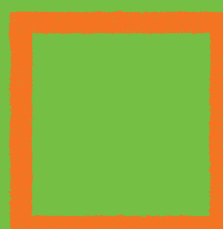
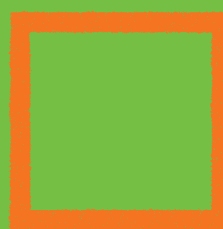
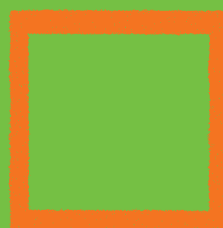


CHILDREN'S
RIGHTS

ALLIANCE

Uniting Voices For Children

report
card
2018



IS GOVERNMENT KEEPING ITS
PROMISES TO CHILDREN?

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

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- National Vetting Bureau
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- Tusla, the Child and Family Agency

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- Barnardos
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- Cybersafe Ireland
- Dental Health Foundation
- Dublin Rape Crisis Centre
- Focus Ireland
- Institute of Guidance Counsellors
- Irish Foster Carer's Association
- Irish Heart Foundation
- Irish National Teachers Organisation
- Irish Refugee Council
- ISPCC
- National Childhood Network

- One Family
- Prevention and Early Intervention Network
- Simon Communities of Ireland
- Society of St. Vincent DePaul
- SpunOut.ie
- St Patrick's Mental Health Services
- Teachers Union of Ireland

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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
- Michael Farrell, Solicitor and Consultant on Human Rights Law
- Sarah Freeman, Director of Policy and Communications, Chambers Ireland
- Catherine Ghent, Solicitor, Gallagher Shatter Solicitors
- Professor Nóirín Hayes, School of Education, Trinity College Dublin
- David Joyce, Equality Officer, Irish Congress of Trade Unions
- Judge Catherine McGuinness, former member of the Supreme Court of Ireland and member of the Council of State
- Gareth Noble, Solicitor, KOD Lyons
- Dr Conor O'Mahony, School of Law, University College Cork

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

Foreword



This is the tenth Report Card and the second under *A Programme for a Partnership Government*. Once again, our independent panel of experts chaired by Judge Catherine McGuinness graded the Government's performance.

The Government is awarded an overall 'C-' grade for living up to its promises to children, an increase on last year's 'D+'. This grade represents a satisfactory attempt, but some children are still left wanting.

Positives include increased funding for the School Meals Programme, progress on developing a LGBTI+ Strategy for lesbian, gay and bisexual young people and introducing the sugar tax on drinks as one child in four is overweight or obese. Paternity Benefit and the proposal to introduce a Family Leave Bill pave the way for a more family-friendly society.

The lowest grade in *Report Card 2018* was a shameful 'E' for 'Child and Family Homelessness' reflecting a national scandal that sees 3,333 children living in homeless accommodation. To halt this crisis the Government must invest in social and affordable housing now.

Solid improvements to our child protection system resulted in the highest grade this year, a 'B'. This reflects the roll-out of new Child Safeguarding Statements to keep children safe from abuse and the speeding up of the vetting process by the National Vetting Bureau. While a new Victims of Crime Act 2017 is welcome, far more support is needed for child victims of crime.

Another standout positive was the announcement of a new Executive Office in the Department of Children and Youth Affairs for the Guardian *ad litem* service, which received a 'C+' grade. Court can be a really daunting place for a child and this service should ensure that children are heard in child care proceedings.

Progress was steady in 'Education' which received one of the higher grades, a 'C'. There was an increase in Special Needs Assistants, the introduction of a new Delivering Equality of Opportunities School (DEIS) Plan 2017 and reform of the School Completion Programme, all positives to keep children at school and improve their educational outcomes.

A low grade, 'D+', is awarded to 'Traveller and Roma Children'. This improvement on last year's grade is due to the Government's recognition of Traveller ethnicity and the publication of the *National Traveller and Roma Inclusion Strategy*. Yet Traveller children leave school on average five years earlier than their settled peers

and are nearly four times more likely to die in infancy. 'Refugee and Asylum-Seeking Children' also receives a 'D+' grade. Ireland has made clear progress on its commitments to relocate and resettle refugees and asylum seekers from Lebanon and Greece. Initial steps to reform the much-criticised Direct Provision system have been taken.

The Government gets a 'C' for the introduction of a universal childcare subsidy for children under three and the publication of the *School-age Childcare Action Plan*. However, two 'D' grades were awarded for 'Rights in Early Childhood' because the promised plan to reform childminding remains undeveloped despite at least 35,000 children experiencing unregulated childminding, and the audit of quality in childcare services did not commence.

Ireland has the fourth highest incidence of teenage suicide in the European Union. Yet 'Mental Health' once again got a 'D+' grade, reflecting the 2,767 children on waiting lists for vital mental health appointments. Six out of 10 children must wait longer than three months and more than one in ten are forced to wait over a year. The publication of the *National Youth Mental Health Task Force Report 2017* and the progression of the review of *A Vision for Change* provided a reprieve.

Overall in health, which got a 'C-', there is little evidence of progress towards the phased extension of free GP care to all children and progress on the dental health package for children under six is slow. The Public Health (Alcohol) Bill, which will protect children, has not yet been enacted.

As *Report Card 2018* shows, Ireland continues to make important strides towards implementing children's rights. But far too many are still left behind. Having a Minister at the Cabinet table, a full government department and a National Policy Framework for Children and Young People (*Better Outcomes, Brighter Futures*) provides Government with the infrastructure to deliver for children. As Ireland moves into uncertain times in 2018 due to Brexit and a deepening housing crisis, it is critical that we do not lose sight of children, nor expect children to pay the price for our failures.

Tanya Ward
Chief Executive

Grading for Report Card 2018

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

825
SCHOOLS
WERE INCLUDED IN
DEIS PROGRAMME

96%
NO CHANGE
PRIMARY SCHOOLS HAVE
RELIGIOUS PATRON

TRAVELLER
INFANT
MORTALITY

3.6 X HIGHER
THAN THE REST OF
THE POPULATION

NEW
SUGAR TAX
INTRODUCED

218,000
ONE PARENT FAMILIES

4 OUT OF 5 PEOPLE
WAITING FOR
PSYCHOLOGIST
APPOINTMENTS ARE
UNDER 15

13
= AGE OF
DIGITAL
CONSENT

31,000
CHILDREN
UNDER 3

BENEFITED FROM
IRELAND'S FIRST
EVER UNIVERSAL
CHILDCARE SUBSIDY

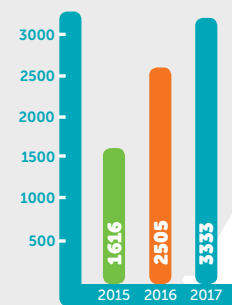
90%
CHILDREN UNDER 6
GET FREE GP CARE

IRELAND IS THE
LAST COUNTRY
IN THE EU TO
SIGN UP TO A
UN PROTOCOL
ABOUT THE SALE
OF CHILDREN

ONLY
122
OUT OF **22,000**
CHILDMINDERS
TUSLA REGISTERED

1300
CHILDREN LIVE IN
DIRECT PROVISION

HALF LGBTI+ YOUTH
IDENTIFIED
DISCRIMINATION
AS MAJOR ISSUE



NUMBER OF HOMELESS CHILDREN

32%
MORE SNAs
IN SCHOOLS SINCE 2011

30,000
FATHERS
APPLIED FOR
PATERNITY BENEFIT

Introduction

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.

The Report Card is a tool for identifying serious issues for children and it scrutinises the Government's own commitments to children flowing from its programme for government.

This is the tenth edition of our annual Report Card series, launched in 2009. Report Card 2018 is the second edition of the new series and the first full year under *A Programme for a Partnership Government*. The commitments selected from *A Programme for Partnership Government* are those that are likely to have the biggest impact on children's rights and that are measurable for the Children's Rights Alliance team.

The research process for *Report Card 2018* involved desk research, semi-structured interviews, analysis of legal judgments and data, and a wide-ranging consultation with member organisations and key stakeholders. In addition, a thorough engagement

took place with various government departments and agencies with responsibility for the commitments concerned. The grading was carried out by a high-level independent assessment panel, comprised of some of Ireland's leading experts in child law and human rights and representatives from business, trade unions, Social Partnership, academia and rural Ireland. *Report Card 2018* contains information up to the end of December 2017.

The Government is awarded an overall 'C-' grade in *Report Card 2018*, an improvement on last year's 'D+' grade. It reflects a satisfactory attempt overall but children are still left wanting. While the highest grades in Report Card 2018 are a 'B' for Child Protection and a 'B-' for LGBTI+ Children, the lowest grade is again awarded for Child and Family Homelessness which received an 'E' in light of the ongoing national emergency in housing. The Children's Rights Alliance acknowledges that important progress has been made in certain areas but in others, progress has stalled or has rolled-back. Next year will mark the mid-point of this Government's term and we look forward to seeing the delivery of significant commitments to children and further progress in the coming year.



1. RIGHT TO EDUCATION

Chapter Grade

C



Cork Life Centre
@CorkLifeCentre



We need to be trauma informed in our education system & we need to tackle gross inequalities #advocacyweek



2 Nov 2017

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



© EQUATE, seeking education for all children in a modern diverse Ireland



IN THE NEWS

MORE THAN 1,000 EXTRA SPECIAL NEEDS ASSISTANTS ALLOCATED FOR NEXT YEAR

Irish Times, 06 December 2017

More than 1,000 extra special needs assistants are to be allocated next year to help ensure all children who require support can access it.

The investment reflects the growing participation of children with special needs in schools, along with greater awareness of conditions and a rising child population. (...)

The move was welcomed by the Special Needs Parents Association which said it would provide much greater certainty for children, parents, schools and SNAs.

Mr Bruton said the new allocations will see the total number of SNAs rise to more than 14,100 by the end of the current school year.

"This investment ensures that every child that needs SNA support can get one," Mr Bruton said.

"I secured an additional €30 million in Budget 2018 to fund the continued development of the SNA scheme with more than 1,000 additional SNA posts being provided for from that funding.

"Furthermore, I have listened to the concerns of schools and of special needs assistants themselves and we are now ensuring that SNA allocations are done earlier in the year, to give certainty to school communities for the following school year." (...) There are 700 more children with special needs entering third level now than two years ago, up 31 per cent.



1.1

Educational Disadvantage

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: Steady

- > Publish a new School Completion Strategy



Progress: Some



'Educational Disadvantage' receives a 'C' grade in Report Card 2018, an improvement on last year's 'D' grade. The publication in 2017 of an updated plan for the Delivering Equality of Opportunity in Schools (DEIS) Programme is a positive development. However, the plan does not address how disadvantaged children not attending a DEIS school can be better supported. Reforms of the School Completion Programme are underway and the recommendations of an Expert Group are due for consideration by the Minister for Children and Youth Affairs. There is uncertainty as to whether a formal School Completion Strategy will be published.

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 further states

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

Educational Disadvantage: In Ireland, a person's socio-economic background remains a strong determining factor in their educational attainment. A person is almost three times more likely to go on to higher education if their parents have higher education than is someone whose parents have not completed second-level education.⁵

Since 2005, the Delivering Equality of Opportunity in Schools (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*

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.
 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' (2017) <<http://dx.doi.org/10.1787/eag-2017-52-en>> accessed 1 November 2017, 6.

and *Young People 2014–2020* commits to ‘consider 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.’⁶ It also commits to ‘strengthen social inclusion measures and re-invigorate efforts to improve educational outcomes among, and integration of, Travellers, Roma and migrant children and young people.’⁷

The *DEIS Review* and the *Delivering Equality of Opportunity in Schools (DEIS) Plan 2017*, which were promised in the *Action Plan for Education 2016–2019*,⁸ were both published in February 2017. The *Review* proposed an objective, statistics-based assessment model to identify and decide on schools for inclusion in the DEIS Programme, based on the socio-economic demographic of each school. It also proposed that the database to support the assessment model be capable of being expanded to provide the Department with the capacity to map the full range of resources available to schools. A further proposal was the development of a Monitoring and Evaluation Framework ‘to ensure the effective and efficient use of the significant resources allocated to schools and to ensure value for money.’⁹

The findings of the *Review* informed the *DEIS Plan 2017* which sets out five key goals with 108 associated actions. These goals include:

- > Implementation of a more robust and responsive Assessment Framework to identify schools and effectively allocate resources;
- > Improve the learning experience and outcomes of pupils in DEIS schools;
- > Improve the capacity of school leaders and teachers to engage, plan and deploy resources to their best advantage;
- > Support and foster best practice in schools through interagency collaboration; and

- > Support the work of schools by providing the research, information, evaluation and feedback to achieve the goals of the Plan.¹⁰

The targeted approach to supporting schools with ‘the highest concentrations of pupils at greatest risk of educational disadvantage’¹¹ is welcome. The review of the new model of resource allocation at the end of the 2017/18 academic year, coupled with improved school data, is also welcome as these should provide a greater insight into the efficiency of the DEIS measures and ensure they are sufficiently targeted. However, while there is a need to increase the number of DEIS schools in the context of increased child poverty rates following the economic crash, there are concerns that resources will be taken from existing DEIS schools to be given to new DEIS schools: were this to happen it would create instability and potentially impact on the lower pupil/teacher ratios in DEIS schools.¹²

In the 2016/17 academic year, 825 schools were included in the DEIS Programme, comprising 640 primary schools (328 in urban areas and 312 in rural locations) and 185 post primary schools.¹³ From September 2017, following the Ministerial announcement, a total of 79 additional schools are included in the DEIS Programme for the first time and 30 Urban Band 2 DEIS schools have been upgraded to Urban Band 1.¹⁴ The schools included for the first time, or upgraded to Band 1 from September 2017, are those which have been identified as being at the same level as the current DEIS category for schools serving the highest concentration of disadvantage. Census 2016 data and 2017 school census returns data will be used to undertake a further assessment of all schools.¹⁵

The gap between DEIS and non-DEIS schools has narrowed in terms of academic achievement, in particular in maths and reading, but the performance of DEIS schools still falls below the overall achievement levels in other schools.¹⁶ Improved retention rates to Leaving Certificate in DEIS schools are evident, with the gap between DEIS and non-DEIS schools

6 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (DCYA 2014) Commitment 2.16.

7 *ibid* Commitment 2.22.

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

9 Department of Education and Skills, *Report of the Review on DEIS* (DES 2017) 35.

10 Department of Education and Skills, *DEIS Plan 2017* (DES 2017) 9.

11 *ibid* 19.

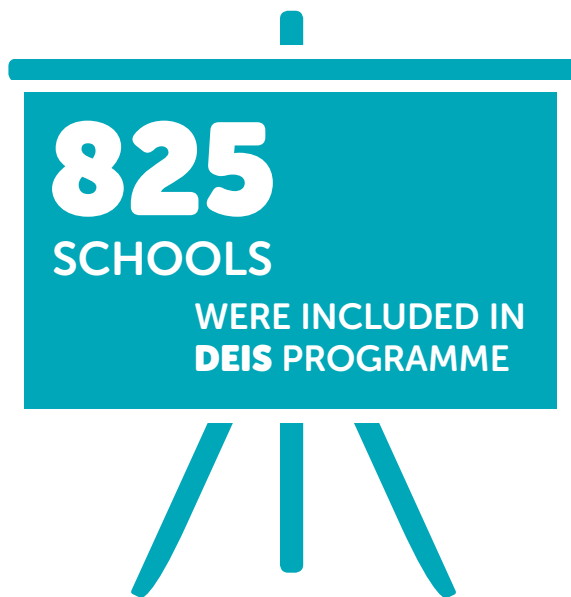
12 Paul Downes, ‘New DEIS action plan: Strengths, weaknesses, issues for further consideration’, *InTouch Magazine* (Dublin, April 2017) 47.

13 Department of Education and Skills, ‘DEIS: Delivering Equality of Opportunity in Schools’ <<http://bit.ly/2kzf8gn>> accessed 27 September 2017.

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

15 *ibid*.

16 Department of Education and Skills, *DEIS Plan 2017* (DES 2017) 24.



halving between 2001 and 2010, falling from 16.8 to 8.5 per cent.¹⁷ However, the average rate of school completion for DEIS schools continues to fall below that of non-DEIS schools.¹⁸ It is welcome that the recent evaluation of the DEIS programme adopted a participatory approach and engaged with children and young people and presented their attitudes and educational expectations.¹⁹ While it is positive that more pupils in DEIS schools than ever before aspired to third level education and had similar aspirations to children in other schools, it is concerning that fewer of them actually expected to be able to go to college.²⁰ Given the targets for increased participation rates in higher education for students from groups which have been

heretofore under-represented,²¹ it is important that young people are encouraged and supported to attend third level education.

A Programme for a Partnership Government also commits to examining how to better support students outside of DEIS, given that a 'significant proportion' of disadvantaged students attend non-DEIS schools.²² The reduction in pupil/teacher ratios in non-DEIS schools due to come into effect in the 2018/2019 academic year,²³ as well as the expansion of the School Meals Programme in 2017 to 180 non-DEIS schools for an additional 35,000 children,²⁴ will go some way towards supporting disadvantaged pupils in all schools but there is no evidence yet of the impact these changes have had. The measures taken by the Department of Education and Skills to reduce school costs,²⁵ and the 25 per cent increase in the Back to School Clothing and Footwear Allowance in 2017,²⁶ are both welcome but have yet to be assessed for impact.

Key strengths of the *DEIS Action Plan 2017* include the commitment to introduce school-based speech and language therapists in line with the Government's commitment to introduce a new in-school speech and language service at primary level²⁷ and the extension of behavioural supports to primary schools.²⁸ However, while mental health services are recognised as important for students, in particular those at higher risk of educational disadvantage, the provision of counselling and other therapeutic supports is not adequately addressed by the new *DEIS Plan*.²⁹ This is despite a growing recognition that emotional and mental health issues, such as anxiety, depression, loneliness, school bullying and violence, school climate, may have a

17 Department of Education and Skills, *Retention Rates of Pupils in Second-Level Schools: 2010 Entry Cohort* (DES November 2017).

18 *ibid.*

19 Department of Education and Skills, *DEIS Plan 2017* (DES 2017) 24.

20 Lauren Kavanagh, Susan Weir and Eva Moran, *The evaluation of DEIS: Monitoring achievement and attitudes among urban primary school pupils from 2007 to 2016* (Educational Research Centre 2017) 37.

21 Department of Education and Skills, *DEIS Plan 2017* (DES 2017) 8.

22 Emer Smyth et al, *Review of the School Completion Programme*, Research Series Number 44 (ESRI 2015) 79.

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

24 Department of Education and Skills, 'Ministers Varadkar & Bruton announce €3M expansion of school meals programme' <<https://www.education.ie/en/Press-Events/Press-Releases/2017-Press-Releases/PR17-03-27.html>> accessed 8 November 2017.

25 Department of Education and Skills, 'Circular 0032/2017: Measures to be adopted by schools to reduce the cost of school uniforms and other costs' <<http://bit.ly/2AWBxXM>> accessed 8 November 2017.

26 Department of Social Protection, 'Varadkar increases Back to School allowance by 25%', <<http://bit.ly/2kBWGeR>> accessed 12 December 2017.

27 Department of the Taoiseach, *A Programme for a Partnership Government 2016* (Department of the Taoiseach, 2016) 76.

28 Paul Downes, 'New DEIS action plan: Strengths, weaknesses, issues for further consideration', *InTouch Magazine* (Dublin, April 2017) 46.

29 *ibid.*

significant impact on a child's well-being and success at school³⁰ as well as being risk factors for early school leaving.³¹

Implementation of the *DEIS Plan 2017* began in the 2017/18 school year. Additional funding of €5 million was provided in 2017, bringing the total to €115 million in a full year.³² A further €11.5 million will be provided in 2018.³³ While the dedicated funding is welcome, the previous DEIS plan specified funding over a five-year period.³⁴ A similar timeframe is not articulated in the new *DEIS Plan*.

School Completion: In the context of a general improvement in second-level retention rates, the stated policy aim is to increase the rate of 82.7 per cent in DEIS schools to the national norm of 90.2 per cent, by 2025.³⁵ Overall, Ireland has the third highest completion rates for girls at 92 per cent and the second highest for boys at 90 per cent 'among countries and economies with comparable data' in the OECD.³⁶

The current School Completion Programme (SCP) was established in 2002 and expanded to include all DEIS schools under the 2005 *DEIS Action Plan* with the aim of increasing the number of young people completing primary and second level schooling. The Programme has 124 local projects and operates in 467 primary schools, 224 post-primary schools nationwide and is linked to 12 projects funded under the SCP.³⁷ Funding in the 2017/18 academic year for SCP is €24.756 million while funding for the following year is

under consideration.³⁸ The Programme fulfils a critical role in improving school retention rates: not only is it concerned with monitoring attendance, but it also aims to foster 'socio-emotional wellbeing through in-school support and therapeutic interventions' and to provide in-school learning supports and interventions, such as homework clubs.³⁹

Informed by a 2015 review by the Economic and Social Research Institute (ESRI),⁴⁰ the SCP is now undergoing reform, in particular in relation to its governance structure and revised model of employment.⁴¹ In summer 2017, an Expert Group, established to consider priority recommendations,⁴² submitted proposals to the Board of the Child and Family Agency, Tusla and the Minister for Children and Youth Affairs.⁴³ These proposals are being considered by the Minister.⁴⁴ In light of ongoing reform, the recognition by the Minister that the 'emotional stability of the young person is critical' to ensuring continued engagement and school completion,⁴⁵ is welcome. While it is positive that there is a clear commitment to consult widely with the educational welfare sector and experts in early 2018,⁴⁶ reform of the SCP must also be child-centred and informed by a meaningful consultation with children and young people.

A Programme for a Partnership Government committed to publishing a School Completion Strategy intended to deal with issues related to funding, management, governance and the delivery of core and optional activities to be provided under the SCP.⁴⁷ As well as

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- 30 Rodger Kessler, 'Identifying and screening for psychological and comorbid medical and psychological disorders in medical settings', *The Journal of Clinical Psychology*, (Wiley-Blackwell 2009) 65(3), 253–267.
- 31 C.V. Quiroga et al, 'Grade retention and seventh-grade depression symptoms in the course of school dropout among high-risk adolescents', (*Psychology* 2012) 3, 749–755.
- 32 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 1 December 2017.
- 33 *ibid.*
- 34 Department of Education and Science, *DEIS (Delivering Equality of Opportunity in Schools) An Action Plan for Educational Inclusion: Summary* (DES 2005) 5.
- 35 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016–2019* (DES 2016) 28. The current rate of retention is 84.1 per cent for DEIS schools (2010 entry cohort) compared to the national norm of 91.2 per cent. Department of Education and Skills, *Retention Rates of Pupils in Second-Level Schools 2010 Entry Cohort* (DES 2017) 3.
- 36 OECD, Education at a Glance 2017 – Country Note: Ireland <<http://bit.ly/2k295cs>> accessed 6 November 2017.
- 37 Information provided by Tusla Education Welfare Service to the National Advisory Council on Children and Young People, 22 November 2017.
- 38 Minister for Children and Youth Affairs, Dr Katherine Zappone TD, Written Answers, School Completion Programme, 25 October 2017 [45200/17].
- 39 Emer Smyth et al, *Review of the School Completion Programme*, Research Series Number 44 (ESRI 2015) x.
- 40 *ibid.*
- 41 Minister for Children and Youth Affairs, Dr Katherine Zappone TD, Priority Questions, School Completion Programme, 28 November 2017 [50382/17].
- 42 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017. The Child and Family Agency, Tusla and the Department of Children and Youth Affairs prioritised the recommendations for consideration by the Expert Group.
- 43 *ibid.*
- 44 *ibid.*
- 45 Minister for Children and Youth Affairs, Dr Katherine Zappone TD, Priority Questions, School Completion Programme, 28 November 2017 [50382/17].
- 46 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.
- 47 Department of Education and Skills, *DEIS Plan 2017* (DES 2017) 50.

improved pupil retention in schools, the stated aim of the proposed strategy was to avoid duplication, provide greater out-of-school activities, and improve collaboration between relevant government departments and Tusla in the delivery of the School Meals Schemes.⁴⁸ While the *DEIS Plan 2017* reiterated the commitment to a strategy and set a target date of 2017 for it to be published, the Department of Children and Youth Affairs has since indicated that a decision on 'progressing or otherwise with a formal strategy' will be made only once a decision is made on reform of the SCP.⁴⁹ The drawback of focusing on the SCP is that this programme is limited to DEIS schools, whereas an overarching strategy could address school completion across all schools.⁵⁰

Supports to improve school completion and retention rates, including the SCP, must go beyond the current model to encompass more than formal education, in keeping with the definition of education set out by the UN Committee.⁵¹ High rates of school suspensions and expulsions must be addressed to enhance young people's experience of school⁵² and the Education and

Welfare Service must be adequately staffed to ensure that it can manage an increasing workload.⁵³ While there is an understandable focus on the numbers of children missing school or leaving before they complete their Leaving Certificate, there is a need for a greater emphasis on identifying and addressing the reasons why some children and young people disengage from the formal education system and why their needs are not being catered for in the mainstream system.⁵⁴

Overall, Ireland has the third highest completion rates for girls at 92 per cent and the second highest for boys at 90 per cent 'among countries and economies with comparable data' in the OECD.

48 *ibid.*

49 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

50 Minister for Children and Youth Affairs, Dr Katherine Zappone TD, Written Answers, School Completion Programme, 28 March 2017 [15223/17].

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

52 Aine Hyland, 'Opinion: We have an unacceptably high level of school suspensions and expulsions', *The Journal.ie* (27 November 2017) <<http://bit.ly/2CzSMKF>> accessed 18 December 2017.

53 By the end of 2017, the Education and Welfare Service will have 90 Education Welfare Officers (EWOs) and this is due to rise to 100 by the end of 2018. Currently, the EWO staffing level means that the pupil-EWO ratio is 50:1 and the increase will reduce the ratio to 40:1. Information provided by Tusla Education Welfare Service to the National Advisory Council on Children and Young People, 22 November 2017.

54 Department of Education and Skills, 'Reports on School Completion and School Leaving show majority of students entering Higher and Further Education' (24 March 2016) <<http://bit.ly/2kimUOK>> accessed 2 February 2017.

Educational Disadvantage

Immediate Actions for 2018



IMPLEMENT THE DEIS PLAN AND MONITOR ITS EFFICACY IN IMPROVING OUTCOMES FOR PUPILS.

Ensure that an adequate monitoring and evaluation system is put in place with tangible indicators to monitor ongoing implementation, in order to improve and adapt the system and ensure the continuous improvement of the DEIS scheme.

COMPLETE THE REFORM OF THE SCHOOL COMPLETION PROGRAMME IN 2018.

Reforms in school completion should be prioritised to ensure that the School Completion Programme is effectively run, adequately staffed with trained personnel, and sufficiently funded to work with children and young people at risk of early school leaving.

1.2

Religious Diversity in Schools

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: Some

'Religious Diversity in Schools' receives a 'C-' grade in Report Card 2018, a slight improvement on a 'D' grade last year. This reflects the clear commitment from Government to enact promised legislation and address the so-called 'baptism barrier'. However, the revised School Admissions and Excellence Bill has not been published. While some new multi-denominational schools have opened, the number falls below the Government's own target and there has been little movement to progress the divestment of Catholic schools to new patrons.

Every child has a right to education 'on the basis of equal opportunity'⁵⁵ and the right to respect for their freedom of thought, conscience and religion.⁵⁶ 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.⁵⁷ In 2016, the UN Committee on the Rights of the Child encouraged Ireland to promote the establishment of non-denominational or multi-denominational schools and to amend existing legislation to eliminate discrimination in school admissions.⁵⁸ Census 2016 highlights the increase in the number of people who identified as having no religion or a religion other than Catholic. People who have no religion represent 10 per cent of the general population.⁵⁹ In 2016, there was a 28 per cent increase in the number of people identifying as Muslim and a

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

56 *ibid* Art 14(1).

57 *ibid* Art 2.

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

59 Central Statistics Office, 'Census 2016 – Chapter 8 'Census 2016 - Irish Travellers, Ethnicity and Religion', (Central Statistics Office 2017).



PRIMARY SCHOOLS HAVE RELIGIOUS PATRON

37 per cent increase in people identifying as Orthodox, each representing just over one per cent of the population.⁶⁰

Non- and multi-denominational schools: The UN Committee's 2016 recommendation called on the State to 'expeditiously undertake concrete measures to significantly increase the availability of non-denominational and multi-denominational schools'.⁶¹ A non-denominational school is defined as a school under the patronage of a secular body and has a secular ethos.⁶² Multi-denominational schools 'do not provide religious education as formation, during the school day, but do provide education about religions

and beliefs.⁶³ 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 2030.⁶⁴ This equates to approximately 18 schools per year; to date, eight multi-denominational primary schools and 10 multi-denominational post-primary schools have opened.⁶⁵

The majority of publicly funded schools in the Irish education system are denominational in nature with 95.8 per cent of primary schools in the 2017/18 academic year having a religious patron.⁶⁶ Ninety per cent of all primary schools remain under the patronage of the Catholic Church and six per cent are run by minority religions.⁶⁷ At post-primary level, 49 per cent of denominational schools are run by the Catholic Church with a further four per cent run by another denomination.⁶⁸ There are over 3,000 primary schools overall, of which 113 are multi-denominational,⁶⁹ and 19 are described as inter-denominational⁷⁰ but in five counties in Ireland, there is no alternative to denominational primary school provision.⁷¹ In a welcome development, the Education and Training Boards (ETBs) announced in September 2017 that children in its 11 multi-denominational Community National Schools would no longer be separated for faith formation and sacramental preparation.⁷² However, the continued reliance on religious patrons to run the public education system, in particular the Catholic Church, means that children of no faith or minority religions, depending on where they live, may be very limited in their choice of a school that reflects their own belief system.

60 *ibid.*

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

62 The Forum on Patronage and Pluralism in the Primary Sector, *Report of the Forum's Advisory Group* (DES 2012) 5.

63 *ibid.*

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

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

66 Department of Education and Skills, 'Minister Bruton Sets Out Approach to Remove Religion as a Criteria in Admissions process' (28 June 2017) <<http://bit.ly/2op5tpo>> accessed 16 October 2017.

67 *ibid.*

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

69 *ibid.*

70 Department of Education and Skills, 'Minister Bruton Sets Out Approach to Remove Religion as a Criteria in Admissions process' (28 June 2017) <<http://bit.ly/2op5tpo>> accessed 16 October 2017. The 19 schools with inter-denominational ethos include 13 Irish-medium primary schools under the sole patronage of An Foras Pátrúnachta. The remaining inter-denominational schools are under the joint patronage of a Catholic Bishop and Church of Ireland Bishop or the joint patronage of the Church of Ireland and the Presbyterian Church in Ireland.

71 Communication received by the Department of Education and Skills, 1 December 2017.

72 RTE News Online, 'Community schools to phase out religious separation' (RTE 22 September 2017) <<http://bit.ly/2yuSKCS>> accessed 18 December 2017.

One third of the 2030 target of 400 schools is expected to be achieved through the opening of new schools;⁷³ the New Schools Reconfiguration process, announced by the Minister of Education and Skills in January 2017, is aimed at delivering the target.⁷⁴ However, it is essential to ensure that the new Schools Reconfiguration process includes both multi-denominational as well as non-denominational schools to ensure that no child faces discrimination based on their religion or that of their parents.

Divestment/Reconfiguration: The Forum on Patronage and Pluralism in the Primary Sector, established in 2011, examined how the education system could best provide a sufficiently diverse number and range of schools nationwide for children of all religions and none. To date, only 10 schools have been divested to multi-denominational patrons.⁷⁵ In January 2017, the Minister for Education and Skills, Richard Bruton TD, announced the New Schools Reconfiguration for Diversity process to provide more multi-denominational and non-denominational schools by working through the ETBs.⁷⁶ The ETBs were asked to identify schools for transfer where there is a level of parental demand to warrant it, by consulting patrons on how existing schools could be reconfigured.⁷⁷ Protocols to cover the identification phase by ETBs and the execution of transfer are in development.⁷⁸ Transfers will be managed by the existing patrons in conjunction with school communities and prospective patron bodies.⁷⁹ However, the decision-making power afforded to the current landowner, in many cases the existing patron, to determine the multi-denominational patron to which a school will be transferred is at odds with the constitutional right of parents to decide the type of school their children attend.⁸⁰ Given that the vast majority of primary schools in the country are under the patronage and ownership of one denomination, decisions on patronage should be undertaken by an independent body to ensure a more transparent and independent approach.

Publicly funded education should be based on the rights and needs of children and, in particular, on the best interests of the child, rather than those of patrons. While these may overlap, the child's best interests should always be the starting point. The wishes of parents as well as children and young people themselves should be at the forefront of any plan in this area and the decision-making process on patronage should be transparent, independent and fair.

School Admissions: The Equal Status Acts 2000–2015 prohibit religious discrimination in the provision of goods and services but provide an exemption to schools with a religious ethos to give preference to students of that religious denomination, or refuse admission to students of other or no religion in order to preserve the school's ethos.⁸¹ This barrier is often referred to as the 'baptism barrier' due to the high proportion of Catholic schools and the lack of alternatives for families of different or no faiths. In cases of oversubscription in a denominational school, it can prioritise the admission of a child with a baptismal certificate over a child of a different or no religion. In one study, a quarter of parents stated that they baptised their child to ensure that they got a place in a local school.⁸² In 2016, the UN Committee recommended that the State amend the 'existing legislative framework to eliminate discrimination in school admissions,

The decision-making power afforded to the current landowner, in many cases the existing patron, to determine the multi-denominational patron to which a school will be transferred is at odds with the constitutional right of parents to decide the type of school their children attend.

73 Department of Education and Skills, 'Minister Bruton announces new plans to accelerate provision of multi- and non-denominational schools' (30 January 2017) <<http://bit.ly/2kOoRsL>> accessed 1 February 2017.

74 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 22 December 2017.

75 Minister for Education and Skills, Richard Bruton TD, Written Answers, School Patronage, 22 November 2017 [49523/17].

76 Department of Education and Skills, 'Minister Bruton announces new plans to accelerate provision of multi- and non-denominational schools' (30 January 2017) <<http://bit.ly/2kOoRsL>> accessed 1 February 2017.

77 *ibid.*

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

79 *ibid.*

80 Irish Constitution, Art 42.3.1°. This provision states that 'The State shall not oblige parents in violation of their conscience and lawful preference to send their children to schools established by the State, or to any particular type of school designated by the State.'

81 Equal Status Act 2000, s 7.

82 EQUATE, *Religion and School: Parents' voices* (EQUATE 2017) 11.

including the Equal Status Act.⁸³ *Better Outcomes, Brighter Futures: The National Policy Framework on Children and Young People 2014–2020* commits to reducing discrimination and intolerance of all types experienced by marginalised groups including those from religious minorities.⁸⁴

The Education (Admission to Schools) Bill 2016 aims to 'increase the transparency and fairness of school admissions'.⁸⁵ It proposes to ban school admission waiting lists and admission fees. However, section 7 of the Bill, as originally published, retained the exemption, set out above, under the Equal Status Acts.⁸⁶ To address the baptism barrier, in January 2017, the Minister for Education and Skills, Richard Bruton TD, initiated a public consultation based on four potential options to address the issue.⁸⁷ In response, more than 1,000 submissions made to the Department of Education and Skills, revealed no consensus on a preferred approach to address the role of religion in admissions policies for schools.⁸⁸

In June 2017, the Joint Oireachtas Committee on Education and Skills following its pre-legislative scrutiny process, recommended that 'the relevant legislation is, at the very least, amended so that no child is denied admissions to a State funded school on the basis of their religion or beliefs'.⁸⁹

The Minister has indicated that the Attorney General is considering proposals to introduce an amendment to the Education (School Admissions) Bill to ensure that a child is not refused admission to an oversubscribed school on the basis of religion.⁹⁰ However, there will continue to be two exceptions to this provision; firstly, where it is deemed necessary to protect minority religions and secondly, to ensure that the ethos of a school is not threatened.⁹¹

The proposed repeal of the exemption in the Equal Status Acts and the proposed amendment to the Education (School Admissions) Bill represent a positive step to address and end religious discrimination in schools. The clear commitment by the Minister for Education and Skills to address the baptism barrier is welcome. This commitment must be delivered on as a matter of urgency to ensure that another cohort of children of no religion, or faiths other than the majority Catholic faith, do not face discrimination when enrolling in school.

