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# **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

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**Chapter Grade:**

**C**

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# 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.<sup>765</sup> Children have the right to life, survival and development.<sup>766</sup> 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.<sup>767</sup> All children have the right to an adequate standard of living which allows them to develop fully – physically, mentally, spiritually, morally and socially.<sup>768</sup> The State must take measures,

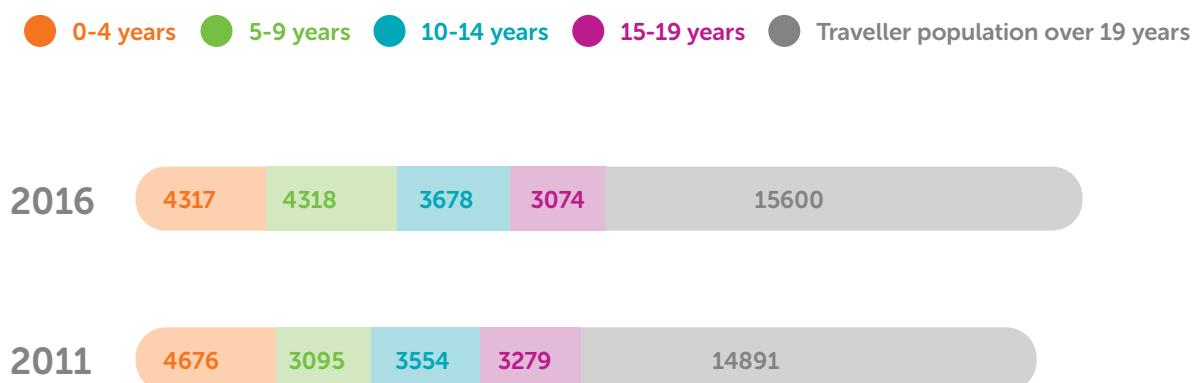
765 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 2.

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.<sup>769</sup> 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,<sup>770</sup> adequate standard of living<sup>771</sup> and health.<sup>772</sup>

*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.<sup>773</sup> 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.<sup>774</sup> It also commits to tackle health inequalities,<sup>775</sup> strengthen social inclusion measures,<sup>776</sup> renew efforts towards improving educational outcomes for Travellers and Roma<sup>777</sup> and reduce discrimination and intolerance experienced by marginalised groups.<sup>778</sup>

Census 2016 recorded that 30,987 people identified as Irish Travellers representing a five per cent increase since 2011.<sup>779</sup> In 2016, half of the Traveller population were under the age of 19 years.<sup>780</sup>

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.<sup>781</sup> 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.<sup>782</sup> The *National Roma Needs Assessment* found that members of the Roma community face high levels of discrimination, marginalisation, extreme poverty and social exclusion.<sup>783</sup>

Reports on Ireland's record under three international human rights conventions were published in 2019.<sup>784</sup> 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.<sup>785</sup> 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'.<sup>786</sup> However, a robust implementation and monitoring mechanism must be put in place. A mid-term review, due in 2019<sup>787</sup> has to date not been conducted.

A Steering Group was established to oversee the implementation of the actions outlined in the National Strategy.<sup>788</sup> 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.<sup>789</sup>

The second civil society monitoring report on Ireland's progress under the National Strategy was published by the European Commission in February 2019.<sup>790</sup> 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.<sup>791</sup> 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'.<sup>792</sup>

The National Strategy and the *Roma Needs Assessment*<sup>793</sup> 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.<sup>794</sup> 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,<sup>795</sup> and analysis of census data suggests Travellers benefitted less from overall improvements in educational levels since the 1960s.<sup>796</sup> The *Needs Assessment*,<sup>797</sup> 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.<sup>798</sup> 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.<sup>799</sup> 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.<sup>800</sup> A commitment in the NTRIS,<sup>801</sup> that the HSE would review the legislative and policy restrictions preventing Roma with no income from accessing a medical card, has not yet commenced.<sup>802</sup> 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.<sup>803</sup> 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.<sup>804</sup> 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.<sup>805</sup> Total expenditure for the pilot is approximately €2.2 million.<sup>806</sup>

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.<sup>807</sup> 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.<sup>808</sup> 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.<sup>809</sup> 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.<sup>810</sup> Roma and Traveller children are more likely to report being bullied<sup>811</sup> and many children report hiding their identity.<sup>812</sup> It is therefore, significant that the Department of Education and Skills has commissioned research on bullying experiences of Traveller and Roma children in schools.<sup>813</sup> A final report is due in May 2020.<sup>814</sup>

In a positive development, the Government supported a Private Members' Bill, which aims to formally include Traveller culture and history in the school curriculum.<sup>815</sup> 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.<sup>816</sup> 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.<sup>817</sup> 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.<sup>818</sup> 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.<sup>819</sup> The CERD Committee also called on the Government to publish the 2019 review of the Traveller Education Strategy.<sup>820</sup>

