

Submission to the Joint Oireachtas Committee on Children and Youth Affairs on

the Heads of Bill and General Scheme of the Affordable Childcare Scheme

27 February 2017



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

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Ag Eisteacht
Alcohol Action Ireland
Alliance Against Cutbacks in Education
Amnesty International Ireland
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
Dental Health Foundation of Ireland
Department of Occupational Science and Occupational Therapy, UCC
Disability Federation of Ireland
DIT – School of Social Sciences & Legal Studies
Down Syndrome Ireland
Dublin Rape Crisis Centre
Dun Laoghaire Refugee Project
Early Childhood Ireland
Educate Together
EPIC
EQUATE
Extern Ireland
Focus Ireland
Foróige
Future Voices Ireland
Gaelscoileanna Teo
GLEN - Gay and Lesbian Equality Network
Headstrong - The National Centre for Youth Mental Health
Immigrant Council of Ireland
Inclusion Ireland
Independent Hospitals Association of Ireland
Inspire Ireland
Institute of Community Health Nursing
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
Kids' Own Publishing Partnership
Law Centre for Children and Young People
Lifestart National Office
Mental Health Reform
Migrant Rights Centre Ireland
Mounttown Neighbourhood Youth and Family Project
MyMind
National Childhood Network
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
School of Education UCD
Scouting Ireland
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
Sugradh
Teachers' Union of Ireland
Terenure Rugby Football Club
The Ark, A Cultural Centre for Children
The Guardian Children's Project
The Prevention and Early Intervention Network
The UNESCO Child and Family Research Centre, NUI Galway
Traveller Visibility Group Ltd
Treoir
UNICEF Ireland
youngballymun
Youth Advocate Programme Ireland (YAP)
Youth Work Ireland

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1. Introduction

The Children’s Rights Alliance welcomes the publication of the Heads of Bill and General Scheme for the Affordable Childcare Scheme and the opportunity to make a submission to the Joint Oireachtas Committee on Children and Youth Affairs to inform its pre-legislative scrutiny process.

The Children’s Rights Alliance’s work in Early Childhood Education and Care builds upon and continues the legacy of Start Strong. From 2009, Start Strong was an influential force in Irish early years’ policy development and advocacy, uniting a coalition of supporter organisations and individuals around the goal of advancing high quality care and education as a right for all young children in Ireland. Start Strong wound down in summer 2016. To continue Start Strong’s legacy, aspects of their work are being continued in the Children’s Rights Alliance, supported with funding from the Katharine Howard Foundation, The Atlantic Philanthropies, and the Community Foundation for Ireland.

The Children’s Rights Alliance considers that the Affordable Childcare Scheme (ACS) has the potential to provide a foundation for multi-annual planning and investment in quality, child-centred Early Childhood Education and Care (ECEC) (from here on in called childcare) and school-age childcare provision. We welcome the ACS to improve affordability for parents, support access to childcare services for children, and become a vital component of a whole-of-Government approach to ending child poverty.

Ireland has the second highest Early Childhood Education and Care (ECEC) costs in the European Union, and the highest costs for one parent families.¹ The ACS is welcome as it addresses the costs of services to parents, and has the potential to support children’s access to care and education services all-year round, and to facilitate parents to work, potentially impacting positively on high child poverty rates in Ireland. The ACS represents the first time that a Government has explicitly developed a policy of financial support for parents to meet the costs of their child availing of early years services, which is welcome.

This submission relates primarily to how the scheme impacts on children from birth to six years of age and their parents. It should also be noted that primary school-going children aged four to six years may also avail of school-age childcare services for reasons that include working parents or the child may be availing of educational and social supports.

The Children’s Rights Alliance, in our submission to the Department of Children and Youth Affairs in response to the Department’s policy paper published in October 2016,² welcomed design elements of the ACS, including that:

- It includes both a universal and targeted subsidy, implementing the policy of progressive universalism set out in *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020*;³

1 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.

2 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://childrensrights.ie/resources/submission-department-children-and-youth>> accessed 6 February 2017.

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

- All parents can receive some element of subsidisation to support their child's access to early years settings (15 hours per week) even when both parent (s) are not currently in employment or education. This is very important as it puts the child's development at the centre of policy;
- For the first time, there is a subsidy to parents to assist with the costs of ECEC services for children from birth to three years;
- For the first time, there is a subsidy to parents to assist with the costs of school-age childcare services for children age four to fifteen years; For the first time, a subsidy is available for parents whose children use wrap-around care and education services when they are availing of the Free Preschool Year, are in primary school and in the first few years of secondary school;
- Parents can avail of a subsidy for out-of-school services during the summer holidays, which is a much-needed support to them;
- The income test to determine eligibility is based on net income, bringing the majority of families in Ireland into the targeted subsidy scheme and supporting families whose gross income may appear sufficient but who may struggle on their net income when additional outgoings are paid; and
- The subsidy, while aiming to improve affordability for parents, is being paid directly to the early years and school-age childcare services on parents' behalf, providing the State with leverage over the quality of the service received by children.