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

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

85 Department of Education and Skills, 'New law will make process of school admissions easier for children and parents – Minister Bruton' (6 July 2016) <<http://bit.ly/2kDywjM>> accessed 6 December 2016.

86 Education (Admission to Schools) Bill 2016, s7. See also Department of Education and Skills, 'New law will make process of school admissions easier for children and parents – Minister Bruton' (6 July 2016) <<http://bit.ly/2kDywjM>> accessed 1 February 2017.

87 The four options are: a catchment area approach; a 'nearest school rule'; a quota system, which would allow a religious school give preference to children of its own religion in respect of only a certain proportion of places, meaning that the remaining places would be allocated based on other admissions criteria; the fourth approach is for an outright prohibition on religious schools using religion as a factor in admissions, meaning that all places would be allocated based on other factors. Carl O'Brien, 'Bruton plans removal of 'baptism barrier' in schools' *The Irish Times*, 16 January 2017.

88 Minister for Education and Skills, Richard Bruton TD, Seanad Debates: Commencement Matters, 12 October 2017.

89 Joint Oireachtas Committee on Education and Skills, *Report on scrutiny of the Education (Admission to Schools) Bill 2016* (Houses of the Oireachtas 2017) 15.

90 Minister for Education and Skills, Richard Bruton TD, Seanad Debates: Commencement Matters, 12 October 2017.

91 *ibid.*

Religious Diversity in Schools

Immediate Actions for 2018



RE-STATE THE PLAN FOR THE TRANSFER OF EXISTING SCHOOLS FROM RELIGIOUS PATRONAGE TO ENSURE THAT DECISIONS ARE MADE IN THE BEST INTERESTS OF CHILDREN.

Proposals to provide for the transfer of existing schools from religious patronage to other patrons should be based on the rights and needs of children rather than those of patrons. The decision-making process on patronage should be transparent, independent and fair. Children and young people should be consulted.

PUBLISH A PLAN TO INCREASE THE NUMBER OF MULTI- AND NON-DENOMINATIONAL SCHOOLS TO 400 BY 2030.

A clear plan involving all patrons and setting out the phases of development, with timelines and a monitoring structure, is required to provide greater clarity on how the target is to be achieved. Ensure that non-denominational schools are an explicit part of the plan. It should also identify how many of the schools are to be primary and post-primary.

URGENTLY AMEND THE EQUAL STATUS ACTS 2000–2015 AND THE EDUCATION (ADMISSION TO SCHOOLS) BILL 2016 IN ADVANCE OF ENACTMENT TO ENSURE THAT NO CHILD FACES DISCRIMINATION ON THE BASIS OF RELIGION WHEN ACCESSING PUBLICLY FUNDED EDUCATION.

The exemption provision in s 7(3)(c) of the Equal Status Acts allows schools of a particular religious ethos to give preference to students of that religious denomination, or to refuse admission to students of other or no religion in order to preserve the school's ethos. The legislation should be amended to ensure that no child faces discrimination on the basis of religion when accessing publicly funded education. Likewise, section 7 of the proposed Education (Admission to Schools) Bill 2016 should be amended to remove this protection.

1.3

Disability and Additional Needs in Education

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: Limited

- > 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 'B-' in Report Card 2018, an improvement on the 'C+' grade awarded last year. This grade reflects the implementation of a new resource allocation model and the increase in the number of Special Needs Assistants.

Every child has a right to education regardless of their needs or ability.⁹² The aim of this right is to 'empower the child by developing his or her skills, learning and other capabilities, human dignity, self-esteem and

self-confidence'.⁹³ The right extends beyond formal school to embrace a wide range of life experiences and learning processes to enable children 'to develop their personalities, talents and abilities and to live a full and satisfying life within society'.⁹⁴ States must ensure, as a 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 realisation of their rights'.⁹⁵ Children with special educational needs have a right to individualised support and reasonable accommodations to ensure

92 UNCRRC 'General Comment No. 9 on 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.

93 UNCRRC 'General Comment No. 1 on the Aims of Education Article 29(1)' (2001) UN Doc CRC/GC/2001/1 para 2.

94 *ibid.*

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

that they can be reasonably accommodated in the general education system.⁹⁶ In addition to rights in education, children with education needs and disabilities have, like other children, the basic right to development and the State must ensure that every child's right is vindicated to the maximum extent possible, regardless of their ability.⁹⁷

In 2016, the UN Committee on the Rights of the Child recommended that Ireland 'adopt a rights based approach to disability'.⁹⁸ Furthermore, the Committee recommended that Ireland 'establish a comprehensive strategy for the inclusion of children with disabilities in mainstream education and the encouragement of their autonomy' and 'train and employ a sufficient number of specialised teachers and professionals in order to provide special needs education support'.⁹⁹

Access and Funding Provision for Special Education:

A Programme for a Partnership Government commits to examine the adequacy of current special education needs access and funding provision. The majority of students with special educational needs attend mainstream schools with additional supports.¹⁰⁰ The National Council for Special Education (NCSE) has found that the number of students receiving low-incidence supports (for physical disabilities, hearing impairments and autism) in mainstream schools increased from 30,000 in 2011 to 43,600 in 2016.¹⁰¹ In 2017, the Department of Education and Skills' budget for special education was €1.68 billion, which represents 19 per cent of the gross budget for

education and training, and an approximate 10 per cent increase in spending provision since 2016.¹⁰²

In 2013, the NCSE recommended the development of a new resource allocation model based on the profiled need of each school, without the need for a diagnosis of disability.¹⁰³ In 2016, the Department of Education and Skills successfully piloted the new model in 47 schools;¹⁰⁴ following a review of the pilot by the Department's Inspectorate,¹⁰⁵ the new model was introduced across primary and post primary schools in September 2017.¹⁰⁶

The new model is welcome as it marks a shift away from the diagnostic or medical approach used previously for the provision of supports.¹⁰⁷ The old model was problematic for a number of reasons.¹⁰⁸ First, it meant that families who could not afford to get a private diagnosis immediately, had to wait for the necessary professional assessment and thus experienced delays in accessing supports. It also meant that there was a risk that children were being diagnosed for the purposes of resource allocation and being labelled with a disability just to receive extra teaching support. Children were receiving the same level of support despite a spectrum of ability and disability and there was no systematic assessment of outcomes for students to whom resources were allocated.¹⁰⁹

Under the new model, Special Needs Teachers are allocated to schools based on the profiled needs of each school rather than assigned to individual

96 UN Convention on the Rights of Persons with Disabilities A/RES/61/106 (3 May 2008) Art 24.

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

98 UNCRC 'Concluding observations on the combined third and fourth periodic reports of Ireland' 29 January 2016 UN Doc CRC/C/IRL/CO/3-4, para 48.

99 *ibid*, para 47.

100 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* (Department of Education and Skills 2016) 1.

101 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 6 December 2017.

102 *ibid*.

103 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* (Department of Education and Skills 2016) 3.

104 Minister for Education and Skills, Richard Bruton TD, Dáil Debates, Special Educational Needs Data, 29 November 2016 [37321/16].

105 Department of Education and Skills, 'Better outcomes for children with special educational needs is the key goal of the new model – Minister Bruton' (DES 2017) <<https://www.education.ie/en/Press-Events/Press-Releases/2017-Press-Releases/PR2017-01-18.html>> accessed 25 October 2017.

106 *ibid*.

107 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* (Department of Education and Skills 2016) 2.

108 *ibid* 3–4.

109 *ibid*.

children.¹¹⁰ Learning Support and Resource Teaching posts have been merged into a single Special Education Teacher post.¹¹¹ A school can appeal to the NCSE if it considers that incorrect data, or incorrect estimates, were used to calculate its Special Needs Teaching support.¹¹² Schools may also ask the NCSE to review their allocation or how it is utilised in circumstances where they consider that exceptional circumstances have arisen in the school subsequent to the allocation being assigned.¹¹³ Under the new model, schools are allocated resources reflective of their profiled needs but if a parent is unhappy with their child's support allocation they have no way to seek a review or appeal the decision. While the new model encourages dialogue between parents and schools, there is the potential for tension if they disagree.

The new model is expected to 'provide a greater level of autonomy for schools' in how they manage additional teaching supports.¹¹⁴ It should result in a better use of resources and better outcomes for children and young people. To support the efficient roll-out of the new model, parents should be provided with comprehensive and clear information so they are aware of their rights and entitlements. Schools should be supported to engage with parents to ensure that all children receive the supports they need.

In September 2017, an additional 975 SNA posts were introduced bringing the total number of SNAs to 13,990,¹¹⁵ an increase of over 32 per cent since 2011.¹¹⁶ There are 13,400 Special Education Teachers in mainstream schools, a 37 per cent increase since 2011.¹¹⁷ Budget 2018 provided for the recruitment of an additional 1,091 SNAs, 200 new teachers in special education classes and special schools, and 100 new Special Education Teachers from September 2018.¹¹⁸ The NCSE has previously highlighted that some

schools erect overt and/or 'soft' barriers to prevent or discourage enrolment of children with special educational needs, by suggesting to parents that a different school is more suitable or has more resources for supporting students with additional needs.¹¹⁹

The NCSE is currently undertaking a comprehensive assessment of the SNA Scheme.¹²⁰ It has established a Working Group to assist in developing a better model of care for children with special educational needs who also have additional care needs.¹²¹ The Working Group and comprehensive assessment reports are due to be completed in spring 2018.¹²²



IN SCHOOLS SINCE 2011

110 Department of Education and Skills, 'Better outcomes for children with special educational needs is the key goal of the new model – Minister Bruton' (18 January 2017) <<http://bit.ly/2AVfRLN>> accessed 25 October 2017.

111 Department of Education and Skills, *DES Circular 0013/2017 for primary schools* (DES 2017) 2.

112 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 6 December 2017.

113 *ibid.*

114 Department of Education and Skills, *DES Circular 0013/2017 for primary schools* (DES 2017) 2.

115 Minister for Education and Skills, Richard Bruton TD, Dáil Debates, Special Educational Needs Staff Data, 28 September 2017 [41198/17].

116 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 6 December 2017.

117 *ibid.*

118 Department of Education and Skills, 'Over 2,000 new Teachers and SNAs in largest ever Education Budget' (10 October 2017) <<http://bit.ly/2j70tQR>> accessed 24 October 2017.

119 National Council for Special Education, *Supporting Children with Special Educational Needs in Schools*. NCSE Policy Advice Paper No. 4 (NCSE 2013) 90.

120 Minister for Education and Skills, Richard Bruton TD, Dáil Debates, Special Educational Needs Staff Data, 28 September 2017 [41198/17].

121 *ibid.*

122 *ibid.*

Consultation on the Education for Persons with Special Educational Needs Act 2004: *A Programme for a Partnership Government* commits to stakeholder consultation on the progression of the Education for Persons with Special Educational Needs (EPSEN) Act 2004. The 2004 Act, the key statute providing for the education of children with special needs,¹²³ provides for 'inclusive education', in line with the UN Convention on the Rights of Persons with Disabilities (CRPD)¹²⁴ and the Salamanca Statement on Principles, Policy and Practice in Special Needs Education.¹²⁵ However, despite its enactment more than 13 years ago, key provisions of the EPSEN Act 2004 remain unimplemented and the full education rights of children with disabilities and special educational needs remain unfulfilled. Furthermore, Ireland remains the only European Union Member State that has not yet ratified the CRPD.

In 2008, due to budgetary constraints, the Government deferred implementation of the Act.¹²⁶ In light of the significant increase in the 2018 special education budget to €1.68 billion,¹²⁷ detailed costings to implement the EPSEN Act should be calculated and published. Implementation of the EPSEN Act would bring transparency and clarity as to how the system operates.

The Government's commitment to consult on the EPSEN Act does not go far enough and falls short of the *Better Outcomes, Brighter Futures: The National Policy*

Framework for Children and Young People 2014–2020 commitment to 'prepare and implement a plan, guided by the National Council for Special Education (NCSE) policy advice, on how aspects of EPSEN Act can be implemented'.¹²⁸ Without full commencement of the Act, measures progressed on a non-statutory footing run the risk of being removed at any time by a change in policy and children will have no right to redress.

While some sections of the 2004 Act have been commenced,¹²⁹ other provisions have been introduced on a non-statutory, or policy, basis.¹³⁰ The provisions in regard to statutory entitlement to an educational assessment, individual educational plan and delivery of services on foot of the plan, remain unimplemented.¹³¹ The NCSE has indicated that this is due to 'current economic circumstances'.¹³² An individual educational plan is a written document which specifies the learning goals that are to be achieved by the student over a set period of time and outlines the supports that should be put in place.¹³³ While it is estimated that 90 per cent of children with special educational needs receive an individual educational plan,¹³⁴ all children who require one should be able to access it. Where individual plans currently exist they are not automatically provided to parents and any consultation on implementation of the EPSEN Act should consider how these can be automatically provided to parents. Although the Act provides for the establishment of a Special

123 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'.

124 UN Convention on the Rights of Persons with Disabilities A/RES/61/106 (3 May 2008) Art 24.

125 World Conference on Special Needs Education Access and Quality, *The Salamanca Statement and Framework for Action on Special Educational Needs* (UNESCO 1994). The UN Committee on the Rights of the Child has stated that inclusive education should be the goal of educating children with disabilities. The manner and form of inclusion must be dictated by the individual educational needs of the child, since the education of some children with disabilities requires a kind of support which may not be readily available in the regular school system. UNCRC 'General Comment No. 9 on the rights of children with disabilities' (2006) UN Doc CRC/C/GC/9, para 66.

126 Communication received from the Department of Education and Skills further to a bilateral of the Community and Voluntary Pillar of social partnership on 4 November 2015.

127 *ibid.*

128 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (DCYA 2014) commitment 2.21.

129 The following sections of the EPSEN Act have been implemented: s 1 (definitions), 2 (education in mainstream school), 14 (duty of schools), 19–37 (establishment of National Council for Special Education and its functions), 39 (duty of Health Service Executive), 40–53 (transfer from the former body to the NCSE), and Schedules 1 (membership and meeting of Council) and 2 (Chief Executive Officer).

130 A number of sections of the EPSEN Act have been progressed on a non-statutory basis. The Department of Education and Skills has introduced measures to provide for educational plans to be prepared for all students accessing Special Needs Assistant (SNA) support. Minister for Education and Skills, Richard Bruton TD, Dáil Debates, Special Educational Needs Services Provision, 19 October 2016 [31092/16].

131 Minister for Education and Skills, Richard Bruton TD, Dáil Debates, Special Educational Needs Services Provision, 19 October 2016 [31092/16].

132 National Council for Special Education, 'About Us' <<http://ncse.ie/about-us>> accessed 18 December 2017.

133 Education for Persons with Special Educational Needs Act 2004, s 9.

134 Special Needs Parents Association, 'Individual Educational Plans' <<http://bit.ly/2k2jaWP>> accessed 15 November 2017.

Education Appeals Board, and specifies that decisions on assessments and plans can be appealed, it is not operational and no independent appeals mechanism exists for parents.¹³⁵ While schools can appeal a decision under the new resource allocation model, parents do not have the same right. Commencing the relevant provisions of the EPSEN Act would provide for a statutory, independent appeals mechanism where parents would not be reliant on schools or have to resort to the court to appeal decisions made in relation to support for their child.

The commitment to consult on the EPSEN Act was reiterated in the National Action Plan for Education, published in September 2016.¹³⁶ The Department consulted with education partners and stakeholders on the development of the new allocation model for special education teachers introduced in September 2017 with further consultations planned as part of the comprehensive review of the SNA scheme.¹³⁷ However, outside of the special education teachers and SNA reforms, it is not clear what further consultations will take place on how best to progress other sections of the EPSEN Act introduced on a non-statutory basis.

In-school speech and language service: *A Programme for a Partnership Government 2016* commits to introduce a new in-school speech and language service at primary level and to support children in their early years. Speech and language services are currently provided by the Health Service Executive (HSE). Approximately six per cent of children in Ireland between the ages of two and five years 'experience difficulties with language development'.¹³⁸ In June 2017, 314 children were waiting over 12 months for an initial speech and language assessment and required a multi-disciplinary team assessment.¹³⁹ Variations in waiting lists and HSE responses across the country have been reported and

In 2017, the HSE engaged in a review of current speech and language therapy provision based on international best practice to inform the development of a new delivery model.

some parents have to pay privately for diagnosis and treatment because poor public access means that early intervention may not take place.¹⁴⁰

Internationally, children with speech and language difficulties are the largest single group of all children with additional needs.¹⁴¹ These difficulties are among the most common neuro-developmental disorders of childhood,¹⁴² although the prevalence in Ireland is unclear.¹⁴³ Typically, these difficulties first become apparent in a child's preschool years.¹⁴⁴ Where they can be resolved by the age of five, a child is unlikely to experience long-term effects, whereas the later the intervention, the more likely the child is to experience long-term academic and/or social difficulties.¹⁴⁵ Therefore, the introduction and location of in-school speech and language services in early years and at primary level is particularly important.¹⁴⁶

In 2017, the HSE engaged in a review of current speech and language therapy provision based on international best practice to inform the development of a new delivery model. A joint Working Group comprising the HSE, the NCSE, the Department of Health and the Department of Education and Skills has been established to develop the new model. Budget 2018 allocated €2 million¹⁴⁷ to develop and rollout a pilot scheme in 2018.¹⁴⁸

135 Education for Persons with Special Educational Needs Act 2004, s 6, s 12 and s 36.

136 Department of Education and Skills, *Action Plan for Education 2016–2019* (DES 2016) Action 50.

137 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 17 January 2017.

138 Mary Rafferty, 'A brief review of approaches to oral language development to inform the Area Based Childhood Programme' (Centre for Effective Services 2014) 4.

139 Health Service Executive, *Health Service Performance Profile – April to June 2017 Quarterly Report* (HSE 2017) 16.

140 Kitty Holland, 'Over 15,000 people waiting for speech assessment' *The Irish Times*, 3 May 2016.

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

142 Noirin Hayes et al, *Evaluation of the Early Years Programme of the Childhood Development Initiative* (Childhood Development Initiative 2013) 7.

143 *ibid.*

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

145 Noirin Hayes et al, *Evaluation of the Early Years Programme of the Childhood Development Initiative* (Childhood Development Initiative 2013) 7.

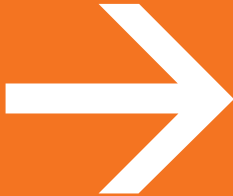
146 Child Development Initiative, 'Chit Chat: Early Intervention Speech and Language Therapy Model and linkages to the Education Sector' (CDI 2016) <<http://bit.ly/2k1HrMM>> accessed 13 February 2017.

147 Minister for Finance and Public Expenditure and Reform, Paschal Donoghue TD, Budget Statement 2018, 10 October 2017.

148 Minister of State for Disabilities, Finian McGrath TD, Dáil Debates, Speech and Language Therapy Provision, 10 October 2017 [42832/17].

Disability and Additional Needs in Education

Immediate Actions for 2018



PROVIDE CLARITY AND INFORMATION TO SUPPORT THE ROLL-OUT OF THE NEW RESOURCE ALLOCATION MODEL.

The continued roll-out of the new model should be supported by ensuring parents are given clear and comprehensive information and schools are supported to engage with parents to ensure that all children receive the supports they need.

DEVELOP AND PUBLISH DETAILED COSTINGS FOR IMPLEMENTING THE EPSEN ACT IN FULL WITH A VIEW TO COMMENCING ALL OF THE PROVISIONS IN 2018.

The rights of children with special educational needs should be placed on a statutory footing by implementing the EPSEN Act 2004.

IMPLEMENT THE PILOT OF THE IN-SCHOOL SPEECH AND LANGUAGE SERVICE WITH A VIEW TO NATIONWIDE ROLL-OUT.

Continue the development of the new model informed by outcomes from the pilot scheme provided for in the 2018 Budget.

2. RIGHT TO AN ADEQUATE STANDARD OF LIVING

Chapter Grade

D+



1 Family Ireland
@1familyireland



We respond to new #ESRI report that shows lone parents are most affected by consistent poverty <http://bit.ly/2iBZFmL>. Our most vulnerable families should not have to wait for action any longer #endchildpoverty



7 Dec 2017

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



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IN THE NEWS

13,000 BENEFIT FROM 10 YEARS OF PREVENTION AND EARLY INTERVENTION IN TALLAGHT WEST

InTallaght, 12 September 2017

13,000 children, parents and staff across Tallaght West have benefitted from a €22m investment in prevention and early intervention in the community over 10 years. Celebrating its 10 Year Anniversary at Tallaght's Civic Theatre yesterday, the Tallaght West based Childhood Development Initiative (CDI) thanked families and the community for their commitment to better outcomes for children – and called on Government to support continued prevention and early intervention for a further 10 years. (...) The programmes which were delivered included parental supports; children's literacy and numeracy; children's speech and language; training adults and young people in using restorative practices in schools and the community and strengthening community safety.

From 2007 to 2016 the outputs delivered in Tallaght West included:

- > 8,200 parents and adults, 3,800 children and 840 staff engaged with and supported
- > €21.7m invested in the community
- > Parental support to 4,500 families
- > Speech and Language Therapy to 820 children
- > Literacy and numeracy support to 1,440 children
- > Restorative practices training to 2,000 adults and 190 young people.

The work remains ongoing after a series of funding extensions and is resourced up to the middle of 2018 – and CDI today called for a longer term view and commitment from Government. (...)

2.1

Child and Family Homelessness**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 500 rapid-delivery housing units.



Progress: Limited

'Child and Family Homelessness' receives an 'E' grade in *Report Card 2018*. This grade reflects the fact that, despite efforts by Government to address the issue, family homelessness now constitutes a national emergency, with unprecedented numbers of children experiencing homelessness. The Government did not meet its own deadline of mid-2017 to end the use of unsuitable long-term emergency accommodation for families. The roll-out of family hubs has ameliorated the situation for some children but this form of emergency accommodation must be seen as a temporary measure and further investment in social and affordable housing is needed or the crisis is set to continue.

Every child has the right to a standard of living adequate for his or her physical, mental, spiritual, moral and social development.¹⁴⁹ The UN Convention on the Rights of the Child requires States to assist parents and guardians who are in need by providing 'material assistance and support programmes particularly with regard to nutrition, clothing and housing'.¹⁵⁰ The UN

Committee on Economic, Social and Cultural Rights has emphasised that the right to adequate housing goes beyond the provision of shelter and means housing that is accessible, habitable and affordable with certain 'facilities essential for health, security, comfort and nutrition'.¹⁵¹ Households should have legal security of tenure¹⁵² and States must take steps to prevent illegal evictions.¹⁵³ The right to housing also encompasses the obligation on States to '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 ... 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'.¹⁵⁴ Furthermore, children as a priority group must be 'accorded full and sustainable access to adequate housing resources'.¹⁵⁵

In 2016, the UN Committee on the Rights of the Child expressed its concern regarding reports that families in Ireland affected by homelessness were 'facing significant delays in accessing social housing

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

150 *ibid* Art 27(3).

151 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).

152 *ibid* para 8(b).

153 *ibid* para 8(e).

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

155 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).

and frequently living in inappropriate, temporary or emergency accommodation on a long-term basis'.¹⁵⁶ The Committee called on the State to undertake measures to increase the availability of social housing and emergency housing support.¹⁵⁷

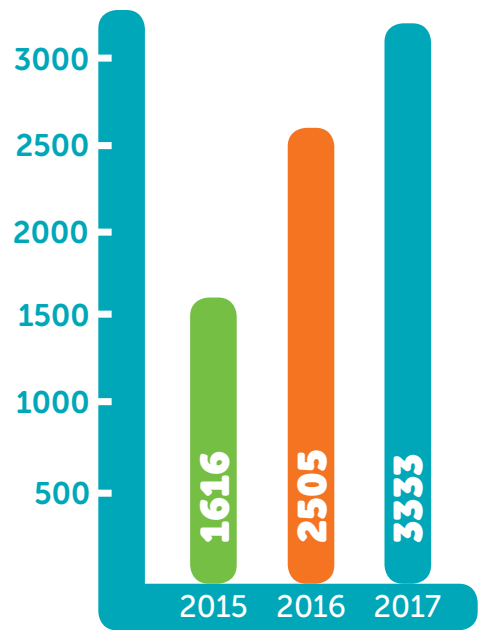
Homeless families and unsuitable accommodation:

The number of families with children recorded as homeless reached record levels in 2017: there were 1,530 families with 3,333 children living in emergency homeless accommodation in November 2017.¹⁵⁸ The majority of these families are based in Dublin but the number of homeless families with children outside Dublin has also increased significantly, from 177 families with 409 children in December 2016¹⁵⁹ to 342 families with 800 children in November 2017.¹⁶⁰ Lone parent families with children continue to be the largest cohort, representing 61 per cent of the total number of families living in emergency accommodation.¹⁶¹ In 2016, children under 18 represented more than a quarter of the population living in homeless accommodation while children four years and under made up the single largest age-category experiencing homelessness.¹⁶² No official figures exist to indicate the extent of 'hidden homelessness' – for example, where families and children are living in or sharing unsuitable and inappropriate private rented accommodation.¹⁶³

The original deadline set out in *Rebuilding Ireland: An Action Plan for Housing and Homelessness* (July 2016) to use 'emergency hotel and B&B type accommodation for families' only 'in limited circumstances' by mid-2017 was not met. In 2016, 3,000 adults moved out of homelessness into independent social housing or received support to enter the private rented sector;¹⁶⁴ a further 2,000 individuals moved out of homelessness in the first half

of 2017.¹⁶⁵ While both partners in a couple are counted in official exit statistics (for example, where they both sign a tenancy), the statistics do not count the number of children in these households. The Department of Housing, Planning and Local Government should track the number of children who exit homelessness.

The outcomes of the unpublished review of *Rebuilding Ireland* informed a Housing Summit convened by Minister for Housing, Planning and Local Government, Eoghan Murphy TD, in September 2017.¹⁶⁶ A Homeless



NUMBER OF HOMELESS CHILDREN

156 UNCRRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 61.
 157 ibid para 62.
 158 Department of Housing, Planning and Local Government, 'Homelessness Report, November 2017' <<http://bit.ly/2zasOvh>> accessed 21 December 2017.
 159 Department of Housing, Planning, Community and Local Government, 'Emergency Accommodation Figures, December 2016' <<http://bit.ly/2keOobm>> accessed 4 February 2017.
 160 Department of Housing, Planning and Local Government, 'Homelessness Report, November 2017' <<http://bit.ly/2zasOvh>> accessed 21 December 2017.
 161 ibid.
 162 Central Statistics Office, 'Census of Population 2016 – Profile 5 Homeless Persons in Ireland' (CSO 2017).
 163 Where families have made an application to the relevant housing authority, the application is reflected in the social housing waiting lists and local authorities have detail available on the number of households that are classified as homeless while residing with friends or relatives. Communication received by the Children's Rights Alliance from the Department of Housing, Planning and Local Government, 4 December 2017.
 164 Department of Housing, Planning and Local Government, 'Overview of Activities and Structure' <<http://bit.ly/2j3eD5x>> accessed 20 September 2017.
 165 Communication received by the Children's Rights Alliance from the Department of Housing, Planning and Local Government, 4 December 2017.
 166 Rebuilding Ireland, 'Minister Murphy announces outcomes from review of Rebuilding Ireland' <<http://bit.ly/2BralQk/>> accessed 19 September 2017.

Inter-Agency Group 'to increase health supports in emergency accommodation and services and supports for families and children that are homeless',¹⁶⁷ established following the Housing Summit, has met three times to date.¹⁶⁸ The recruitment of a specialist National Director of Housing First to coordinate and drive 'a national, cross-Government housing-led approach to homelessness' and support delivery of housing-led approaches in line with the *Rebuilding Ireland* targets, is underway.¹⁶⁹ This is welcome as it may help to deliver a more cohesive approach to solving the housing shortage and homelessness crisis.

By July 2017, the roll-out of family supported accommodation facilities or 'family hubs'¹⁷⁰ began as a way of enabling families move out of unsuitable emergency hotel and B&B accommodation; the officially stated aim of this new form of accommodation is to provide 'a greater level of stability than is possible in hotel accommodation'.¹⁷¹ There are 11 hubs in operation nationwide, with six more expected to open by the end of 2017 to a further three in early 2018.¹⁷² The hubs support 300 families.¹⁷³ While some of the hubs have cooking facilities, others provide meals and families still do not have access to cooking facilities.¹⁷⁴ The move away from hotels and B&Bs is welcome, but it is essential that the hubs be considered a temporary form of accommodation so as to prevent institutionalisation¹⁷⁵ and to avoid the possibility that they could serve to 'normalise family homelessness' – a concern expressed by the Irish Human Rights and Equality Commission.¹⁷⁶ Even where families are living in more stable emergency placements, children and young people may face difficulties in accessing play or recreational facilities due to accessibility,¹⁷⁷ affordability or availability¹⁷⁸ so they should be provided with

In 2017, Focus Ireland, with support from the Department of Children and Youth Affairs and the Department of Health, commissioned a report which found that emergency homeless accommodation 'impacts negatively on families' daily food habits and dietary quality, not only in terms of what is consumed but also in how they prepared and ate their food'.

alternative recreational opportunities and access to local leisure facilities.

In 2017, Focus Ireland, with support from the Department of Children and Youth Affairs and the Department of Health, commissioned a report which found that emergency homeless accommodation 'impacts negatively on families' daily food habits and dietary quality, not only in terms of what is consumed but also in how they prepared and ate their food'.¹⁷⁹ The research indicated that families in emergency accommodation were limited in their food options due to inadequate storage facilities as well as lack of access to cooking facilities.¹⁸⁰ Even where families could access a kitchen, many relied on convenience foods, high fat items and takeaways.¹⁸¹ Participants in the study described having to eat takeaways on beds and in some instances having to eat sitting on the floor.¹⁸² A coordinated approach to address food poverty is

167 *ibid.* The Group will coordinate with the Department of Health, the Department of Children and Youth Affairs, the Health Service Executive and Tusla, the Child and Family Agency.

168 Communication received by the Children's Rights Alliance from the Department of Housing, Planning and Local Government, 18 December 2017.

169 Minister for Housing, Planning and Local Government, Eoghan Murphy TD, Written Answers, Homelessness Strategy [52529/17].

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

171 *Rebuilding Ireland, Action Plan for Housing and Homelessness: Third Quarterly Progress Report (DHPLG 2017)* 60.

172 Communication received by the Children's Rights Alliance from the Department of Housing, Planning and Local Government, 4 December 2017.

173 Evelyn Ring, 'Eoghan Murphy: Family homelessness stabilised', *The Irish Examiner*, 7 December 2017.

174 Kitty Holland, 'Ireland's 3,194 homeless children prepare for Christmas' *The Irish Times*, 16 December 2017.

175 Rory Hearne and Mary Murphy, *Investing in the Right to a Home: Housing, HAPs and Hubs* (Maynooth University 2017) 2.

176 Irish Human Rights and Equality Commission, *The provision of emergency accommodation to families experiencing homelessness* (IHREC 2017) 9.

177 Kathy Walsh and Brian Harvey, *Family Experiences of Pathways into Homelessness* (Housing Agency 2015) 29.

178 Prof Geoffrey Shannon Ninth Report of the Special Rapporteur on Child Protection: A Report Submitted to the Oireachtas (Department of Children and Youth Affairs 2016) 71.

179 Michelle Share and Marita Hennessy, *Food Access and Nutritional Health among Families in Emergency Homeless Accommodation*. Abridged report (Focus Ireland 2017) 13.

180 *ibid.*

181 *ibid* 13.

182 *ibid* 8–9, 13.

clearly needed as no one government department holds responsibility for addressing food poverty in homelessness situations. Responsibility for, and a dedicated budget line, should be allocated to a key government department. In the view of the Alliance, the Department of Children and Youth Affairs could be the appropriate vehicle under the *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* implementation structures.¹⁸³

The continuing increase, since at least 2014, in the number of families and children experiencing homelessness, including the alarming rate at which the situation is deteriorating outside Dublin, reflects the failure of the policy approach adopted over several decades in relation to meeting social housing needs. That policy has been characterised by a failure to ensure an adequate supply of social housing provided by local authorities and voluntary housing bodies, and an ever-increasing reliance on rent supplementation in the private rental sector to meet social housing need. As general demand for properties in the private rental sector has increased, families on low incomes and those reliant on rent supplementation to meet rental costs have been squeezed out of the sector into homelessness. Despite the commencement of legislation in January 2017¹⁸⁴ to provide some additional protections for tenants, high rents and a fundamental lack of security of tenure in the sector have continued to leave families vulnerable to eviction or unable to obtain a tenancy. The very limited number of tenancies falling within the stated rent limits for the purposes of Rent Supplement and Housing Assistance Payment (HAP),¹⁸⁵ clearly illustrate the difficulties faced by lower-income households.

Budget 2018 allocated €1.9 billion to the Department of Housing, Planning and Local Government to meet current and capital expenditure on housing. This

represented an increase of €600 million, or 46 per cent, on the allocation for 2017, and provided for the delivery of 3,800 newly built social housing units in 2018, increased homeless supports and the roll-out of family hubs.¹⁸⁶ While this increased allocation is welcome, far higher levels of investment in social housing provision, and in affordable housing, are required to meet existing and growing need. Notably €680 million from the housing budget for 2018 – more than a third of the total housing budget – is ear-marked to supplement rents in the private rented sector. The scale of the challenge of social housing provision is highlighted when account is taken of the number of households assessed as being in need of social housing: these totalled 91,600 in 2016,¹⁸⁷ with 84,000 children living in these households. There is a need to commit to a target of at least 10,000 new social housing units each year. Overall housing policy must also address the factors fuelling the escalating price of housing, begin the development of a publicly provided cost rental sector, and effectively address the issue of vacant housing through taxation measures and the use of compulsory purchase orders.

National Quality Standards Framework: The proposed National Quality Standards Framework (NQSF) for Homeless Services, developed by the Dublin Region Homeless Executive (DRHE) in consultation with stakeholders,¹⁸⁸ is welcome. The Standards could play an important role in bringing about improved quality and consistency in emergency accommodation as well as ensuring that providers are held to account for substandard conditions. Since 2014, a National Advisory Group has overseen a consultation process with regional focus groups and preparatory work with service providers in advance of phased implementation of the Framework.¹⁸⁹

In 2017, the NQSF for Homeless Services was aligned with the National Standards for Safer Better Healthcare

183 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (DCYA 2014). The key groupings involved in the implementation infrastructure of *Better Outcomes, Brighter Futures* are the *Children and Young People's Policy Consortium*, the Sponsors Group, the Advisory Council and the Children and Young People's Services Committees National Steering Group together with the children and young people's participatory structures Comhairle na nOg and the Structured Dialogue Working Group. For an overview of the structures see the Department of Children and Youth Affairs website: <<http://bit.ly/2kHgBsH>> accessed 18 December 2017.

184 The Planning and Development (Housing) and Residential Tenancies Act 2016.

185 Simon Communities in Ireland, *Locked Out of the Market VIII: The Gap between Rent Supplement/HAP and Market Rents* (Simon Communities in Ireland 2017).

186 Minister of Housing, Planning and Local Government, Eoghan Murphy TD 'Minister Eoghan Murphy's address to the Dáil on Budget 2018'; <<http://bit.ly/2jpaFF9>> accessed 6 December 2017.

187 Housing Agency, *National Statement of Housing Supply and Demand 2016 and Outlook for 2017–18*, (Housing Agency, 2017) 4.

188 Information provided by the Dublin Region Homeless Executive at a meeting with the Reception and Integration Agency, 13 October 2017.

