharp decrease is a result of several EU measures including a 2016 agreement with Turkey.⁸⁵⁹

Established in 2015, the Irish Refugee Protection Programme (IRPP) comprises several strands.⁸⁶⁰ Ireland met its commitment under the EU Relocation mechanism, which concluded in March 2018, by relocating 1,022 people from Greece.⁸⁶¹ Under the UNHCR-led Resettlement strand of the IRRP, the government ultimately pledged to accept 1,985 programme refugees by end 2019.⁸⁶² That undertaking was close to being met at year end, with 1,913 people

848 *ibid.*

849 *ibid.*

850 *ibid* Art 20(3).

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

852 United Nations, 'Global Compact for Migration' (UN 2018) <<https://bit.ly/2rKyZ4>> accessed 10th February 2020.

853 *ibid.*

854 European Communities (Reception Conditions) Regulations 2018, SI 230/2018, s 9(1).

855 *ibid* s 9(2).

856 United Nations High Commissioner for Refugees, *Global Trends: Forced Displacement in 2018* (UNHCR 2019) <<https://bit.ly/2SiJHRt>> accessed 12 February 2020.

857 Eurostat, 'Asylum statistics' (Eurostat 2019) <<https://bit.ly/2UKFffl>> accessed 10 February 2020.

858 United Nations High Commissioner for Refugees, United Nations International Children's Emergency Fund & United Nations Migration Agency, *Refugee and Migrant Children in Europe: Overview of Trends January-December 2018* (UNHCR 2019).

859 European Commission, *Progress report on the Implementation of the European Agenda on Migration* COM (2019) 481 final (European Commission 2019).

860 Office for the Promotion of Migrant Integration 'Irish Refugee Protection Programme' <<https://bit.ly/2OI8lVO>> accessed 20 February 2020.

861 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 14 January 2019.

862 *ibid.* The initial commitment to resettling 2,240 people was revised to 1,985 in light of commitments under the EU Relocation mechanism.

being resettled under the programme.⁸⁶³ The Government expects to meet the full commitment in early 2020, by accepting 72 people from Lebanon and Jordan.⁸⁶⁴ By 11 December 2019, a further 230 people arrived in Ireland under either the Humanitarian Admission Programme (IHAP) or the Mediterranean Search and Rescue Missions strands of the IRRP.⁸⁶⁵ The Department of Justice and Equality piloted a community sponsorship model of resettling refugees in 2019.⁸⁶⁶ Under this model, private citizens and community groups/community sponsors take leadership in welcoming refugees to their local community. Under the pilot, 21 refugees were settled in five towns across Ireland. An evaluation report has been produced and will be published following review by Community Sponsorship partners.⁸⁶⁷

In December 2019, the Government announced that Ireland will accept up to 2,900 refugees over the next four years under a new phase of the IRPP.⁸⁶⁸ 650 resettlements will occur in 2020, 700 in 2021, 750 in 2022 and 800 in 2023. This is a welcome commitment to increasing resettlement by 20 per cent.

► Unaccompanied Minors:

In 2019, significant numbers of unaccompanied children made perilous journeys to Europe from countries characterised by conflict, violence and human rights violations.⁸⁶⁹ From January to September 2019, 2,100 unaccompanied children arrived by sea in Greece alone.⁸⁷⁰ Over the same period approximately 2,500 children, an estimated 68 per cent of whom were unaccompanied or separated, reached Spain.⁸⁷¹ Children and young people travelling

on their own are extremely vulnerable, many fall victim to abuse and violence, or are trafficked into sexual exploitation or forced labour.⁸⁷²

The Calais Special Project to relocate unaccompanied minors who had previously been living in the unofficial migrant camp in Calais concluded in 2018. A total of 41 children were relocated to Ireland under the project. A further 14 children were accepted under other IRRP programmes. Due to a lack of accommodation, an undertaking to receive 36 unaccompanied minors from Greece in 2019⁸⁷³ could not be fulfilled. This has serious implications as conditions in Greece for unaccompanied minors are so dire.⁸⁷⁴ However, while commitment is likely to be partly realised in 2020, Ireland needs to step up its efforts to ensure that these children are relocated to Ireland.

