

**CHILDREN'S
RIGHTS
ALLIANCE**

Uniting Voices for Children
www.childrensrights.ie



**Report
Card
2014**

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

The Children's Rights Alliance is a coalition of over 100 organisations working to secure the rights of children in Ireland, by campaigning for the full implementation of the UN Convention on the Rights of the Child. We aim to improve the lives of all children under 18 years, through securing the necessary changes in Ireland's laws, policies and services.

Members

Alcohol Action Ireland
Amnesty International Ireland
Ana Liffey Drug Project
Arc Adoption
The Ark, A Cultural Centre for Children
Assoc. for Criminal Justice Research and Development (ACJRD)
Association of Secondary Teachers Ireland (ASTI)
ATD Fourth World – Ireland Ltd
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Irish Autism Action
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National Association for Parent Support
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
OPEN
Parentline
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
Society of St. Vincent de Paul
Sonas Housing Association
SpunOut.ie
St. Nicholas Montessori College
St. Nicholas Montessori Society
St. Patrick's Mental Health Services
Start Strong
Step by Step Child & Family Project
Sugradh
The UNESCO Child and Family Research Centre, NUI Galway
Treoir
UNICEF Ireland
Unmarried and Separated Families of Ireland
Yoobyoo
youngballymun
Youth Advocate Programme Ireland (YAP)
Youth Work Ireland

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Foreword



Report Card 2014 is the sixth edition in this series by the Children's Rights Alliance. With this publication, our panel of external assessors grade the Government's performance; in the fairest way against their own stated commitments in the Programme for Government.

The *Programme for Government 2011-2016* was ambitious in its commitments to children. Nearly all of the pledges relating to children have been acted upon; either partly or are in train.

The Government receives an overall 'C' grade for this year maintaining its grade from last year.

There is no doubt that the Minister for Children and Youth Affairs Frances Fitzgerald in her capacity as a full Minister at the Cabinet table has reaped dividends for children in Ireland. She, along with cabinet colleagues, have helped advance the cause of children's rights.

The 'B' grades for constitutional rights, education and protection from abuse and neglect are attained for solid progress in these areas. The Children's Amendment awaits enactment as does the legislation to give life to the Amendment. This, however, is out of the Government's hands at this stage. Education's solid grade acknowledges headway on school patronage and pluralism as well as investment in a book rental scheme, a schools building programme and the positive results on literacy and numeracy. Equally, the new Child and Family Agency's establishment is commended as is the continued redevelopment of Obserstown which brings an end to the practice of detaining children in St. Patrick's Institution – an adult prison.

However, a number of outstanding issues have been either sidelined or progress is so slow as to be non-existent.

Child poverty remains unacceptably high – 9.3% of children live in consistent poverty and 18.8% are at risk. This demands a whole-of-Government approach and a child poverty target has yet to be set. While Budget 2014 did not contain any further cuts to child income supplements more work needs to be done to ensure that no child goes to school hungry.

In the area of health, we express disappointment that the Programme for Government commitment of €35 million to be ring-fenced for mental health has not been fulfilled. Neither has the commitment to end the practice of placing children in adult psychiatric wards – targets to reduce the number of children are not good enough. Instead no child should be placed in an adult ward. While the provision of free GP cards to children aged five and under is welcome there is legitimate concern that children with chronic illnesses could lose out. We are hopeful that the long-awaited Children's Hospital will see a sod turned in 2015.

Certain categories of vulnerable children remain decidedly on the margins of Irish society. Migrant children and those in the asylum system continue to suffer unacceptable hardship in Ireland with the current policy of direct provision subject to widespread criticism. Infant mortality among Traveller children is unacceptably high. We need a champion at Government level to ensure that national policies for Travellers are actually implemented and are not left on a shelf.

The ambition of the Government is clear and their commitment to children is unquestioned. We understand that it will take the political system time to adjust to a new Department of Children and Youth Affairs and that the Department itself will need time and support to establish itself as a permanent feature of Government.

No longer can we consign children's rights as the add-on of an enlightened society where resources permit. A rights-based approach calls for system change which fundamentally alters how we view, treat and listen to our children and young people. International human rights law is clear; we cannot roll back on what we have already achieved for children regardless of the economic climate.

