

**Submission by the Children's Rights Alliance
to the Department of the Taoiseach
in relation to the
National Policy Statement on Better Regulation and Regulatory
Management**

July 2002

The Children's Rights Alliance welcomes the opportunity to make a submission to the Department of the Taoiseach's consultative process in relation to the National Policy Statement on Better Regulation and Regulatory Management.

The Children's Rights Alliance is a coalition of 70 non-governmental organisations concerned with meeting the needs and safeguarding the rights of children in Ireland. The Alliance works to secure the full implementation in Ireland of the principles and provisions of the UN Convention on the Rights of the Child, to which Ireland is a State Party.

The Alliance welcomes the Government's commitment to publish a "*National Policy Statement to set out the core principles which will guide our approach to the framing, introduction and enforcement of regulation in existing and new areas.*"

The consultation document *Towards Better Regulation* defines regulation in broad terms to include legislation as well as rules promulgated by authorities or bodies to whom regulatory powers have been delegated. The Executive Summary states that the aim of the National Policy Statement is:

"to ensure that whenever regulation is justified, it is prepared in a fully transparent way which maximises public participation in its formulation; that it is clear and that it achieves its objectives; that it is not overly burdensome and is properly enforced; and that it has no unintended effects and is regularly reviewed".

1. The Impact of Regulations on Children

Regulations of all types impact on the lives of children in Ireland. Certain regulations are designed specifically with children in mind and aim to achieve particular public policy objectives in relation to children and services which cater for children. These include the Adoption Act, 1991, the Child Care Act, 1991, the Protection of Young Persons (Employment) Act, 1996, the Education Act 1998, the Children Act 2001, and the Child Care (Pre-School Services) Regulations 1996.

Almost all regulations, whatever their primary purpose, have at least an indirect impact on children. Examples include regulations related to the environment, health, housing, transport and public amenities. Regulations which impact on the lives and welfare of parents will in turn impact on their children. For example, the introduction of the National Minimum Wage Act, 2000 affected all children living in households in which a parent's wage was below the minimum standard established by the Act.

Regulations may have an unintended impact on children. For example, criminal trespass legislation passed by the Oireachtas this year has placed thousands of Traveller children living on the roadside in jeopardy of forcible eviction if their parents are found to be in violation of the new law.

2. UN Convention on the Rights of the Child

The UN Convention on the Rights of the Child recognises and stipulates children's basic human rights, including their civil, political, economic, social and cultural rights and their right to protection from abuse and exploitation. The Convention sets forth the minimum standards necessary for the well-being of every child. The Convention also imposes obligations on the ratifying States Parties to undertake specific actions to ensure the full realisation by children of the rights stipulated in the Convention.

Four principles are basic to the implementation of the UN Convention on the Rights of the Child:

- Respect for the best interests of the child (Article 3)
- The right of all children to life, survival and development (Article 6)
- Participation: the right of all children to express their views freely on all matters affecting them (Article 12)
- Non-discrimination: the right of all children to enjoy all the rights in the Convention without discrimination (Article 2).

The UN Convention under Article 3 calls on State Parties to respect the best interests of the child:

"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative or legislative bodies, the best interests of the child shall be a primary consideration."

Article 12 calls on State Parties to take into account the views of children on matters which affect them:

"State Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child."

3. National Children's Strategy

The National Children's Strategy was launched by the Government in November, 2000 to advance the implementation in Ireland of the UN Convention on the Rights of the Child. The Strategy lays out a set of objectives and commitments to improve the quality of life for all children in Ireland over a ten-year period. The Strategy aims to achieve the following three National Goals:

1. Children will have a voice in matters which affect them and their views will be given due weight in accordance with their age and maturity.
2. Children's lives will be better understood; their lives will benefit from evaluation, research and information on their needs, rights and the effectiveness of services.
3. Children will receive quality supports and services to promote all aspects of their development. The Strategy recognises that all children have a basic range of needs and that some children have additional needs.

Under the National Children's Strategy all departments must identify the impact of their policies on children when seeking a government decision. Departments are also required to include child impact analyses in their Departmental Strategy Statements. This practice is to be extended to state agencies.

4. Recommendations in relation to the National Policy Statement on Better Regulation and Regulatory Management

4.1. Child Impact Statements

The Children's Rights Alliance calls for the National Policy Statement to require that all proposed regulations, including legislation, be assessed and evaluated with respect to their potential impact on children. The evaluations should be published as Child Impact Statements and circulated prior to the adoption of regulations and to coincide with the publication of legislation.

The Child Impact Statement should explain clearly and succinctly what impact, if any, will a proposed regulatory instrument have on the lives of children and how will it serve to promote their best interests.

This exercise will help focus the attention of policy makers on the potential consequences of regulatory instruments on the well-being of children and will require that they be evaluated, prior to their adoption, in relation to how they promote the best interests of children.

4.2. Consultation with Children

The Children's Rights Alliance calls for the National Policy Statement to require that meaningful consultation with children be undertaken in relation to the development and implementation of regulations which affect children.

Such consultation, as noted above, is an important right recognised under the UN Convention on the Rights of the Child. The UN Convention also provides that all the rights of the Convention shall be enjoyed by all children, without discrimination.

It should also be noted that the Good Friday Agreement provides that all those living on the island of Ireland shall enjoy the same rights and an equivalent level of rights protection. Section 75 (1) of the Northern Ireland Act, 1998 places a statutory duty on public authorities to "*promote equality of opportunity between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; between men and women generally; between persons with a disability and persons without; and between persons with dependants and persons without.*" The 'age provision' has been interpreted to apply to those under the age of 18 as well as to the aged. The Agreement and the equality provisions of the Northern Ireland Act have been interpreted to require public bodies to consult with and take into account the interests and views of all those who may be affected by policy decisions, including children and young people.

In keeping with the principles and provisions of the Good Friday Agreement and the UN Convention, children in this jurisdiction have a right to no less than an equivalent level of rights protection as that enjoyed by children living elsewhere on the island of Ireland.

The Alliance is in the process of completing a research study and compiling resource materials on methods of best practice regarding consultation with children. The study and resource materials will provide information and guidance to those seeking to undertake meaningful consultation with children and young people. The material will be designed for practitioners and policy makers, as well as for children and young people, and will be published in the Autumn of 2002.

4.3. Promote Awareness of Rights and of Regulations that Safeguard Rights

The UN Committee on the Rights of the Child, in its *Concluding Observations* (1998) on Ireland's implementation of the UN Convention, recommended that Ireland "*create a wider awareness and understanding of the principles and provisions of the Convention*" as provided for in Article 42 of the Convention on the Rights of the Child.

The Children's Rights Alliance calls for the National Policy Statement to promote a broader and deeper awareness and understanding of children's rights and of those regulatory instruments which safeguard those rights. Many regulations, whether they be entitlements or guidelines for practice by statutory bodies or rules to ensure adequate child protection, are the specific vehicles by which rights are to be realised. Unless there is broad awareness of such regulations, it is unlikely that they will be fully implemented or enforced. The need for awareness raising extends both to the general public, including children, and to all relevant practitioners and staff in both the statutory and non-governmental sectors.

The Children's Rights Alliance urges the Department of the Taoiseach to support the recommendations outlined above and to provide for their incorporation in the National Policy Statement on Better Regulation and Regulatory Management. We believe these recommendations, if implemented, will serve to promote the rights and welfare of children and will help improve the quality of regulatory instruments in Ireland.