Refugees accepted through the IRPP are accommodated in two Emergency Reception and Orientation Centres (EROC) where they spend an average of six and a half months.⁸⁷⁵ The initial resettlement timescale anticipated by the Department of Justice and Equality (DJE) was three to four months.⁸⁷⁶ In light of concerns about the provision of education in EROCs, the Ombudsman for Children recommends that children be placed in local mainstream schools without delay to ensure equity in educational outcomes.⁸⁷⁷ In general, primary school age children are provided with on-site education in an EROC school for a period of three months and moved to mainstream schools thereafter, provided they are school ready. In a welcome development, post-primary students are now enrolled in local mainstream school as soon as possible.⁸⁷⁸

863 Department of Justice and Equality, 'Minister Flanagan welcomes Syrian refugee families at Mosney', 30 December 2019, <<https://bit.ly/2w3qA4V>> accessed 3 January 2020.

864 Department of Justice and Equality, 'Ireland commits to a new Refugee Protection Programme', 17 December 2019, <<https://bit.ly/31Md9C8>>, accessed 12 February 2020.

865 Communication received by the Children's Rights Alliance from the DJE, 16 December 2019.

866 Office for the Promotion of Migrant Integration 'Community Sponsorship Ireland' <<https://bit.ly/2ulmjn8>> accessed 12 February 2020.

867 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 16 December 2019.

868 Department of Justice and Equality, 'Ireland commits to a new Refugee Protection Programme', 17 December 2019, <<https://bit.ly/31J9pS4>> accessed 12 February 2020.

869 United Nations High Commissioner for Refugees, *Desperate Journeys, January to September 2019: Refugee and Migrant Children arriving in Europe and how to Strengthen their Protection* (UNHCR 2019).

870 *ibid* 10.

871 *ibid* 12.

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

873 Department of Justice and Equality, 'Minister Flanagan agrees to invite up to 36 unaccompanied minors to Ireland from Greece', 6 December 2018 <<https://bit.ly/37gyllc>> accessed 10 February 2020.

874 UNHCR 'Lone Children Face Insecurity on Greek Island' <<https://bit.ly/3bzc0Cq>> 14 October 2019, accessed 10 February 2020.

875 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 16 December 2019.

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

877 Ombudsman for Children, 'Equal Education for Refugee Children' <<https://bit.ly/37ifFS7>> 20 February 2019, accessed 18 December 2019.

878 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 12 December 2019.

There were significant improvements to the EROC school system in 2019. The Department of Education and Skills has committed to standardise recording and reporting across EROC schools through the use of the DES/ National Educational Psychological Service (NEPS) 'Student Support File'. NEPS has provided a bespoke Student Support File to the EROC school staff and receiving schools to trial. This resource will be finalised following feedback.⁸⁷⁹ NEPS conducted training for supporting refugee children in the EROCs in June with two workshop sessions (in each location) for the receiving primary schools and EROC staff. In addition, both EROCs now have an assigned NEPS psychologist who works with the staff to build teacher capacity, assist teachers in identifying and responding to needs and engages in individual casework where indicated. A Memorandum of Understanding has been agreed between the DES and the Inspectorate of the DES to facilitate evaluation of the quality of educational provision for learners in EROC settings.⁸⁸⁰

The Children's Rights Alliance commissioned a scoping study on the needs of children and young people coming to Ireland under IRRP.⁸⁸¹ The *Safe Haven* report, published in September 2019, involved research with stakeholders and families from Syria. It outlines the impact of experiences before their arrival in Ireland on children's mental health, as well as their post-migratory experiences of resettlement. The report contains several recommendations aimed at ensuring that such children and their families are further supported. It suggests, for example, that an implementation framework for community integration, which includes comprehensive evaluation mechanisms could capture best practice and identify areas for improvement. Staff in EROCs should receive appropriate cultural awareness and anti-racism training prior to commencing their work and have access to Continuous Professional Development (CPD). It further suggests that consideration should be given to resettling families directly into communities upon arrival as happens under community sponsorship. In relation to healthcare, the HSE should be resourced to support staff who work with diverse populations and provide them with intercultural awareness training, as committed to under the *Second*

National Intercultural Health Strategy 2018–2023.⁸⁸²

► Children in Direct Provision:

A 2015 working group report made 173 recommendations aimed at improving the international protection process and direct provision system.⁸⁸³ In a December 2019 report, the Joint Committee on Justice and Equality noted that 'a number of recommendations have and continue to be implemented, but this process remains some way from completion'.⁸⁸⁴