189 *ibid.*

developed by the Health Information and Quality Authority (HIQA).¹⁹⁰ The inclusion of child-specific standards for homeless services is welcome as these could help ensure that children are considered in the running of services which have been designed primarily to accommodate adults. The NQSF provides that children will receive age-appropriate information on their rights and that their needs will inform wider planning decisions for their family.¹⁹¹ The Standards provide for children's rights to be facilitated and where they are not, a child-friendly complaints mechanism is available. Service providers will also have to undertake a risk assessment for children in their service.¹⁹² The NQSF sets out the minimum standards and legal requirements for dealing with child protection and child safety issues as well as the supports to be provided.¹⁹³

The enforcement process for these standards is based on a Quality Assessment and Improvement Workbook which provides a self-assessment tool for homelessness services.¹⁹⁴ It is based on a continuous quality improvement process with four levels: emerging improvement; continuous improvement; sustained improvement; excellence. However, this self-assessment approach is inevitably subjective and dependent on services self-reporting non-compliance with standards. There will be a two-year lead-in for services to reach the minimum standard of quality required.¹⁹⁵ While it is welcome that the DRHE is encouraging continuous and consistent progress, in order to adequately assess the services' progress against the Standards, an independent inspectorate must be established to carry out unannounced inspections, a recommendation made by service users during the consultation process.¹⁹⁶ Clear sanctions must be put in place where services do not meet the required standards.

Rapid-delivery housing units: A temporary 'rapid build' scheme was initiated in 2016 with the aim of moving homeless families out of emergency accommodation. Progress in implementing the scheme has been extremely slow but the Department of Housing, Planning and Local Government has indicated that it has been superseded by the roll-out of the family hub programme to provide 'emergency accommodation more suited to the needs of families'.¹⁹⁷ Only 22 of 350 units approved in 2016 were delivered and occupied that year.¹⁹⁸ The planned completion of 353 units in 2017 and early 2018,¹⁹⁹ falls significantly short of the 650 expected to come online in 2017 and 500 planned for 2018.

The continuing increase, since at least 2014, in the number of families and children experiencing homelessness, including the alarming rate at which the situation is deteriorating outside Dublin, reflects the failure of the policy approach adopted over several decades in relation to meeting social housing needs. That policy has been characterised by a failure to ensure an adequate supply of social housing provided by local authorities and voluntary housing bodies, and an ever-increasing reliance on rent supplementation in the private rental sector to meet social housing need.

190 *ibid.*

191 Dublin Region Homeless Executive, *National Quality Standards Framework for Homeless Services in Ireland*. Outline proposal for the development of a National Quality Standards Framework and good practice guidelines for homeless services in Ireland (DRHE 2017).

192 *ibid.*

193 *ibid.*

194 *ibid.*

195 Information provided by the Dublin Region Homeless Executive at a meeting with the Reception and Integration Agency, 13 October 2017.

196 *ibid.*

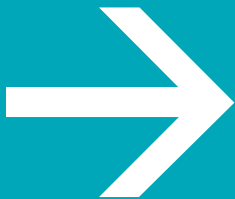
197 Communication received by the Children's Rights Alliance from the Department of Housing, Planning and Local Government, 4 December 2017.

198 Department of Housing, Planning and Local Government, 'Overview of Activities and Structure' <<http://bit.ly/2j3eD5x>> accessed 20 September 2017.

199 Minister for Housing, Planning and Local Government, Eoghan Murphy TD, Dáil Debates, Written Answers, Social and Affordable Housing Provision, 29 June 2017 [30555/17].

Child and Family Homelessness

Immediate Actions for 2018



DECLARE A HOUSING EMERGENCY AND COMMIT TO TAKING ALL FEASIBLE MEASURES TO ADDRESS THE SHORTAGE OF HOUSING, AND THE LACK OF AFFORDABILITY AND SECURITY BEING EXPERIENCED BY SO MANY HOUSEHOLDS IN IRELAND.

Ensure that families are provided with the necessary financial and material supports to enable them to remain in their homes, increase security of tenure and ensure that children are not forced to live in unsafe and unsuitable conditions.

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.

DELIVER ON THE COMMITMENT TO END THE LONG-TERM USE OF UNSUITABLE EMERGENCY ACCOMMODATION FOR CHILDREN AND FAMILIES AND IMPLEMENT HOUSING FIRST COMMITMENTS AS A MATTER OF URGENCY.

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 homeless accommodation. In order to avoid the risk of institutionalisation and the 'normalisation' of homelessness, families should not be left longer than six months in family hubs before being re-housed.

PUBLISH AND 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 National Quality Standards Framework is adhered to and applied consistently across all forms of homeless accommodation, including family hubs, publication and implementation of the Framework must be accompanied by the establishment of an independent inspectorate.

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

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 Tax Credit.



Progress: Some

- > Introduce a new Working Family Payment to promote work over welfare and supplement the income of households 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: Some

'Parental Leave and Income Supports' receives a 'C' grade in *Report Card 2018*. This grade reflects the efforts made to raise awareness of Paternity Benefit and proposals to introduce a Family Leave Bill. The €2 increase in Budget 2018 for the children of social welfare recipients is welcome but no specific provision was made to recognise the additional costs that arise for parents where a child is over the age of 12. The Budget 2018 provision for an increase in income disregards for working lone parents is positive but these disregards have not been fully restored to 2011 levels.

Every child has the right to a standard of living that is adequate to their development – physical, mental, spiritual, moral and social.²⁰⁰ Parents and guardians have the primary responsibility to provide for the child's

material needs, but the State is also responsible for alleviating poverty and assisting parents and guardians where necessary.²⁰¹ 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, in particular, referred to the incidence of such poverty among single-parent households.²⁰²

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 acknowledges that 'many parents are economically active, often in poorly paid occupations which they combine with their parental responsibilities'; thus the Committee requires States 'to take all appropriate

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

201 *ibid.*

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



APPLIED FOR PATERNITY BENEFIT

measures to ensure that children of working parents have the right to benefit from childcare services, maternity protection and facilities for which they are eligible.²⁰³ The UN Committee also promotes '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).'²⁰⁴

Paid Parental Leave: The introduction of two weeks' paid paternity leave in 2016 was an important step forward in the provision of paid family leave in Ireland

in the first year after birth, in line with the commitment in *A Programme for a Partnership Government*. Paid paternity leave may be taken in the first six months after the birth of a baby (or an adoption placement) by fathers or same-sex partners. In 2017, the allocation for paternity leave was €16 million.²⁰⁵ Between its introduction in September 2016 and the end of October 2017, almost 29,000 Paternity Benefit claims were awarded.²⁰⁶ It is expected that there will be almost 30,000 Paternity Benefit applications for 2017, the first full year of the scheme.²⁰⁷ A final figure on uptake is not expected until 18 months after the scheme commenced²⁰⁸ but the 2017 uptake equates to approximately 70 per cent of Maternity Benefit applications in 2016.²⁰⁹ The national advertising campaign to raise awareness of the Paternity Benefit scheme is welcome.²¹⁰

Data on the duration of family leave in 26 European countries show that Ireland has the fourth shortest period of such leave. On average, the other 25 countries provided 19 months' paid leave after the birth of a child.²¹¹ To introduce six months parental leave in Ireland would cost approximately €273 million or €42 million for each additional month.²¹² The cost to the State of providing Parental Benefit must be weighed against the benefit to children who do best when cared for at home during at least the first year of their lives.²¹³ Furthermore, employee retention and productivity is higher where organisations have parental leave policies and provide flexible working arrangements.²¹⁴

The European Union made proposals in April 2017 to introduce a Directive on Work-Life Balance for Parents and Carers.²¹⁵ The proposals would introduce at least four months of non-transferable paid parental leave for each parent, which could be taken up until the

- 203 UNCRC 'General Comment No. 7 on Implementing Rights in Early Childhood' (2006) UN Doc CRC/C/GC/7/Rev.1 para 21.
 204 *ibid* para 20(a).
 205 Department of Social Protection, 'Ministerial Brief June 2017 – Part A' <<http://bit.ly/2AQrDXl>> accessed 20 September 2017.
 206 Communication received by the Children's Rights Alliance from the Department of Employment Affairs and Social Protection, 23 November 2017.
 207 Department of Social Protection, 'Ministerial Brief June 2017 – Part A' <<http://bit.ly/2AQrDXl>> accessed 20 September 2017.
 208 *ibid*.
 209 Communication received by the Children's Rights Alliance from the Department of Employment Affairs and Social Protection, 23 November 2017.
 210 Department of Employment Affairs and Social Protection, 'Minister Doherty urges new fathers to claim Paternity Benefit' <<https://www.welfare.ie/en/pressoffice/Pages/pr090817.aspx>> accessed 20 September 2017.
 211 Start Strong, 'Family Leave in Ireland, How Do We Compare?' (Start Strong 2015).
 212 Inter-Departmental Group on Future Investment in Early Years and School-Age Childcare and Education, 'Report of Inter-Departmental Working Group: Future Investment in Childcare in Ireland' (DCYA 2015) 86 <<http://bit.ly/1GDVkBn>> accessed 6 February 2017; Department of Children and Youth Affairs, Right from the Start: Report on the Expert Advisory Group on the Early Years Strategy (DCYA 2013) 11.
 213 National Institute of Child Health and Human Development, *NICHD Study of Early Child Care and Youth Development: Findings for children aged up to age 4 ½ years* (U.S. Department of Health and Human Services 2006).
 214 Brigid Schulte et al, 'Paid Family Leave: How Much Time is Enough?' <<http://bit.ly/2roQ1Xz>> accessed 19 October 2017.
 215 European Commission, 'Delivering on the European Pillar of Social Rights – Commission adopts first concrete initiatives' (26 April 2017) <<http://bit.ly/2oL89JQ>> accessed 15 December 2017.

child reached 12 years of age.²¹⁶ The minimum rate of payment would equate to the rate of sick pay.²¹⁷ Parents would also be entitled to more flexible working arrangements on their return from parental leave. It is a matter of concern that in December 2017 the Irish Government sought to delay the introduction of the Directive due to 'the significant costs involved'.²¹⁸

Despite its reservations regarding the proposed EU Directive, the Government intends to progress a Family Leave Bill to consolidate existing leave entitlements including maternity, parental, carer's and adoptive leave.²¹⁹ The Department of Justice and Equality holds responsibility for policy on family leave but the budget in this area is allocated to the Department of Employment Affairs and Social Protection. Initial discussions have taken place between the two departments on how to deliver on the Government's commitment to prioritise paid parental leave in the first year of a child's life.²²⁰ Consultation with other key government departments is planned, and the Senior Officials Group and Cabinet Committee on Social Policy and Public Service Reform will provide political guidance.²²¹ The *National Strategy for Women and Girls 2017–2020* promises to 'publish proposals for the implementation of the commitment' by the end of 2017 and to legislate for these proposals 'as soon as possible thereafter'.²²²

Additional Support for Low-Income Families: *A Programme for a Partnership Government* committed to introducing a Working Family Payment²²³ with the aim of reducing child poverty and making work pay.²²⁴ An internal departmental working group²²⁵ and an Interdepartmental Working Group were established in 2016.²²⁶ An open consultation took place in the first quarter of 2017 which informed the proposals

of the Department of Employment Affairs and Social Protection to the Minister on how best to fulfil the Programme for Government commitment. From its analysis, the Department concluded that 'the existing in-work supports are effective, and work well in assisting individuals into employment'.²²⁷



ONE PARENT FAMILIES

In Budget 2018, it was announced that the Family Income Supplement (FIS), a weekly tax-free payment for low-paid employees with children, would be renamed the Working Family Payment.²²⁸ Furthermore, the weekly earnings threshold limits would be increased by €10 for families with up to three children.²²⁹ In October 2017, just over 57,000 families were in receipt of FIS in respect of 127,324 children at an average weekly rate of €134.²³⁰ The Back to Work Family Dividend, first introduced in 2015 and due to end in March 2018, is now to be retained to the end of 2018

216 European Commission, 'Factsheet: A new start to support work-life balance for parents and carers' <<http://bit.ly/2AR3ro2>> accessed 15 December 2017.

217 *ibid.*

218 Valerie Flynn, 'State seeking to stifle right to paid parental leave', *The Sunday Times*, 10 December 2017.

219 Department of Justice and Equality, 'Briefing document for Minister – June 2017', <<http://bit.ly/2BQ3DzT>> accessed 20 September 2017.

220 *ibid.*

221 *ibid.*

222 Department of Justice and Equality, *National Strategy for Women and Girls 2017–2020: Creating a better society for all* (DJE 2017) 32.

223 Communication received by the Children's Rights Alliance from the Department of Social Protection, 23 January 2017.

224 *ibid.*

225 Department of Social Protection, 'Ministerial Brief June 2017 – Part A' <<http://bit.ly/2AQrDXI>> accessed 20 September 2017.

226 *ibid.* The Group comprises representatives from the Departments of Business, Enterprise and Innovation; Children and Youth Affairs; Education and Skills; Employment Affairs and Social Protection; Finance; Housing, Planning, and Local Government; Public Expenditure and Reform, and Revenue.

227 Department of Social Protection, 'Ministerial Brief June 2017 – Part A' <<http://bit.ly/2AQrDXI>> accessed 20 September 2017.

228 *ibid.*

229 Department of Employment Affairs and Social Protection, 'Minister Doherty announces Social Welfare Budget for 2018' <<http://www.welfare.ie/en/pressoffice/Pages/pr101017.aspx>> accessed 12 October 2017.

230 Communication received by the Children's Rights Alliance from the Department of Employment Affairs and Social Protection, 23 November 2017.

to support parents returning to work.²³¹ In November 2017, almost 8,100 people were in receipt of the payment with 16,467 child beneficiaries.²³² The number of people receiving the Dividend fell in July and August 2017 as 5,000 recipients who were subject to the changes introduced in 2015 to the One Parent Family Payment came to the end of their maximum two-year entitlement to the scheme.²³³

The other key Budget 2018 announcement for families in receipt of a social welfare payment was an addition of €2 to the Qualified Child Increase (QCI).²³⁴ While an increase in QCI is welcome, the change provided for in Budget 2018 does not reflect the recommendation by the National Advisory Council for Children and Young People that there should be a higher QCI rate for children over 12.²³⁵ Households with older children suffer greater income inadequacy and it is estimated that, in 2018, these households will represent 77 per cent of those facing the most severe hardship.²³⁶

A Programme for a Partnership Government also 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.²³⁷ Budget 2018 increased the hourly minimum wage by 30 cent to €9.55, the second increase in the term of the current Government. However, the rate continues to fall below the Government's own target and represents only 82 per cent of the living wage which is necessary to maintain a

minimum essential standard of living.²³⁸ The publication of the Employment (Miscellaneous Provisions) Bill 2017 in December 2017 is welcome in so far as it addresses some of the issues arising from precarious employment.

The Home Carer Tax Credit reduces the tax liability of married couples or civil partners by a specific amount where one partner works in the home caring for a child or other dependent person and the couple are jointly assessed for tax purposes.²³⁹ In Budget 2018, this tax credit was increased for the third time in three years, rising from €1,100 to €1,200 where the carer has an annual income of less than €7,200.²⁴⁰ The Minister for Finance and Public Expenditure, Paschal Donohue TD, has indicated that it is not possible for Revenue to separate out the data that would show how many people will benefit from the change.²⁴¹

Income Disregards for Lone Parents: In 2016, there were 218,817 one-parent families in Ireland of which almost 190,000 were headed by women.²⁴² More than 350,000 children live in a household headed by a lone parent.²⁴³ In 2017, 58.5 per cent of lone parents were at work, as compared to 76 per cent of two-parent families.²⁴⁴ More than a third of lone parent households are at risk of poverty; more than a quarter live in 'consistent poverty'; and almost 60 per cent experience two or more types of deprivation.²⁴⁵ The rate of 'consistent poverty' among children in lone parent households is more than twice the overall 'consistent child poverty' rate of 11.6 per cent.²⁴⁶

231 Department of Employment Affairs and Social Protection, 'Minister Doherty announces Social Welfare Budget for 2018' <<http://www.welfare.ie/en/pressoffice/Pages/pr101017.aspx>> accessed 12 October 2017.

232 Communication received by the Children's Rights Alliance from the Department of Employment Affairs and Social Protection, 23 November 2017.

233 *ibid.*

234 Department of Employment Affairs and Social Protection, 'Minister Doherty announces Social Welfare Budget for 2018' <<http://www.welfare.ie/en/pressoffice/Pages/pr101017.aspx>> accessed 12 October 2017.

235 National Advisory Council for Children and Young People, 'NGO Submission on Actions to Achieve the Child Poverty Reduction Target' (National Advisory Council for Children and Young People 2017) 18. The submission was developed by the NGO members of the Council's sub-group on child poverty, co-convened by the Department of Social Protection and the Children's Rights Alliance. The Council adopted the paper in November 2016.

236 Vincentian Partnership for Social Justice, 'Budget 2018: MESL Impact Briefing' <<http://bit.ly/2nEpMiy>> accessed 12 October 2017.

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

238 Vincentian Partnership for Social Justice, 'Budget 2018: MESL Impact Briefing' <<http://bit.ly/2nEpMiy>> accessed 12 October 2017.

239 Revenue, 'Home Carer Tax Credit' <<http://bit.ly/2nEtngq>> accessed 31 January 2017.

240 Citizens Information Board, 'Budget 2018' <<http://bit.ly/2BQEvTE>> accessed 12 October 2017.

241 Minister for Finance and Public Expenditure, Paschal Donohue TD, Written Answers, Tax Credits, 20 June 2017 [27276/17].

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

243 *ibid.*

244 Central Statistics Office, 'Quarterly National Household Survey - QNHS Households and Family Units Quarter 2 2011 - Quarter 2 2017' <<http://bit.ly/2ACZpyr>> accessed 6 December 2017.

245 Central Statistics Office, 'Survey on Income and Living Conditions (SILC) 2015 Results' (CSO 2017) <<http://bit.ly/2jV6MG9>> accessed 2 February 2017.

246 Communication received by the Children's Rights Alliance from the Central Statistics Office, 2 February 2017.

Income disregards support lone parents in work as a certain portion of earned income will not be considered in means-testing for a social welfare payment. Lone parents require additional supports to ensure that they can engage in paid work and there are concerns that, with a focus on employment activation measures, transitioning to other payments such as Jobseeker's Allowance (JA) acts as a disincentive to taking up part-time work as a result of the reduction in income disregards.²⁴⁷ Budget 2018 increased the income disregard for parents in receipt of One Parent Family Payment (OPFP) and Jobseeker's Transition Payment (JST) by €20 per week meaning that, from January 2018, lone parents can earn up to €130 weekly and still qualify for their full social welfare payment.²⁴⁸ Prior to 2012, a lone parent was permitted to earn €146.50 per week and retain their full payment but the earnings limit was then reduced to €90.²⁴⁹ In October 2017, just over 15,500 OPFP recipients were in employment (40 per cent of the total receiving the payment); of 14,451 people receiving the JST payment, almost 5,000 were in work.²⁵⁰ Another important income support for working lone parents is FIS: almost half of those in receipt of the payment are households headed by a lone parent.²⁵¹

The Social Welfare Act 2016 provided that the Minister for Social Protection would commission a report 'on the financial and social effects of the amendments to One Parent Family Payment since 1 January 2012, taking into account the effects on welfare dependency and the poverty rates of those in receipt of One-parent Family Payment'.²⁵² International economic consultants Indecon prepared the report which was published in

October 2017; it included the findings of a survey of 3,684 lone parents directly impacted by the policy changes.²⁵³ The report noted that changes to the OPFP had resulted in a net benefit of €45 million to the Exchequer since their introduction in 2012.²⁵⁴ The analysis found that welfare dependency appeared to decrease but highlighted that 'a potential concern is that many of those who lost OPFP remain unemployed or in low paid or part-time employment'.²⁵⁵ Almost half of the participants reported a loss of income and more than half said their situation had worsened since they lost access to the payment.²⁵⁶ Lone parents continued to report high levels of poverty and deprivation.²⁵⁷

Income supports alone cannot alleviate or eradicate the high poverty rates being experienced by one parent families so it is important that the Government continues to invest in targeted supports and services for these families. Notably, the Indecon report failed to take account of the cost of childcare,²⁵⁸ particularly for lone parents,²⁵⁹ or to consider how this may have impacted on their experience of the policy changes or take-up of increased working hours. The important role of education was acknowledged in the report but the reality is that lone parents continue to face difficulties in accessing education supports.²⁶⁰ A further review is to take place of the OPFP scheme and it is anticipated that it will include data to the end of 2018.²⁶¹

247 M. Millar and R. Crosse, *Lone Parents and Activation, What Works and Why: A Review of the International Evidence in the Irish Context* (The UNESCO Child and Family Research Centre, National University of Ireland, Galway 2016) 32.

248 Department of Employment Affairs and Social Protection, 'Minister Doherty announces Social Welfare Budget for 2018' <<http://www.welfare.ie/en/pressoffice/Pages/pr101017.aspx>> accessed 12 October 2017.

249 One Family, 'One-Parent Family Payment & Income Disregards' (2014) <<http://bit.ly/1guyvYj>> accessed 31 January 2017.

250 Communication received by the Children's Rights Alliance from the Department of Employment Affairs and Social Protection, 23 November 2017.

251 *ibid.*

252 Section 12 of the Social Welfare Act 2016.

253 Indecon International Economic Consultants, *Independent Review of the Amendments to the One-parent Family Payment since January 2012* (DEASP 2017) iii.

254 *ibid* xiii.

255 *ibid* 33.

256 *ibid* x.

257 *ibid* ix.

258 One Family, 'Response to the Report "Indecon Independent Review of the Amendments to the One-parent Family Payment since January 2012"' <<http://bit.ly/2zaQnFm>> accessed 19 October 2017.

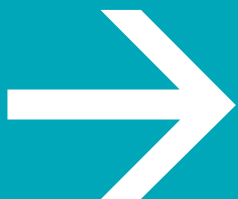
259 European Commission, 'Country Report Ireland, Including an In-Depth Review on the prevention and correction of macroeconomic imbalances' <<http://bit.ly/2Bee1VJ>> accessed 19 October 2017.

260 One Family, 'End Child Poverty, Make Work Pay: One Family's Key Recommendations for Budget 2018' <<http://bit.ly/2y4mXdH>> accessed 6 December 2017.

261 Communication received by the Children's Rights Alliance from the Department of Employment Affairs and Social Protection, 23 November 2017.

Parental Leave and Income Supports

Immediate Actions for 2018



INCREASE PAID LEAVE FOR PARENTS IN THE FIRST YEAR OF A CHILD'S LIFE.

Publish and enact a Family Leave Bill in 2018 to provide for paid parental leave which could be taken after maternity leave by either parent. The legislation should reflect the minimum provisions of the proposed EU Directive on Work-Life Balance for Parents and Carers. Monitor the uptake of Paternity Benefit to ensure that as many new parents as possible are availing of the entitlement.

MONITOR THE UPTAKE OF THE WORKING FAMILY PAYMENT AND CONSIDER WAYS IN WHICH IT COULD BE IMPROVED TO SUPPORT FAMILIES IN NEED; PROVIDE FOR A HIGHER QUALIFIED CHILD INCREASE FOR CHILDREN AGED 12 AND OVER.

Ensure the Working Family Payment is an effective targeted payment to alleviate child poverty. Raise the rate of payment for the Qualified Child Increase for children over the age of 12, in line with the recommendation of the National Advisory Council on Children and Young People.

RESTORE THE INCOME DISREGARD FOR THE ONE PARENT FAMILY PAYMENT AND JOBSEEKER'S PAYMENTS FOR LONE PARENTS.

Increase the income disregard to its pre-recession level of €146.50 per week for the One Parent Family Payment, the Jobseeker's Transition Payment and for lone parents in receipt of Jobseeker's Allowance.

2.3

Prevention and Early Intervention

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: Some

- > Ensure the sharing and implementation of learning from such programmes.



Progress: Some

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



Progress: Good

'Prevention and Early Intervention' receives a 'C' grade in *Report Card 2018*. The public funding for the Area Based Childhood (ABC) Programme has been extended to 2018 pending completion of a programme evaluation. The learning from ABC is starting to feed into key policies and initiatives. There has been uncertainty about the future of ABC sites. However, the development of the National Data and Information Hub project by Tusla, in partnership with the Department of Children and Youth Affairs, is promising for the local implementation of *Better Outcomes, Brighter Futures*. The considered consultative approach adopted by the Prevention

and Early Intervention Unit in the Department of Public Expenditure and Reform, in developing its remit and strategy, bodes well for future success.

Every child has the right to survival and development.²⁶² 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.²⁶³ Prevention is defined as ensuring that a problem does not arise in the first place; early intervention means acting at the first signs of trouble, while treatment means responding once what could

262 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989) Art 6.

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

go wrong, has gone wrong.²⁶⁴ Prevention and early intervention mean intervening at a young age, or early in the onset of difficulties, or at points of increased vulnerability such as school transitions, adolescence and parenthood.²⁶⁵ The Council of Europe's²⁶⁶ recommendation addressing children's rights in social services planning, delivery and evaluation includes the principles of prevention and early intervention, child-focused partnership with parents, and assessment of the child's needs, to encompass protective factors and strength, as well as risk factors in the child's environment.²⁶⁷

The UN Committee requires that States 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.²⁶⁸ Young children are especially vulnerable to the harm caused by unreliable, inconsistent relationships with parents and caregivers, growing up in extreme poverty and deprivation, or being surrounded by conflict and violence.²⁶⁹ States are required to render appropriate assistance to parents, guardians and extended families in the performance of their child-rearing responsibilities.²⁷⁰ 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, flexible working hours as well as those that have more immediate consequences (for instance, perinatal health services, parent education, home visitors).²⁷¹ The UN Committee obliges 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.²⁷²

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.²⁷³ However, Ireland's balance of public spending is skewed towards crisis rather than preventative spending.²⁷⁴

The UN Committee requires that States 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. Young children are especially vulnerable to the harm caused by unreliable, inconsistent relationships with parents and caregivers, growing up in extreme poverty and deprivation, or being surrounded by conflict and violence.

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

265 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (DCYA 2014) 29.

266 The Council of Europe is a human rights institution. It includes 47 member states, 28 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 implementation of the European Convention on Human Rights and the European Social Charter. The European Court of Human Rights is a key institution.

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

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

269 *ibid* para 36.

270 *ibid* para 20.

271 *ibid* para 20a.

272 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.

273 Prevention and Early Intervention Network, *The Case for Prevention and Early Intervention* (PEIN 2014) 3.

274 Ellis Lawlor and Sinéad McGilloway, *An Economic Appraisal of the youngballymun Initiative* (Just Economics 2012) 36.

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'.²⁷⁵ It aims for policy responses and services to improve their effectiveness and responsiveness and strengthen the system of supports around the individual child or young person to achieve better outcomes.²⁷⁶ Strategically, it considers universal services as the main providers of prevention and early intervention, naming early childhood education and care services, schools, youth, community and health services.²⁷⁷ In this context, the 2017 report of the all-party Committee on the Future of Healthcare, *Sláintecare* recognised the importance in adequately resourcing child health and wellbeing services including parenting supports and recommended the recruitment of '900 more general nurses to work in the community... to free up Public Health Nurses, who have training in child health services.'²⁷⁸

Better Outcomes, Brighter Futures also commits to lifting approximately 100,000 children out of consistent poverty by 2020.²⁷⁹ There are currently 130,000 children living in consistent poverty; such children are more likely to be older (between 12 and 17 years), in a lone parent household, tend to live in households where there is no person at work, more likely to be in the Border, Midlands or Western regions and slightly more likely to live in a rural rather than an urban location.²⁸⁰

Community-based Early Intervention Programmes:

From 2004, the Government and the Atlantic Philanthropies co-funded evidence-informed programmes aiming to improve outcomes for children in urban areas of disadvantage, by intervening in

their lives from the pre-natal stage to 18 years.²⁸¹ The Programmes themselves set out to relieve the impact of poverty on children and young people's lives. The current Area Based Childhood (ABC) Programme, operating since 2013, offers interventions in 13 urban sites around the country, addressing child health and development, children's learning, parenting, and integrated service delivery.²⁸² The ABC Programme aims to test and evaluate innovative prevention and early intervention approaches to improve outcomes for children and families at risk of poverty.²⁸³ The Programme was due to end in 2016, with the intention that learning from the initiative, identified through an evaluation, could then be mainstreamed in established services and supports for children and families in Ireland.²⁸⁴ Funding has been extended to the end of August 2018 by the Department of Children and Youth Affairs following the departure of Atlantic Philanthropies, to allow the Programme to continue to meet all programme commitments for the 2017/18 academic year and to align with the completion of the national evaluation.²⁸⁵

The ABC Programme evaluation will determine the extent to which the initiative changed child and family outcomes.²⁸⁶ A cost analysis, rather than a cost-benefit analysis, is being developed with a focus on the costs of service delivery, the expenditure by services funded by the ABC programme, and the leveraging of other resources that ABC areas have been able to secure.²⁸⁷ The focus on a cost analysis was due to the limitations of the available data for consideration considered as part of the national evaluation.²⁸⁸ An interim evaluation report was finalised in June 2017 and a summary will

275 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (DCYA 2014) 23.

276 *ibid.*

277 *ibid.*

278 Joint Oireachtas Committee on the Future of Healthcare, *Sláintecare, Report of the Oireachtas Committee on the Future of Healthcare* (Houses of the Oireachtas 2017) 60-63.

279 Poverty is measured through the EU Survey on Income and Living Conditions (SILC). A child or young person under 18 years is defined as being in consistent poverty if they live in a household that is both at risk of poverty and experiencing enforced deprivation. Source: Department of Social Protection Monitor 2014 (Department of Social Protection 2016).

280 Department of Social Protection, Who are the children living in consistent poverty? (unpublished communication 2015), 1.

281 The Atlantic Philanthropies, Investing in a Better Future for All (The Atlantic Philanthropies) <www.atlanticphilanthropies.org/our-story> accessed 19 October 2017.

282 Department of Children and Youth Affairs, 'ABC Overview' <<http://bit.ly/2BcztHT>> accessed 13 October 2017.

283 *ibid.*

284 Kitty Holland, 'Three ABC anti-child poverty programmes in Dublin in doubt', *The Irish Times*, 11 February 2016.

285 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

286 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 December 2017.

287 *ibid.*

288 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

be available in early 2018.²⁸⁹ The interim report indicates some initial positive trends in areas such in parenting, children's learning, and emotional development, although data collection is ongoing and observations made in the interim report are subject to change.²⁹⁰ The Department of Children and Youth Affairs anticipates that the final national evaluation report will be completed by June 2018.²⁹¹

The Department hosted an Open Policy Debate in February 2017 to explore potential steps towards mainstreaming elements of the ABC Programme, and discuss future community-based prevention and early intervention initiatives.²⁹² The Department intends to mainstream the ABC Programme objectives through local partnerships and developments at national level such as the proposed pilot project on a school-based model of speech and language therapy.²⁹³ The Department's own ABC Programme Inter-departmental Group and the development of the Quality and Capacity Building Initiative (QCBI) (discussed below) will also play a role in mainstreaming.²⁹⁴ The Department expects that any future prevention and early intervention initiatives will utilise the *Better Outcomes, Brighter Futures* framework and the QCBI implementation and governance structures.²⁹⁵

The mainstreaming of the ABC learning provides the Government with a key opportunity to reduce some of the effects of poverty for children living in consistent poverty. However, future programme developments need to consider the fact that children living in consistent poverty are more likely to live in rural locations and on the Border, Midlands and Western regions.²⁹⁶ The ABC Programme sites to date have all been located in urban centres and have needed significant investment. It will be a challenge for Government to replicate this model throughout the

The mainstreaming of the ABC learning provides the Government with a key opportunity to reduce some of the effects of poverty for children living in consistent poverty. However, future programme developments need to consider the fact that children living in consistent poverty are more likely to live in rural locations and on the Border, Midlands and Western regions.

country. In developing the Programme, it will be critical to identify what learning can be translated to national initiatives and universal services. It will also be important to remember that an over-reliance on one type of model could result in certain groups of children being overlooked.

Sharing and Implementing Learning: The Department of Children and Youth Affairs is developing the QCBI, funded with €14 million from the Dormant Accounts Funding Scheme,²⁹⁷ as a co-ordinated approach to enhance capacity, knowledge and quality in prevention and early intervention for children, young people and their families.²⁹⁸ It aims to ensure that each key group working with children, young people and families knows what works and is able to apply an evidence-informed approach to the work.²⁹⁹ This approach is important because it helps programmes and initiatives to develop actions that meet the needs of service users.

QCBI involves four components aiming to: align data; harness evidence; enhance implementation through

289 *ibid.*

290 *ibid.*

291 *ibid.*

292 Department of Children and Youth Affairs, Area Based Childhood Programme Open Policy Debate Report (DCYA 2017) 2 <<https://www.dcy.gov.ie/documents/publications/20170529ABCOpenPolicyDebateFeb2017.pdf>> accessed 7 October 2017.

293 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

294 *ibid.*

295 Department of Children and Youth Affairs, Area Based Childhood Programme Open Policy Debate Report (DCYA 2017) 2 <<https://www.dcy.gov.ie/documents/publications/20170529ABCOpenPolicyDebateFeb2017.pdf>> accessed 7 October 2017.

296 Department of Social Protection, Who are the children living in consistent poverty? (unpublished communication 2015) 1.

297 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

298 Department of Children and Youth Affairs, Area Based Childhood Programme Open Policy Debate Report (DCYA 2017) 2 <<https://www.dcy.gov.ie/documents/publications/20170529ABCOpenPolicyDebateFeb2017.pdf>> accessed 7 October 2017.

299 *ibid.*

coaching and development; and embed prevention and early intervention approaches through the development of a shared quality framework. The QCBI in partnership with Tusla established a National Data and Information Hub project in 2017.³⁰⁰ This project involves building an interactive area-based, mapping system to provide information for policy makers, service providers, Tusla, practitioners and communities so that the planning and delivery of services are informed by the best available data.³⁰¹ Partners within the Children and Young People's Services Committees (CYPSCs)³⁰² will also access and use the system to develop their respective priorities and plans.³⁰³ The project aims to provide a national standardised approach to mapping outcomes, indicators and services for children and young people³⁰⁴ beginning with a pilot project with 11 CYPSCs in the first year with a view to rolling it out across all CYPSC areas.³⁰⁵ A lack of data and collation of needs-based analyses, with a view to providing and integrating services with children at the centre, has been a consistent issue, so the establishment of this project is a welcome development.

The Department intends that QCBI will focus on enhancing capacity, access and use of data and evidence in service design and delivery, in line with the learning from the Prevention and Early Intervention Programme and ABC Programmes to date.³⁰⁶ Sharing the learning will extend beyond the ABC Programmes.³⁰⁷ The QCBI is anticipated to provide a framework for the delivery of better prevention and early intervention initiatives by building the capacity of CYPSCs and facilitating the sharing of information on evidence-based approaches and programmes and detailed data relating to children's services and outcomes. This is expected to assist in achieving cross-sectoral ownership and linking the programme into mainstream provision and structure.³⁰⁸

Prevention and Early Intervention Unit: The Prevention and Early Intervention Unit (PEIU), established in the Department of Expenditure and Public Reform in May 2017,³⁰⁹ will be responsible for evaluating prevention and early intervention models in respect of children and also older people with chronic conditions.³¹⁰ The PEIU has its full staff complement with an Assistant Principal and Administrative Officer reporting within the Expenditure Management Division.³¹¹ The PEIU has engaged with a broad range of stakeholders and contributed briefings to the National Economic Dialogue. This initial phase of the PEIU's work has focused on working towards a shared, cross-sectoral understanding of what is meant by a prevention and early intervention approach to policy in human services.³¹²

It is difficult to judge the impact of the Unit's work to date. An important indicator will be a report which will be issued for consideration by the Oireachtas in 2018 to propose appropriate ways to support the ongoing consideration of a prevention and early intervention approach to public policy making.³¹³

The QCBI is anticipated to provide a framework for the delivery of better prevention and early intervention initiatives by building the capacity of CYPSCs and facilitating the sharing of information on evidence-based approaches and programmes and detailed data relating to children's services and outcomes.