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.<sup>821</sup> 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.<sup>822</sup>

### ► 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).<sup>823</sup> 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'.<sup>824</sup> The number of Traveller families living on unauthorised halting sites in 2018 was 591 (5.4 per cent of the total).<sup>825</sup> 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.<sup>826</sup> The Census also showed that Travellers

have a higher risk of experiencing homelessness.<sup>827</sup> Moreover, research indicates that Travellers face a high level of discrimination in accessing housing.<sup>828</sup>

Budget 2020 allocated €14.5 million to Traveller-specific accommodation, an increase of €1.5 million on the previous year.<sup>829</sup> Mirroring previous years, in 2018 local authorities drew down just €6.2million of the €12 million funding allocated by the government.<sup>830</sup> There was a modest improvement in 2019, with €8.6 million of the €13 million fund drawn down.<sup>831</sup> 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'.<sup>832</sup> 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.<sup>833</sup>

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.<sup>834</sup> This commitment was realised in July 2019 with the publication of the *Expert Review Group on Traveller Accommodation*.<sup>835</sup> It sets out 32 recommendations, including proposals aimed at addressing the collection of data on and systems for identifying accommodation

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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.

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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.<sup>836</sup> 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.<sup>837</sup> 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,<sup>838</sup> 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.<sup>839</sup> 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.<sup>840</sup> The NTRIS does not include actions concerning the housing position of the Roma community.<sup>841</sup> 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.<sup>842</sup> 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.<sup>843</sup> The forthcoming Youth Justice Strategy<sup>844</sup> 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.<sup>845</sup> 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.<sup>846</sup> The State must take steps to facilitate family reunification where possible,<sup>847</sup> 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 family<sup>848</sup> or who are placed in state care.<sup>849</sup> The child's ethnic, religious, cultural and linguistic background must be considered when deciding what is best for that child.<sup>850</sup> 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'.<sup>851</sup>

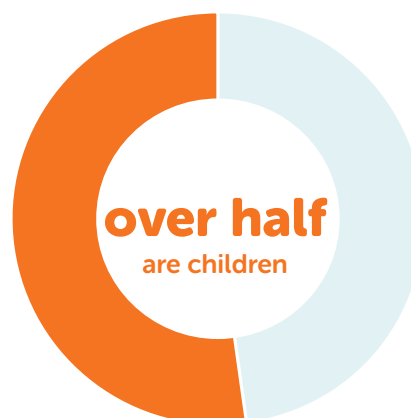
In December 2018, Ireland adopted the *UN Global Compact for Safe, Orderly and Regular Migration*, the first global agreement on a common approach to international migration in all its forms.<sup>852</sup> It recognises the need for a cooperative approach to optimise the benefits of migration, alongside addressing the risks and challenges of migration for individuals, communities and states.<sup>853</sup>

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.<sup>854</sup> 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.<sup>855</sup>

#### ► Irish Refugee Protection Programme (IRPP):

The latest figures show that there are 25.9 million refugees worldwide, over half of whom are children.<sup>856</sup> 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.<sup>857</sup> A third of those applicants were children.<sup>858</sup> This sharp decrease is a result of several EU measures including a 2016 agreement with Turkey.<sup>859</sup>

Established in 2015, the Irish Refugee Protection Programme (IRPP) comprises several strands.<sup>860</sup> Ireland met its commitment under the EU Relocation mechanism, which concluded in March 2018, by relocating 1,022 people from Greece.<sup>861</sup> Under the UNHCR-led Resettlement strand of the IRRP, the government ultimately pledged to accept 1,985 programme refugees by end 2019.<sup>862</sup> 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.<sup>863</sup> The Government expects to meet the full commitment in early 2020, by accepting 72 people from Lebanon and Jordan.<sup>864</sup> 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.<sup>865</sup> The Department of Justice and Equality piloted a community sponsorship model of resettling refugees in 2019.<sup>866</sup> 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.<sup>867</sup>

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.<sup>868</sup> 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.<sup>869</sup> From January to September 2019, 2,100 unaccompanied children arrived by sea in Greece alone.<sup>870</sup> Over the same period approximately 2,500 children, an estimated 68 per cent of whom were unaccompanied or separated, reached Spain.<sup>871</sup> 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.<sup>872</sup>

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 2019<sup>873</sup> could not be fulfilled. This has serious implications as conditions in Greece for unaccompanied minors are so dire.<sup>874</sup> 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 (ERO) where they spend an average of six and a half months.<sup>875</sup> The initial resettlement timescale anticipated by the Department of Justice and Equality (DJE) was three to four months.<sup>876</sup> In light of concerns about the provision of education in EROs, the Ombudsman for Children recommends that children be placed in local mainstream schools without delay to ensure equity in educational outcomes.<sup>877</sup> In general, primary school age children are provided with on-site education in an ERO 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.<sup>878</sup>

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.<sup>879</sup> 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.<sup>880</sup>