In 2019, there were 39 Direct Provision accommodation centres nationwide.⁸⁸⁵ Of the 6,750 people in Direct Provision at the end October 2019,⁸⁸⁶ at any given time approximately 2,000 residents are children.⁸⁸⁷ The position deteriorated in 2019, at the end of October as 1,433 asylum seekers were living in emergency accommodation, primarily in hotels.⁸⁸⁸ In some instances, protests impeded the process of moving families into housing.⁸⁸⁹ The Government is in the process of procuring additional accommodation centres, which are expected to house 1,500 people.⁸⁹⁰ The Joint Committee on Justice and Equality expressed concerns about government oversight and the provision of services and supports in emergency accommodation, referencing the Children's Rights

882 Health Service Executive, *Second National Intercultural Health Strategy 2018-2023* (HSE 2018).

883 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 Government in October 2014 and was chaired by former High Court Judge, Dr Bryan McMahon. It comprised a number of representatives from government departments, agencies and non-governmental organisations.

884 Joint Committee on Justice and Equality, *Report on Direct Provision and the International Protection Application Process* (House of the Oireachtas 2019) 15.

885 Committee of Public Accounts, *Periodic Report No. 7 April 2019 – July 2019* (Houses of the Oireachtas 2019).

886 *ibid* 18.

887 Joint Committee on Justice and Equality, *Report on Direct Provision and the International Protection Application Process* (House of the Oireachtas 2019) 37.

888 Committee of Public Accounts, *Houses of the Oireachtas, Periodic Report No. 7 April 2019 – July 2019* (2019) 18.

889 Joint Committee on Justice and Equality, *Report on Direct Provision and the International Protection Application Process* (House of the Oireachtas 2019) 27; Darina Daly, '27 asylum seekers to be housed in Co Leitrim', *RTÉ News*, 29 November 2019 <<https://bit.ly/39nd2zN>> accessed 14 January 2019.

890 Department of Justice and Equality, 'Statement on tenders for accommodation centres for international protection applicants', 22 November 2019 <<https://bit.ly/2SyDVda>>, accessed 18 December 2019.

879 *ibid*.

880 *ibid*.

881 Muireann Ní Raghallaigh, Karen Smith and Jennifer Scholtz, *Safe Haven. The Needs of Refugee Children Arriving in Ireland through the Irish Refugee Protection Programme: An Exploratory Study* (Children's Rights Alliance 2019).

Alliance's submission on the absence of mechanisms to secure child protection and welfare.⁸⁹¹

The Daily Expenses Allowance weekly rate rose to €29.80 for children from the week beginning 25 March 2019 and is now in line with the recommendation made by the McMahon Group. Now that the increase is in place for more than six months, it would be worthwhile carrying out a review to determine if the increase is sufficient to cover the needs of children in the protection system.

National Standards for Direct Provision Centres: In August 2019, the DJE published the *National Standards for accommodation offered to people in the protection process*.⁸⁹² These Standards are essential in ensuring that refugee and asylum-seeking children receive a consistent standard of high-quality care in all accommodation centres irrespective of location. Several standards address the rights and needs of children and service providers are obliged to act in the best interests of the child.

Service providers are required to provide families with own-door accommodation with access to private living space, alongside additional sleeping quarters and a family bathroom.⁸⁹³ Adequate and dedicated facilities to support the educational development of each child and young person must be put in place.⁸⁹⁴ Service providers are required to respect children's rights by explaining their rights in an age-appropriate way, hearing and taking into consideration the views of the child in relation to services provided, including through consultation, and facilitating and supporting children to exercise their rights.⁸⁹⁵ The Standards require that each centre provides access to cooking and storage facilities either in a self-contained unit or communal kitchen in tandem with catering options.⁸⁹⁶

891 Joint Committee on Justice and Equality, *Report on Direct Provision and the International Protection Application Process* (House of the Oireachtas 2019) 27-28.

892 Department of Justice and Equality, *National Standards for accommodation offered to people in the protection process* (Department of Justice and Equality 2019). The Standards were published alongside a spending review which noted an increase in expenditure on Direct Provision from €78 million in 2018 to an expected €120 million in 2019. The increase is due to a number of factors, one of which is improvement of accommodation standards. Department of Justice and Equality, *Direct Provision: Overview of current accommodation expenditure* (Department of Justice and Equality 2019) <<https://bit.ly/38ktfpb>> accessed 12 February 2020.

893 *ibid*, Theme 4: Accommodation.

894 *ibid*, Standard 4.6.

895 *ibid*, Standard 6.1.9.

896 *ibid*, Theme 5: Food, Cooking and Catering Facilities.