300 Tusla and Department of Children and Youth Affairs, 'Outcomes for Children National Data & Information Hub Project' <<http://bit.ly/2Cig7R>> accessed 15 December 2017.

301 *ibid.*

302 Children's Rights Alliance, *Report Card 2017* (Children's Rights Alliance, 2017) 24. CYPSCs are county-level committees which bring together the main statutory, community and voluntary providers of services to children and young people.

303 Tusla and Department of Children and Youth Affairs, 'Outcomes for Children National Data & Information Hub Project' <<http://bit.ly/2Cig7R>> accessed 15 December 2017.

304 *ibid.*

305 *ibid.*

306 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

307 *ibid.*

308 *ibid.*

309 Department of Public Expenditure and Reform, *Topical Issues 14: Prevention and early Intervention*, <www.per.gov.ie/wp.../Topical-Issues-14.-Prevention-and-Early-Intervention.pdf> accessed 7 October 2017.

310 Children's Rights Alliance, *Report Card 2017* (Children's Rights Alliance 2017) 23.

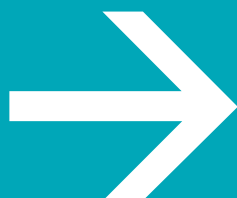
311 Communication received by the Children's Rights Alliance from the Department of Public Expenditure and Reform, 1 December 2017.

312 *ibid.*

313 *ibid.*

Prevention and Early Intervention

Immediate Actions for 2018



IMPLEMENT THE QUALITY CAPACITY BUILDING INITIATIVE.

The commissioning of the QCBI should commence in earnest in 2018, given that learning and mainstreaming is the strategy behind the Government's intended shift away from policy and delivery which are reactive rather than proactive.

THE PEIU SHOULD CONTINUE WITH THE CONSIDERED, CONSULTATIVE APPROACH TO DEVELOPMENT. IT SHOULD ENSURE THAT ITS WORK IS INFORMED BY THE BEST INTERESTS OF THE CHILD PRINCIPLE.

The PEIU should engage with key personnel in each government department, and in its funded agencies, to 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.

IMPLEMENT THE RECOMMENDATIONS IN THE 2017 REPORT OF THE ALL-PARTY COMMITTEE ON THE FUTURE OF HEALTHCARE, SLÁINTECARE TO ADEQUATELY RESOURCE CHILD HEALTH AND WELLBEING SERVICES.

In particular implement the recommendation on the recruitment of 900 general nurses to work in the community to ensure that Public Health Nurses with specialised training in child health services can focus on children.

3. RIGHT TO HEALTH

Chapter Grade

C-



Spun Out
@SpunOut



We welcome the publication of the #YouthMentalHealth Taskforce report today. It contains a list of Government approved recommendations in a number of important areas.



12 Dec 2017

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



© Barretstown: Rebuilding Lives Affected by Childhood Illness



IN THE NEWS

TAOISEACH AND HEALTH MINISTER LOBBIED TO URGENTLY PROGRESS PUBLIC HEALTH ALCOHOL BILL

Donegal Now, 15 November 2017

Alcohol Health Alliance Ireland is today lobbying the Taoiseach and Health Minister to urgently progress a Public Health Alcohol Bill.

They issued an appeal following developments in London, where the Supreme Court ruled that Minimum Unit Pricing (MUP) of alcoholic drinks is lawful in Scotland.

Rejecting the appeal by drinks industry representatives, the Supreme Court found that MUP is compatible with European Union law.

The Alcohol Health Alliance Ireland claims that Minimum Unit Pricing is targeted at the cheapest drinks consumed by the heaviest drinkers. Its chairman, Professor Frank Murray, said: "We welcome the decision on minimum unit pricing for Scotland today.

"It represents a great victory for the public's health. Minimum unit pricing will save lives, reduce hospital admissions and cut crime.

"It is shameful that so many lives have been lost and harmed over the past 5 years while this decision was challenged by the alcohol industry."

He added: "Ireland is now clear to progress their own plans for minimum unit pricing that are contained within the Public Health Alcohol bill.

"I call on the Taoiseach Leo Varadkar and Minister for Health Simon Harris to urgently progress this legislation, which is overwhelmingly supported by the public and, which can save lives and reduce the pressures on the health services."

The Alcohol Health Alliance was established by Alcohol Action Ireland and the Royal College of Physicians of Ireland (RCPI), and brings together over 50 NGOs, charities and public health advocates and campaigners.

Their mission is to reduce the harm caused by alcohol.

3.1

Primary Care

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

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



Progress: Slow

- > Introduce a dental health package for children under six.



Progress: Slow

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



Progress: Complete

'Primary Care' receives a 'C-' grade in *Report Card 2018*, an improvement on the 'D' grade awarded last year. This grade reflects the implementation of an automatic entitlement to a medical card for all children in receipt of Domiciliary Care Allowance. However, there has been little evidence of progress towards the phased extension of free GP care to all children and progress on the dental health package for children under six is slow.

Every child has the right to enjoy the highest attainable standard of physical and mental health.³¹⁴ Article 24 of the UN Convention on the Rights of the Child

places particular emphasis on the development of primary health care which includes access to General Practitioner (GP) care.³¹⁵ 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.³¹⁶ The Sustainable Development Goals, agreed by global leaders in 2015, call for the provision of universal health coverage 'including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all'.³¹⁷ *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young*

314 A child's right to health is set out in the UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 24.

315 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 24(2)(b).

316 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 26.

317 United Nations, Resolution adopted by the General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development (2015) A/RES/70/1.



CHILDREN UNDER 6 GET FREE GP CARE

People 2014–2020, reiterated the commitment to introduce universal GP services,³¹⁸ first articulated in the 2012 *Future Health Framework*.³¹⁹

Free GP Care: In 2013, the Government allocated €37 million to meet the annual cost of providing free GP care to children under the age of six, as a first step towards introducing universal free GP care.³²⁰ Following the enactment of the Health (General Practitioner Service) Act 2014 and the successful negotiation of a contract with GPs to provide services to children under six, the scheme came into operation in July 2015.³²¹ By November 2017, 95 per cent of GPs had entered an agreement with the Health Service Executive (HSE) to provide the service³²² and 362,380 children under

the age of six (approximately 92 per cent of the eligible population) were registered for the service.³²³ This means these children can access GP care without fees through entitlement to either a medical card or a GP visit card. Universal health coverage has been found to have significant longer-term health, financial and political benefits, while at the same time making the health care system more equitable for individuals and cost-effective for States.³²⁴

It is unclear why around eight per cent of children under the age of six are not registered for the service.³²⁵ There are concerns that children from vulnerable groups, including Traveller, Roma, migrant and undocumented children, may experience barriers in accessing their entitlement to free GP care. In particular, people may potentially have difficulty in demonstrating that they are 'ordinarily resident' in Ireland.³²⁶ Parents experiencing literacy difficulties may also have problems in accessing the scheme for their children.³²⁷

Welcome features of the scheme include the provision of wellbeing and prevention assessments of children at the age of two, and again at five years, as well as an agreed cycle of care for children diagnosed with asthma.³²⁸ By November 2017, 34,330 children had been registered with their GP for the asthma cycle of care.³²⁹ The expanded scheme is a further positive step towards fulfilling the child's right to access preventive healthcare, in line with EU legal obligations³³⁰ and international human rights law.³³¹ The Minister for

318 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (DCYA 2014) Commitment G9, 30.

319 Department of Health, *Future Health: A Strategic Framework for Reform of the Health Service 2012–2015* (DOH 2012).

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

321 Communication received by the Children's Rights Alliance from the Department of Health, 20 January 2017.

322 Minister for Health, Simon Harris TD, Written Answers, General Practitioner Services, 2 May 2017 [19151/17].

323 Communication received by the Children's Rights Alliance from the Department of Health, 6 December 2017.

324 World Health Organisation, *Arguing for Universal Health Coverage* (WHO 2013).

325 Minister for Health, Simon Harris TD, Written Answers, General Practitioner Services, 2 May 2017 [19151/17].

326 The application form asks applicants to state whether their child (or children) live, or intend to live, in the Republic of Ireland for at least one year. There is a concern that this requirement may be confused with the requirement to prove 'habitual residence' by satisfying a number of criteria to access social assistance payments. The Habitual Residence Condition applies to all means-tested social welfare payments and Child Benefit. This confusion is likely to be exacerbated by the lack of written guidance from the HSE on how this requirement can be demonstrated.

327 One in six Irish adults is at, or below, Level 1 on a five-level literacy scale. At this level, a person may be unable to understand basic written information. National Adult Literacy Agency, 'Literacy in Ireland' <<http://bit.ly/111uC9Z>> accessed 17 October 2017.

328 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) <<http://bit.ly/2BNByg7>> accessed 17 October 2017.

329 Communication received by the Children's Rights Alliance from the Department of Health, 6 December 2017.

330 European Union Charter of Fundamental Rights (22 October 2012) OJ C 326, Art 35: 'Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.'

331 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 24; International Covenant on Economic, Social and Cultural Rights (16 December 1966) 993 UNTS 3 (ICESCR) Art 12.

Health, Simon Harris TD, has stated his desire that the new GP contract will have an increased focus on health promotion and disease prevention.³³² There is considerable scope to enhance the preventative care provisions for other high-incidence chronic illnesses affecting children and young people, such as eczema, skin allergies and food allergies, which along with asthma account for more than half of all chronic illnesses among three year olds.³³³

The 2017 report of the all-party Committee on the Future of Healthcare, *Sláintecare*, recommended the delivery of expanded primary care services by the introduction, among other measures, of universal access to GP care without fees.³³⁴ The Committee recommended that GP care should be extended to an additional 500,000 people each year for five years; the estimated cost of this would be €91 million.³³⁵

The Coalition Government of 2011 to 2016 announced in Budget 2016 that free GP care would be extended to all children under the age of 12.³³⁶ However, the roll-out of this measure, expected to commence in 2016,³³⁷ has been delayed and will now form part of the negotiations of a new GP contract.³³⁸ Official policy documents state that the introduction of the scheme continues to be a priority for the Government³³⁹ and the HSE,³⁴⁰ as will the further roll-out of GP care to further groups of children and young people under the age of 18.³⁴¹ Minister Harris has indicated his intention to progress the extension of free GP care for children under 12 in 2018; however, this is subject to ongoing negotiations³⁴² regarding an updated GP contract that will allow the health service shift towards an integrated primary care model.³⁴³

The proposal to extend free GP entitlement to children under 12 has been criticised by the Irish College of General Practitioners (ICGP);³⁴⁴ however, it is essential that the rights of children to access preventative healthcare are prioritised during the current GP negotiations. It is also important that there is GP buy-in for the expansion of free GP care for all children under 18; this would extend entitlement to approximately an additional 498,000 children and young people.³⁴⁵

Dental Health: *A Programme for a Partnership Government* commits to introduce a dental health package for children under the age of six which will include timely access to a comprehensive preventive dental health programme. Currently, HSE Dental Clinics provide services for children under 16, focusing on a targeted screening and fissure sealant programme for children at ages six, nine and 12 years.³⁴⁶ Emergency services are also provided to all children under the age of 16 by the HSE Clinics.³⁴⁷ However, reports indicate that some children have not had their first dental screening under the school screening programme until

The 2017 report of the all-party Committee on the Future of Healthcare, *Sláintecare*, recommended the delivery of expanded primary care services by the introduction, among other measures, of universal access to GP care without fees.

332 Minister for Health, Simon Harris TD, Written Answers, General Practitioner Contracts, 21 June 2017 [29222/17].

333 Economic and Social Research Institute, *Growing Up in Ireland: Key Findings: Infant Cohort (at 3 years) No.1 The Health of 3 Year Olds* (ESRI & TCD 2011) 3.

334 Joint Oireachtas Committee on the Future of Healthcare, *Sláintecare, Report of the Oireachtas Committee on the Future of Healthcare* (Houses of the Oireachtas 2017) 60.

335 *ibid* 65.

336 Minister for Public Expenditure and Reform, Brendan Howlin TD, Address to Dáil Éireann on Expenditure Estimates 2016, Dáil Debates, 13 October 2015.

337 Communication received by the Children's Rights Alliance from the Department of Health, 18 December 2015.

338 Minister for Health, Simon Harris TD, Written Answers, General Practitioner Services, 12 July 2016 [20909/16].

339 Department of Health, *Statement of Strategy 2016–2019* (HSE 2016) 13–14.

340 HSE, National Service Plan 2017 (HSE 2016) 22.

341 The roll-out of free GP care to under-18s will be considered in the context of the funding available and the capacity of GPs to undertake this additional work. Minister for Health, Simon Harris TD, Parliamentary Questions, Written Answers, General Practitioner Contracts, 2 June 2016 [13769/16].

342 Communication received by the Children's Rights Alliance from the Department of Health, 6 December 2017.

343 Minister for Health, Simon Harris TD, Written Answers, General Practitioner Contracts, 21 June 2017 [29222/17].

344 Irish College of General Practitioners, 'Professional body for general practitioners makes urgent call for increased investment in primary care to avoid waiting lists for appointments' (ICGP) <<http://bit.ly/2g7EWGw>> accessed 14 September 2017.

345 Communication received by the Children's Rights Alliance from the Department of Health, 6 December 2017.

346 Communication received by the Children's Rights Alliance from the Department of Health, 24 November 2017.

347 *ibid*.

the age of 12.³⁴⁸ In light of this, it is essential that there is adequate follow through on the HSE statement that a 'priority action' for 2017 will be to '[i]mprove access to children's oral health services and improve access to orthodontic services for children'.³⁴⁹

The National Oral Health Policy, in development by the Department of Health since 2014,³⁵⁰ is due to be completed in 2017 and will inform the introduction of the dental health package.³⁵¹ Work to date has included a needs assessment, consultation with stakeholders and a review of resources.³⁵² The aim of the policy is to 'develop a model of care that will enable preventive approaches to be prioritised, improve access and, support interventions appropriate to the current needs'.³⁵³ The introduction of a dental health package is a positive step towards vindicating the right of a child to the highest attainable standard of health and healthcare.³⁵⁴ It is essential that the programme devised include effective actions in relation to oral health promotion, as well as adequate access for all children to dental treatment.

Medical Cards: HSE medical cards entitle holders to a range of health services free of charge including GP visits and hospital care.³⁵⁵ A welcome feature of Budget 2017 was the announcement that the Government intended to provide a medical card to all children who qualify for the Domiciliary Care Allowance (DCA).³⁵⁶

The Allowance 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.³⁵⁷ With the commencement of the relevant sections of the Health (Amendment) Act 2017³⁵⁸ in June 2017, all children in receipt of DCA are eligible for a medical card without having to undergo a means-test³⁵⁹ and can retain the medical card until their sixteenth birthday.³⁶⁰ This a positive step in realising the rights of children with disabilities in Ireland who have exceptional care needs³⁶¹ as having access to a medical card will have a significant impact in improving the health of children with high medical needs. It will also improve the lives of their families by alleviating the burden of high healthcare costs.

There have been significant delays in the processing of DCA claims in recent times with year-on-year increase in applications since 2009.³⁶² Despite the allocation of additional decision-making staff in July 2017, waiting times of up to 17 weeks were recorded in November 2017.³⁶³ The increase in processing times has been attributed to a 2016 High Court decision³⁶⁴ which has placed an onus on departmental medical assessors to provide a more detailed opinion to a deciding officer when considering an application, and for the deciding officer to provide more detailed reasons in the case of a refusal.³⁶⁵

348 RTE News, Children wait up to 12 years for first dental screening, (17 August 2017) <<http://bit.ly/2uKO5hU>> accessed 15 September 2017.

349 Health Service Executive, *National Service Plan 2017*(HSE 2017) 21.

350 Department of Health, 'National Oral Health Policy' (DOH) <<http://bit.ly/2EabdGX>> accessed 15 September 2017.

351 The project, led by the Chief Dental Officer, includes a needs assessment, a review of resources and involves consultation with stakeholders, including dental professionals and the public. Detailed financial analysis will be required in order to establish as accurately as possible the expected costs to the Exchequer in each case. Minister for Health, Simon Harris TD, Written Answers, Dental Services, 31 May 2017 [26065/17].

352 Minister for Health, Simon Harris TD, Written Answers, Dental Services Provision, 2 May 2017 [19252/17].

353 Minister of State for Communities and the National Drugs Strategy, Catherine Byrne TD, Topical Issue Debate, Dental Services Provision, Dáil Debates, 6 July 2017.

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

355 Health Service Executive, *Your Guide to Medical Cards* (HSE) <<http://bit.ly/1UEJl9p>> accessed 17 October 2017.

356 Minister for Public Expenditure and Reform, Pascal Donoghue TD, Financial Resolutions 2017 – Budget Statement 2017, 10 October 2016.

357 Department of Employment Affairs and Social Protection, 'DCA medical card scheme' <<http://bit.ly/2CvmKA3>> accessed 5 January 2018.

358 Department of Health, 'Ministers Harris and McGrath welcome the opening of registration for medical cards for 10,000 children with disabilities' <<http://bit.ly/2CDhjT1>> accessed 15 September 2017.

359 Department of Employment Affairs and Social Protection, 'DCA medical card scheme' <<http://bit.ly/2CvmKA3>> accessed 5 January 2018.

360 *ibid.*

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

362 *ibid.*

363 Minister of State for Disability, Finian McGrath TD, Written Answers, Domiciliary Care Allowance Applications, 7 November 2017 [45903/17].

364 *M.D. v Minister for Social Protection* [2016] IEHC 70.

365 Minister of State for Disability, Finian McGrath TD, Written Answers, Domiciliary Care Allowance Applications, 4 July 2017 [31423/17].

With the commencement of the relevant sections of the Health (Amendment) Act 2017 in June 2017, all children in receipt of DCA are eligible for a medical card without having to undergo a means-test and can retain the medical card until their sixteenth birthday. This a positive step in realising the rights of children with disabilities in Ireland who have exceptional care needs as having access to a medical card will have a significant impact in improving the health of children with high medical needs. It will also improve the lives of their families by alleviating the burden of high healthcare costs.

The high proportion of DCA applications that are initially refused and subsequently allowed on appeal continues to be an issue. Of the 432 applications that were appealed in the first half of 2017, 44 per cent were subsequently revised by a deciding officer, allowed on appeal or partially allowed on appeal.³⁶⁶ While this is a significant improvement on 2016 where 90 per cent of decisions were revised or overturned on appeal,³⁶⁷ the number of applicants who have to challenge the decision in order to obtain their entitlement remains unacceptably high. The average appeal processing times for January to May 2017 was 24 to 30 weeks³⁶⁸ meaning that children who are entitled to the payment may have to wait for months to receive it. With eligibility for a medical card under the new scheme resting solely on whether a child qualifies for DCA, it is essential that decisions made at the first instance are correct and are not subject to any unnecessary delays.

366 Minister of State with special responsibility for Disabilities, Finian McGrath TD, Written Answers, Domiciliary Care Allowance Data, 11 September 2017 [37350/17].

367 Minister for Social Protection, Leo Varadkar TD, Written Answers, Social Welfare Schemes Data, 24 January 2017 [3228/17].

368 Minister for Employment Affairs and Social Protection, Regina Doherty TD, Written Answers, Social Welfare Appeals Data, 11 July 2017 [32196/17].

Primary Care

Immediate Actions for 2018



PRIORITISE AND COMPLETE THE EXTENSION OF FREE GP CARE TO ALL CHILDREN UNDER THE AGE OF 18 YEARS.

The completion of the provision of free GP care for all children under 18 should be a priority for the Government, as a key strategy to vindicate the child's right to access primary healthcare services. Furthermore, measures should be taken to enhance the preventative and health promotion components of the GP contract by increasing the number of high-incidence chronic illnesses covered.

DELIVER THE NATIONAL ORAL HEALTH POLICY IN 2018.

The prompt completion of the National Oral Health Policy should be a priority for the Department of Health. Following publication of the Policy, the dental health package for children under six should be introduced without delay.

ADEQUATELY RESOURCE THE DEPARTMENT OF EMPLOYMENT AFFAIRS AND SOCIAL PROTECTION TO REDUCE PROCESSING TIMES FOR DOMICILIARY CARE ALLOWANCE (DCA) APPLICATIONS.

The Department should be adequately resourced to reduce the waiting times for processing applications and appeals in relation to DCA. It is essential that first-instance decisions are correct and are not subject to any unnecessary delays so that eligible children will not experience delays in receiving the payment and in obtaining the medical card to which they become entitled on qualifying for DCA.

3.2

Mental Health**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: Steady**

- > 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: Complete**

'Mental Health' receives a 'D+' grade in *Report Card 2018*, a slight improvement on last year's 'D-' grade. This reflects the publication of the *National Youth Mental Health Task Force Report 2017* and the progression of the review of *A Vision for Change*. In the context of increasing numbers of referrals to the Child and Adolescent Mental Health Services (CAMHS), waiting times for these services remain unacceptably lengthy.

All children have a right to the enjoyment of 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'.³⁶⁹ In 2016, the UN Committee expressed its concern about children and young people's 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.³⁷⁰ The Committee recommended that the State take action to address these issues by 'improving the capacity and quality of its mental health-care services for in-patient treatment, out of hours facilities and facilities for treating eating disorders'.³⁷¹

369 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 38.

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

371 *ibid*, para 54 (b).



4 OUT OF 5 PEOPLE WAITING FOR PSYCHOLOGIST APPOINTMENTS ARE UNDER 15

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.³⁷² *Better Outcomes, Brighter Futures* 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.³⁷³

The prevalence of mental health issues for children and young people in Ireland continues to be a concern. Ireland has the fourth highest incidence of teenage suicide in the European Union, and 22.6 per cent of young people aged between 11 and 15 years report

that they have experienced two or more psychological symptoms more than once a week.³⁷⁴

In 2017, there have been a number of high-profile initiatives to tackle the issue of inadequate mental health services. The Seanad Public Consultation Committee sought the views and experiences of child and adolescent mental health service users, civil society and service providers.³⁷⁵ The Committee's report, published in October 2017, made a number of recommendations in relation to improved access to services, recruitment of staff, and outcome monitoring.³⁷⁶

The Department of Health has initiated a Pathfinder Project to examine cross-departmental collaboration in regard to youth mental health.³⁷⁷ The cross-departmental nature of the project has the potential to achieve a whole-of-government approach to youth mental health and deliver improved access to child-friendly mental health services. The Joint Committee on the Future of Mental Health Care, established in July 2017, will seek to achieve cross-party consensus on the direction of Irish mental health policy and on how to implement a single long-term vision for mental health care.³⁷⁸ The key recommendations emerging from these initiatives must be supported and implemented to create a real change for the better in children and young people's experiences of mental health services.

Review of *A Vision for Change*: *A Vision for Change*, published in 2006,³⁷⁹ sets out the framework for building 'accessible, community-based, specialist services for people with mental illness' and proposes a holistic view of mental illness with the adoption of an integrated multidisciplinary approach.³⁸⁰ *A Vision for Change* was due to be fully implemented by the end of 2016 but progress has been 'slow and inconsistent'³⁸¹ and parts of the policy remain unimplemented.³⁸²

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

373 *ibid*, Commitment 1.8 and 1.9.

374 UNICEF, 'Report Card 14, Building The Future: Children And The Sustainable Development Goals In Rich Countries' Irish Infographic guide to Report Card 14' (UNICEF Ireland) <<http://bit.ly/2tWH2xu>> accessed 13 October 2017.

375 Houses of the Oireachtas, 'Seanad Public Consultation Committee to hold hearings on Children's Mental Health Services' <<http://www.oireachtas.ie/parliament/mediazone/pressreleases/2017/name-42809-en.html>> accessed 20 October 2017.

376 Seanad Public Consultation Committee, *Report on Children's Mental Health Services* (Houses of the Oireachtas 2017) 32.

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

378 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 13 October 2017.

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

380 *ibid* 8.

381 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 30 January 2017.

382 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).

The review of *A Vision for Change* promised in the Programme for Government has commenced and a report on the 'evidence review' of best practice was published in July 2017³⁸³ encompassing a 'stock-take' examination of mental health service developments in Ireland and internationally.³⁸⁴ A key finding was the need to prioritise mental health as a major societal issue and the importance of primary prevention and promotion of positive mental health.³⁸⁵ The review highlighted the benefits of prioritising perinatal and early years care in mental health and suggested that the updated *A Vision for Change* examine the integration of services³⁸⁶ and specialist perinatal mental health services drawing on examples from New Zealand.³⁸⁷ The review also flagged cyberbullying as a challenge to be addressed in any new policy.³⁸⁸

The findings of the review should form the basis for the development of a new national mental health policy, with a particular emphasis on the development of child and youth mental health services. An independent Oversight Group has been established to oversee the development of the new policy based on the expert review³⁸⁹ and is envisaged to run until late 2018.³⁹⁰ The revised national policy is expected to include a multi-annual implementation plan to inform the allocation of resources in future years;³⁹¹ this would be a welcome development. The priorities of the Oversight Group include primary prevention, early intervention and positive mental health, integration of care and delivery systems between primary and secondary services and development of e-mental health responses.³⁹² The Alliance urges that a stakeholder consultation be

undertaken to ensure that the development of the new national policy is informed by the views of service users, key civil society actors and service providers in both the public and independent sector. It is a matter of concern that there is no clear timeline for the completion of the full review of *A Vision for Change*.

Demand for mental healthcare services continues to exceed availability at all levels and many gaps remain in both the primary care and the specialised Child and Adolescent Mental Health Services (CAMHS) systems.³⁹³ At a primary care level, there were 6,811 children under the age of 17 waiting for a community-based psychology appointment at the end of July 2017; a third had been waiting over a year.³⁹⁴ Children aged five to 17 make up 80 per cent of people waiting for an appointment nationwide.³⁹⁵ The Joint Oireachtas Committee on the Future of Healthcare recommended the extension of counselling,³⁹⁶ and the development of psychology services in primary care for children and young people.³⁹⁷ To improve services, the Health

Demand for mental healthcare services continues to exceed availability at all levels and many gaps remain in both the primary care and the specialised Child and Adolescent Mental Health Services (CAMHS) systems.

383 Department of Health, 'Minister Daly welcomes the publication of the report of the Evidence Review of A Vision for Change and appointment of Chair of Oversight Group' <<http://bit.ly/2BFVmj8>> accessed 20 October 2017.

384 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.

385 *ibid* 8.

386 Including mental health, maternity, GP and public health nursing services.

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) 8.

388 *ibid*.

389 Department of Health, 'Minister Daly welcomes the publication of the report of the Evidence Review of A Vision for Change and appointment of Chair of Oversight Group' (Department of Health) <<http://bit.ly/2BFOt1l>> accessed 13 October 2017. The Group will be chaired by Hugh Kane, former Chief Executive of the Mental Health Commission.

390 Communication received by the Children's Rights Alliance from the Department of Health, 24 November 2017.

391 Minister of State for Mental Health and Older People, Helen McEntee TD, Mental Health Services Funding: Motion [Private Members], Dáil Debates, 15 November 2016.

392 Communication received by the Children's Rights Alliance from the Department of Health, 24 November 2017.

393 For more see Children's Mental Health Coalition, *Meeting the Mental Health Support Needs of Children and Adolescents: A Children's Mental Health Coalition View* (CMHC 2015).

394 Minister of State for Mental Health and Older People, Jim Daly TD, HSE Waiting Lists, Dáil Debates, 28 September 2017 [41188/17].

395 Minister of State for Mental Health and Older People, Jim Daly TD, Other Questions, Psychological Assessments Waiting Times, Dáil Debates, 28 September 2017 [40960/17].

396 Joint Oireachtas Committee on the Future of Healthcare, *Sláintecare, Report of the Oireachtas Committee on the Future of Healthcare* (Houses of the Oireachtas 2017) 7.

397 *ibid* 9.

Service Executive (HSE) is running a recruitment drive for an additional 22 psychologist posts and 114 assistant psychologists.³⁹⁸ The ongoing efforts to establish primary care counselling for children and young people under 18³⁹⁹ are welcome but achieving real progress in relation to this should be considered a matter of urgency.

Waiting times for specialised CAMHS continued to lengthen in 2017, in a context where the overall number of referrals is increasing; referrals in 2017 were 11.3 per cent higher than in 2016.⁴⁰⁰ In June 2017, there were 2,767 children waiting for a first appointment⁴⁰¹ with 60 per cent waiting for longer than three months and 12 per cent waiting over a year.⁴⁰² These figures represent an eight and two per cent increase respectively as compared to 2016.⁴⁰³ Currently, a young person who needs to access out-of-hours mental health treatment can generally do so only through hospital emergency departments. Testimonies presented to the Seanad Public Consultation Committee illustrate the difficulties experienced by young people and their parents in gaining access to out-of-hours care; one witness reported that following attempted suicide, one child had to be admitted to an emergency department and wait a further two weeks for an appointment with CAMHS.⁴⁰⁴ It is important that, in the development of a revised national mental health policy, priority is given to implementing the recommendation of the UN Committee that out-of-hours services for children be strengthened.⁴⁰⁵ In particular, it is essential that

24/7 support and liaison staff be deployed in sufficient numbers at primary care level and in mental health teams, so that children and young people can more readily access the help they need and not have to go to a hospital emergency department.

The lack of age-appropriate in-patient beds for children and young people who need hospital care remains a key concern: for the country as a whole there are only 72 public in-patient beds for young people under the age of 18.⁴⁰⁶ Moreover, services are negatively impacted by the ongoing difficulties in recruiting and retaining skilled CAMHS staff, in particular consultants and nurses.⁴⁰⁷ The Linn Dara unit in Dublin closed half of its 24 beds in June 2017 due to problems in recruiting and retaining staff.⁴⁰⁸ While the unit is again operating at full capacity,⁴⁰⁹ the lack of stability in this crucial service for vulnerable children and young people is unacceptable. Both the UN Committee on the Rights of the Child,⁴¹⁰ and the Mental Health Commission,⁴¹¹ have criticised the continued admission of young people under 18 to adult facilities.⁴¹² In June 2017, 31.6 per cent of all admissions of children and young people were to adult units.⁴¹³ While it is very welcome that the majority of time spent by young people as in-patients – 98.6 per cent of bed days⁴¹⁴ – was, in fact, spent in an age-appropriate facility, children and young people receiving in-patient care should be separated from adults including on initial admission to hospital.⁴¹⁵

398 Minister of State for Mental Health and Older People, Jim Daly TD, Other Questions, Psychological Assessments Waiting Times, Dáil Debates, 28 September 2017 [40960/17].

399 Minister of State for Mental Health and Older People, Jim Daly TD, Mental Health Service Expenditure, Dáil Debates, 28 September 2017 [41063/17].

400 In June 2016 there were 2,486 referrals to CAMHS and in June 2017 there were 2,767.

401 Health Service Executive, *Performance Profile April–June 2017 Quarterly Report* (HSE 2017) 22.

402 *ibid.*

403 Health Service Executive, *Performance Report May/June 2016* (HSE 2016) 56.

404 Seanad Public Consultation Committee, *Report on Children's Mental Health Services* (Houses of the Oireachtas 2017) 28.

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

406 The public in-patient beds are as follows: 20 in Merlin Park, Galway; 20 in Eist Linn, Cork; 24 in Linn Dara, Dublin, and 8 in St Joseph's, Dublin. Communication received by the Children's Rights Alliance from the Health Service Executive, 4 December 2017.

407 Health Service Executive, *Performance Profile, April–June 2017, Quarterly Report* (HSE 2017) 22.

408 Minister of State for Mental Health and Older People, Jim Daly TD, Mental Health Service Provision, Dáil Debates, 3 October 2017 [41914/17].

409 Communication received by the Children's Rights Alliance from the Health Service Executive, 4 December 2017.

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

411 Mental Health Commission, *Annual Report 2015* (MHC 2016) 8. 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).

412 Mental Health Commission, *Code of Practice Relating to Admission of Children under the Mental Health Act 2001: Addendum* (MHC 2009).

413 Health Service Executive, *June 2017 Management Data Report* (HSE 2017) 107.

414 A 'bed-day' is a day during which a person is confined to a bed and in which the patient stays overnight in a hospital.

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.

It is critical that the review of *A Vision for Change* is completed as a matter of urgency to address the significant shortcomings across all levels of mental health service provision for children and young people. The putting in place of a multi-annual implementation plan and the establishment of an independent monitoring group are essential to ensuring continuing improvements in the system.

National Youth Mental Health Task Force: The Task Force, established in August 2016⁴¹⁶ as a priority commitment under the Programme for Government,⁴¹⁷ was given one year to complete its work focusing on children and young people aged zero to 25 years.⁴¹⁸ It was asked to design a series of policy interventions to reduce stigma in relation to mental ill-health, raise awareness of supports, align services and build capacity at community level.⁴¹⁹ The Report of the Task Force was published in December 2017,⁴²⁰ its recommendations are set out under ten headings and include: amending the Mental Health Act in relation to consent to mental health treatment for those under the age of eighteen,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

A key recommendation of the Task Force Report is that an independent National Youth Mental Health Advocacy and Information Service be established.⁴²⁴ Access to such an independent advocacy service for children and young people is particularly important as children under the age of 18 cannot consent to, or refuse, mental health treatment, including being

admitted for in-patient treatment. A National Youth Mental Health Advocacy Service would mean that children and families would have someone to support them, advocate on their behalf, and serve as a link with mental health professionals and other services. A clear timeline for the establishment of this crucial service should be established as a matter of priority.

It is welcome that the *HSE National Service Plan for 2017* committed to implement 'agreed actions arising from the work of the National Youth Mental Health Taskforce'.⁴²⁵ The 2018 *HSE National Service Plan*, published in December 2017, states that youth mental health is a 'key issue' and will be 'a focus for 2018'.⁴²⁶ Notably, in the HSE's annual priorities, it states that it will '[i]mplement agreed actions arising from the work of the National Youth Mental Health Task Force for those aged 18 to 25 years'.⁴²⁷ However, it is essential that the recommendations of the Task Force are implemented across all age groups and not just those for over 18s.

It is welcome that the *HSE National Service Plan for 2017* committed to implement 'agreed actions arising from the work of the National Youth Mental Health Taskforce'. The 2018 *HSE National Service Plan*, published in December 2017, states that youth mental health is a 'key issue' and will be 'a focus for 2018'.

416 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' (Department of Health) <<http://bit.ly/2amT3ar>> accessed 17 October 2017.

417 Department of Health, 'National Youth Mental Health Taskforce – Extracts from Programme for Partnership Government & Taoiseach's 100 day priority commitment' (Department of Health) <<http://bit.ly/2lXjYMX>> accessed 17 October 2017.

418 Department of Health, 'Minutes of the Second Meeting of the National Taskforce on Youth Mental Health' (Department of Health) <<http://health.gov.ie/wp-content/uploads/2016/11/Second-Meeting-Minutes-NTYMH.pdf>> accessed 17 October 2017.

419 Department of Health, 'Terms of Reference for the National Taskforce on Youth Mental Health' (Department of Health) <<http://health.gov.ie/national-taskforce-on-youth-mental-health/terms-of-reference/>> accessed 17 October 2017.

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

421 *ibid*, Recommendation 9.

422 *ibid*, Recommendation 8.

423 *ibid*, Recommendation 3.

424 *ibid*, Recommendation 1.

425 Health Service Executive, *HSE National Service Plan 2017* (HSE 2016) 26.

426 Health Service Executive, *HSE National Service Plan 2018* (HSE 2017) 36.

427 *ibid* 37.

Mental Health

Immediate Actions for 2018



COMPLETE THE REVIEW OF *A VISION FOR CHANGE* IN 2018.

The review of *A Vision for Change* should be completed in 2018. Building further capacity in Child and Adolescent Mental Health Services and ensuring there is 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. Stakeholder consultation is essential and must involve service users, key civil society actors and service providers in both the public and the independent sector. There should be a multi-annual implementation plan and 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 Child and Adolescent Community Mental Health teams. Greater efforts should be made during 2018 to provide primary care psychology services for children and young people.