That Head 4 of the Heads of Bill permits more than one application to be made in relation to one child in situations where parents are separated is also positive. It recognises and facilitates shared parenting, which has been found to be support children's wellbeing.

The Alliance views the Affordable Childcare Scheme as one vital element of an early childhood education and care development plan. Additional policies and funding streams are required for quality improvement in services, the professionalisation of early years sector employees, and to support the role of community early years services in their prevention and early intervention work.

Accountability

Head 6(2) of the proposed legislation provides that:

A provider of childcare services may only be an approved provider if the provider is— (a) a registered provider, or (b) on a list of eligible providers established by the Minister in accordance with subsection (3).

Currently, only early years services that are registered with Tusla, the Child and Family Agency, can avail of public subsidies, i.e. the State capitation paid in respect of over 100,000 children availing of the Free Preschool Years, and the targeted subsidies paid in respect of over 30,000 children whose low-income parents require highly-subsidised childcare to help them participate in education/training and to enter employment. Being registered with Tusla means that the services are inspected by Tusla before commencing operation and then periodically to evaluate the extent to which the services meet the national Child Care Act 1991 (Early Years Services) Regulations 2016 on child welfare and safety and quality standards in early years settings.

Tusla's inspection and regulation regime ensures that early years services in receipt of public monies are accountable to the State. Through Tusla's Early Years Inspectorate the State has the legal basis for sanctions, or even closure, should a setting not be fit for purpose, or judged dangerous to children under the Regulations. In practice, when breaches of the Regulations are detected in settings, the Inspectorate recommends changes, and then monitors the service to ensure that they remedy the breach.⁴ Knowing that Tusla undertakes this important function supports parents'

⁴ While Tusla's Early Years Inspectorate indicate an overall high level of compliance (72% of services) with the 2016 Regulations, the remaining 28 per cent were assessed as non-compliant and require on-going monitoring. Non-compliance issues included safety risks in respect of blinds cords identified in 35 settings. Source; Tusla, *Annual Report 2015 of Tusla - Child and Family Agency's Early Years Inspectorate* (Tusla 2016).

confidence that their children are safe and well when they are placed in the care of a provider. Tusla is also the legal body to which parents, and other adults, can complain when they are dissatisfied with the extent to which the service ensures the safety, health, welfare and development of the child. Tusla ensures through the Regulations that employees are Garda-vetted, in line with recent legislation on Garda vetting, and can take action if they are not. The Tusla Early Years Inspectorate works to ensure that all services meet the same minimum and quality standards nationwide.

Given the importance of Tusla in regulating and inspecting services to ensure child safety and welfare and the quality of services, and Tusla's role in ensuring State accountability to children, any public funding directed to providers through the ACS should only be received by Tusla 'registered providers'. However, Head 6 refers to 'approved providers' and confers the Minister for Children and Youth Affairs with the power to potentially extend the list of eligible providers beyond those already registered with Tusla. This means that unregistered providers that are not subject to regulation or inspection may potentially receive the ACS.

The Alliance is aware that the provisions of the Child Care Act 1991 (Early Years Services) Regulations 2016 preclude many school-age childcare services and the majority of childminders from registering with Tusla. However, this has been a glaring gap in primary legislation and regulation development that has required amendment for some time. The Minister for Children and Youth Affairs should use the opportunity provided by the ACS to fast-track the required legislative amendments and to develop regulations that are proportionate and appropriate for school-age childcare and childminding settings, rather than enshrine in law the possibility of the receipt of public monies by services that are not regulated and inspected.