This issue was raised in 2016 by the UN Committee on the Rights of the Child which called on the State to 'allow for residents [of Direct Provision] to store and cook their own food' as far as possible.⁸⁹⁷ In 2019, 50 per cent of centres had cooking facilities of variable quality.⁸⁹⁸ The DJE aims to ensure that all residents will have cooking facilities by the middle of 2020.⁸⁹⁹

The Standards will be legally binding and subject to monitoring by January 2021. In the interim, contractors will be expected to carry out any mobilisation works required for compliance with the Standards. In November 2019, the Minister announced that a consultative group, which will advise on the implementation of the Standards, was in the process of being established. That group 'will also identify good practice in other European countries, examine international protection and migration trends and advise on developing positive relationships between local communities and the systems for supporting

897 UN Committee on the Rights of the Child 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 66(c).

898 Joint Committee on Justice and Equality, *Report on Direct Provision and the International Protection Application Process* (House of the Oireachtas 2019) 24.

899 *ibid*.

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These Standards are essential in ensuring that refugee and asylum-seeking children receive a consistent standard of high-quality care in all accommodation centres, irrespective of location.

asylum seekers.⁹⁰⁰ A robust monitoring system will be crucial to ensure compliance, and the Standards commit to the establishment of an independent inspectorate.⁹⁰¹ The Joint Committee on Justice and Equality emphasised that such a monitoring body must be independent of the International Protection Accommodation Service (IPAS) and have the authority to perform unannounced inspections, suggesting that the role could be undertaken by the Health Information and Quality Authority (HIQA).⁹⁰²

Ensuring a sufficient supply of appropriate accommodation is challenging in the context of the broader housing crisis.⁹⁰³ Nevertheless, alternatives to direct provision should be prioritised in 2020, given the serious child welfare and protection concerns raised by emergency accommodation and the need to integrate families in their communities. For instance, government procurement processes could be reformed to enable approved housing bodies to provide purpose-built accommodation⁹⁰⁴ and the community sponsorship model could be extended. The Joint Committee has recommended the establishment of an expert group to review and report on best practices from other jurisdictions.⁹⁰⁵

900 Department of Justice and Equality, Statement by Minister for Justice and Equality on Provision of Accommodation and Ancillary Services to applicants for International Protection, Seanad Éireann – 27 November 2019 <<https://bit.ly/2uBjQel>> accessed 12 February 2020.

901 Department of Justice and Equality, *National Standards for accommodation offered to people in the protection process* (Department of Justice and Equality 2019) 5.

902 Joint Committee on Justice and Equality, *Report on Direct Provision and the International Protection Application Process* (House of the Oireachtas 2019) 47.

903 *ibid* 26.

904 *ibid* 24-25.

905 *ibid* 55.

Refugee and Asylum-Seeking Children

Immediate Actions for 2020



Fulfil commitments under the International Refugee Protection Programme.



Ensure the resettlement of 36 unaccompanied minors by the end of 2020 by securing additional appropriate residential accommodation.



Implement without delay measures to transform the Direct Provision system and end the institutionalisation of children and families. In order to transform the Direct Provision system, the Government should:

- End the practice of accommodating children in emergency accommodation.
- Identify an independent inspectorate to support the implementation of the National Standards, monitor compliance and, ensure that refugee children receive a consistent quality of care in reception accommodation centres for people seeking protection.
- Conduct a review to assess the specific material and social protection needs of children in the Direct Provision system.
- Extend the community sponsorship programme piloted in 2019 and ensure that securing alternatives to direct provision is prioritised in 2020.
- Develop and implement a child welfare and protection strategy with a prevention and early intervention focus to address the particular needs of families living in reception accommodation and in Direct Provision centres. Ensure that the redeveloped Prevention, Partnership and Family Support pays particular attention to the needs of children and parents living in emergency Reception and Orientation Centres and Direct Provision accommodation.

6.3 LGBTI+Children and Young People

Section Grade:

B

➔ 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**

'LGBTI+ Children and Young People' receives an 'B' in *Report Card 2020*, down from last year's 'A-' grade. The cross-departmental *LGBTI+ Youth Strategy 2018-2020* was published in 2018 and there was reasonable progress in implementing the Strategy across 2019. However, this is the last year of the current *Programme for Government* and the *National Action Plan on Bullying* has not been reviewed as part of the process. In addition, research published in 2019 by BeLonGTo Youth Services revealed that LGBTI+ bullying is rife throughout second-level schools with over 70 per cent of students reporting that they felt unsafe at school in the past year. These findings point to the need to step up the implementation of the Strategy particularly in education.