The Children's Rights Alliance commissioned a scoping study on the needs of children and young people coming to Ireland under IRRP.<sup>881</sup> 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*.<sup>882</sup>

#### ► Children in Direct Provision:

A 2015 working group report made 173 recommendations aimed at improving the international protection process and direct provision system.<sup>883</sup> 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'.<sup>884</sup>

In 2019, there were 39 Direct Provision accommodation centres nationwide.<sup>885</sup> Of the 6,750 people in Direct Provision at the end October 2019,<sup>886</sup> at any given time approximately 2,000 residents are children.<sup>887</sup> The position deteriorated in 2019, at the end of October as 1,433 asylum seekers were living in emergency accommodation, primarily in hotels.<sup>888</sup> In some instances, protests impeded the process of moving families into housing.<sup>889</sup> The Government is in the process of procuring additional accommodation centres, which are expected to house 1,500 people.<sup>890</sup> 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.<sup>891</sup>

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*.<sup>892</sup> 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.<sup>893</sup> Adequate and dedicated facilities to support the educational development of each child and young person must be put in place.<sup>894</sup> 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.<sup>895</sup> 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.<sup>896</sup>

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.<sup>897</sup> In 2019, 50 per cent of centres had cooking facilities of variable quality.<sup>898</sup> The DJE aims to ensure that all residents will have cooking facilities by the middle of 2020.<sup>899</sup>

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.<sup>900</sup> A robust monitoring system will be crucial to ensure compliance, and the Standards commit to the establishment of an independent inspectorate.<sup>901</sup> 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).<sup>902</sup>

Ensuring a sufficient supply of appropriate accommodation is challenging in the context of the broader housing crisis.<sup>903</sup> 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 accommodation<sup>904</sup> 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.<sup>905</sup>

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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.<sup>906</sup> 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.<sup>907</sup> 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 intersex<sup>908</sup> status and adopt laws prohibiting discrimination on those grounds'.<sup>909</sup> 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'.<sup>910</sup>

### ► LGBTI+ Youth Strategy:

The *National LGBTI+ Youth Strategy 2018 – 2020* was published in June 2018. As the first LGBTI+<sup>911</sup> 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.<sup>912</sup>

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.<sup>913</sup> The Strategy addresses many of these issues and was informed by a comprehensive consultation process with direct input from young people.<sup>914</sup> 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.<sup>915</sup>

There are 15 objectives with 59 actions outlined to help implement these goals with clear responsibility under each action.<sup>916</sup> 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*<sup>917</sup> and feeds into that framework's implementation structures.<sup>918</sup> Actions in the Strategy also align with a number of other policies including the *National Sexual Health Strategy 2015 – 2020*<sup>919</sup> and the *National LGBTI+ Inclusion Strategy 2019 – 2021*.<sup>920</sup> 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'.<sup>921</sup>

An implementation report was published by the Department of Children and Youth Affairs (DCYA) in October 2019.<sup>922</sup> 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'.<sup>923</sup> 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.<sup>924</sup> The other has apparently not commenced.<sup>925</sup> A further action was 'under review' and so its status is not clear.<sup>926</sup> Monitoring of the Strategy's implementation occurs through the *National Advisory Council for Children and Young People*.<sup>927</sup> 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.<sup>928</sup> Two distinct implementation mechanisms committed to under the Strategy, an annual Implementation Forum and a Youth Forum, were established in 2019.<sup>929</sup> In early 2019, a youth advisory group was formed to advise in the recruitment of a Youth Forum to oversee implementation of the Strategy.<sup>930</sup> 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.<sup>931</sup>

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.<sup>932</sup> 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.<sup>933</sup>

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.<sup>934</sup> 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.<sup>935</sup> 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,<sup>936</sup> as well as the need for further direction for schools concerning the relationship between RSE education and their ethos.<sup>937</sup> 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.<sup>938</sup> The NCCA has undertaken to prioritise work in this area<sup>939</sup> and to 'initiate networking between groups/agencies working to support schools on targeted initiatives, such as consent and LGBTI+ issues'.<sup>940</sup>

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.<sup>941</sup> 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.<sup>942</sup> No further measures, aside from the RSE programme review, are recorded under this Strategy action in the implementation report.<sup>943</sup> 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.<sup>944</sup>

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.<sup>945</sup> 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.<sup>946</sup> 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.<sup>947</sup>

2019 saw some progress on the Strategy's commitment to advancing the recommendations of the Review Group for the Gender Recognition Act.<sup>948</sup> 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.<sup>949</sup> 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.<sup>950</sup>

#### ► 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.<sup>951</sup> 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'.<sup>952</sup>

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.<sup>953</sup> However, research published by BeLonG To Youth Services in November 2019 concluded that 'LGBTI+ bullying is rife throughout second-level schools in Ireland'.<sup>954</sup> 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.<sup>955</sup> 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.<sup>956</sup> 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 BelongTo 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.