The current proposal to allocate public monies to non-Tusla registered centres will create inequities between children availing of different publically-funded schemes. Early years settings providing the non-statutory Free Preschool Year and receiving State capitation to do so for children age 3 years to school-going must be Tusla-registered and be inspected by Tusla, whereas early years settings for children under the age of 3 being subsidised through ACS may have no such legal obligation. All children have a right under the UN Convention on the Rights of the Child to safety and protection,⁵ and have a right to receive a quality in early years services regardless of their age or the type of service in which they are placed.⁶

Furthermore, there are over 4,000 Tusla-registered centre-based ECEC providers that invest significant resources to ensure that their services meet Tusla's regulatory standards and provide a quality to children. The proposal in the Heads of Bill to extend ACS to non-Tusla registered services may undermine the work and authority of the newly-created Tusla Early Years Inspectorate if all services are not held to the same standards. Legislating for different requirements and standards for services in receipt of different funding could create a situation where there is a rollback on protecting and safeguarding children, and may turn back the progress that has been made by the Department of Children and Youth Affairs, the Department of Education and Skills, and the early years sector itself on improving service quality.

Recommendation:

Amend Head 6 of the Bill to ensure that only those providers registered with Tusla are funded through the ACS to ensure adherence to regulations, ensure consistent quality standards are met and provide accountability for children and parents using a service.

5 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 19.

6 UNCRC 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/GC/7/Rev.1 para 28; UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 19.

Accessibility

The Children's Right Alliance notes that under Head 5 a number of public bodies can be designated as sponsors for the purposes of supporting an application for the ACS where a child's 'parents need exceptionally high levels of support in relation to childcare services, including financial support'.⁷ Schedule 1 of the Bill sets out those bodies. Currently Schedule 1 lists Tusla, the Child and Family Agency, the Department of Justice and Equality and the Department of Children and Youth Affairs as sponsors. However, it envisages that the Department of Justice and Equality will be able to support Programme Refugees but does not refer to parents who are in the process of seeking international protection in Ireland and who are accommodated in the Direct Provision system. Children in Direct Provision can access primary and secondary education on an equal basis as other children of school-age. Therefore, a distinction should not be drawn for children under the age of five who do not yet go to school; they should be able to avail of early childhood education and care on the same basis as their peers.

In November 2016, there were 1,098 children under 18 years living in Direct Provision with their families, 426 of whom were under the age of five.⁸ These children live in accommodation centres dispersed throughout the country, many for years at a time. Residents spend almost three years on average in Direct Provision, which is a long time in the life of a child. Their access to early years and school-age childcare services under the ACS could be hampered if they are not named as a specific group of children for whom public bodies can be designated as sponsors. As the Heads of Bill current stand, parents may not be eligible for an ACS subsidy for up to 40 hours per week as their parents would not meet the employment/training criteria. Their parents are not permitted to work and receive a weekly allowance of only €15.60 for each child with no access to Child Benefit or other welfare payments. Parents in Direct Provision would have no capacity to pay even the co-payment to services. These families should be named specifically as requiring a sponsor in the ACS legislation.

In 2015, the Health and Information Quality Agency (HIQA) published a report highlighting the significantly higher child protection referral rate to Tusla of children in Direct Provision compared with the general child population.⁹ A working group on the protection process¹⁰ describe the cramped physical conditions experienced by families in Direct Provision centres that can exacerbate pre-existing mental and health conditions, make normal family life difficult to achieve, provide inadequate access to child development opportunities, and reduce parental control over the extent to which their children interact with other adults in communal spaces. The Working Group recommended that Tusla, in conjunction with the Reception and Integration Agency (RIA), should develop a welfare strategy within the RIA to advise on policy and practice matters and to liaise on individual cases as required. Ensuring access to the full 40-hour per week ACS subsidy on a full-funded basis could support these children's development and reduce parental and child stress. HIQA also recommended that Tusla develop an inter-cultural strategy to inform the provision of social services to ethnic minority children and families. Subsidisation to attend a mainstream early years setting would also support these children's inclusion and integration in their communities.

Recommendation:

Children living in Direct Provision should be included as a group in with a high level of need for requiring a sponsor and should be named in Schedule 1, alongside their sponsor, the Department of Justice and Equality. These children should get full ACS subsidy, with no co-payment attached.

⁷ Department of Children and Youth Affairs, 'Affordable Childcare Scheme Heads of Bill and General Scheme' (January 2017) 17 <<http://www.dcy.gov.ie/documents/legislation/20170126ACSHeadsOfBillandGenScheme.pdf>>accessed 20 February 2017.

⁸ Reception and Integration Agency, *Monthly Statistics Report November 2016* (RIA 2016) 7

<<http://www.ria.gov.ie/en/RIA/RIA%20Monthly%20Report%2011%20November-2016.pdf/Files/RIA%20Monthly%20Report%2011%20November-2016.pdf>>accessed 6 January 2017

⁹ 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 6 February 2017.

¹⁰ Working Group to Report to the Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, Final Report (June 2015) accessed 23 February 2017