Every child has the right to enjoy their rights without discrimination of any kind.⁹⁰⁶ The UN Committee on the Rights of the Child has clarified that discrimination on the grounds of gender identity and sexual orientation is covered by the Convention on the Rights of the Child.⁹⁰⁷ It has called on States, when

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

907 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; UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and UNCRC, 'Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration'

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 intersex⁹⁰⁸ status and adopt laws prohibiting discrimination on those grounds'.⁹⁰⁹ 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'.⁹¹⁰

► LGBTI+ Youth Strategy:

The *National LGBTI+ Youth Strategy 2018 – 2020* was published in June 2018. As the first LGBTI+⁹¹¹ youth strategy in the world, it aims to guarantee a cross-governmental approach to providing additional supports and measures to enhance the lives of LGBTI+ young people and to address some of the key challenges they face in their everyday lives.⁹¹²

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.⁹¹³ The Strategy addresses many of these issues and was informed by a comprehensive consultation process with direct input from young people.⁹¹⁴ The Strategy contains three overarching goals: to create a safe supportive and inclusive environment for LGBTI+

young people; to improve the physical, mental and sexual health of LGBTI+ young people; and to develop the research and data environment to better understand the lives of LGBTI+ young people.⁹¹⁵

There are 15 objectives with 59 actions outlined to help implement these goals with clear responsibility under each action.⁹¹⁶ The Strategy is aligned to the five national outcomes of *Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014-2020*⁹¹⁷ and feeds into that framework's implementation structures.⁹¹⁸ Actions in the Strategy also align with a number of other policies including the *National Sexual Health Strategy 2015 – 2020*⁹¹⁹ and the *National LGBTI+ Inclusion Strategy 2019 – 2021*.⁹²⁰ Published in November 2019, the *National LGBTI+ Inclusion Strategy* 'focuses predominantly on the population and issues not covered by the Youth Strategy, although there are some overlapping actions'.⁹²¹

An implementation report was published by the Department of Children and Youth Affairs (DCYA) in October 2019.⁹²² It covers the first year of the Strategy, that is, June 2018 to June 2019. The report does not evaluate or monitor implementation as such, rather it collates the information supplied by government

(2017) UN Doc CMW/C/GC/3-CRC/C/GC/22 para 21.

908 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 LGBT Ireland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (GLEN and BeLonG To 2016) 19.

909 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.

910 *ibid.*

911 The term LGBTI+ 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 and this has changed from *Report Card 2017* to reflect the official title of the *National LGBTI+ Youth Strategy*.

912 Department of Children and Youth Affairs, *National LGBTI+ Youth Strategy 2018-2020: LGBTI+ young people: visible, valued and included* (Department of Children and Youth Affairs 2018) 2.

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

914 Department of Children and Youth Affairs, *LGBTI+ National Youth Strategy 2018-2020: Report of the Consultations with Young People in Ireland* (Department of Children and Youth Affairs 2018).

915 Department of Children and Youth Affairs, *National LGBTI+ Youth Strategy 2018-2020: LGBTI+ young people: visible, valued and included* (Department of Children and Youth Affairs 2018) 15.

916 *ibid* 18

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

918 Department of Children and Youth Affairs, *National LGBTI+ Youth Strategy 2018-2020: LGBTI+ young people: visible, valued and included* (Department of Children and Youth Affairs 2018) 32.

919 Department of Health, *National Health Strategy 2015-2020* (Department of Health, 2015).

920 Government of Ireland, *National LGBTI+ Inclusion Strategy 2019 – 2021* (Department of Justice and Equality 2019). This Strategy, published in November 2019 'focuses predominantly on the population and issues not covered by the Youth Strategy, although there are some overlapping actions'. For instance, under the subheading *Visible And Included*, two of the actions listed are, "include LGBTI+ matters in relationship and sexual education curriculum review", and "explore opportunities for the appropriate inclusion of LGBTI+ lives in the curriculum as part of curriculum review at both primary and senior-cycle levels".

921 *ibid* 4. For instance, under the subheading *'Visible And Included'*, two of the actions listed are, 'include LGBTI+ matters in relationship and sexual education curriculum review', and 'explore opportunities for the appropriate inclusion of LGBTI+ lives in the curriculum as part of curriculum review at both primary and senior-cycle levels'.