ADEQUATELY RESOURCE AND MONITOR THE ACTIONS ARISING OUT OF THE RECOMMENDATIONS OF THE REPORT OF THE NATIONAL YOUTH MENTAL HEALTH TASK FORCE.

Actions under the 10 key areas identified in the Report of the Youth Mental Health Task Force must be properly funded to achieve the intended outcomes. The priority given to implementing actions of the Taskforce for those aged 18 to 25 years in the *HSE National Service Plan* for 2018 should be revisited and priority should be given to implementing the recommendations for all children and young people.

3.3

Physical Health and Wellbeing

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > Enact the Public Health (Alcohol) Bill.



Progress: Some

- > Implement a national obesity plan.



Progress: Steady

- > Implement a sexual health strategy.



Progress: Limited

Physical Health and Wellbeing' receives a 'C-' grade in *Report Card 2018*. This grade, which is slightly lower than last year's, reflects the introduction of the levy on sugar-sweetened drinks and an increase in the Budget allocation for the School Meals Programme. It also reflects the fact that while the Public Health (Alcohol) Bill is stated to be a government priority, it has not yet been enacted. The commitments in the Sexual Health Strategy relating to children and young people remain unimplemented.

Every child has the right to enjoyment of the highest attainable standard of physical and mental health⁴²⁸ and the right to an adequate standard of living for their physical, mental, spiritual, moral and social

development.⁴²⁹ 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) Bill 2015: It is estimated that 1.34 million people in Ireland drink harmfully and 176,999 are dependent drinkers.⁴³⁰ There is a worrying culture of binge drinking among teenagers in Ireland. A survey of young people aged between 13 and 17 years found that 64 per cent had consumed alcohol; 53 per cent had been drunk at least once, and 50 per cent reported that they drink every month.⁴³¹ Of the young people surveyed, 77 per cent reported exposure to online marketing.⁴³²

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

429 *ibid* Art 27.

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

431 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) 8.

432 *ibid* 4.

In December 2015, the Government published the Public Health (Alcohol) Bill. The Department of Health has stated that the aim of the Bill is to reduce Ireland's alcohol consumption to the OECD average of 9.1 litres per person over the age of 15 by 2020,⁴³³ regulate the supply and price of alcohol to reduce alcohol-related harm and delay the age at which children first drink alcohol.⁴³⁴ The Bill targets four key areas: price, marketing, structural separation and health information. It contains a number of positive measures, including the introduction of minimum unit pricing,⁴³⁵ a prohibition of price-based promotions, mandatory health warnings, and, calorie labelling on alcohol products.⁴³⁶ The draft legislation proposes restrictions on the advertising of alcohol products, including a prohibition on advertising in places frequented by children⁴³⁷ including public transport and in sports grounds for events where the majority of competitors or participants are children, or directly in a sports area for all events.⁴³⁸ The legislation does not address the issue of alcohol sports sponsorship more generally. Alcohol companies target their marketing at children and young people in order to encourage, normalise and glamorise alcohol consumption among young people⁴³⁹ but the Bill does not contain any measures to address the digital marketing of alcohol to children and young people.⁴⁴⁰

It is welcome that the Taoiseach, Leo Varadkar TD, has identified the enactment of the Public Health (Alcohol) Bill as a priority action.⁴⁴¹ The Bill passed Report and

Final Stages in the Seanad in December 2017 and is expected to be enacted in 2018.⁴⁴² Extensive lobbying has been carried out by the drinks industry to weaken key aspects of the Bill;⁴⁴³ in particular, representatives of the industry and some government backbenchers have targeted aspects of the Bill relating to the structural separation of alcohol in shops.⁴⁴⁴ Given that 31 per cent of all alcohol sales are impulse purchases,⁴⁴⁵ the significant weakening of important provisions for structural separation at the Bill's Report and Final Stages in the Seanad is disappointing.⁴⁴⁶

The continued delay in implementing reform to tackle alcohol misuse is an infringement of the UN Convention on the Rights of the Child which obliges the State to protect children from alcohol, tobacco and illicit substances and places an onus on the State to take measures to reduce the consumption of these substances among children.⁴⁴⁷ In order to fully protect children's rights, the important provisions of the Bill relating to minimum unit pricing and advertising must be retained as the Bill passes through its final stages in the Oireachtas.

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.⁴⁴⁸

433 In 2016, alcohol consumption per capita in Ireland was 11.64 litres. For information on the measures proposed in the Alcohol Bill, see: Alcohol Action Ireland, 'What is the Public Health Alcohol Bill' <<http://alcoholireland.ie/what-is-the-public-health-alcohol-bill/>> accessed 2 November 2017.

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

435 The Bill makes it illegal to sell or advertise for sale alcohol at a price below 10c per gram of alcohol.

436 Section 11 of the Public Health (Alcohol) Bill 2015 provides that the labelling of products containing alcohol will include a warning to inform the public of the danger of alcohol consumption.

437 This includes schools, early years' services, playgrounds, train and bus stations. The Bill also sets out the criteria for advertising in cinemas and in publications.

438 For example, on the actual pitch, the race track, tennis court etc.

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

440 This is regrettable particularly in light of research showing 77 per cent of children aged 13 to 17 have reported exposure to online marketing. *ibid* 4.

441 Leo Varadkar TD, Taoiseach, Nominations of Members of the Government, Dáil Éireann, 14 June 2017.

442 Minister for Health, Simon Harris TD, Public Health (Alcohol) Bill 2017: Report and Final Stages, Dáil Debates, 15 December 2017.

443 Marie O'Halloran, 'Government alcohol Bill is up against strong lobbying', *Irish Times* 21 October 2016.

444 Public Health (Alcohol) Bill 2015 s22. Structural separation will require stores to stock alcohol either in a separate area of the store, or in a closed storage unit or cabinet which contains only alcohol products.

445 Barry Roche, 'De-normalisation' of alcohol purchases targeted by health body, *The Irish Times*, 18 September 2017.

446 Amendments to the Bill in the Seanad provided for an extended lead-in time for the provisions relating to structural separation, a reduction in the height of a barrier for shops with a separated area for alcohol products, amendments to the requirements to store alcohol products in wholly opaque storage units and the introduction of a third option for smaller retailers. Minister for Health, Simon Harris TD, Public Health (Alcohol) Bill 2017: Report and Final Stages, Seanad Debates, 15 December 2017.

447 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 62.

448 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.

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.⁴⁴⁹

One child in four living in Ireland is obese or overweight.⁴⁵⁰ Childhood obesity has long-term effects on children's physical and emotional wellbeing.⁴⁵¹ *A Healthy Weight for Ireland: Obesity Policy and Action Plan 2016–2025* was published in 2016 with a primary focus on prevention of obesity to increase the number of people in Ireland with a healthy weight.⁴⁵² A progress report to the Implementation Oversight Group was due in October 2017 but it is unclear if it will be made publicly available.⁴⁵³ The Obesity Policy commits to implementing the 2016 *Get Ireland Active! National Physical Activity Plan for Ireland*⁴⁵⁴ which is key to tackling childhood obesity alongside the other actions in the Policy. In September 2017, the HSE established a National Clinical Lead for Obesity, one of the key actions under *A Healthy Weight for Ireland*.⁴⁵⁵ However, the lack of dedicated funding for the strategy remains a concern.

The influence of the food industry in developing the Obesity Policy is an issue of concern,⁴⁵⁶ the industry was allowed to play a 'partnership' role in

the development, implementation and evaluation of a code of practice in relation to the promotion, marketing and sponsorship of food and beverages.⁴⁵⁷ The code, due to be published before the end of 2017, will be voluntary rather than mandatory in nature⁴⁵⁸ so it will not place any legal obligations or restrictions on companies despite the recognition that the manner in which food and drinks are promoted and marketed can influence exposure to unhealthy food.⁴⁵⁹ The World Health Organisation has recommended that States adopt a system of statutory regulation of food marketing, backed up by significant monetary fines.⁴⁶⁰ In developing policy to address the problem of obesity and unhealthy eating in Ireland, it is essential that the interests of public health are placed above corporate interests and that a mandatory code of practice in regard to the promotion and marketing of food products is put in place.

Sugar Levy: The levy on sugar-sweetened drinks, committed to in the Obesity Policy,⁴⁶¹ will be introduced in April 2018 at a rate of 30 cent on any drink with over eight milligrams of sugar per litre and 20 cent on any drink with five to eight milligrams of sugar per litre.⁴⁶² The purpose of the levy is to encourage a reduction in sugar-sweetened drinks, a measure which is supported by 58 per cent of the Irish public.⁴⁶³ Further taxation measures should be considered in relation to other unhealthy food items in line with the Obesity Policy which proposes the introduction of 'evidence-based fiscal measures to support healthy eating and

449 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.

450 Department of Health, *A Healthy Weight for Ireland: Obesity Policy and Action Plan 2016–2025* (Stationery Office 2016) 14.
451 *ibid* 30.

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

453 Minister of State for Health Promotion and the National Drugs Strategy, Catherine Byrne TD, Written Answers, Obesity Strategy, Dáil Debates, 28 September 2017 [41087/17].

454 Department of Health, *Get Ireland Active! National Physical Activity Plan for Ireland* (Stationery Office 2016).

455 Department of Health, 'Ministers Harris and Byrne welcome the appointment of new National Clinical Lead for Obesity' <<http://bit.ly/2F9M6Fm>> accessed 17 October 2017.

456 Irish Heart Foundation, 'Irish Heart Foundation (IHF) welcomes the Government's new obesity policy and action plan 'A Healthy Weight for Ireland', but warns that any further "implementation paralysis" in tackling the problem would have devastating consequences for the future health of our children'(IHF, September 2016) <<http://bit.ly/2CryFmC>> accessed 2 February 2017.

457 Department of Health, *A Healthy Weight for Ireland: Obesity Policy and Action Plan 2016–2025* (Stationery Office 2016) Action 3.2.

458 Minister of State for Health Promotion, Marcella Corcoran Kennedy TD, Written Answers, Obesity Strategy, Dáil Debates, 16 May 2017 [22814/17].

459 Department of Health, *A Healthy Weight for Ireland: Obesity Policy and Action Plan 2016–2025* (Stationery Office 2016) 40.

460 World Health Organisation, *Tackling food marketing to children in a digital world: trans-disciplinary perspectives* (WHO Europe 2016) 27.

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

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

463 Irish Heart Foundation, *Invest in children's health - Fund and tax proposal*, Pre-Budget Submission (IHF September 2016) <<http://bit.ly/2d1J2Ox>> 34, accessed 30 January 2017.



lifestyles'.⁴⁶⁴ Any income generated by the levy and other taxation measures should be ring-fenced and used to invest in initiatives that will further improve children's health. In addition, measures to reduce the cost of healthy foods should be considered.

Food Poverty: Clear health inequalities exist between children who live in disadvantaged areas and the general population.⁴⁶⁵ *A Healthy Weight for Ireland*

recognises this stark inequality and commits to prioritising vulnerable groups, including 'families, children, low-income groups and people living in deprived areas'.⁴⁶⁶ A needs assessment 'of vulnerable groups as the basis of allocation of resources for preventative and treatment services for children and adults' was due to take place in the first year of the policy.⁴⁶⁷

Food poverty is one of the driving forces behind higher rates of obesity and ill-health in disadvantaged communities.⁴⁶⁸ Since 2010, the percentage of people experiencing food poverty in Ireland has risen from 10 to 13.1 per cent⁴⁶⁹ and almost one child in five under the age of 15 lives with an adult who is food insecure.⁴⁷⁰ Research has found that rates of social welfare payments and earnings based on the minimum wage in Ireland make it difficult to follow a healthy diet.⁴⁷¹ The risk of low-income families experiencing food poverty is related to the age of their children, with expenditure greatest for infants (who have specific dietary requirements) and teenagers (who need to consume more food).⁴⁷² Food poverty is contributing to malnutrition, obesity, and poor concentration in school.⁴⁷³ To address the complex issue of food poverty, a multi-faceted approach is required across four key areas:⁴⁷⁴ affordability,⁴⁷⁵ accessibility,⁴⁷⁶ availability⁴⁷⁷ and awareness.⁴⁷⁸

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

465 *ibid* 50.

466 *ibid*.

467 *ibid* Step 9.

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

469 Department of Social Protection, *Social Inclusion Monitor 2014* (Department of Social Protection 2016).

470 UNICEF, 'Report Card 14, Building The Future: Children And The Sustainable Development Goals In Rich Countries' Irish Infographic guide to Report Card 14 (UNICEF Ireland) <<https://www.unicef.ie/stories/unicef-launches-report-card-14-child-well-wealthier-nations/>> accessed 13 October 2017.

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

472 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.

473 Healthy Food for All, *Pre-Budget Submission 2014* (Healthy Food for All 2013).

474 Healthy Food for All Initiative, 'Food Poverty' <<http://healthyfoodforall.com/food-poverty/>> accessed 30 January 2017.

475 Healthy Food for All Initiative, 'Healthy Food Basket' <<http://bit.ly/2CqWWsJ>> accessed 30 January 2017.

476 This is a critical and challenging issue: low-income families may have limited scope to choose healthier food options, not just because of financial constraints, but because they may live in areas which lack local shops and supermarkets and/or have limited transport options which gives rise to difficulties in accessing shops and bringing food home.

477 For families living on low incomes in disadvantaged areas, fresh and healthy food options may be limited or even unavailable. In these areas, families may not have access to a large supermarket and so are reliant on local convenience stores. Fresh foods have shorter shelf lives, with higher storage costs and lower profit margins, and therefore smaller local shops may not stock a full range of fresh produce.

478 It is essential that accurate and accessible information is made widely available by agencies responsible for advancing public health – given especially that food advertising may be strongly promoting less healthy food choices and that media stories about food and nutrition are sometimes misleading and/or contradictory. Families on low incomes, who may have difficulties in being able to purchase healthy food for reasons of cost and physical access, and who in addition may suffer from educational disadvantage, need to be given specific consideration in the development and implementation of programmes of information and advice on health eating.

The School Meals Programme, funded through the Department of Employment Affairs and Social Protection, continues to be a positive way of ensuring regular food services for disadvantaged school children. The Programme is not universal; an application process is in place and priority is given to schools which are part of the Delivering Equality of Opportunity in Schools (DEIS) programme.⁴⁷⁹ However, a positive development in 2017 was that the scheme was extended to provide breakfasts in 175 non-DEIS schools.⁴⁸⁰

In 2017, expenditure on the School Meals Programme amounted to €47.5 million and up to 250,000 children benefitted from the service.⁴⁸¹ An increase in the Budget 2018 allocation for the Programme means that €54 million will be spent on school meals in 2018, including €1.7 million allocated for 80 newly-designated DEIS schools.⁴⁸² From September 2018, an additional 18,400 children will benefit from the Programme.⁴⁸³ However, unlike other European countries, Ireland has a poor infrastructure of kitchen facilities in schools.⁴⁸⁴ The current programme does not cover the cost of kitchen equipment, facilities or staff costs, which means that schools have to meet these costs from their core budget or charge students in order to implement the programme.

In September 2017, the Minister for Health, the Minister for Education and Skills and the Minister for Employment Affairs and Social Protection launched new Nutrition Standards for the School Meals Programme.⁴⁸⁵ The Standards aim to ensure that schools provide children and young people with 'healthy balanced meals that follow the Healthy Eating Guidelines'⁴⁸⁶ and will be used by the Department

of Employment Affairs and Social Protection in administering the School Meals Scheme. Both the inspection programme and the individual service level agreements for each school will reference the Standards⁴⁸⁷ which will be implemented from September 2018.⁴⁸⁸

Sexual Health Strategy: All children have the right to the highest attainable standard of health, including sexual health.⁴⁸⁹ 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.⁴⁹⁰ The education should be age-appropriate and accessible.⁴⁹¹ The UN Committee on the Rights of the Child has set out specific guidance on the provision of sexual health education, stating that this should be 'based on scientific evidence and human rights standards'.⁴⁹² Such education, the Committee says, 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'.⁴⁹³ In 2016, the UN Committee

The UN Committee on the Rights of the Child has set out specific guidance on the provision of sexual health education, stating that this should be 'based on scientific evidence and human rights standards'.

479 Communication received by the Children's Rights Alliance from the Department of Employment Affairs and Social Protection, 2 December 2015.

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

481 *ibid.*

482 Government of Ireland, Budget 2018, *Expenditure Report, Part II: Expenditure Allocations 2018–20* (Stationery Office 2017) 82.

483 Department of Employment Affairs and Social Protection, Budget 2018 – Welfare.ie <<http://bit.ly/2EhGXts>> accessed 4 January 2018.

484 Educational Disadvantage Centre, 'National Strategy Hunger Prevention in Schools' <<https://www4.dcu.ie/edc/hunger-prevention-schools.shtml>> accessed 30 January 2017.

485 Department of Health, 'New Healthy Eating Standards for School Meals launched' (Department of Health 2017) <<http://bit.ly/2yBXJS9>> accessed 5 October 2017.

486 *ibid.*

487 *ibid.*

488 Communication received by the Children's Rights Alliance from the Department of Employment Affairs and Social Protection, 13 November 2017.

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

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

491 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.

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

493 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.

expressed concern at the 'lack of access to sexual and reproductive health education and emergency contraception' for young people in Ireland. It recommended that sexual and reproductive health be made a mandatory part of the school curriculum and that a sexual and reproductive health policy for young people be adopted.⁴⁹⁴

The National Sexual Health Strategy 2015–2020, issued by the Department of Health, aims to improve sexual health and wellbeing and reduce negative sexual health outcomes.⁴⁹⁵ *Report Card 2018* focuses on the child-specific commitments in the Strategy which relate to information and education. The Strategy acknowledges the responsibility of the State 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'.⁴⁹⁶ 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'⁴⁹⁷ as well as to undertaking an evaluation of the State-funded Relationships and Sexuality Education (RSE) programmes.⁴⁹⁸ The Health Service Executive (HSE) is prioritising sexual health training under the Sexual Health Strategy.⁴⁹⁹

Currently, sex and relationship education in schools is conducted as part of the RSE programmes.⁵⁰⁰ While the HSE Sexual Health and Crisis Pregnancy Programme has developed materials and programmes (such as b4udecide.ie),⁵⁰¹ a school's Board of Management ultimately determines the content of the programme.⁵⁰² This has led to reports of 'patchy' and 'misinformed' sex education in schools.⁵⁰³

In the absence of adequate information and education on sexual health and relationships, children and young people are leaving school without the understanding, awareness and the skills they will need to navigate adult sexual life.⁵⁰⁴ In addition, there are many vulnerable children and young people who leave school early and consequently do not receive the education that they need on these topics. To implement the Sexual Health Strategy, the current deficits in school-based sex education need to be addressed while the profile and role of the programmes should be raised.

Education and awareness programmes that are properly designed and implemented should incorporate the issue of sexual consent. Educating young people on this issue is vital and should be complemented by education on respectful, safe and healthy relationships, including developing awareness of the unacceptability of verbal, emotional and all other forms of relationship abuse.⁵⁰⁵ A 2013 Study of Students' Experiences of Harassment, Stalking, Violence and Sexual Assault found that 'the largest proportion of victims of unwanted sexual experiences identified the perpetrators as being 'acquaintances'.⁵⁰⁶

It is welcome that the *The National Sexual Health Strategy* commits to an evaluation of the implementation of RSE in post-primary schools.⁵⁰⁷ The review should consider making sexual health education, based on scientific evidence, a mandatory part of the school curriculum in line with the recommendations of the UN Committee.⁵⁰⁸ Young people should be consulted as part of this evaluation and in the design of any proposed new programme.

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

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

496 *ibid* 36.

497 *ibid* action 3.4.

498 *ibid* action 3.8.

499 Communication received by the Children's Rights Alliance from the Department of Health, 23 January 2017.

500 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)' <<http://bit.ly/2Fe9guc>> accessed 30 January 2017.

501 [B4udecide](http://b4udecide.ie) 'HSE Crisis Pregnancy Programme' <[B4udecide.ie](http://b4udecide.ie)> accessed 30 January 2017.

502 Department of Education and Skills, 'Relationships and Sexuality Education' <<http://bit.ly/2Fe9guc>> accessed 30 January 2017.

503 Peter McGuire, 'Sex ed in Ireland: 'It's all disease, risk and crisis pregnancy' *The Irish Times*, 18 May 2015; Ellen Coyle, 'Catholic group gave sex advice in 400 schools' *The Times (Ireland Edition)*, 2 December 2017.

504 Communication received by the Children's Rights Alliance from the Dublin Rape Crisis Centre, 20 January 2017.

505 *ibid*.

506 Union of Students of Ireland, *Say Something: A Study of Students' Experiences of Harassment, Stalking, Violence & Sexual Assault* (USI 2013) 6.

507 Department of Health, *The National Sexual Health Strategy 2015–2020 and Action Plan for 2015–2016* (Department of Health 2015) 14.

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

Physical Health and Wellbeing

Immediate Actions for 2018



ENACT THE PUBLIC HEALTH (ALCOHOL) BILL 2015.

The Public Health (Alcohol) Bill 2015 should be progressed through the Houses of the Oireachtas as a matter of priority. The Bill should be amended to include a restriction on the online marketing of alcohol and a ban on alcohol sponsorship of sport.

CONDUCT A NEEDS ASSESSMENT OF VULNERABLE GROUPS AS OUTLINED IN *HEALTHY WEIGHT FOR IRELAND*.

The Action Plan, *Healthy Weight for Ireland*, proposed a 'needs assessment' of vulnerable groups, including families, children, low-income groups and people living in deprived areas, which would inform resource allocation for preventative and treatment services. This assessment must be adequately planned and resourced and should be completed in 2018.

COMPLETE THE REVIEW OF THE IMPLEMENTATION OF RSE IN POST-PRIMARY SCHOOLS.

As part of this review, consideration should be given to making sexual health education, based on scientific evidence, a mandatory part of the school curriculum in line with the recommendations of the UN Committee on the Rights of the Child.⁵⁰⁹ The review should include consultation with young people.

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

4. RIGHTS IN THE FAMILY ENVIRONMENT AND ALTERNATIVE CARE

Chapter Grade

B-



Epic Ireland
@epicireland



We're delighted to be defending the voice of the child in the review of the GAL system this morning.



12:59 AM - 5 Apr 2017

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



© Alcohol Action Ireland, advocating to reduce alcohol harm



IN THE NEWS

NO GARDA CHECKS ON LIMERICK FOSTERERS

Limerick Post, 18 August 2017

Children in foster care in Limerick have been left at massive risk with 146 people either fostering or living with them who have not been approved by Gardaí. A report from HIQA, the health services watchdog, highlighted significant shortfalls in the service, with 30 foster parents and 116 people over the age of 16 in foster homes that were not Garda vetted.

Inspections also revealed that allegations of abuse or neglect were not being managed correctly and in a timely fashion, there was a shortfall in recruitment and therefore in the number of foster carers and no social workers allocated to support foster parents in many cases.

The report states that “not all allegations were comprehensively assessed. There was a system for formally notifying the foster care committee of an allegation of abuse, but not all allegations were reported to the committee and those which were notified, were not notified in a timely way”.

A team of eight inspectors visited foster homes in the Mid-West last March and their findings showed three areas of major non-compliance. These were in relation to safeguarding and child protection; supervision and support and reviews of foster carers”.

The report states that inspectors also found major problems with supervision and support. 30 general and six relative foster carers had no social worker assigned to them, while the majority had not received the recommended formal supervision.

“There were seven foster care households without a link worker who also had children who were without an allocated social worker, which posed a significant risk. The frequency of home visits to these foster carers was insufficient. (...)

4.1

Guardian *ad litem* Service**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: Good

'Guardian *ad litem* Service' receives a 'C+' grade in Report Card 2018, an improvement on the 'D' grade last year. This reflects the announcement that a new Executive Office for the Guardian *ad litem* service will be established, the completion of the pre-legislative scrutiny of the General Scheme of the Child Care (Amendment) Bill 2017 by the Joint Oireachtas Committee on Children and Youth Affairs, and the commitment to hold a consultation with children and young people on the design of the Guardian *ad litem* service.

Every child has the right to have their views heard in any judicial proceedings that affect them. The views of the child should be given due weight in accordance with the age of the child and the child's maturity.⁵¹⁰ 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 body⁵¹¹ such as a Guardian *ad litem* (GAL).⁵¹² Under the Convention, 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,⁵¹³ particularly when a decision is being made in proceedings to take a child into care.⁵¹⁴

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.⁵¹⁵ The representative must be aware that they represent the interests of the child exclusively and not the interests of other persons (parent(s); institutions or bodies – for example, residential home, administration or society).⁵¹⁶ 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.'⁵¹⁷

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

511 *ibid* Art 12(2).

512 A Guardian *ad litem* is a person who facilitates the voice of the child to be heard in care proceedings before a court, and strives to ensure that the child's views are taken into account when decisions are made by the court in respect of these applications. The Guardian *ad litem* also gives a professional view on what they believe is in the child's best interests given all the circumstances.

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

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

515 *ibid* para 36.

516 *ibid* para 37.

517 *ibid* para 36.

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'.⁵¹⁸ 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.⁵¹⁹

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' in child protection and care, adoption and family law proceedings, and for the views of the child to be 'ascertained and given due weight'.⁵²⁰ This constitutional provision therefore refers to two types of proceedings: (1) public law proceedings – cases between the State and a child/family and (2) private law proceedings – cases between two private parties. The review of the GAL Service promised in the *Programme for Government* relates to public law proceedings only.

The Children and Family Relationships Act 2015 gives effect to Article 42A.4 in relation to private law proceedings. The Act provides that the Court can 'appoint an expert to determine and convey the child's views'.⁵²¹ The legislation requires that one or both of the parties must pay the fee of the expert appointed, as this will not be covered by the State. The Department of Justice and Equality is finalising regulations on the role and cost of the child views expert.

The fact that parents, not the State, will have to cover the fee of the child views expert in private law proceedings means that the availability of this service to children will be dependent on their parents being able to afford, or being willing to pay for the service. A disparity will therefore remain between provision for hearing the views of children in private law proceedings and public law proceedings. The UN Committee on the Rights of the Child expressed its concern on this issue and has been clear that the approach proposed constitutes a breach of children's rights and that the State should cover the cost of this service.⁵²² The reform of the GAL system now under consideration presents an opportunity to adopt a common approach in the mechanisms used to hear the voice of the child in both public and private law proceedings.

Reform of the GAL Service: The current process of reforming the GAL service is welcome, though long overdue. The service has operated without regulation since the commencement 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.⁵²³ There are no professional standards or statutory guidance on the eligibility criteria, functions or payment structures for GALs.⁵²⁴ The role itself is not defined in legislation and appointment of GALs in proceedings is at the discretion of the judge, meaning that access to a GAL for children has been inconsistent, with significant disparity in appointment between court districts within the State.⁵²⁵ Currently, there are approximately 75 GALs operating in the State: 36 working with Barnardos,⁵²⁶ 16 with The Independent Guardian *ad litem* Agency (TIGALA) and 23 GALs working as individuals or in a small group.⁵²⁷ Reform of legislation in this area has the potential to make a real impact and advance the fulfilment of the constitutional right of the child to have their voice heard in child care proceedings.

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

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

520 Constitution of Ireland, Art 42A.4.

521 Children and Family Relationships Act 2015, s 63 inserts Part V into the Guardianship of Infants Act 1964. This part outlines the factors to consider in determining the best interests of the child and s 32(1)(b) provides for the appointment of an expert by the Court 'to determine and convey the child's views'. This provision was commenced in January 2016. S.I. No. 12/2016 – Children and Family Relationships Act 2015 (Commencement of Certain Provisions) Order 2016.

522 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 31(b); para 32 (b).

523 Child Care Act 1991, s 26.

524 Geoffrey Shannon, *Seventh Report of the Special Rapporteur on Child Protection: A Report Submitted to the Oireachtas* (DCYA 2014); Carol Coulter, *Final Report* (Child Care Law Reporting Project 2015) 80; Carmel Corrigan, *The Construction and Impact of Children's Participation through the Guardian ad litem in Child Protection Cases: The Views of District Court Judges, Guardians ad litem and children* (unpublished Phd thesis, Trinity College Dublin 2015).

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

526 Communication received by the Children's Rights Alliance from Barnardos, 27 November 2017.

527 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 30 November 2017.

Draft legislation to reform the GAL service was published in January 2017, following a consultation by the Department of Children and Youth Affairs in autumn 2015 to review the existing service.⁵²⁸ The aim of the General Scheme of the Child Care (Amendment) Bill 2017 was to replace section 26 of the Child Care Act 1991, and 'to ensure that the Guardian *ad litem* service can be provided to benefit the greatest number of children and young people, so that their voices can be heard in child care proceedings and that this service will be of high quality and sustainable into the future.'⁵²⁹

The General Scheme of the Child Care (Amendment) Bill 2017 underwent pre-legislative scrutiny in the first half of 2017 by the Joint Oireachtas Committee on Children and Youth Affairs. The Committee's report, published in May 2017, made a number of recommendations, including that 'the legislation be strengthened to ensure the rights of all children are enshrined in the Act.'⁵³⁰ The Committee's recommendations, together with the views of experts and stakeholders, have informed the revising of the Bill which is expected to be finalised by the Department of Children and Youth Affairs in the first half of 2018.⁵³¹ The Department has committed to engage in a consultation with children and young people in early 2018, in parallel with the development of the revised legislation, to hear their views on how best the voice of the child can be heard in child care proceedings.⁵³² The consultation will focus on the type of service to be provided rather than the detail of the legislation.⁵³³

Independence of the GAL Service: The May 2017 Report of the Joint Oireachtas Committee on Children and Youth Affairs recommended that the GAL service should be funded by an independent statutory body that is not party to the legal proceedings,⁵³⁴ a position also held by the Ombudsman for Children⁵³⁵ and the Comptroller and Auditor General.⁵³⁶ In light of the

Committee's recommendation, the Department of Children and Youth Affairs announced, in December 2017, the establishment of a new Executive Office for the Guardian *ad litem* service.⁵³⁷ It is being established on an interim basis with a view to longer term arrangements for the Office being dealt with in the context of the proposed transition to a Family Courts system.⁵³⁸ The proposed Executive Office is a positive development as placing this vital service for children within a public body will help to ensure that it remains independent, publicly-funded and free from any real or perceived conflict of interest.

The establishment of an Executive Office also presents an opportunity to make the GAL service responsible for both private and public law proceedings. This would ensure that children have equal access to the right to have their voices heard in court – in other words, they would not experience different treatment simply because of the type of proceeding to which they are subject. The service could also provide the oversight and accountability that is necessary for both types of representatives who are tasked with ascertaining and representing the views of the child to the court.

The May 2017 Report of the Joint Oireachtas Committee on Children and Youth Affairs recommended that the GAL service should be funded by an independent statutory body that is not party to the legal proceedings, a position also held by the Ombudsman for Children and the Comptroller and Auditor General.

528 Department of Children and Youth Affairs, 'Reform of Guardian *ad litem* arrangements in child care proceedings' <<http://bit.ly/2ljtZb>> accessed 15 December 2017.

529 *ibid.*

530 Joint Committee on Children and Youth Affairs, *Report on the Heads of Bill of the General Scheme of the Child Care (Amendment) Act 2017* (Houses of the Oireachtas 2017) 8.

531 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 30 November 2017.

532 *ibid.*

533 *ibid.*

534 Joint Committee on Children and Youth Affairs, *Report on the Heads of Bill of the General Scheme of the Child Care (Amendment) Act 2017* (Houses of the Oireachtas 2017) 6.

535 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.

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

537 Children's Rights Alliance, 'Children's Rights Alliance Welcomes New Guardian *ad Litem* Office in Department of Children' <<http://bit.ly/2mehx9Q>> accessed 6 December 2017.

538 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 8 January 2018.

Status of the GAL: In practice, GALs have played a role beyond facilitating the voice of the child to be heard in courts and advising the courts on the child's best interests. They have often been legally represented in child care proceedings and fulfilled the function of defending the rights of the child as their representative.⁵³⁹

In a 2016 High Court decision, the role of the GAL in legal proceedings was considered to be more than 'merely as a witness' and described as being 'consistent with the furtherance of the interests of justice'.⁵⁴⁰ However, the draft Child Care (Amendment) Bill 2017 proposes to make the GAL a 'special type of expert witness' rather than a representative or advocate for the child. As a witness, the GAL would not have independent legal representation or be able to participate in all aspects of proceedings on an equal footing with other parties. GALs currently play an essential role for children in care – for example, making applications to the Court so that a child in care can have access visits with their siblings. They can also cross-examine experts on their findings and commission second opinions when they think an incorrect finding has been made. Article 42A of the Irish Constitution recognises children as individual rights-holders, independent of their parents. A dilution of the function and role of a GAL would potentially diminish the rights of the child who is not able to be made a party to the proceedings in their own right as provided for under section 25 of the Child Care Act 1991.

The forthcoming legislative change should ensure that the GAL has the legal standing in proceedings to represent the child, to ensure that the child's right to be heard is respected, as is their right to fair procedures and to redress. These provisions are necessary so that the child can have equal standing with other parties in court proceedings that affect them. To better reflect the role of this service for children involved in court proceedings, consideration should also be given to changing the name of the Guardian *ad litem* to 'representative of children and young people', or 'advocate for children and young people'.

Provision of a GAL: Under the current draft legislative proposals, there may be a possibility that children are not afforded a GAL in all child care cases. Head 8 of the General Scheme of the Child Care (Amendment) Bill 2017 provides for a GAL to be appointed by a judge in all cases before the High Court involving children in need of special care or protection. However, while there is a presumption that children whose cases are before the District or Circuit Courts will be appointed a GAL,⁵⁴¹ the appointment is at the discretion of the judge. The Bill should retain a presumption that a GAL will be appointed in all cases and that where a judge decides not to appoint a GAL the reasons for this decision should be stated in open court.

Article 42A of the Irish Constitution recognises children as individual rights-holders, independent of their parents. A dilution of the function and role of a GAL would potentially diminish the rights of the child who is not able to be made a party to the proceedings in their own right as provided for under Section 25 of the 1991 Child Care Act 1991. The forthcoming legislative change should ensure that the GAL has the legal standing in proceedings to represent the child, to ensure that the child's right to be heard is respected, as is their right to fair procedures and to redress.

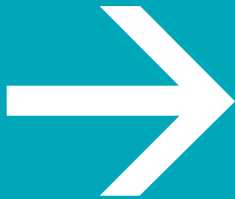
539 Ann McWilliams and Claire Hamilton, "There isn't anything like a GAL": The Guardian ad Litem Service in Ireland' *Irish Journal of Applied Social Studies* [2010] vol. 10, no. 1, 31, 32.

540 AO'D v O'Leary & ors [2016] IEHC 555, para 57.

541 Department of Children and Youth Affairs 'General Scheme of the Child Care (Amendment) Bill 2017' <<http://bit.ly/2BPhyX8>> accessed 6 December 2017.

Guardian *ad litem* Service

Immediate Actions for 2018



ENSURE THAT A GUARDIAN *AD LITEM* IS AFFORDED THE STATUS OF REPRESENTATIVE OR ADVOCATE TO THE COURT RATHER THAN WITNESS OR SPECIAL ADVISOR IN CHILD CARE PROCEEDINGS.

To give effect to the constitutional right of the child to be heard, the reformed legislation should ensure that the child's right to be heard, along with their right to fair procedures and redress, is respected, by requiring that the Guardian *ad litem* be given legal standing in proceedings to represent the child. A child who requires a Guardian *ad litem*, due to their age or vulnerability should be designated a party to the proceedings through their Guardian *ad litem*, so that they do not have lesser rights than a child who is joined to the proceedings in their own right.

PROVIDE CLARITY IN THE CHILD CARE (AMENDMENT) BILL 2017 AS TO HOW THE VOICES OF ALL CHILDREN INVOLVED IN CHILD CARE PROCEEDINGS WILL BE HEARD IN THE DISTRICT AND CIRCUIT COURTS.

The Bill should clarify how the voices of all children involved in child care proceedings will be heard in court and clearly set out the presumption that a Guardian *ad litem* will be appointed in all child care cases.

ENSURE THAT THERE IS EQUALITY IN PROVISION FOR HEARING THE VOICE OF THE CHILD AS BETWEEN PUBLIC AND PRIVATE LEGAL PROCEEDINGS.

The new Executive Office under which the reformed Guardian *ad litem* service will operate should extend its remit to support the voice of the child in all types of cases, public and private.

PROVIDE FOR MEANINGFUL CONSULTATION WITH CHILDREN AND YOUNG PEOPLE IN REGARD TO THE REFORM OF THE GUARDIAN *AD LITEM* SERVICE AND ON HAVING THE VOICE OF THE CHILD HEARD IN COURT PROCEEDINGS.

The outcome of the consultation should inform the development of the service.

4.2 Child Protection

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: Some

- > 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: Some

'Child Protection' receives a 'B' grade in *Report Card 2018*, an improvement on the 'C' grade of last year. This reflects the implementation of Child Safeguarding Statements as part of the Children First Act 2015 and the fast turnaround time for e-vetting in the National Vetting Bureau.

Every child has the right to be protected from abuse, including sexual abuse and exploitation.⁵⁴² 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'.⁵⁴³ 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 provided with adequate resources to enable it to respond to child protection referrals and to address the needs of children at risk in a timely manner, as well as implement long-term programmes for addressing the root causes of

542 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 19 which places an obligation on state parties to take all 'appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child'.

543 *ibid* Art 19(1).

violence and abuse.⁵⁴⁴ With regard to protection from online 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' through the adoption of 'holistic strategies'.⁵⁴⁵ The UN Committee has also drawn attention to the obligation on States 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'.⁵⁴⁶

Child Safeguarding Statements: A *Programme for a Partnership Government* commits to implementing Child Safeguarding Statements as part of Children First legislation. *Better Outcomes Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* commits to implementing the Children First: National Guidance for the Protection and Welfare of Children⁵⁴⁷ in full, including legislating for elements of the guidance, implementing sectoral plans, associated training and ensuring vetting requirements are met.⁵⁴⁸ The Children First Act 2015 placed elements of the Children First National Guidance on a statutory footing. It provides that each service falling under its remit⁵⁴⁹ must publish a Child Safeguarding Statement

setting out the organisation's procedures to manage and reduce risk for children availing of its services.⁵⁵⁰ The Safeguarding Statement should also include a written risk assessment and specify risk management processes.⁵⁵¹ Procedures to manage allegations against staff and to provide child protection information, as well as instruction and training for staff to enable them identify harmful incidents, must also be included.⁵⁵²

In a welcome development, all remaining sections of the Children First Act 2015 were commenced on 11 December 2017,⁵⁵³ including the provisions relating to Child Safeguarding Statements.⁵⁵⁴ Services are required to have Child Safeguarding Statements in place within three months of the commencement date.⁵⁵⁵ Revised Children First National Guidance and Information and training resources were launched in October 2017 to support organisations to comply with the legislation.⁵⁵⁶

Vetting: A *Programme for a Partnership Government* commits to enforcing robust and efficient vetting procedures for all positions involving substantial access to children. *Better Outcomes Brighter Futures* commits to 'ensuring vetting requirements are met'.⁵⁵⁷ The National Vetting Bureau (Children and Vulnerable Persons) Acts 2012–2016 were commenced, almost in full, on 29 April 2016.⁵⁵⁸ The Act provides for the mandatory vetting of those who work with children and vulnerable people, where 'a necessary and regular part [of this work] consists mainly of the person having

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

545 UNCRC, 'Report of the 2014 General Day of Discussion, Digital Media and Children's Rights' (OHCHR, 2014) <<http://bit.ly/2tIcel>> accessed 4 January 2018.

546 *ibid.*

547 Department of Children and Youth Affairs, *Children First: National Guidance for the Protection and Welfare of Children* (DCYA 2011).

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

549 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; these are organisations which have employees or volunteers for whom 'a necessary and regular part of their work' consists mainly in 'having access to or contact with' children.

550 Children First Act 2015, ss 10–11.

551 *ibid* s 11.

552 *ibid.* If, upon request, a relevant organisation fails to supply its Safeguarding Statement to the Child and Family Agency, it can be issued with a notice of non-compliance, see ss 12–13.

553 Department of Children and Youth Affairs, 'Date announced by the Minister for Children and Youth Affairs for the commencement of all remaining provisions of the Children First Act 2015' (2 October 2017) <<http://bit.ly/2xcBQH8>> accessed 17 October 2017.

554 Children First Act 2015, Part 2.

555 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

556 *ibid.*

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

558 The Act was commenced by Statutory Instrument 214/16, National Vetting Bureau (Children And Vulnerable Persons) Act 2012 (Commencement) Order 2016 apart from section 20 which relates to re-vetting. A number of amendments were made by the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016.

access to, or contact with, children.⁵⁵⁹ By 1 November 2017, the National Vetting Bureau, formerly known as the Garda Central Vetting Unit, had processed 394,829 vetting applications.⁵⁶⁰ E-vetting facilities were launched in 2016 to streamline the process and reduce processing times for applications.⁵⁶¹ As a result, the majority of all applications in 2017 were received online and 80 per cent were processed within five working days.⁵⁶² Organisations using paper applications rather than the e-vetting system have an approximate four-week turnaround time.⁵⁶³ Both the introduction of e-vetting and the faster processing times are welcome. However, some issues still remain with the vetting system.

Firstly, despite the fact that the e-vetting process takes just five days, there is a clear problem with the overall efficiency of the vetting system. Applications must be made through certain registered organisations which increases demands on their resources.⁵⁶⁴ There are reports of people having to be vetted and re-vetted multiple times for each employment position or volunteer role they take up. This creates an administrative backlog in the registered organisation through which vetting applications are submitted. For example, in early years settings some staff members are not employed all year round, due to the operation of the Free Pre-school Scheme, meaning they have to be re-vetted even when resuming their previous position and cannot take up work until the vetting process is complete.⁵⁶⁵ Others, such as youth workers and volunteers working in the community, face similar issues.⁵⁶⁶ A passport-style system for Garda vetting should be introduced so that it becomes person rather than service-focused; this would improve the efficiency

of the system for the National Vetting Bureau, the registered organisations and the organisations seeking to have persons vetted.

Secondly, it is of concern that childminders are not required to be vetted. There is no overall figure for the number of childminders who are Garda vetted in line with the National Vetting Bureau (Children and Vulnerable Persons) Act 2012.⁵⁶⁷ Garda vetting is a prerequisite to membership of Childminding Ireland and applies to their current 712 members.⁵⁶⁸ Barnardos administers applications for childminders supported by funding from the Department of Children and Youth Affairs.⁵⁶⁹

Thirdly, there is currently no facility or provision for the National Vetting Bureau to seek information from police authorities abroad when a vetting applicant has spent time living outside Ireland. The Special Rapporteur on Child Protection has suggested that protocols or administrative arrangements with police authorities in foreign jurisdictions could address this issue; another avenue, he suggests, could be the inclusion of a provision for the exchange of information in forthcoming legislation to implement the EU Framework Decision on the exchange of criminal records information.⁵⁷⁰

Online Protection: Children and young people in Ireland are more active online than ever before.⁵⁷¹ A 2015 study showed that on average, almost 75 per cent of Irish children aged between nine and 16 used the internet daily, rising to 92 per cent once they enter early adolescence.⁵⁷² Research conducted by the ISPCC

559 Under s 2 of the Act, vulnerable persons are people other than children who suffer from a mental disorder, an intellectual disability, a physical impairment or significant disability. Schedule 1 of the legislation lists 'relevant persons' who require vetting if working in certain environments. These are people for whom access to or contact with children is a necessary or regular part of their work or activity such as people who work in pre-schools, schools, hospitals, detention facilities, asylum reception centres, as religious instructors, or are involved in transportation of children, or in research which involves interaction with children.

560 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 5 December 2017.

561 Tánaiste and Minister for Justice and Equality, Frances Fitzgerald TD, Written Answers, Garda Vetting Applications, 5 October 2016 [28908/16].

562 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 5 December 2017.

563 *ibid.*

564 Minister for Children and Youth Affairs, Katherine Zappone TD, Dáil Debates, Written Answers, 'Garda Vetting of Personnel' [36682/16] and [36683/16], 24 November 2016.

565 Irish Congress of Trade Unions, *Who Cares? Report on Childcare Costs and Practices in Ireland* (ICTU 2016). <https://www.ictu.ie/download/pdf/report_on_childcare_costs_practices_congress_2016.pdf> accessed 17 October 2017.

566 Senator Gabrielle McFadden, Seanad Debates, Commencement Matters, 'Garda Vetting of Personnel' 22 March 2017.

567 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

568 Communication received by the Children's Rights Alliance from Childminding Ireland, 14 October 2017.

569 Barnardos, 'Vetting Service' <<https://www.barnardos.ie/what-we-do/our-services/specialist-services/vetting-service.html>> accessed 14 November 2017.

570 Geoffrey Shannon, *Eighth Report of the Special Rapporteur on Child Protection* (DCYA 2014) 96.

571 CyberSafeIreland, *Annual Report 2017* (CyberSafeIreland 2017) 4.

572 Brian O'Neill and Thuy Dinh, *Net Children Go Mobile: Full findings from Ireland* (Dublin Institute of Technology 2015) 8.

and Vodafone found that 68 per cent of children and young people aged between six and 18 felt that the internet is a good resource and a positive addition to their lives; almost a quarter of six to ten year olds were on Snapchat and 12 per cent on Facebook.⁵⁷³ A 2017 CyberSafe Ireland survey found that 22 per cent of children were in contact with a stranger online with 14 per cent of these being in regular contact.⁵⁷⁴ The survey also revealed that a third of children had rarely or never spoken to a parent or guardian about online safety.⁵⁷⁵

The right to be protected online must be carefully balanced with the range of other rights facilitated through access to ICT, including the right to participate, to freedom of expression,⁵⁷⁶ to access appropriate information⁵⁷⁷ and to freedom of association and

A 2017 CyberSafe Ireland survey found that 22 per cent of children were in contact with a stranger online with 14 per cent of these being in regular contact. The survey also revealed that a third of children had rarely or never spoken to a parent or guardian about online safety.

peaceful assembly⁵⁷⁸ in the online environment. No one government department holds sole responsibility for this issue⁵⁷⁹ but it is positive that government ministers are examining the issue in more detail and proposing the establishment of a Digital Safety Commissioner.⁵⁸⁰ To ensure both the robust protection of children and young people, and the protection and respect for the full range of their rights in this area, the Department of Children and Youth Affairs should, through the *Better Outcomes, Brighter Futures* framework, feed into a high-level inter-departmental group to develop a national strategy on digital rights with a dedicated section on children. *Better Outcomes Brighter Futures* commits to support efforts to limit children's exposure to age-inappropriate material on the internet.⁵⁸¹ It also commits to support 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.⁵⁸² The current generation of children and young people are the first to live and learn online so they should be consulted on any measures to protect them online.

In July 2017, the Government set the age of digital consent for children at 13 years⁵⁸³ meaning that, from May 2018, children under the age of 13 must have the



573 Communication received by the Children's Rights Alliance from the ISPCC, 6 December 2017.

574 CyberSafeIreland, *Annual Report 2017* (CyberSafeIreland 2017) 12.

575 *ibid* 13.

576 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 13.

577 *ibid* Art 17.

578 *ibid* Art 15.

579 Several departments play an important role in relation to this issue. The Department of Children and Youth Affairs has the remit to deal with child protection. The Office for Internet Safety is an executive office of the Department of Justice and Equality and draft legislation on data protection is being developed by that Department. Internet safety policy is under the remit of the Department of Communications, Climate Action and the Environment. The responsibility to educate children on issues relating to digital technology, as well as on cyberbullying, falls to the Department of Education and Skills. Responsibility for issues relating to the impact of ICT on children's health (for example, mental health, sexual health) rests with the Department of Health.

580 Sarah Bardon, 'Government to examine measures to tackle online bullying', *The Irish Times*, 21 November 2017.

581 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (DCYA 2014) Commitment 3.8.

582 *ibid* Commitment 3.13.

583 Mary Minihan, 'Cabinet agrees to set 'age of digital consent' at 13', *The Irish Times*, 26 July 2017.

consent of their parent or guardian in order to access online services.⁵⁸⁴ However, there is no clarity on what measures the Government will put in place to educate and support young people and their parents to make informed decisions about consent for data to be processed online. Research findings published in 2016 showed that 40 per cent of the parents surveyed indicated a lack of technical knowledge of basic online security measures, while '52 per cent had no knowledge of advanced privacy techniques'.⁵⁸⁵ It is also unclear how the ICT industry will manage age-verification of those under the age of digital consent and what associated safeguards will be put in place to protect children online.

The enactment of the landmark Criminal Law (Sexual Offences) Act 2017 in February 2017 has closed some significant legislative gaps and loopholes in respect of online sexual offences against children. For example, the Act creates a new offence relating to viewing online child sexual abuse material and, in order to address issues such as grooming and solicitation online, an offence of sexual exploitation using ICT. A number of key sections of the Act relevant to children were commenced in March 2017, including Part 2 relating to the sexual exploitation of children.⁵⁸⁶

The Special Rapporteur on Child Protection, while recognising that the Act demonstrates 'Ireland's commitment to better protecting its children from online predators',⁵⁸⁷ has called for the introduction of further measures to protect children online. These include the establishment of a Digital Safety Commissioner⁵⁸⁸ and the criminalisation of 'indirect harassment' occurring through communications to third parties about a victim (for example, posting content on a website or sending a private image to a third party).⁵⁸⁹ The Special Rapporteur also calls for

the expansion of civil remedies including 'take down' orders for harmful digital communications; in this, he is echoing recommendations made by the Law Reform Commission in 2016.⁵⁹⁰ Currently, service providers have ad hoc and different policies and reaction times to requests for removal of images or posts. The 2016 European Union General Data Protection Regulation, to come into force in May 2018, will give effect to the right to be forgotten, which is an important right particularly for children.⁵⁹¹ The Harmful Communications and Digital Safety Bill 2017 represents another important development as it proposes to legislate against revenge pornography, cyberstalking, as well as the intentional posting of intimate images of a person online without their consent.⁵⁹² It is important that this legislation is prioritised and enacted without delay.

Research findings published in 2016 showed that 40 per cent of the parents surveyed indicated a lack of technical knowledge of basic online security measures, while '52 per cent had no knowledge of advanced privacy techniques'. It is also unclear how the ICT industry will manage age-verification of those under the age of digital consent and what associated safeguards will be put in place to protect children online.

584 This arises under a new regulation of the EU which will come into force on 25 May 2018: 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). The aim of setting an age of digital consent is to ensure that a child's personal data cannot be processed without parental consent under the specified age.

585 James O'Higgins Norman and Lian McGuire, *Cyberbullying In Ireland Survey of Parents Internet Usage and Knowledge* (ABC, National Anti-Bullying Research and Resource Centre DCU 2016) 4.

586 Criminal Law (Sexual Offences) Act 2017, Commencement Order (S.I. No. 112 of 2017).

587 Geoffrey Shannon, *Tenth Report of the Special Rapporteur on Child Protection* (DCYA 2016) 169.

588 *ibid* 29.

589 *ibid* 28.

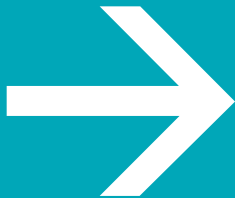
590 *ibid* 29; Law Reform Commission, *Harmful Communications and Digital Safety: Report* (LRC 016) Recommendation 4.18.

591 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 17 (Official Journal of the European Union, 4.5.2016, L 119/1).

592 Harmful Communications and Digital Safety Bill 2017.

Child Protection

Immediate Actions for 2018



ENSURE THAT INFORMATION ON TIME SPENT OUTSIDE OF IRELAND IS SOUGHT AND CONSIDERED IN THE GARDA VETTING PROCESS.

The process of vetting individuals to keep children and vulnerable adults safe is undermined significantly if information on periods of time spent abroad is not sought and reviewed as part of the vetting process.

INTRODUCE A PASSPORT-STYLE SYSTEM FOR GARDA VETTING.

For efficiency and to reduce multiple vetting applications made by one person, introduce a passport-style system of e-vetting.

DEVELOP A NATIONAL STRATEGY TO PROTECT THE FULL RANGE OF THE RIGHTS OF CHILDREN ONLINE.

To ensure both the robust protection of children and protection and respect for the full range of their rights in this area, the Department of Children and Youth Affairs should, through the *Better Outcomes, Brighter Futures* framework, feed into a high-level inter-departmental group to develop a national strategy on digital rights with a dedicated section on children.

4.3

Child Victims of Crime**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 Garda Victims Support Offices which provide a single point of contact in accessing support and information.



Progress: Good

'Child Victims of Crime' receives a 'C+' grade in Report Card 2018, as against a 'D' grade last year. This reflects the enactment and commencement of the Criminal Justice (Victims of Crime) Act 2017. However, there is still more work to do in relation to the provision of services for child victims of crime.

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'.⁵⁹³ Such recovery and reintegration should take place in an environment that 'fosters the health, self-respect and dignity of the child'.⁵⁹⁴ Ireland continues to be the only European Union 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 Prostitution and

Child Pornography.⁵⁹⁵ 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.⁵⁹⁶ Child victims must be informed of their rights and role within proceedings and provided with information regarding the timing and progress of proceedings.⁵⁹⁷ Unnecessary processing delays in their cases should be avoided.⁵⁹⁸ The UN Convention also provides that the best interests of the child shall be a primary consideration in the treatment of child victims by the criminal justice system.⁵⁹⁹

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'.⁶⁰⁰ It commits to reforming

593 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 39.

594 *ibid.*

595 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.

596 *ibid* Art 8(1)(a).

597 *ibid* Art 8(1)(b).

598 *ibid* Art 8(1)(g).

599 *ibid* Art 8(3).

600 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (DCYA 2014) Commitment 3.10.

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.⁶⁰¹ In 2016, the UN Committee on the Rights of the Child recommended that the State provide redress and rehabilitation to victims of domestic violence.⁶⁰²

Criminal Justice (Victims of Crime) Act 2017: The Criminal Justice (Victims of Crime) Act 2017 was signed into law in November 2017. Most provisions of the Act commenced on 27 November 2017. The Act is intended to transpose into Irish law an 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'.⁶⁰³ The Directive also requires that officials coming into contact with victims have appropriate training and it seeks to 'encourage cooperation between Member States and coordination of national services of their actions on victims' rights'.⁶⁰⁴ 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 provides for 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.⁶⁰⁵ The Act also provides for a wide definition of the types of offences for which victim impact statements will be heard.⁶⁰⁶

In relation to children, the Act does not fully meet the standards established by the EU Directive. The 'best

interests of the child' is not set out as an overarching principle within the legislation, as it is in the Directive.⁶⁰⁷ The Act does refer to the best interests of the child but only in so far as it states that the principle will apply in the context of assessment of the need for protection or special measures in respect of a child who has been a victim of crime.⁶⁰⁸ The failure to make the best interests of the child a stand-alone generally applicable principle means that the Directive's requirement of a 'child-sensitive approach, taking due account of the child's age, maturity, views, needs and concerns',⁶⁰⁹ may not be adopted and applied in respect of other issues covered by the Act.

Similarly, the Act gives only limited recognition to the right of the child to have his or her view heard. It does state that the views of the child are to be sought in the context of the assessment of the need for protection or special measures and when determining who is an 'appropriate person' to accompany a child to an interview or court proceedings.⁶¹⁰ However, the right of the child to have his or her views heard is not stated in relation to other aspects of the Act. While a child victim has the same rights as adult victims under the legislation, it is important that explicit recognition is given to the right of every child to have their views heard in all matters concerning them in an age-appropriate manner that aligns with principles of child friendly justice.⁶¹¹

A further area where the Act does not fully vindicate children's rights⁶¹² is in relation to the use of a screen for a child to give evidence where a live television link

601 *ibid* Commitments 3.13, 3.14 and 3.15.

602 UNCRRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 58; UNCRRC 'General Comment No. 20 on the Rights of the Child During Adolescence' (2016) UN Doc CRC/C/GC/20 para 38(b).

603 European Council Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime', *Official Journal of the European Union*, L 315/57, 14.11.2012; European Commission, "Strengthening victims' rights in the EU", Justice – Building a European Area of Justice: Victims' <<http://bit.ly/2ErIBJo>> accessed January 2018.

604 *ibid*.

605 Criminal Justice (Victims of Crime) Act 2017, s 7–8.

606 *ibid* s 31.

607 Article 1 of the EU Directive which provides that 'where the victim is a child, the child's best interests shall be a primary consideration and shall be assessed on an individual basis.' 'European Council Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime', *Official Journal of the European Union*, L 315/57, 14.11.2012, Art 1(2).

608 Criminal Justice (Victims of Crime) Act 2017, s 15.

609 European Council Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime', *Official Journal of the European Union*, L 315/57, 14.11.2012, Art 1(2).

610 Criminal Justice (Victims of Crime) Act 2017, s 15(7)(b)(ii) and s 18(2).

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

612 Article 8(1) of the Optional Protocol to the UN Convention on the Rights of the Child on the Child Pornography and the Sale of Children and European Council Directive 2011/92/EU on Combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA', *Official Journal of the European Union*, L335/1, 17.12.2011. It provides that States must ensure that in criminal proceedings relating to sexual exploitation, a 'child victim must be heard in the courtroom without being present, in particular through the use of appropriate communication technologies'.

is not used.⁶¹³ Such provisions are intended to prevent or minimise further trauma or the re-victimisation of a victim in criminal proceedings, where the victim has to give evidence in the presence of the accused or the public. The use of a screen is problematic: it should only be deployed as a last resort as it still requires a child to enter a courtroom where the accused person is present.⁶¹⁴ The Special Rapporteur on Child Protection has proposed that a screen would only be used where the child witness specifically opts out of giving their evidence by television link, subject to the approval of the court and having regard to the child's wishes.⁶¹⁵

Following the passing of the Criminal Justice (Victims of Crime) Act 2017, 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.⁶¹⁶ Ratification of the Protocol should now be prioritised.

Victim Support Services: A key provision of the EU Directive 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'.⁶¹⁷ This is a gaping omission from the Criminal Justice (Victims of Crime) Act 2017. Ireland has an obligation to 'take all appropriate measures' to promote the recovery of child victims.⁶¹⁸ 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.⁶¹⁹

There is no dedicated strategy in place to prevent or respond to sexual violence against children. The availability of assessment and treatment services for children and young people under the age of 14 is limited, with significant geographic variances in

The availability of assessment and treatment services for children and young people under the age of 14 is 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; one 24 hour state service located in Galway providing forensic examinations; and two specialist therapy services provided by CARI in Limerick and Dublin.

provision. For children in this age category, there are two statutory sexual abuse assessment units, both located in Dublin;⁶²⁰ one 24 hour state service located in Galway providing forensic examinations; and two specialist therapy services provided by CARI in Limerick and Dublin.⁶²¹ Where services do exist, child victims face significant delays in accessing counselling support – for example, CARI had a waiting list of 90 children in December 2017.⁶²²

For victims older than 14, there are six sexual assault treatment units across the country providing specialist care⁶²³ and victims also have access to a range of specialist voluntary and statutory therapy services.⁶²⁴ When children aged 13 to 15 access the services for over 14s they cannot avail of the aftercare support of the local rape crisis centre as these do not generally provide counselling to children under the age of 16.

613 Criminal Justice (Victims of Crime) Act 2017 s 30 which has yet to be commenced.

614 Geoffrey Shannon, *Ninth Report of the Special Rapporteur on Child Protection* (DCYA 2016) 130.

615 *ibid* 156.

616 Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography A/RES/54/263 of 25 May 2000.

617 EU Council Directive (EC) 92/EU on Combatting the Sexual Abuse and Sexual Exploitation of Children and Child Pornography [2011] OJ L 335 of 17.12.2011 Art 8(1).

618 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 39.

619 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.

620 St Claire's in Temple Street and St Louise's in Crumlin.

621 CARI, 'Our Services' <<http://www.cari.ie/our-services/child-and-adolescent-therapy>> accessed 7 December 2017.

622 Communication received by the Children's Rights Alliance from CARI, 7 December 2017.

623 These are: Cork SATU; Donegal SATU; Dublin SATU; Galway SATU; Mullingar SATU; Mid-West SATU; Waterford SATU.

624 These include the Rape Crisis Network and the Dublin Rape Crisis Centre.



In 2017 the Victims of Crime Office provided €1.712 million in funding for voluntary sector organisations to support victims of crime.⁶²⁸ This includes provision to expand the CARI accompaniment service which supports and provides advocacy to children and their families where there are prosecution proceedings.⁶²⁹ In addition, €2.671 million was allocated to Cosc, the National Office of the Prevention of Domestic, Sexual and Gender-based Violence.⁶³⁰

In a welcome move, a new 24/7 Child Sexual Abuse Reporting Line was launched by An Garda Síochána in March 2017 to take calls and complaints relating to current and historical child sex abuse. The line will be staffed by trained listeners.⁶³¹

The failure to provide services for children across the country, and the long waiting lists to access services where they do exist, is an infringement of the child's right, under the UN Convention of the Rights of the Child, to access supports.⁶²⁵ 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 should 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 professional who are able to respond to the particular needs of child victims. In this context, the announcement by the Minister for Children and Youth Affairs, Katherine Zappone TD, in December 2017 that she intends to introduce specialist centres for child victims of abuse is welcome.⁶²⁶ The proposed model aims to put in place multi-disciplinary teams of Gardaí, social workers, health professionals and lawyers who will work together in the same location.⁶²⁷

625 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 39.

626 Harry McGee, 'Zappone to open specialist child support centres', *The Irish Times*, 28 December 2017.

627 *ibid.*

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

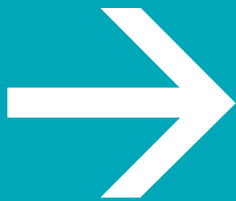
629 Communication received by the Children's Rights Alliance from CARI, 7 December 2017.

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

631 Conor Lally, 'Garda helpline offers "trained listeners" for sex abuse victims', *The Irish Times*, 2 March 2017.

Child Victims of Crime

Immediate Actions for 2018



RATIFY THE OPTIONAL PROTOCOL TO THE UN CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY AS A PRIORITY.

Following the enactment of the Criminal Justice (Victims of Crime) Act 2017, 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; Ireland should therefore ratify the Optional Protocol without further delay.

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. This strategy should include a plan for the development of specialist assessment and treatment services for children and young people who experience sexual violence.

5. RIGHTS IN EARLY CHILDHOOD

Chapter Grade

D+



SVP Ireland
@SVP_Ireland



Accessible and affordable childcare and after school care are essential supports for parents who work or take up training and education. We need investment in #earlyyears to make work pay and tackle child poverty.



3 Jan 2018

Duty on States to Support 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



IN THE NEWS

CHILDCARE CENTRE WILL INTRODUCE RATHOE KIDS TO THE GREAT OUTDOORS

Carlow Nationalist, 18 May 2017

A childcare centre with a difference, in which youngsters are encouraged to play outside as much as they like, was officially opened last week in Rathoe.

Hail, rain or shine, the children in Rathoe Community Childcare Centre can decide themselves whether they want to splash around in muddy puddles, bask in the sunshine or relax inside with a good book.

"It's fantastic, we absolutely love it!" said Sinéad Donnelly, the driving force behind the project. (...)

"The environment and our curriculum are designed using research from countries such as Finland, Italy and New Zealand and the Irish Aistear and Siolta framework," explained Sinéad.

"The children learn about a variety of things such as growing plants and bio-diversity; they form friendships and develop resilience as well as perseverance and confidence," she added.

The centre was completed last year but it was only officially opened last week, when all residents of Rathoe village were invited along. Chairperson Angela O'Sullivan addressed the crowd, while Carol Duffy from Early Childhood Ireland and Áine Gahan from Carlow County Childcare Committee also attended.

One of the strengths of the centre is that it's particularly suited to children with special needs. "Our environment is especially helpful for children with special needs because the outdoors are full of natural materials, which help with their sensory needs," said Sinéad. (...)

5.1

Quality in Early Childhood Education and Care

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) Programme (Free Pre-school Scheme).



Progress: Some

- > Assess the quality of the first year of the Free Pre-school Scheme, withdrawing funding from providers that do not meet quality standards.



Progress: Limited

'Quality in Early Childhood Education and Care' receives a 'D' grade in Report Card 2018, down from a 'C-' in Report Card 2017.⁶³² The development of a quality audit tool for the assessment of quality in Early Childhood Education and Care (ECEC) services, has not yet commenced. It is, however, welcome that the scope of the quality audit in relation to education provision will extend beyond the Free Pre-school Scheme to include services, or rooms within services, for children under three years. The progress made in the review and reform of the inspection regime is positive. However, educational inspections should also apply to rooms/services for under threes.

All children, including those in early childhood, are holders of rights enshrined in the UN Convention on the Rights of the Child.⁶³³ The UN Committee on the Rights of the Child recognises the pivotal role played by

parents in the early education and care of their children, as well as the State's key role 'in providing a legislative framework for the provision of quality, adequately resourced services, and for ensuring that standards are tailored to the circumstances of particular groups and individuals and to the developmental priorities of particular age groups, from infancy through to transition into school'⁶³⁴ The Committee points out that early childhood institutions, services and facilities must conform to quality standards.⁶³⁵ For the Committee, 'quality standards' include the requirement that staff are suitable and sufficient in number, use child-centred practices and curricula, hold current understandings of child rights and development theory and practice, and are trained to work with young children.⁶³⁶ Quality standards also mean that services are appropriate to the circumstances, age and individuality of young children; staff can access specialist resources and support, and a supervisory and monitoring system exists for public

632 The term Early Childhood Education and Care (ECEC) is used in Report Card 2018 to denote the care and education of children from birth to six years. ECEC is the term used by the OECD.

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

634 *ibid* para 31.

635 *ibid* para 23.

636 *ibid* para 23.



BENEFITED FROM IRELAND'S FIRST EVER UNIVERSAL CHILDCARE SUBSIDY

and private services.⁶³⁷ Furthermore, the Committee states that work with young children 'should be socially valued and properly paid, in order to attract a highly qualified workforce'.⁶³⁸

Every child has the right to development, to care and assistance, to education, and to be protected from any form of harm, abuse or neglect.⁶³⁹ Ensuring the protection of these rights applies with particular urgency in the case of young children, who are least able to defend themselves against any infringement of their rights, to comprehend what may be happening in

the case of abuse or neglect, or to seek the protection of others.⁶⁴⁰ Where a child's right has been violated, there must be an effective accountability process, including the availability of remedies and sanctions.⁶⁴¹ Regardless of whether early childhood services are supplied by public authorities or by non-state providers, the State is obliged to regulate and monitor the quality of provision to ensure that children's rights are protected and their best interests served.⁶⁴² This is normally done through a registration and inspection regime.

Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020 lists children's early years as one of seven priorities and aims to raise the quality of early years care and education services.⁶⁴³ *Better Outcomes, Brighter Futures* commits to state-funded programmes and services focusing on, and clearly demonstrating, improved child outcomes.⁶⁴⁴ It also aims to monitor and fully implement national early years standards.⁶⁴⁵ The Framework commits to delivering Ireland's first National Early Years Strategy as a roadmap for care and education services for all children up to the age of six years.⁶⁴⁶ The Strategy is still in development.

Review and Reform of the Inspection Regime: To have a positive impact on child development, ECEC services must be of high-quality: long hours in low-quality services at a very young age can have a negative effect on a child's progress.⁶⁴⁷ Regulatory frameworks play a central role in assuring appropriate conditions for children's early learning and care, and in informing how early years' practitioners work with children.⁶⁴⁸ Essential to a regulatory framework are monitoring and inspection systems, which can enhance the level of quality in ECEC settings to improve child outcomes.⁶⁴⁹

637 *ibid* para 23. Ireland's ECEC sector is privately provided but receives public funding. In 2017, 4,448 providers had contracts with the Department of Children and Youth Affairs to offer services under the national funding programmes; 73 per cent were private and 27 per cent were community providers. Pobal, *Early Years Sector Profile 2016–2017* (Pobal 2017) 33.

638 *ibid* para 23.

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

640 UNCRC, 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 3; para 36 (a).

641 UNICEF, *Rights in Principle and Accountable in Practice: Child rights and social accountability in the post-2015 world*, Background Paper (UNICEF UK 2014) 1.

642 UNCRC 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 32.

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

644 *ibid* Commitment G.25, 34.

645 *ibid* Commitment G.27, 34.

646 *ibid* Commitment 2.1, 69.

647 Start Strong, *Early Learning: Policies for children's first 3 years*, Policy Brief, May 2012 (Start Strong 2012) 2.

648 OECD, *Encouraging Quality in Early Childhood Education and Care (ECEC)*, *Research Brief: Minimum Standards Matter* <<http://bit.ly/2B4pUtY>> accessed 15 November 2017.

649 OECD, *Starting Strong IV: Monitoring Quality in Early Childhood Education and Care* (OECD 2015).

and ensure that the State is held accountable for the establishment and maintenance of proper standards.⁶⁵⁰

There are two key inspection regimes in relation to ECEC services in Ireland, one led by the Early Years Inspectorate of Tusla, the Child and Family Agency, and the other by the Inspectorate of the Department of Education and Skills.

Tusla inspections: The Government committed to reform the inspection regime following a 2013 documentary showing evidence of the mistreatment of children in ECEC services,⁶⁵¹ and announced the 'Quality Agenda'.⁶⁵² With the commencement, in January 2014, of the Child and Family Agency Act 2013, Tusla was able to introduce the first national approach to ECEC regulation. The Child Care Act 1991 (Early Years Services) Regulations 2016 brought into force significant changes, including the introduction of the first national ECEC registration structure for services and the requirement that ECEC staff have a minimum qualification.⁶⁵³ The Regulations apply to ECEC services for children from birth to six years not attending primary school. Services have to register and comply with the 2016 Regulations as a prerequisite to operating; non-compliance is automatically an offence and Tusla has the power to de-register and close a service.⁶⁵⁴

With the coming into force of the 2016 Regulations, Tusla's Early Years Inspectorate has developed the first standardised national approach to monitoring and compliance. This is a welcome development; in recent years, concerns have been expressed about the inspection system, including the high levels of non-compliance and inconsistent inspections.⁶⁵⁵ There are also concerns about whether public health nurses, traditionally the only profession employed by Tusla as Early Years Inspectors, have the necessary expertise in ECEC to adequately understand early learning and carry out the role.⁶⁵⁶

The purpose of Tusla inspections under the 2016 Early Years Services Regulations is to determine the extent to which the service being inspected is well governed; the health, welfare and development of each child is supported; children are safe in the service; and premises are safe, suitable and appropriate for the care and education of children.⁶⁵⁷

In 2017, Tusla's Early Years Inspectorate provided nationwide briefing sessions and an online information resource to support compliance with the 2016 Regulations.⁶⁵⁸ Tusla inspection reports are available online.⁶⁵⁹ Following a preliminary consultation, a Quality Regulatory Framework (QRF) to provide consistency of inspection, was reissued for consultation in November 2017 with a view to publication in early 2018.⁶⁶⁰

No additional Tusla Inspector positions were created in 2017; any vacant posts were filled from an existing panel.⁶⁶¹ The Department of Children and Youth Affairs considers that a person with a higher level ECEC qualification could be eligible to be a Tusla Early Years Inspector.⁶⁶² The issue of the eligibility criteria for this position was addressed by the Labour Court in late 2017, which recommended that the current vacant Inspector posts be filled from both the existing panel of PHNs and from a competition using the new extended multidisciplinary criteria, and that once the current panel is depleted it should be closed.⁶⁶³ A recruitment plan is in place for 2018, to include a wider pool of professions, including higher level ECEC qualifications.⁶⁶⁴ When implemented, this will be a milestone in Irish ECEC professionalisation.