922 Department of Children and Youth Affairs, *First Annual Report on the implementation of the Lesbian Gay Bisexual Transgender Intersex (LGBTI+) National Youth Strategy 2018-2020* (Department of Children and Youth Affairs 2019).

partners outlining their progress on Strategy actions. It acknowledges that '[f]uture reviews of the Strategy should consider how well these actions have been undertaken and their contribution to the realisation of the vision set out in the Strategy'.⁹²³ At that stage, 47 of the 59 Strategy actions had been initiated and plans were in place for initiating a further nine. No information was supplied on two actions, one of which has since been completed.⁹²⁴ The other has apparently not commenced.⁹²⁵ A further action was 'under review' and so its status is not clear.⁹²⁶ Monitoring of the Strategy's implementation occurs through the *National Advisory Council for Children and Young People*.⁹²⁷ To ensure that process is effective, it is imperative that the envisaged timelines and key performance indicators for each of the actions are agreed and published.⁹²⁸ Two distinct implementation mechanisms committed to under the Strategy, an annual Implementation Forum and a Youth Forum, were established in 2019.⁹²⁹ In early 2019, a youth advisory group was formed to advise in the recruitment of a Youth Forum to oversee implementation of the Strategy.⁹³⁰ Two meetings of the Youth Forum took place in 2019, and its members participated in the first annual Implementation Forum, which took place in October 2019.⁹³¹

A number of significant DYCA-led actions were advanced in 2019. A mapping exercise on provision of LGBTI+ youth services was conducted, and €100,000 was allocated for additional hours to youth services

for LGBTI+ young people.⁹³² Capacity building grants of €170,000 in total were awarded to 25 organisations. These organisations range from youth services, family resource centres, sexual health centres, Traveller organisations, art therapy, and other organisations with LGBTI+ specific expertise and knowledge.⁹³³

A key theme in the Strategy relates to educational settings. In consultations, young people highlighted the impact of bullying and harassment, a lack of education on gender, sex and LGBTI+ issues, poor school policies and a lack of gender-neutral bathrooms and uniforms as issues that continue to present challenges.⁹³⁴ Several Strategy actions in this domain were progressed in 2019. In December, for instance, the National Council for Curriculum and Assessment (NCCA) published its review of the relationships and sexual education (RSE) programme in schools.⁹³⁵ The report was produced following an extensive consultation process and its remit included 'LGBTQ+ Matters', at the request of the Minister for Education and Skills. It highlights the need for an integrated approach to LGBTI+ identities and experiences,⁹³⁶ as well as the need for further direction for schools concerning the relationship between RSE education and their ethos.⁹³⁷ Production of a new curriculum is the next phase and it will develop through the NCCA curriculum development structures. When a draft curriculum is produced there will be a further opportunity for public consultation.⁹³⁸ The NCCA has undertaken to prioritise work in this area⁹³⁹ and to 'initiate networking between groups/agencies working to support schools on targeted initiatives, such as consent and LGBTI+ issues'.⁹⁴⁰

According to the 2019 implementation report, the NCCA review will help to inform the development of policies by schools in relation to LGBTI+ issues more

923 *ibid* 26.

924 Action 8d, 'Commence Children and Family Relationships Act 2015, specifically Parts 2, 3 and 9'. Parts 2 and 3 of the 2015 Act provide for the regulation of donor-assisted reproduction, including legal recognition of the parent-child relationship in that context. They will come into effect on 4 May 2020 under the terms of S.I. No. 541/2019 - Children and Family Relationships Act 2015 (Parts 2 and 3) (Commencement) Order 2019. In essence, Part 9 deals with the birth registration of donor-conceived children. It came into operation in 2019 because, in accordance with s 1(7), as amended by section 12 Civil Registration Act 2019, 54 months has elapsed since enactment of the 2015 Act.

925 Action 13b, 'Develop a policy to ensure all health programmes take account of young people who have transitioned, e.g. immunisation programmes (HPV) in line with WPATH or other appropriate professional transgender health guidelines.'

926 Action 1e, 'Develop and pilot a student-centred evidence-based model of peer support for LGBTI+ and their alliances within post primary schools.'

927 Department of Children and Youth Affairs, *National LGBTI+ Youth Strategy 2018-2020: LGBTI+ young people: visible, valued and included* (Department of Children and Youth Affairs 2018).

928 *ibid* 33.

929 *ibid*.

930 Communication received by the Children's Rights Alliance from the DYCA, 15 December 2019.

931 *ibid*.

932 *ibid*. Action 2f of the Strategy.

933 Communication received by the Children's Rights Alliance from the DYCA, 15 December 2019.

934 Department of Children and Youth Affairs, *National LGBTI+ Youth Strategy 2018-2020: LGBTI+ young people: visible, valued and included* (Department of Children and Youth Affairs 2018) 10.