The 2016 Regulations specify a minimum qualification requirement for ECEC staff – a National Framework of Qualifications (NFQ) Level 5 in ECEC, or equivalent.⁶⁶⁵

650 UNCRC 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/GC/7/Rev.1 para 23, 32.

651 'Criminal investigation into alleged crèche abuse'(RTE) <<http://bit.ly/2CK8yEl>> accessed 15 November 2017.

652 Nóirín Hayes, 'Early Childhood Education and Care: A Neglected Policy Arena?' in Mary Murphy and Fiona Dukelow (eds), *The Irish Welfare State in the Twenty-First Century: Challenges and Change* (Palgrave Macmillian 2016) 201.

653 Tusla, *Annual Report 2016 of Tusla – Child and Family Agency's Early Years Inspectorate* (Tusla 2017) 1.

654 *ibid.*

655 Mary Maloney, 'Childcare regulations: Regulatory enforcement in Ireland. What happens when the inspector calls?' *Journal of Early Childhood Research* (2016) 14(1) 84–97.

656 Start Strong, 'Early Years Education-Focused Inspections, Submission to the Department of Education and Skills' (2015) <<http://bit.ly/2jLhVxc>> accessed 6 February 2017, 2.

657 Tusla, *Annual Report 2016 of Tusla – Child and Family Agency's Early Years Inspectorate* (Tusla 2017) 5.

658 *ibid.* 12.

659 Tusla, 'Inspection Reports' <<http://bit.ly/2BCNoHs>> accessed 8 December 2017.

660 Communication received by the Children's Rights Alliance from Tusla's Early Years Inspectorate, 1 December 2017.

661 *ibid.*

662 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

663 *Tusla Child and Family Agency v Irish Nurses and Midwives Organisation, Workplace Relations Commission, Recommendation LRC21641*, December 2017.

664 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 16 January 2018.

665 NFQ Level 5 equates to the Leaving Certificate. Quality and Qualifications Ireland, 'Irish National Framework of Qualifications' <<http://www.nfq-qqi.com/>> accessed 7 November 2017.

Pobal data indicates that 306 staff members working directly with children did not have the minimum qualification requirement in 2017.⁶⁶⁶ This must be addressed as minimum qualifications levels are a foundation for children being provided with a quality service.

Department of Education inspections: In 2015, the Inspectorate of the Department of Education and Skills commenced Early Years Education-focused Inspections to provide 'evaluative information, advice and support regarding the quality of education provision' in services participating in the Free Pre-school Scheme (FPSS).⁶⁶⁷ Introduced in January 2010, the FPSS aims to provide early learning in a formal setting for children before they commence primary school.⁶⁶⁸ Under the scheme, all children aged between three years and two months and four years and seven months are entitled to free access to Tusla-registered ECEC services for 15 hours per week, 38 weeks per year, September to June. By early 2017, the average length of time to which children were eligible for the service equated to 61 weeks (ranging from 51 to 88 weeks, depending on date of birth and age starting school).⁶⁶⁹

The Early Years Education-focused Inspections (EYEl) evaluate the nature, range and appropriateness of children's early educational experiences in the FPSS.⁶⁷⁰ (Educational provision in other ECEC settings is not covered by this inspection process.) The Early Years Inspectorate is part of the Department's Inspectorate division. Early years inspections are carried out in

Early Years Education-focused Inspections are carried out in accordance with the Education Act 1998 and are funded by the Department of Children and Youth Affairs.

accordance with the Education Act 1998 and are funded by the Department of Children and Youth Affairs.⁶⁷¹

By the end of 2017, 700⁶⁷² of the 1,200 EYEl which had been committed to in the *Education Action Plan 2016–2019*⁶⁷³ had been conducted, while a total of 716 inspection reports were available online,⁶⁷⁴ falling short of the 1,000 promised in the Action Plan. However, not all of the reports on inspection are available online,⁶⁷⁵ which can be due to the sometimes lengthy EYEl review process that includes factual verification and setting response that is completed before a report can go online. Findings of reports of inspection of ECEC services is being collated into a national overview report, to be published in early 2018. The Department's evaluation of the EYEl pilot found that⁶⁷⁶ providers of the FPSS welcomed the inspections as a positive step in the evolution of professional practice; however, the evaluation concluded that there was wide variation in the capacity of services to engage with the inspection process.⁶⁷⁷ The FPSS sector requires further capacity-building to engage with professionalisation processes.

666 Pobal, *Early Years Sector Profile 2016–2017* (Pobal 2017) 83. None of these staff were students or volunteers, had Grandparent Declarations, or were in the process of gaining a qualification of NFQ Level 5, as of May 2017.

667 Department of Education and Skills Inspectorate, *A Guide to Early-years Education-focused Inspection (EYEl) in Early-years Settings Participating in the Early Childhood Care and Education (ECCE) Programme* (Department of Education and Skills Inspectorate 2016) 2.

668 *ibid.*

669 Department of Children and Youth Affairs, 'Over 100,000 children now in free childcare; 95% of eligible children availing of scheme', Statement by the Minister for Children and Youth Affairs, Dr Katherine Zappone' (22 January 2017) <<http://bit.ly/2BFgSVo>> accessed 7 November 2017.

670 Department of Education and Skills Inspectorate, *A Guide to Early-years Education-focused Inspection (EYEl) in Early-years Settings Participating in the Early Childhood Care and Education (ECCE) Programme* (Department of Education and Skills Inspectorate 2016) 2.

671 *ibid.*

672 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 18 December 2017.

673 Department of Education and Skills, *Action Plan for Education 2016–2019* (DES 2016) 33.

674 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 18 December 2017.

675 Over 500 EYEl were conducted in 2016 and 215 reports were online. Children's Rights Alliance *Report Card 2017* (Children's Rights Alliance 2017) 35.

676 Department of Education and Skills, *Report on the National Consultation Process and the Trial of Early Years Education-focused Inspections* (Department of Education and Skills 2017) 16.

677 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 16 January 2018.

Co-ordinating inspections: There are concerns that having two separate Inspectorates intensifies the 'split' within the ECEC system where services for three to six year olds are considered 'early education' and are subject to both Tusla and Department of Education and Skills inspections, while services for children under three are considered 'childcare' and are subject only to inspection by Tusla.⁶⁷⁸ Children under the age of three also benefit from learning and development; the split means that the incentivisation and evaluation of educational quality is weaker for children under three. A 2017 report commissioned by the Department of Education and Skills recommended consolidating the existing inspections to provide a unified monitoring and evaluation system that would apply to all services and all age groups.⁶⁷⁹

The Department of Children and Youth Affairs and the Department of Education and Skills are working to coordinate the development and delivery of ECEC inspection, audit and mentoring functions through a high-level Operations and Systems Alignment Group (OSAG).⁶⁸⁰ This is a welcome development. The Group examined international evidence on what type of inspection model will best meet the needs of children in Ireland, deciding not to alter the regime, but the Group intends to examine the issue further.⁶⁸¹

It has been noted that there is a need for a transparent, two-way referral procedure between the two Inspectorates to address situations where Inspectors from the Department of Education and Skills believe that a breach of regulations has occurred which falls

outside of their remit but where sanctions by Tusla might be warranted, or where the reverse situation occurs for a Tusla Inspector.⁶⁸² The Department of Children and Youth Affairs has stated that, in order to address this situation, a Memorandum of Understanding between Tusla and the Department of Education and Skills will be put in place.⁶⁸³ Tusla has developed a protocol which advises the Department of Education and Skills, Better Start and Pobal that any concerns arising from unsolicited information should be referred to Tusla.⁶⁸⁴

Quality Audit of Free Pre-school Scheme⁶⁸⁵ and Funding Withdrawal:

A Programme for a Partnership Government included a commitment to develop and implement an Irish ECEC service quality audit tool. The commitment is welcome as the audit tool, when developed, should provide a rigorous single integrated quality assurance framework through which to identify the quality of education and care which children are receiving in ECEC services. The findings of the periodic national application of the audit tool should provide information and analysis to Government to guide funding and policy decisions. Periodic quality audits of ECEC provision were first recommended in 2015⁶⁸⁶ and funding was allocated in Budget 2016.⁶⁸⁷

The aim of the proposed audit is to develop and implement measurement instruments to assess the quality of a representative sample of Tusla-registered early childhood education and care services. This will provide a baseline for the subsequent assessment of

678 Nóirín Hayes, Bernie O'Donoghue Hynes and Toby Wolfe, 'Rapid Change without Transformation: the Dominance of a National Policy Paradigm over International Influences on ECEC Development in Ireland 1995–2012', [2013] 45(2) *International Journal of Early Childhood* 19–205.

679 Mathias Urban, Sue Robson, Valeria Scacchi, *Review of Occupational Role Profiles in Ireland in Early Childhood Education and Care* (Department of Education and Skills 2017) 54.

680 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 Department of Children and Youth Affairs 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.

681 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

682 Start Strong, 'Early-years Education-focused Inspections, Submission to the Department of Education and Skills' (Start Strong) <<http://bit.ly/2jLhVxc>> accessed 18 December 2017.

683 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

684 Communication received by the Children's Rights Alliance from Tusla's Early Years Inspectorate, 1 December 2017.

685 The Programme for Partnership Government commits to 'review and assess the quality of the first free pre-school year'. Originally one year, the provision was expanded in 2016, and will be expanded again in September 2018 to entitle all children to two years or 76 weeks free ECEC services. Between September 2016 and May 2017, the peak number of FPSS enrolments was just over 120,000 children. Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 December 2017.

686 Inter-Departmental Group on Future Investment in Childcare, 'Report of Inter-Departmental Working Group: Future Investment in Childcare in Ireland' (DCYA 2015) 104 <<http://bit.ly/1GDVkBn>> accessed 6 February 2017.

687 Department of Children and Youth Affairs, 'Minister Reilly announces €85m childcare package in Budget 2016' (13 October 2015) <<http://www.dcy.gov.ie/viewdoc.asp?DocID=3624>> accessed 6 February 2017.

the impact of quality-raising measures.⁶⁸⁸ The process of developing the audit instrument is expected to take approximately two years to complete.⁶⁸⁹ It is significant that the Department has decided the audit of education provision will not be confined to that available under the Free Pre-school Scheme,⁶⁹⁰ meaning that it will apply to services for children under the age of three years. It is welcome that the instrument will have to be child-centred and focused; evidence-based; apply to all registered early years settings ensuring that all children aged zero to six are included in quality measurement; be clearly linked to *Siolta, the National Quality Framework for Early Childhood Education* and *Aistear, The Early Childhood Curriculum Framework*, and aligned to existing standards and regulations of the current Inspectorates.⁶⁹¹ It is important that the quality audit tool should also provide for meaningful consultation with children and ensure that their experiences of using the service are captured in an age-appropriate way in line with Article 12 of the UN Convention on the Rights of the Child which provides that, where a child is capable of forming his or her own views, the child has the right to express those views freely in all matters affecting them. The audit has not yet commenced; a new procurement process is being initiated as tenders received in 2017 did not match the Government's requirements.⁶⁹²

The quality audit should provide the Government with a chance to consider the extent to which the systems, processes and programmes that support ECEC services are themselves of quality, or 'competent'.⁶⁹³ The audit should also pay particular attention to staffing issues, including qualifications. A previous review indicated that roles within early childhood education and care

are poorly defined and undervalued.⁶⁹⁴ As noted at the outset, the UN Committee on the Rights of the Child has made it clear that a good quality early childhood service requires competent, well-trained and properly paid staff.

The Government commitment to withdraw public monies from ECEC services that fail to meet quality standards⁶⁹⁵ is welcome. The Department of Children and Youth Affairs anticipated in 2016 that the proposed quality audit tool would provide evidence against which decisions to withdraw funding will be made,⁶⁹⁶ however, the Department now state that the purpose of the audit is to assist in the formulation of policy in relation to funding decisions.

It is important that the quality audit tool should also provide for meaningful consultation with children and ensure that their experiences of using the service are captured in an age-appropriate way in line with Article 12 of the UN Convention on the Rights of the Child.

688 MerrionStreet.ie, Irish Government News Service, 'Procurement for the provision of Services to Measure and Assess the Quality of Early Years Provision in Ireland' (5 April 2017) <<http://bit.ly/2B6D9dC>> accessed 6 November 2017.

689 *ibid*.

690 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

691 Department of Children and Youth Affairs 'Request for Tenders dated 7th April 2017 for the provision of Services to Measure and Assess the Quality of Early Years Provision in Ireland' (EU Supply 2017) 28 <<http://bit.ly/2AoFaAA>> accessed 3 January 2017.

692 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 December 2017.

693 International ECEC quality frameworks to understand and monitor ECEC quality focus not only on individual practitioner/ services quality but on the competence of the wider ECEC system in which services function. Working Group on Early Childhood Education and Care, *Proposal for Key principles of a Quality Framework for Early Childhood Education and Care Report* (European Commission 2014) <<http://bit.ly/2gyWtIX>> accessed 8 December 2017; University of East London and University Ghent, *Core Competence Requirements in Early Childhood Education and Care: A study for the European Commission Directorate-General for Education and Culture* (European Commission 2011) <<http://bit.ly/2kttDuA>> accessed 8 December 2017; OECD, *Starting Strong III – A Quality Toolbox for Early Childhood Education and Care* (OECD 2012) <<http://bit.ly/2BPjnGW>> accessed 8 December 2017.

694 Mathias Urban, Sue Robson, Valeria Scacchi, *Review of Occupational Role Profiles in Ireland in Early Childhood Education and Care* (Department of Education and Skills 2017) 54.

695 Department of the Taoiseach, *A Programme for A Partnership Government 2016* (Department of the Taoiseach, 2016) 76.

696 Children's Rights Alliance, *Report Card 2017* (Children's Rights Alliance 2017) 31; Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 16 January 2018.

Quality in Early Childhood Education and Care

Immediate Actions for 2018



PROCURE AND COMMENCE THE QUALITY AUDIT OF EARLY CHILDHOOD EDUCATION AND CARE (ECEC) SERVICES.

The commitment to provide a quality audit is significant: it would be the first Irish integrated tool to evaluate quality standards in ECEC services. The audit should provide the first indication of the quality of services experienced by children day-to-day. The audit is an opportunity to advance more effectively designed and targeted national and local quality supports. In keeping with the requirements of Article 12 of the UN Convention, the experiences and views of young children should be included in the development and implementation of the tool.

CONTINUE WITH THE REFORM OF THE INSPECTION SYSTEM, EXTEND THE EARLY YEARS EDUCATION-FOCUSED INSPECTIONS BEYOND THE FREE PRE-SCHOOL SCHEME, AND ENSURE THAT THE INSPECTION SYSTEMS OF BOTH TUSLA AND THE DEPARTMENT OF EDUCATION AND SKILLS PROVIDE TRANSPARENCY REGARDING THE QUALITY OF SERVICES AND ENSURE SERVICE ACCOUNTABILITY

Both Tusla and Department of Education and Skills inspection regimes require ongoing investment to increase the number of inspection staff and skills, and ensure that inspectors have the necessary ECEC skills and knowledge to assess quality in services and ensure compliance with regulations. Inspection reports by Tusla and the Department of Education and Skills should be made publicly available without undue delay in order to increase transparency and accountability in the sector.

DELIVER THE NATIONAL EARLY YEARS STRATEGY IN 2018.

The Strategy should include a coherent long-term approach to ECEC policy, underpinned by a clear vision for the ECEC sector across all providers and for all children from birth to six years.

5.2

Subsidised and School-Age Childcare

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: Some

- > 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 'C' grade in *Report Card 2018*, down from last year's 'B' grade. The grade reflects the fact that although progress has been made towards introducing the Affordable Childcare Scheme this was not delivered in September 2017, as originally intended. While it is positive that a universal subsidy for children from six months to three years old was provided, not as many children as expected benefitted from the interim measures introduced. The proposed streamlining of existing subsidised childcare schemes into one targeted income-based scheme did not take place due to the absence of the planned IT system. The *Action Plan on School Age Childcare*, published in 2017, is welcome as it is inter-departmental, reflects the consultation held with children and young people for its development, and marks the first Irish policy for school-age childcare.

The UN Convention on the Rights of the Child requires States to provide appropriate assistance to parents and guardians in relation to their child-rearing responsibilities.⁶⁹⁷ Children of working parents have the right to benefit from childcare services and facilities for which they are eligible.⁶⁹⁸ The UN Committee on the Rights of the Child calls on States to ensure that all young children are guaranteed access to appropriate and effective services, including programmes of health, care and education specifically designed to promote their well-being, paying particular attention to the most vulnerable groups of young children, including those experiencing poverty, and those at risk of discrimination.⁶⁹⁹ In addition, the UN Committee notes that insufficient attention has been given by States to the implementation of Article 31 of the Convention, which guarantees the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child.⁷⁰⁰

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

698 *ibid* Art 18(3).

699 UNCRC, 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 24.

700 *ibid* para 21.

Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020 commits to removing barriers to employment through increasing the affordability of quality and accessible childcare and after-school services.⁷⁰¹ It commits to improving children’s learning and development outcomes through increasing access to high-quality, affordable early years education,⁷⁰² acknowledging the link between service affordability for parents and access for children. The value of breakfast clubs and after-school clubs, which are types of school-age childcare, is also recognised in supporting educational attainment.⁷⁰³ *Better Outcomes, Brighter Futures* commits to lifting approximately 100,000 children out of consistent poverty by 2020. The European Commission Recommendation, *Investing in Children: Breaking the cycle of disadvantage*, draws attention to the importance of reducing inequality at a young age by investing in early childhood education and care and intensifying efforts to ensure that all families, including those in vulnerable situations and living in disadvantaged areas, have effective access to affordable, quality early childhood education and care.⁷⁰⁴

New Childcare Subsidy Model: In October 2016, the Minister for Children and Youth Affairs announced the

Affordable Childcare Scheme (ACS),⁷⁰⁵ intended as a financial support to parents by making Early Childhood Education and Care (ECEC) and School-Age Childcare (SAC)⁷⁰⁶ services more affordable.⁷⁰⁷ The ACS will replace existing targeted childcare subsidy schemes with a streamlined single subsidy scheme (excluding the Free Pre-school Scheme) and it was due to operate from September 2017.⁷⁰⁸

The ACS aims to provide ‘a system of progressive financial support towards the cost of childcare’⁷⁰⁹ for parents in Ireland, for whom such costs are among the highest in the European Union.⁷¹⁰ Ireland invests less in early childhood education as a proportion of Gross Domestic Product than most other OECD countries⁷¹¹ and lacks a comprehensive subsidy system such as is available in some countries with similar levels of resources.⁷¹²

The new scheme will provide Ireland’s first universal childcare subsidy to parents of children under three years and the first single income-based targeted childcare subsidies⁷¹³ for parents of children aged six months to 15 years.⁷¹⁴ The ACS will be the first Irish income-based subsidy for parents to support children’s participation in after-school services and out-of-school services during school holidays. ACS

701 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (DCYA 2014) Commitment 4.6, 93.

702 *ibid* xiv.

703 *ibid* 68.

704 European Commission, Commission Recommendation of 20 February 2013, *Investing in Children: Breaking the cycle of disadvantage*, *Official Journal of the European Union*, (2.3.2013, L 59/5) 2.2; 2.1.

705 Department of Children and Youth Affairs, ‘Budget 2017: Department of Children and Youth Affairs Statement by Dr Katherine Zappone, Minister for Children and Youth Affairs’ (11 October 2016) <<http://bit.ly/2AuJbsl>> accessed 20 October 2017.

706 Defined as: ‘Childcare which encompasses a wide range of non-scholastic, safe, structured programme offerings for school-going children aged four to 12 years, whether provided by childminders or in formal settings. The service operates outside of normal school hours, i.e., before school, after school and during school holidays, excluding the weekends. The same children attend the service on a regular basis and access to the service is clearly defined by agreement with parents/guardians. The main purpose of the service is to promote children’s holistic development and to care for children where their parents are unavailable.’ Department of Children and Youth Affairs and Department of Education and Skills, *Action Plan on School Age Childcare* (DCYA/DES 2016) 11.

707 Department of Children and Youth Affairs, ‘Budget 2017: Q&A on the Affordable Childcare Scheme’ <<http://bit.ly/2jOQINt>> accessed 23 October 2017. A different funding model – flat-rate public capitation per child for 15 hours per week, 38-weeks per year – is in operation to support access to the Free Preschool Year for children aged three-years and up to primary school entry.

708 Department of Children and Youth Affairs, ‘Budget 2017: Department of Children and Youth Affairs Statement by Dr Katherine Zappone, Minister for Children and Youth Affairs’ (11 October 2016) <<http://bit.ly/2AuJbsl>> accessed 20 October 2017.

709 Department of Children and Youth Affairs, ‘Policy Paper on the Development of a new Single Affordable Childcare Scheme’ (October 2016) <<http://bit.ly/2h4tNrx>> accessed 6 November 2017 14.

710 Council Recommendation 2016/328/ EC of 18 May 2016 ‘on the 2016 national reform programme of Ireland and delivering a Council opinion on the 2016 stability programme of Ireland’ COM(2016) 328 final 7.

711 OECD, ‘Ireland’ in *Education at a Glance 2016* (OECD 2017) 1.

712 Inter-Departmental Group on Future Investment in Childcare, ‘Report of Inter-Departmental Working Group: Future Investment in Childcare in Ireland’ (DCYA 2015) 56 <<http://bit.ly/1GDVkBn>> accessed 6 February 2017.

713 Universal programmes are available to children regardless of parents’ income or employment status; eligibility for targeted programmes is determined by factors such as parental income or employment status, or membership of a social group.

714 A universal annual subsidy of up to €1,080 is available for all children between the ages of six months and three years/ commencement Free Pre-school Scheme. Parents of children aged six months to 15 years, with annual incomes of up to €47,500, may also qualify for a means-tested targeted subsidy. Department of Children and Youth Affairs, ‘Budget 2017: Q&A on the Affordable Childcare Scheme’ <<http://bit.ly/2jOQINt>> accessed 2

subsidies will be payable for up to 52 weeks per year.⁷¹⁵ A total of €105 million was allocated to the ACS for 2017 to fund the design and initial implementation of the scheme, comprising the €86.8 million already allocated to targeted childcare subsidy schemes plus an additional €19 million.⁷¹⁶ In October 2016, at the time of the announcement of Budget 2017, the Department of Children and Youth Affairs estimated that 79,000 children could benefit from the ACS when implemented in September 2017, rising to 90,000 in 2018.⁷¹⁷

Under the new scheme, the State subsidy is paid directly to childcare providers rather than to parents, and childcare fees charged to parents are reduced by an amount corresponding to the subsidy. This direct payment to services is welcome: it provides the State with opportunities to incentivise and control quality in services by ensuring that only regulated services observing quality standards can receive public funding.⁷¹⁸ Subsidies to parents, such as tax credits, have limited impact on affordability because they can drive prices up and do not help the most disadvantaged families who fall outside the tax net.⁷¹⁹ There are 'serious concerns' about their potential introduction in Ireland due to their high cost, limited impact on quality, and questions as to whether a rate of subsidy could be offered that would be effective in supporting affordability and labour market activation.⁷²⁰

Neither the legislation to establish the scheme nor the proposed Information Technology (IT) system were finalised in time for the September 2017 commencement date. As an interim step, the Government introduced the 'September Measures', to provide 'a level of subsidy' to make childcare 'more affordable' for the parents of an estimated 70,000 children from September 2017.⁷²¹ Until the ACS becomes operational, both the universal subsidy and the targeted subsidies are being distributed through previously existing targeted funding schemes. By end of December 2017, 93 per cent of the expected beneficiaries had received a subsidy: approximately 30,000 children benefited from a universal subsidy, and approximately 34,000 children benefited from a targeted subsidy.⁷²² While €91.6 million was allocated by Government for the payment of childcare subsidies in 2017 (€42 million to the ACS) there was a €13.7 million underspend, and almost €9 million of the underspend was ACS monies.⁷²³ There was also a significant underspend on childcare subsidies prior to the introduction of the September Measures, with €86.8 million⁷²⁵ allocated and €56 million spent by the Department,⁷²⁶ suggesting insufficient access for children and parents to available subsidies.

The ACS implementation is contingent on the procurement of a user-friendly IT system to provide parents with an application portal and an automatic

Funding on Childcare Subsidies by Department of Children and Youth Affairs

	2016		2017		2018	
	Allocated	Spent	Allocated	Spent	Allocated	Spent
Funding to childcare subsidies	€86.8m	€56m	€91m	€77.9m	€90m	-
Number of children	31,000		65,000		65,000+ (planned)	

724

715 The Department initially proposed a 48-week subsidy, but this was increased to 52-weeks following advocacy campaigns by providers and children's organisations.

716 Department of Children and Youth Affairs, 'Policy Paper on the Development of a new Single Affordable Childcare Scheme' (October 2016) <<http://bit.ly/2h4tNrx>> accessed 12 October 2017, 9, 88.

717 The 79,000 children would comprise 25,000 new universal subsidy beneficiaries, 22,500 beneficiaries already paying for childcare and 31,500 children who were already in receipt of a targeted childcare subsidy. Department of Children and Youth Affairs, 'Budget 2017: Q&A on the Affordable Childcare Scheme' <<http://bit.ly/2D6FN84>> accessed 23 October 2017.

718 OECD, *Starting Strong II: Early Childhood Education and Care*, (OECD 2006), 114-116.

719 Start Strong, *The double dividend: Childcare that's affordable and high quality, Policy Brief* (Start Strong 2014).

720 Inter-Departmental Group on Future Investment in Childcare, 'Report of Inter-Departmental Working Group: Future Investment in Childcare in Ireland' (DCYA 2015) 81,119 <<http://bit.ly/1GDVkBn>> accessed 2 December 2017.

721 Department of Children and Youth Affairs, 'Government announces plans for the delivery of more affordable childcare this September, Statement by the Minister for Children and Youth Affairs, Dr Katherine Zappone and Minister for Social Protection, Leo Varadkar', 12 April 2017 <<https://www.dcy.gov.ie/viewdoc.asp?DocID=4180%20>> accessed 6 November 2017.

722 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 16 January 2018.

723 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 19 January 2018.

724 *ibid.*

725 Department of Children and Youth Affairs, 'Policy Paper on the Development of a new Single Affordable Childcare Scheme' (October 2016) <<http://bit.ly/2h4tNrx>> accessed 12 October 2017, 88.

726 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 16 January 2018.

decision on their eligibility based on PPS numbers and income data.⁷²⁷ By November 2017, the implementation of the system was delayed for a number of reasons.⁷²⁸ The Department of Children and Youth Affairs will confirm a timeline for the full introduction of the Scheme once an IT developer is appointed.⁷²⁹

The absence of the new IT system to implement the September Measures has meant that childcare providers undertake the administration associated with determining parents' eligibility for the subsidies. To compensate childcare providers for the 'administrative overload' involved in the September Measures paperwork,⁷³⁰ an additional €3.5 million was granted to support services to administer public childcare subsidies.⁷³¹ It is welcome that Budget 2018 included a commitment that the total €18 million for administration, first allocated in 2017, will be available in future budgets to directly fund services' administration of national childcare funding programmes.⁷³²

Progress is being made towards putting in place the legislative underpinning of the Affordable Childcare Scheme. The Heads of Bill and General Scheme of the Affordable Childcare Scheme Bill was published in February 2017 and underwent pre-legislative scrutiny by the Joint Oireachtas Committee on Children and Youth Affairs.⁷³³ Following this, the Childcare Support Bill 2017 was published in December 2017 by the Minister for Children and Youth Affairs.⁷³⁴ The Bill enables the establishment of automated income

assessment and provides for the appointment of a scheme administrator.⁷³⁵ Under the provisions of the proposed legislation, the Minister is empowered to make regulations to determine the amount of financial support for which a parent qualifies and to determine the conditions under which payment will be made to approved childcare service providers and parents.⁷³⁶ In a welcome development, the legislation limits participation in the Scheme to childcare providers registered with Tusla, the Child and Family Agency.⁷³⁷ This will address concerns that unregulated childcare services could participate in the ACS.⁷³⁸ It ensures that services will be cyclically inspected under national regulations and that there is a legal basis for sanctions, or even closure, should a service not meet minimum regulatory standards. It also ensures that staff are Garda vetted and that the physical environment in which the service is provided is safe.

The extent to which children will benefit from the targeted subsidy will depend on their parents' engagement in training and work. Parents in work or training could qualify for up to a 40 hours targeted subsidy per week, compared with up to 15 hours per week for those who are not.⁷³⁹ The linking of the targeted subsidy to hours of work/training engaged in by parents could potentially limit the benefits of early childhood care and education for children if they cannot access it. However, the Bill includes an alternative model of eligibility and access for children

727 The verification process will link in with those of the Revenue Commissioners and the Department of Employment Affairs and Social Protection. Childcare Support Bill 2017, Dáil Bill, No. 153 of 2017,

728 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

729 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 December 2017.

730 Amy McArdle, 'Admin Overload?' Scéalta: The Early Childhood Ireland Blog (Early Childhood Ireland 2017) <<https://www.earlychildhoodireland.ie/blog/admin-overload/>> accessed 6 November 2017.

731 Department of Children and Youth Affairs 'Extra €3.5m payment announced for childcare providers, Statement by the Minister for Children and Youth Affairs, Dr Katherine Zappone' <<https://www.dcy.gov.ie/viewdoc.asp?DocID=4237>> accessed 8 November 2017.

732 Department of Children and Youth Affairs, 'Budget 2018 – Minister Zappone announces a €73m package' <<http://bit.ly/2mvFLG2>> accessed 14 November 2017.

733 The Heads of Bill underwent pre-legislative scrutiny by the Joint Oireachtas Committee on Children and Youth Affairs in February 2017. Joint Oireachtas Committee on Children and Youth Affairs, 'Pre-legislative Scrutiny Report on the Heads of Bill of the Affordable Childcare Scheme Bill 2017, 7-10' <<http://bit.ly/2iGSVUe>> accessed 8 October 2017.

734 Childcare Support Bill 2017, Dáil Bill, No. 153 of 2017.

735 Pobal is the Administrator in the first instance. This can change if required. Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

736 Government of Ireland, Childcare Support Bill, Explanatory Memorandum <<http://bit.ly/2qM155a>> accessed 8 January 2018.

737 Childcare Support Bill 2017, Dáil Bill, No. 153 of 2017, s 1.

735 Pobal is the Administrator in the first instance. This can change if required. Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

736 Government of Ireland, Childcare Support Bill, Explanatory Memorandum <<http://bit.ly/2qM155a>> accessed 8 January 2018.

737 Childcare Support Bill 2017, Dáil Bill, No. 153 of 2017, s 1.

738 Children's Rights Alliance, 'Submission to the Joint Oireachtas Committee on Children and Youth Affairs on the Heads of Bill and General Scheme of the Affordable Childcare Scheme', February 2017 <<http://bit.ly/2hcFbQT>> accessed 7 November 2017 4-5.

739 Department of Children and Youth Affairs, 'Childcare Support Bill, Frequently Asked Questions, December 2017' <<http://bit.ly/2CVuijD>> accessed 8 January 2018.

and parents from specific groups,⁷⁴⁰ including teen parents to continue their education, asylum seeking and programme refugee families, homeless families, and children and families referred by Tusla or the Health Service Executive. Children and families in these groups may be eligible for a greater level of childcare subsidy without having to fulfil the work/training eligibility criteria⁷⁴¹ where a named government department or agency decides it is necessary.⁷⁴² In these cases, the Bill provides that the Minister for Children and Youth Affairs will enter written agreements with the relevant department or agency to contribute to the costs, and determine the rate and terms of the ACS subsidy for these vulnerable children.⁷⁴³

The flexible access route to childcare subsidies for named groups of vulnerable children in the Bill is very welcome. Yet concerns remain that some groups may fall through the cracks where they are not already engaged with state services. The ACS gives insufficient attention to children and parents experiencing domestic violence, addiction, mental health difficulties, and disability.⁷⁴⁴ It is of welcome that undocumented children can access a subsidy through referral by the HSE or Tusla.⁷⁴⁵ An audit should be conducted to determine whether there are particular groups of children who should fall within the scope of the flexible

ACS measures to ensure that no child who requires the additional support is left out of the scheme.

The Government's policy is to improve quality in services to children.⁷⁴⁶ At this point, ECEC providers are not required to implement *Aistear, the National Early Years Curriculum* or *Siolta, the National Early Years Quality Framework* with children subsidised through the September Measures. There continues to be a difference in approach towards the FPSS, the State's early educational programme, and the other funding schemes through which the September Measures are delivered as subsidised childcare programmes.⁷⁴⁷

Concerns have been raised about the funding model provided for the scheme as it is calculated on 'a per hour subsidy model' rather than a capitation grant as in the case of the FPSS.⁷⁴⁸ Some providers point out that the subsidy rates do not cover the additional costs of providing targeted early interventions to young children and their families.⁷⁴⁹ Service providers are also concerned that the subsidy levels are based on a flawed ECEC costs model that is contingent on low pay for practitioners and services operating on a break-even basis.⁷⁵⁰ The Department of Children and Youth Affairs has indicated that an independent review of the cost of

740 Childcare Support Bill 2017, Dáil Bill, No. 153 of 2017, s 14, schedule 2. See also Government of Ireland, Childcare Support Bill, Explanatory Memorandum <<http://bit.ly/2qM155a>> accessed 8 January 2018 4.

741 Childcare Support Bill 2017, Dáil Bill, No. 153 of 2017, s 14.

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

743 Childcare Support Bill 2017, Dáil Bill, No. 153 of 2017, s 14(1)(2). Government of Ireland, Childcare Support Bill, Explanatory Memorandum <<http://bit.ly/2qM155a>> accessed 8 January 2018, 3. Higher rates of subsidy (e.g. provision of childcare at no cost to parents), more hours of financial support each week, or wider child age-limits for participation in the Scheme may be set for these vulnerable groups.

744 Amy McArdle, Towards the Affordable Childcare Scheme: An opportunity to improve quality of provision for our youngest children, *Education Matters Yearbook 2017-2018* (Education Matters 2018) 91.

745 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 16 January 2018.

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

747 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

748 Children's Rights Alliance, 'Submission to the Department of Children and Youth Affairs on the Development of the Single Affordable Childcare Supplement, January 2017' <<http://childrensrightrights.ie/resources/submission-department-children-and-youth>> accessed 6 February 2017.

749 National Childhood Network et al, 'A Response to the Single Affordable Childcare Scheme: Feedback to Support Successful Implementation' <<http://bit.ly/2yfA5uc>> accessed 6 November 2017, 13; Children's Rights Alliance, 'Submission to the Department of Children and Youth Affairs on the Development of the Single Affordable Childcare Supplement', January 2017 <<http://bit.ly/2FiGAh>> accessed 7 November 2017, 13.

750 Amy McArdle, Towards the Affordable Childcare Scheme: An opportunity to improve quality of provision for our youngest children, *Education Matters Yearbook 2017-2018* (Education Matters 2018) 91.

751 The review will analyse the current costs of providing childcare in Ireland and factors that impact on those costs; develop a model of the unit cost/costs of providing childcare that allows analysis of policy changes and variation in cost-drivers; and provide an objective, high level market analysis of the childcare sector in Ireland, including analysis of fee levels charged to parents. Department of Children and Youth Affairs, 'Independent Review of the Cost of Delivering Quality Childcare Starts, Statement by the Minister for Children and Youth Affairs, Dr Katherine Zappone' <<http://bit.ly/2r3aXb5>> accessed 8 January 2018.

delivery of quality childcare⁷⁵¹ will examine whether the subsidy rates are appropriate.⁷⁵²

It is not clear to what extent childcare costs for parents have actually been reduced by the September Measures. There is no definition or measure of 'childcare affordability' for parents in Ireland to evaluate the success of public childcare subsidies in improving affordability – for example, ratio of childcare costs to family income.⁷⁵³ In 2017, the average cost of childcare services for parents rose for the first time in five years,⁷⁵⁴ although it is not yet clear if the increase is related to the introduction of subsidies. Apart from services under the Free Preschool Scheme, providers are free to set their fees at whatever level they wish.⁷⁵⁵ Budget 2018 increased the duration of entitlement to the FPSS, bringing the average entitlement up to 76 weeks, which the Department of Children and Youth Affairs estimates will save parents approximately €5,000 annually on childcare fees per child.⁷⁵⁶ The Department has previously suggested that fee caps could be considered to improve affordability for parents.⁷⁵⁷

School-Age Childcare: Section 5 analyses the commitment to develop a school-age childcare system because four- and five-year-olds in primary school use these services. Ireland is the only country in the OECD with a significant proportion (36 per cent) of four-year-olds in primary school.⁷⁵⁸ While school-age childcare (SAC) is included in this chapter on early childhood, it is a separate policy issue from Early Childhood Education

and Care. The main purpose of school-age services is to care for children outside normal school hours, whereas the purpose of ECEC is primarily educational and developmental.