935 National Council for Curriculum and Assessment, *Report on the Review of Relationships and Sexuality Education in primary and post-primary schools* (NCCA 2019).

936 *ibid* 56.

937 *ibid* 37-38.

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

939 National Council for Curriculum and Assessment, *Report on the Review of Relationships and Sexuality Education in primary and post-primary schools* (NCCA 2019) 79.

940 *ibid* 81.

broadly.⁹⁴¹ The Strategy requires the development of whole-school policies to ensure the inclusion of LGBTI+ young people and explore opportunities for the appropriate inclusion of LGBTI+ lives as part of the curriculum review at both primary and senior-cycle levels.⁹⁴² No further measures, aside from the RSE programme review, are recorded under this Strategy action in the implementation report.⁹⁴³ Some progress is noted under the associated commitment to review and update professional development supports for teachers to take account of the Strategy. The Professional Development Service for Teachers offered a newly developed anti-bullying seminar in 2019, which incorporated aspects of LGBTI+ awareness such as homophobic bullying prevention and fostering a respect for diversity and inclusiveness.⁹⁴⁴

The Strategy includes a number of actions to address the mental health needs of LGBTI+ young people, including the development of targeted early intervention initiatives and services to reduce the risk of self-harm and suicide.⁹⁴⁵ This is a necessary inclusion because an LGBT Ireland report found that 35 per cent of the LGBTI+ young people they surveyed experienced severe or extremely severe depression and that young LGBTI+ people self-harm at a rate of more than six times that of LGBTI+ people over the age of 46.⁹⁴⁶ In addition to highlighting ongoing mental health initiatives that target LGBTI+ young people, the 2019 implementation report records that the HSE National Office for Suicide Prevention (NOSP) published a new resource leaflet 'Looking after your mental health for LGBTI+ people'. NOSP also funds three LGBTI+ organisations to conduct work in this area.⁹⁴⁷

2019 saw some progress on the Strategy's commitment to advancing the recommendations of the Review Group for the Gender Recognition Act.⁹⁴⁸ Specifically, the Minister for Employment Affairs and Social Protection published a response to the Review Group's recommendations in November 2019, which outlines plans for legislative change and other measures.⁹⁴⁹ The Government intends to legislate for gender recognition on the basis of self-declaration for trans young people aged 16 and 17 years old with parental consent. Currently, 16 and 17 year olds require medical certification and a court order. There are no plans to legislate for the position of children aged under 16 years. However, the Minister for Employment Affairs and Social Protection will, in conjunction with the Minister for Children and Youth Affairs, commission research to examine issues of concern relating to such children. The Review Group recommended extending legal gender recognition to non-binary people, while acknowledging that a comprehensive impact analysis may be required. An interdepartmental group has been established to carry out an impact assessment and is due to report to government by the end of 2020.⁹⁵⁰

► Review of the Action Plan on Bullying:

An estimated 29,000 young people identify as LGBTI+ representing a sizeable minority of the school population in Ireland.⁹⁵¹ International human rights experts have explicitly stated that 'States must act to overcome prejudice and stereotypes' against LGBTI+ young people 'through anti-discrimination initiatives in schools and public education campaigns'.⁹⁵²

There are initiatives to address homophobic and transphobic bullying in schools, which are supported

941 Department of Children and Youth Affairs, *First Annual Report on the implementation of the Lesbian Gay Bisexual Transgender Intersex (LGBTI+) National Youth Strategy 2018–2020* (Department of Children and Youth Affairs 2019) 38.

942 Department of Children and Youth Affairs, *National LGBTI+ Youth Strategy 2018–2020: LGBTI+ young people: visible, valued and included* (Department of Children and Youth Affairs 2018) 19.

943 Department of Children and Youth Affairs, *First Annual Report on the implementation of the Lesbian Gay Bisexual Transgender Intersex (LGBTI+) National Youth Strategy 2018–2020* (Department of Children and Youth Affairs 2019) 38.

944 *ibid.*

945 Department of Children and Youth Affairs, *National LGBTI+ Youth Strategy 2018–2020: LGBTI+ young people: visible, valued and included* (Department of Children and Youth Affairs 2018) Goal 2, Objective 11.

946 Agnes Higgins et al, *The LGBT Ireland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (Glen & BeLonG To 2016) 107, 110.