In line with its commitment in *A Programme for a Partnership Government* to introduce a new system of quality after-school care for school-age children,⁷⁵⁹ the Department of Children and Youth Affairs and the Department of Education and Skills jointly published the *Action Plan on School Age Childcare* in March 2017.⁷⁶⁰ The *Action Plan* is Ireland's first policy on afterschool services during term-time and out-of-school services during school holiday periods. Access, affordability, and quality, with a child rights and child-centred approach, guide the model.⁷⁶¹

A consultation with 177 children aged between five and 12 years, in line with Article 12 of the UN Convention,⁷⁶² and led by the Department of Children and Youth Affairs, informed the Action Plan.⁷⁶³ All age groups consulted had a strong preference for SAC with a home-from-home environment and identified play as the most desired activity in an ideal SAC service; eating and cooking food were also identified as important activities for children in the after-school period of their day. Relaxation, reading, and a lack of rules were also features of an ideal service for younger children, while the importance of home and friends were frequently-mentioned by older children.⁷⁶⁴

752 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

753 This contrasts with housing, also a publicly-subsidised good primarily provided by non-State actors in Ireland. See for example: Indecon, *A Study to Examine the Affordability of Irish Housing* (National Competitiveness Council 2016).

754 Pobal, *Early Years Sector Profile 2016/2017* (Pobal 2017) 63. The average cost nationwide had increased by just over €7 from €167.03 to €174.16 (4.3 per cent) for full-time services. The cost of a part-time place decreased slightly to €98.58, while the average weekly fee for a sessional place rose by just over €2 to €68.64.

755 Children's Rights Alliance, 'Submission to the Department of Children and Youth Affairs on the Development of the Single Affordable Childcare Supplement, January 2017' <<http://bit.ly/2FIGAAh>> accessed 6 February 2017.

756 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

757 Department of Children and Youth Affairs, 'Policy Paper on the Development of a new Single Affordable Childcare Scheme' (October 2016) 14 <<http://bit.ly/2h4tNrx>> accessed 6 November 2017.

758 OECD, "Ireland" in *Education at a Glance 2016* (OECD 2017) 4.

759 Department of the Taoiseach, *A Programme for a Partnership Government 2016* (Department of the Taoiseach, 2016) 78.

760 Department of Children and Youth Affairs and Department of Education and Skills, *Action Plan on School Age Childcare* (DCYA/DES 2016). School-age childcare is defined as: 'Childcare which encompasses a wide range of non-scholastic, safe, structured programme offerings for school-going children aged four to 12 years, whether provided by childminders or in formal settings. The service operates outside of normal school hours, i.e., before school, after school and during school holidays, excluding the weekends. The same children attend the service on a regular basis and access to the service is clearly defined by agreement with parents/guardians. The main purpose of the service is to promote children's holistic development and to care for children where their parents are unavailable.'

761 Department of Children and Youth Affairs and Department of Education and Skills, *Action Plan on School Age Childcare* (DCYA/DES 2017) 4.

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

763 Department of Children and Youth Affairs, *Report of Consultations with Children on After-school Care* (Government Publications 2017).

764 *ibid.*

Key commitments in the *Action Plan* include the development of quality standards and a quality assurance system for SAC services and the development of a SAC qualification for practitioners.⁷⁶⁵ The Plan considers the issue of capital grants to expand the supply of SAC places and the funding of transport from schools to SAC services. It recommends that the use of schools and other existing community facilities for the provision of SAC services should be maximised 'where demand exists and where it can be facilitated by the school patron/ trustees'.⁷⁶⁶ To date, progress on implementation of the *Action Plan's* proposals has included the publication by the Department of Education and Skills of *Guidelines on the Use of School Buildings Outside of School Hours* in November 2017⁷⁶⁷ and a review on support for an appropriate qualification for the SAC workforce to be completed by June 2018 by Quality and Qualifications Ireland (QQI).⁷⁶⁸ The Expert Group on Future Skills Needs has commissioned an analysis of information on the future skills needs for the childcare workforce.⁷⁶⁹ This work is currently underway and will provide detailed data to inform workforce planning in 2018.⁷⁷⁰

In early 2017, the Department of Children and Youth Affairs formed a Working Group on School-Age Childcare Quality Standards to review national and international best practice to support the development of the SAC Quality Standards for four to 15 year olds and to develop a set of principles to support the implementation of the Quality Standards.⁷⁷¹ Draft Quality Standards are due to be completed by the end of 2017, in advance of further consultation.⁷⁷² Following

the completion and agreement of the standards, priority actions will include addressing the question of qualifications for school-age childcare staff and a robust quality assurance system for SAC services.⁷⁷³

The overall number of children availing of SAC and the number of schools, community or youth services offering SAC is unknown.⁷⁷⁴ In 2016/17, 20,338 children age six years and over availed of a Department-funded SAC place.⁷⁷⁵ However, almost 1,400 children remain on a waiting list and there has been a decrease in the number of services offering after-school care.⁷⁷⁶ The Action Plan commits to establishing a specialist unit within the Department of Children and Youth Affairs to identify demand and supply for SAC and ECEC services.⁷⁷⁷ The Department has allocated resources to develop a mechanism to gauge supply and demand for childcare into the future, and it is working with other agencies to gather and analyse this data.⁷⁷⁸

The additional funding for the School Age Childcare Capital Scheme, announced by the Minister for Children and Youth Affairs in March 2017, is welcome.⁷⁷⁹ The funding aims to increase capacity for the provision of school-age childcare, through the establishment of new services and the expansion or improvement of existing services. The SAC capital programme in 2017 allocated €4 million to create 5,000 places in 488 services;⁷⁸⁰ the funding has yet to be drawn down by services. Intended improvements to SAC services funded through the 2017 Capital Programme include renovations of indoor and outdoor spaces and purchase of age appropriate equipment and furniture.⁷⁸¹

765 Department of Children and Youth Affairs and Department of Education and Skills, *Action Plan on School Age Childcare* (DCYA/DES 2017) 6-9.

766 *ibid.* It is notable that the Department of Education and Skills' Action Plan for Education 2016–2019, proposes to link additional capitation to schools to the provision of buildings for afterschool care. Department of Education and Skills, *Action Plan for Education 2016–2019* (DES 2016) 59.

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

768 *ibid.*

769 The Expert group is a government advisory group reporting to the Minister for Business, Enterprise and Innovation and the Minister for Education and Skills.

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

771 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

772 *ibid.*

773 *ibid.*

774 Inter-Departmental Group on Future Investment in Childcare, 'Report of Inter-Departmental Working Group: Future Investment in Childcare in Ireland' (DCYA 2015) 56 <<http://bit.ly/1GDVkBn>> accessed 2 December 2017.

775 Pobal, *Early Years Sector Profile 2016/2017* (Pobal 2017) 51.

776 *ibid.* 12.

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

778 *ibid.*

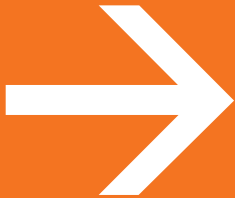
779 Pobal, *Early Years Sector Profile 2016/2017* (Pobal 2017) 12.

780 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

781 *ibid.*

Subsidised and School-Age Childcare

Immediate Actions for 2018



MAKE SIGNIFICANT PROGRESS IN 2018 ON THE ACTIONS REQUIRED TO INTRODUCE THE AFFORDABLE CHILDCARE SCHEME. IN THE INTERIM, ENSURE THAT AS MANY CHILDREN AS POSSIBLE BENEFIT FROM CHILDCARE SUBSIDIES.

The Childcare Support Bill 2017 should continue to be prioritised in the legislative process in 2018. Significant effort is required in 2018 to procure the development of a user-friendly IT system. An initial pilot may iron out any glitches before the IT system is fully rolled-out. The time required to develop the IT system should provide the Department of Children and Youth Affairs with the opportunity to plan the national and local supports that will be required for parents with literacy issues, or without access to broadband or digital devices.

CONTINUE THE CURRENT PACE OF IMPLEMENTATION OF THE *ACTION PLAN FOR SCHOOL-AGE CHILDCARE*.

The implementation of the Plan is encouraging. The Department of Children and Youth Affairs should ensure that SAC services are regulated and provide appropriate programmes and quality services to children and young people.

5.3

Childminding**GOVERNMENT COMMITMENT**

A Programme for a Partnership Government commits to:

- > Support the development of a phased programme of reforms for childminding.



Progress: Slow

'Childminding' receives a 'D' grade in *Report Card 2018*, down from last year's 'C' grade. The grade reflects inadequate progress in the development of a phased programme of reforms for the childminding sector. At least 35,000 children experience unregulated childminding settings but there is no available information on the quality of services provided or their suitability as early childhood care and education provision or as school-age childcare services. The establishment by the Government of a Working Group to make recommendations on reforming and supporting the sector is significant, and indicates a welcome intent to transform the sector.

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.⁷⁸² Noting that young children form strong emotional attachments to their parents or other caregivers, from whom they seek and require nurturance, care, guidance and protection,⁷⁸³ the UN Committee 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 primary obligation to ensure implementation of the Convention, their responsibility for service provision for early childhood development,⁷⁸⁴ 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.⁷⁸⁵

Reforming Childminding: A childminder is a self-employed person who provides a childminding service.⁷⁸⁶ The Child Care Act 1991 (Early Years Services) Regulations 2016 define a childminding service as a pre-school service offered by a person who single-handedly takes care of pre-school children,⁷⁸⁷ among whom may be included the person's own children, in the person's home, for more than two hours per day, except where the exemptions provided in Section 58 of the Child Care Act 1991 apply.⁷⁸⁸ Only childminding services catering for four or more pre-school children who are unrelated are required to register with Tusla, the Child and Family Agency.

In September 2016, the Department of Children and Youth Affairs established a Working Group on

782 UNCRC 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 23.

783 *ibid* para 5.

784 *Ibid* para 32.

785 *ibid*.

786 Office of the Minister for Children, *National Guidelines for Childminders* (Stationery Office 2006) 29.

787 A pre-school child is defined in the Child Care Act 1991 (Early Years Services) Regulations 2016 (SI No 221) as a child who is under six years of age and who is not attending primary school.

788 Child Care Act 1991 (Early Years Services) Regulations 2016, Statutory Instrument (SI No 221).

Reforms and Supports for the Childminding Sector, chaired by Childminding Ireland, a membership-based organisation representing childminders.⁷⁸⁹ The Working Group was requested, through research, consultation and examination of international best practice, to produce proposals for the Minister for Children and Youth Affairs on necessary reforms and supports.⁷⁹⁰ The Working Group was due to submit its proposals to the Minister for Children and Youth Affairs in May 2017 but the new timeframe for submission is mid-January 2018.⁷⁹¹ The Minister and her officials will consider the Group's recommendations with a view to developing an action plan for the reform and support of the childminding sector.⁷⁹²

The Government's *Action Plan on School Age Childcare*, published in March 2017, recognises childminders as school-age childcare providers and includes childminding services in the definition of school-age childcare.⁷⁹³ The actions proposed under the Plan include the establishment of a dedicated Learner Fund to enable childminders to upskill, and the development of quality standards and a quality assurance system in order for childminding services to access public funding.⁷⁹⁴ To ensure a consistency of approach regarding access to the Learner Fund, the Department is awaiting the Childminding Working Group report before advancing this action.⁷⁹⁵

Accurate data on the number of childminding services in Ireland and the number of children in their care is unavailable given the unregulated and not publicly visible nature of the sector. The Department of Children and Youth Affairs estimates that there are 21,000 childminding services caring for 37,000 children.⁷⁹⁶ However, recent nationally representative data on the

childcare use and preferences of parents in Ireland⁷⁹⁷ shows that 10 per cent of children aged 12 years and under were cared for by childminder, au pair or nanny services.⁷⁹⁸ This equates to approximately 88,000 children.⁷⁹⁹

Only childminders registered with the Child and Family Agency, Tusla and caring for pre-school children are subject to the Child Care Act 1991 (Early Years Services) Regulations 2016 and so open to periodic inspection by Tusla's Early Years Inspectorate. However, by November 2017, just 122 childminders were registered with Tusla.⁸⁰⁰ This reflects the limited requirement to register already noted: childminders are not required to register with Tusla if they care for three or fewer pre-school children unrelated to the childminder, or care for children from a single family, or if they care only for school-going children.⁸⁰¹ Given the absence of detailed data on the extent of provision, the Department cannot provide a reliable estimate of the number of childminding services required to register with Tusla under the law and who choose not to, and suggest that enforcement arrangements are insufficient to ensure that they do so.⁸⁰² There is no regulatory framework for school-age childcare providers, whether home- or centre-based.

Tusla's analysis of a sample of 288 inspection reports from 2,008 inspections in 2016 included seven childminding services.⁸⁰³ The seven childminding services were found to be 86 per cent compliant with the 2016 Regulations.⁸⁰⁴ This compares favourably with other service types, including full day care services, although caution is required as the number is very low.⁸⁰⁵ Childminders are not named as mandated persons with a legal obligation to report child

789 The Working Group includes representatives of Tusla, Pobal, Department of Children and Youth Affairs, Childcare Committees Ireland, Children's Rights Alliance, the National Childcare Voluntary Collaborative, Better Start, Childminding Ireland.

790 Children's Rights Alliance, *Report Card 2017* (Children's Rights Alliance 2017) 43.

791 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

792 *ibid.*

793 Department of Children and Youth Affairs, *Action Plan on School Age Childcare* (DCYA 2017) 7, 11.

794 *ibid.* 69.

795 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

796 Department of Children and Youth Affairs and Department of Education and Skills, *Action Plan on School Age Childcare* (DCYA & DES 2017) 22.

797 Central Statistics Office, *Quarterly National Household Survey Module on Childcare, Quarter 3, 2016* (CSO 2017) 1.

798 Note that the CSO Quarterly National Household Survey Module on Childcare does not distinguish between a childminder, nanny or au pair. Childminding services operate in the childminder's home and childminders are self-employed, while nannies and au pairs operate in the child's home. Au pairs are legally designated as employees of parents, while nannies are also often employees.

799 There are 880,2098 children age zero to 12 years, inclusive, in Ireland (Central Statistics Office, Census 2016, Statbank, EY007: Population 2011 to 2016 by Age Last Birthday, At Each Year of Age, Sex and Census Year <<http://bit.ly/10R1hyp>> accessed 12 October 2017.)

800 Communication received by the Children's Rights Alliance from Tusla's Early Years Inspectorate, 6 December 2017.

801 Child Care Act 1991 (Early Years Services) Regulations 2016, Statutory Instrument (SI No 221), Regulation 12.

802 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 December 2017.

803 Communication received by the Children's Rights Alliance from Tusla's Early Years Inspectorate, 1 December 2017; Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 16 January 2018.

804 *ibid.*

805 *ibid.*



**ONLY
122
OUT OF 22,000
CHILDMINDERS
TUSLA REGISTERED**

protection concerns to Tusla under the Children First Act 2015 and while some childminders voluntarily undertake Children First child protection training there is no onus on them to do so.

A range of agencies engage with childminders agencies in relation to financial support. Childminders may apply for a Childminding Development Grant of up to €1,000 every two years. A prerequisite for applying for this grant is notification to a local City or County Childcare Committee (CCC) and submission of a self-evaluation form. The CCC does not assess the suitability of the childminder or their home or verify the information

given in the self-evaluation process. In November 2017, 1,193 childminders had voluntarily 'notified' a CCC⁸⁰⁶ by submitting a self-evaluation form.⁸⁰⁷ In 2016, 237 childminders received the Grant;⁸⁰⁸ 194 applicants were recommended for it in 2017.⁸⁰⁹ Childminders may also avail of an annual €15,000 Childminding Tax Relief, which is designed to incentivise supply. Applicants must submit to the Revenue Commissioners a letter from a CCC confirming their voluntary notification.⁸¹⁰ To this end, CCCs issued 93 letters in 2016 and 109 in 2017.⁸¹¹ Qualification criteria for tax relief include a requirement that the childminder does not care for more than three children at any one time.⁸¹² This results in an anomaly whereby a service registered with Tusla (because it is caring for more than three children) is unable to avail of the tax relief while services that are exempt from regulation may qualify for the relief.

The main national quality improvement support for childminders is a 10 hour non-accredited Quality Awareness Programme (QAP). Five CCCs offer the QAP;⁸¹³ 68 childminders completed the Programme in 2016 and 49 in 2017.⁸¹⁴ The QAP provides basic information on child development, hygiene, health and safety, child well-being, and the importance of play.⁸¹⁵ The Department of Children and Youth Affairs provides annual funding to Childminding Ireland to provide supports towards improving quality standards among its 712 members.⁸¹⁶

While *Siolta*, the National Quality Framework for Early Childhood Education and Care, and *Aistear*, the Early Childhood Curriculum Framework, are both applicable to childminding services, there is no requirement on the services to implement these frameworks. Only Tusla-registered childminders delivering the Free Preschool Scheme (FPSS) are contractually required by the Department to 'provide an appropriate

806 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017. City and County Childcare Committees (CCCs) support ECEC service providers and promote the adoption and application of national frameworks that improve the quality of services. Unregistered childminding services or those exempt from Tusla-registration can voluntarily 'notify' their service to their City or County Childcare Committee.

807 Wicklow County Childcare Committee, 'Notification as a Childminder' <<http://bit.ly/2D2DnDG>> accessed 6 February 2017.

808 Designated to purchase toys, educational materials and equipment or make some minor household adaptations to assist in developing a quality childminding service.

809 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

810 *ibid.*

811 *ibid.*

812 Revenue Commissioners, 'Childcare services' <<http://bit.ly/2kk8MK7>> accessed 19 December 2017.

813 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

814 *ibid.*

815 Wicklow County Childcare Committee, 'Notification as a Childminder' <<http://bit.ly/2D2DnDG>> accessed 6 February 2017.

816 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017.

educational programme for children in their preschool room which adheres to the principles of Siolta and Aistear.⁸¹⁷ While Early Childhood Education and Care (ECEC) services are required to have a minimum of eight children enrolled in order to operate the FPSS programme, exceptions can be made for childminders in communities where there are no ECEC centres.⁸¹⁸ In November 2017, 24 ECEC services offering the FPSS had self-identified to Pobal as a childminder.⁸¹⁹

As only Tusla-registered services may be used by parents wishing to avail of the childcare subsidies provided under the 'September Measures', implemented since September 2017 while awaiting the implementation of the Affordable Childcare Scheme, childminders generally are not among the childcare services in respect of which the subsidy will be paid. However, 10 Tusla-registered ECEC services that self-declared to Pobal as childminders came within the scope of the September Measures in November 2017.⁸²⁰

The Affordable Childcare Scheme may offer a significant opportunity to encourage childminders to register and become regulated, thus effecting improvements in the safety and quality of childcare available in Ireland. The Childcare Support Bill 2017 provides for the establishment of a funding scheme for childcare services. The Bill 2017 limits participation in the Scheme to childcare services providers - both pre-school and school-age - that are registered with the Child and Family Agency under the Child Care Act 1991.⁸²¹ The Department also anticipates that ACS providers will be contractually obliged to comply with quality standards via a quality assurance process,⁸²² although the standards and assurance process are not yet developed. Public monies should not be used to fund childcare that is of unknown quality and is not subject to regulation and inspection.

Childminders can provide valuable home-based care and education services for children. They offer parental choice and are a flexible support to working parents, often close to children's homes and within

their communities. However, the sector requires radical reform and State recognition to ensure that it is properly regulated and supported. The action plan to be developed by the Department of Children and Youth Affairs, following receipt of the Report of the Working Group on Reforms and Supports for the Childminding Sector, should recognise, support and promote the important contributions that childminders can make to children's learning and development outcomes. The more commonly considered care aspects of childminding should not be the sole focus of the plan.

The Affordable Childcare Scheme may offer a significant opportunity to encourage childminders to register and become regulated, thus effecting improvements in the safety and quality of childcare available in Ireland.

817 Department of Children and Youth Affairs, 'Early Childhood Care and Education Programme General Conditions of Grant Funding Agreement' <<http://bit.ly/2yWavK0>> accessed 19 December 2017.

818 Department of Children and Youth Affairs, 'ECCE Minimum Enrolment Exemptions' <<http://bit.ly/2kirhii>> accessed 6 February 2017.

819 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017. However, this figure may not reflect the situation in reality: childminders may self-declare as such on the Pobal online system but it is not mandatory that they do so and Pobal is not in a position to do any verification checks on this at present.

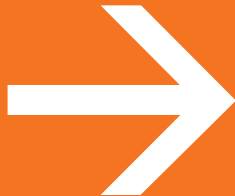
820 *ibid.*

821 Childcare Support Bill 2017, Dáil Bill, No. 153 of 2017, s 1.

822 Department of Children and Youth Affairs and Department of Education and Skills, *Action Plan on School Age Childcare* (DCYA & DES 2017) 22.

Childminding

Immediate Actions for 2018



DEVELOP AN ACTION PLAN IN 2018 FOR THE GRADUAL REFORM AND SUPPORT OF THE CHILDMINDING SECTOR.

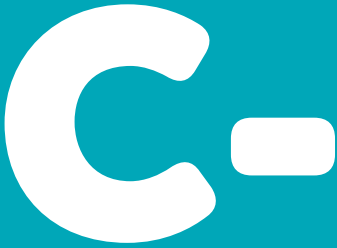
Government should publish an action plan on childminding to reform and support the sector. The plan must address issues of quality, regulation and inspection. The plan should also address the issue of supporting childminders to improve their facilities and practices to meet appropriate minimum regulatory standards and quality standards.

ENSURE THAT ONLY REGULATED CHILDMINDING SERVICES WHICH ARE SUBJECT TO INSPECTION WILL BE CONSIDERED AS APPROVED PROVIDERS UNDER NATIONAL CHILDCARE FUNDING PROGRAMMES, INCLUDING THE AFFORDABLE CHILDCARE SCHEME.

Childcare subsidies for parents should be paid only in respect of services where minimum standards are appropriately regulated, childminders receive Children First training, and the childminder and other adults in the home are Garda vetted. The State must ensure that children's rights are protected and respected in all childcare settings and must provide an adequate redress mechanism should a childminder violate a child's rights to health, safety, protection and to quality services. The development of the required infrastructure to regulate the sector should be prioritised.

6. RIGHT TO EQUALITY

Chapter Grade



Unicef Ireland
@UnicefIRLyouth



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



19 Sept 2017

Right to Equality and Non-Discrimination

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

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



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



IN THE NEWS

GALWAY TRAVELLER MOVEMENT DELIGHTED THAT ETHNICITY FINALLY RECOGNISED

Galway Advertiser, 09 March 2017

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

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

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

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

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

6.1

Traveller and Roma Children**GOVERNMENT COMMITMENT**

A Programme for a Partnership Government commits to:

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



Progress: Complete

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

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

the race, ethnic or social origin or other status of the child or their parent or guardian.⁸²⁶ Children in ethnic, religious or linguistic minorities or of indigenous origin must not be denied the right to enjoy their own culture, religion or language.⁸²⁷

In 2016, the UN Committee on the Rights of the Child expressed its deep concern about 'structural discrimination' against Traveller and Roma children in Ireland 'including as regards their access to education, health and an adequate standard of living'.⁸²⁸ The Committee made recommendations in relation to Traveller and Roma children across a range of areas, including discrimination,⁸²⁹ adequate standard of living⁸³⁰ and health.⁸³¹ It also highlighted the lack of a human rights basis for the implementation of the *National Traveller and Roma Integration Strategy* and inadequate consultations with the Traveller and Roma community in relation to the Strategy.⁸³²

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

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

824 *ibid* Art 4.

825 *ibid* Art 27.

826 *ibid* Art 2.

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

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

829 *ibid* para 28(a).

830 *ibid* para 60.

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

832 *ibid* para 69.



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

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

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

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

National Traveller and Roma Inclusion Strategy

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

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

834 *ibid* Commitment 4.19.

835 *ibid* Commitment 1.4.

836 *ibid* Commitment 2.22.

837 *ibid* Commitment 2.22.

838 *ibid* Commitment 5.6.

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

840 *ibid*.

841 *ibid*.

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

843 Pavee Point, 'Terms of Reference for an up-to-date assessment of the Roma Community in Ireland aimed at establishing how best to improve State agencies' interaction with the Roma Community in line with Recommendation 4.2.3 of the Report of Ms Emily Logan published July 2014 (Garda Síochána Act 2005 (Section 42) (Special Inquiries relating to Garda Síochána Order 2013)' <<http://bit.ly/2lggRxJ>> accessed 10 January 2018.

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

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

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

847 *ibid* 29.

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

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

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

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

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

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

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

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

848 *ibid* 31–32.

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

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

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

852 *ibid* 43.

853 *ibid*.

854 *ibid*.

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

856 *ibid*.

857 *ibid*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

867 *ibid* 37.

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

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

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

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

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

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

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

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- 870 *ibid.* However, it must be noted that under the Data Protection Acts 1988-2003, ethnic or cultural background is deemed sensitive personal data so the explicit written consent of the parent/guardian (or student, where deemed old enough to provide consent) is required for the school to collect this data and share it with the Department.
- 871 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 14 December 2017.
- 872 Hilary Harmon, *Irish Traveller and Roma Children, Shadow Report, A response to Ireland’s Consolidated Third and Fourth Report to the UN Committee on the Rights of the Child* (Pavee Point 2015) 22; Pavee Point, *Roma Communities in Ireland: Child Protection Considerations* (Pavee Point, 2014) 17.
- 873 Department of Housing, Planning and Local Government, ‘Annual Count 2016 – Total Number of Traveller Families in all Categories of Accommodation’ <<http://bit.ly/2kjGq3g>> accessed 5 December 2017
- 874 Central Statistics Office, ‘Census of Population 2016 – Profile 8: Irish Travellers, Ethnicity and Religion’ <<http://bit.ly/2AtCuoX>> accessed 5 December 2017.
- 875 Department of Housing, Planning and Local Government, ‘Annual Count 2016 – Total Number of Traveller Families in all Categories of Accommodation’ <<http://bit.ly/2kjGq3g>> accessed 5 December 2017
- 876 Central Statistics Office, ‘Census of Population 2016 – Profile 8: Irish Travellers, Ethnicity and Religion’ <<http://bit.ly/2AtCuoX>> accessed 5 December 2017.
- 877 *ibid.*
- 878 Central Statistics Office, ‘Census of Population 2016 – Profile 1: Housing in Ireland’, <<http://bit.ly/2DmQ3Zc>> accessed 17 January 2018.
- 879 Central Statistics Office, ‘Census of Population 2016 – Profile 8: Irish Travellers, Ethnicity and Religion’ <<http://bit.ly/2AtCuoX>> accessed 5 December 2017.
- 880 Pavee Point, ‘Budget 2018 for Travellers – Running to Standstill’ (Pavee Point 11 October 2017) <<http://bit.ly/2zPRhXT>> accessed 4 December 2017.
- 881 RSM PACEC Ltd and Michelle Norris, *Research Report: Review of Funding for Traveller-Specific Accommodation and the Implementation of Traveller Accommodation Programmes*, (Housing Agency 2017).
- 882 *ibid.*
- 883 *ibid.*

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

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

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

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

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

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

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

885 *ibid.*

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

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

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

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

890 *ibid.*

891 *ibid.*

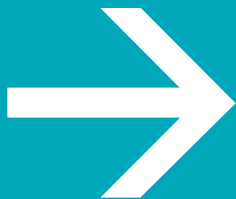
892 Department of Justice and Equality, *The National Traveller and Roma Inclusion Strategy 2017–2021* (DJE 2017) 11.

893 *ibid.* 34.

894 *ibid.*

Traveller and Roma Children

Immediate Actions for 2018



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

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

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

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

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

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

6.2

Refugee and Asylum-Seeking Children

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

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



Progress: Steady

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

Progress: Some

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

Every child should be free to enjoy his or her rights without facing discrimination of any kind, irrespective of their race, national or ethnic origin or other status.⁸⁹⁵ Children outside their country of origin seeking refugee protection are entitled to special protection, regardless of whether they are accompanied by their parents/guardians, or are unaccompanied.⁸⁹⁶ The State must take steps to facilitate family reunification where possible,⁸⁹⁷ but in cases where this is not possible, the State must give the same protection to the unaccompanied minor as it would to other children who are separated from their family⁸⁹⁸ or who are placed in the care of the State.⁸⁹⁹ The child's ethnic, religious, cultural and linguistic background must be taken into account when deciding what is best for that child.⁹⁰⁰ In 2016, the UN Committee on the Rights of the Child called on Ireland to bring its 'asylum policy,

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

896 *ibid* Art 22(1).

897 *ibid* Art 22(2).

898 *ibid*.

899 *ibid* Art 20(2).

900 *ibid* Art 20(3).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

910 bid 10.

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

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

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

1300



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

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

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

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

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

914 *ibid.*

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

916 *ibid.*

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

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

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

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

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

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

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

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

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

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

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

The UN Committee on the Rights of the Child is clear that 'local integration must be based on a secure legal status (including residence status) and be governed by the Convention rights that are fully applicable to all children who remain in the country'.⁹³² This includes access to education. Children should start or resume their education at the earliest possible opportunity,

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

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

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

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

927 *ibid.*

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

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

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

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

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

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

934 *ibid.*

935 *ibid.* 87.

936 *ibid.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

946 The Direct Provision allowance is a non-statutory payment administered by the Department of Social Protection on behalf of the Department of Justice and Equality.

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

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

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

950 *ibid.*

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

The *2015 Final Report of the Working Group on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers*, also known as the McMahon report,⁹⁵² made 173 recommendations, including a series of reforms to address the rights and needs of children living in Direct Provision.⁹⁵³ *A Programme for a Partnership Government* commits to reform the Direct Provision system, with particular focus on children and families, but it stops short of committing to implementing the McMahon report in full.

National Standards for Direct Provision Centres:

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

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

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

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

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

951 *ibid* 8, 13–14.

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

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

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

955 *ibid*, 4.

956 Department of Justice and Equality, *Working Group Report to Government Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers* (2015) para 4.73.

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

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

959 Health and Information Quality Authority 'Report on inspection of the child protection and welfare services provided to children living in Direct Provision accommodation under the National Standards for the Protection and Welfare of Children and Section 8(1) (c) of the Health Act 2007' (25 May 2015) <<http://bit.ly/2jVdCui>> accessed 13 October 2017.

960 *ibid* 3.

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

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

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

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

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

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

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

962 Health and Information Quality Authority, 'Report on inspection of the child protection and welfare services provided to children living in Direct Provision accommodation under the National Standards for the Protection and Welfare of Children and Section 8(1)(c) of the Health Act 2007' (HIQA 25 May 2015) <<http://bit.ly/2jVdCui>> accessed 13 October 2017.

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

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

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

966 *ibid.*

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

968 *ibid.*

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

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

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

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

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

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

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

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

Refugee and Asylum-Seeking Children

Immediate Actions for 2018



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

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

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

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

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

6.3

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

A Programme for a Partnership Government commits to:

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



Progress: Good

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

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

principle of non-discrimination does not specifically refer to discrimination on the grounds of sexual orientation or gender identity, the UN Committee on the Rights of the Child has clarified that sexual orientation is covered by this article.⁹⁷⁸ In 2016, the UN Committee called on States, when implementing children's rights during adolescence, to 'repeal all laws criminalizing or otherwise discriminating against individuals on the basis of their sexual orientation, gender identity or intersex status'⁹⁷⁹ and adopt laws prohibiting discrimination on those grounds.⁹⁸⁰ States must also 'take effective action to protect all lesbian, gay, bisexual, transgender and intersex adolescents from all forms of violence, discrimination or bullying by raising public awareness and implementing safety and support measures.'⁹⁸¹ In 2015, a group of international

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

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

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

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

981 *ibid.*



HALF LGBTI+ YOUTH IDENTIFIED DISCRIMINATION AS MAJOR ISSUE

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

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

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

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

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

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

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

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

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

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

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

987 *ibid.*

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

989 *ibid.*

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

991 *ibid.* 23.

992 *ibid.* 1.

993 *ibid.* 109.

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

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

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

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

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

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

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

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- 994 UNCRF 'General Comment No. 20 on the implementation of the rights of the child during adolescence (2016) UN Doc CRC/C/GC/20 para. 34.
- 995 Agnes Higgins et al, *The LGBTIreland Report: National study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (GLEN and BeLonG To 2016) 58.
- 996 *ibid* 230.
- 997 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 5 December 2017.
- 998 UNCRF 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 28.
- 999 Department of Children and Youth Affairs, *National Youth Strategy 2015–2020* (DCYA 2015).
- 1000 Transgender Equality Network Ireland, *Gender Recognition and Transgender Young People* (TENI 2015) 2–3.
- 1001 Ruari-Santiago McBride *Grasping the Nettle: The Experiences of Gender Variant Children and Transgender Youth Living in Northern Ireland* (Institute for Conflict Research 2013) cited in Transgender Equality Network Ireland *Gender Recognition and Transgender Young People* (TENI 2015).
- 1002 Young transgender people under the age of 18 continue to face challenges in gaining legal recognition of their gender. The Gender Recognition Act 2015 allows those aged 18 and over to apply for a legal change of gender without any medical prerequisites. Applicants aged 16 or 17 can apply to court for an exemption from the age barrier to legal recognition but this requires consent of a parent or guardian along with the approval of two medical professionals. A review of the Gender Recognition Act 2015 was announced in October 2017. The Review Group, chaired by Moninne Griffith, Executive Director of BeLonG To Youth Services, will consider gender recognition for children under the age of 16, arrangements for 16 and 17 year olds and the position of non-binary and intersex persons. The Review Group is expected to complete its work in May 2018.
- 1003 Transgender Equality Network Ireland, *Gender Recognition and Transgender Young People* (TENI 2015) 4. For example, when presenting as their true gender, they risk being 'outed' during class roll calls because these are linked to the birth certificate used to enrol the child at the school.
- 1004 Agnes Higgins et al, *The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (GLEN and BeLonG To 2016) 138.
- 1005 Gay and Lesbian Equality Network, 'Being LGBT in School: A resource for post-primary schools to prevent homophobic and transphobic bullying and support LGBT students' (2016) <<http://bit.ly/1Sxsxub>> accessed 3 January 2018.

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

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

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

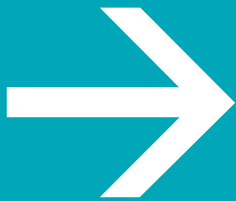
1006 Agnes Higgins et al, *The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (GLEN and BeLonG To – 2016) 8.

1007 The Stand Up! campaign, run annually by BeLonG To, is a programme aimed at tackling homophobic and transphobic bullying in schools. This campaign has been endorsed in the current national Action Plan on Bullying, which recommended that the project be supported by the Department of Education and Skills. BeLonG To 'Stand Up Campaign' <<http://www.belongto.org/campaign.aspx>> accessed 3 February 2017. Gay and Lesbian Equality Network, *Being LGBT in School: A resource for post-primary schools to prevent homophobic and transphobic bullying and support LGBT students* (2016) <<http://bit.ly/1Sxsxub>> accessed 3 February 2017. The Department has also provided funding to BeLonG To in order to explore ways in which Stand Up! can be adapted for use in primary schools.

1008 Agnes Higgins et al, *The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland* (GLEN and BeLonG To 2016) 8.

LGBTI+ Children and Young People

Immediate Actions for 2018



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

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

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