947 Department of Children and Youth Affairs, *First Annual Report on the implementation of the Lesbian Gay Bisexual Transgender Intersex (LGBTI+) National Youth Strategy 2018–*

2020 (Department of Children and Youth Affairs 2019) 52.

948 Department of Children and Youth Affairs, *National LGBTI+ Youth Strategy 2018–2020: LGBTI+ young people: visible, valued and included* (Department of Children and Youth Affairs 2018) Goal 1, Objective 1, 2, 6, 8.

949 Department of Employment Affairs and Social Protection, *Gender Recognition Act 2015: Report to the Oireachtas under Section 7 of the Act* (Department of Employment Affairs and Social Protection 2019).

950 *ibid.*

951 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* (Gay and Lesbian Equality Network 2016). <<https://bit.ly/37gYpwk>> accessed on 10 February 2020.

952 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' (17 May 2015) <<https://bit.ly/2tR4Poh>> accessed 12 February 2020.

by the Department of Education and Skills.⁹⁵³ However, research published by BeLonG To Youth Services in November 2019 concluded that 'LGBTI+ bullying is rife throughout second-level schools in Ireland'.⁹⁵⁴ The survey sample consisted of 788 students who identified as LGBTI between the ages of 13 and 20 years. Over 70 per cent of students said they felt unsafe at school in the past year.⁹⁵⁵ The majority (67.8 per cent) of LGBTI+ students reported hearing other students make derogatory remarks frequently in school. Almost half of the survey participants said they heard homophobic remarks from teachers or staff and 45.1 per cent reported that staff never intervened when homophobic remarks were made in their presence. Six in ten LGBTI+ students (59.9 per cent) had been verbally harassed because of their sexual orientation and more than two fifths of LGBTI+ students (44.1 per cent) were verbally harassed at school because of their gender expression. Over 38 per cent of the LGBTI+ students had been physically harassed (e.g. shoved or pushed) at some point at school during the past year.⁹⁵⁶ While the majority of students surveyed (88.2 per cent) reported having an anti-bullying policy in their school, less than one-third of that group said that it mentioned sexual orientation or gender identity or expression.

and consider other forms of bullying and harassment against other children and young people in relation to gender, race, religion or other grounds.

A Programme for a Partnership Government undertakes to review implementation of the National Action Plan on Bullying in schools as an LGBTI+ specific action. There was no progress on this commitment in 2019. Given the results of the BeLonG To study mentioned above, the Department of Education and Skills should conduct this review

953 The 'Stand Up' campaign, run annually by BeLonG To, is a programme aimed at tackling homophobic and transphobic bullying in secondary schools. DES has provided funding to the campaign since 2014 under the Action Plan for Bullying: <<https://bit.ly/37jTNFJ>> accessed 12 February 2020. BeLonG To also received funding from DES in developing the 'All Together Now' programme, which is focused on addressing anti LGBTI+ bullying in primary schools: <<https://bit.ly/38m0d8K>> accessed 12 February 2020.

954 Oren Pizmony-Levy & BeLonG To Youth Services, *The 2019 School Climate Survey Report: The experience of lesbian, gay, bisexual and trans young people in Ireland's schools* (BeLonG To Youth Services 2019) 20 <<https://bit.ly/2Mi299q>> accessed 12 February 2020.

955 *ibid* 20-21.

956 These figures are similar to those reported in a 2016 study conducted with 14 to 18-year olds. Almost half of the 416 participants in that study had experienced anti-LGBTI+ bullying, while 67 per cent had witnessed an incident of anti-LGBTI+ bullying: Agnes Higgins et al *The LGBT Ireland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (GLEN and BeLonG To 2016).

LGBTI+Children and Young People **Immediate Actions for 2020**



Develop and publish timelines and Key Performance Indicators in the first quarter of 2020 for the actions contained in the *LGBTI+Youth Strategy*.

The *LGBTI+ Youth Strategy* has the potential to significantly tackle the inequality and discrimination faced by LGBTI+ children and young people within a clear policy framework. While most actions were initiated during the first year of its operation, clear timeframes, and accountability measures are required. Future implementation reports should provide evidence of progress achieved, and incorporate input from NGOs, other stakeholder and LGBTI+ young people (through the Youth Forum).



Conduct a review of the National Action Plan on Bullying.

The review should be prioritised in light of research demonstrating that LGBTI+ young people experience high levels of harassment and bullying in schools.

Thank you to our partners in helping to produce *Report Card 2020* including The Community Foundation for Ireland, the Tomar Trust, Pobal, the Department of Rural and Community Development and the Katharine Howard Foundation.

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