We look forward to Children First and the new Children and Family Relationships Bill this year and hope we can continue to improve the lives of all children in Ireland.

Tanya Ward
Chief Executive

Introduction

The Children's Rights Alliance works to secure the rights of all children in Ireland by seeking the full implementation of the UN Convention on the Rights of the Child (UNCRC). On a practical level, this means that we advocate for the necessary changes in Ireland's laws, policies and services and hold the Government to account for their obligations to children and young people.

This is the sixth edition of our annual report card series. The first edition, *Report Card 2009*, examined whether the Government had honoured the promises it had made to the over one million children living in Ireland, and awarded it a 'D' grade. The Government got its highest grade to date in *Report Card 2012* when it received a 'C+' – this was in the same year that a Minister for Children and Youth Affairs with full cabinet status was appointed alongside the establishment of a dedicated government department.

Report Card 2014 evaluates the Government on its progress during 2013 in meeting its commitments to children, as set out in the 2011 *Programme for Government*. This year it is awarded an overall 'C' grade, reflecting a satisfactory attempt to date, though children remain wanting. While the overall grade remains the same as *Report Card 2013* there have been significant changes to individual grade sections with some grades rising in places and falling in others.

The research process was robust and the grading subject to independent scrutiny. There was also positive engagement with officials from a number of different departments who verified data and responded to requests for information. *Report Card 2014* is intended to reflect the reality of children's everyday lives and the influence of decisions taken at national and policy level on how their rights are respected or fulfilled or not as the case may be. The media and news articles featured throughout *Report Card 2014*, demonstrate the attention given to children's issues at both the national and local level. As a coalition of over 100 member organisations, most of which work directly with children and young people in Ireland, the Children's Rights Alliance advocates for the rights of children using the collective experience and expertise of our members.

We have deliberately chosen commitments that the Government itself has put in place as indicators of the 'modern, fair, socially inclusive and equal society' that it promised to deliver through its 2011 *Programme for Government*. The specific commitments which have the potential to improve the lives and life chances of all children in Ireland are set out in the Report Card and we have endeavoured to ensure that selected commitments are clear and measurable. We have continued to track each of the issues covered in *Report Card 2014* and this year we included more information on different groups of migrant children in the final chapter although this is still not an exhaustive list. Unfortunately, important issues continue to fall outside the remit of the annual Report Card series, which is limited to commitments made under the 2011 *Programme for Government*, including obesity, play and recreation, youth work and youth services. We hope that the forthcoming National Children and Young People's Policy Framework – the follow-up to the *National Children's Strategy 2000-2010* will provide further commitments to these important issues which we will then measure in future Report Cards.

Comparison between 2012, 2013 and 2014 Grades

	2012	2013	2014
Children's Rights Referendum	B	A	B
Early Childhood Care and Education	B	B-	C+
Child Literacy	B+	B+	A-
Children with Special Educational Needs	C	D	C-
School Buildings	B	B	B+
Patronage and Pluralism in Primary Education	B	B+	B+
Primary Care	C-	D	C
Mental Health	C+	D-	E
Alcohol and Drugs	D	D	D+
Children's Hospital	B	D	C+
Child Poverty	E	F	E-
Area-Based Childhood Programme	D	C-	C+
Children and the Social Welfare System	C	D	D
Child and Family Agency	B	B-	B+
Ryan Report Implementation Plan	C	B-	B-
Youth Homelessness	D	C-	C+
Children in Detention	F	B+	B+
Traveller Children	N/A	E	E
Migrant Children	N/A	E	F
Inequalities in Family Life	N/A	D	D+

Area	Sections	Grade	Average Grade	Comment
Children's Constitutional Rights	Children's Rights Referendum	B	B	Implementation of the Children's Referendum result has been delayed.
Right to Education	Early Childhood Care and Education	C+	B	Further investment in school buildings welcome and commitments on literacy and patronage on track. More to be done on early childhood care and children with special educational needs.
	Child Literacy	A-		
	Children with Special Educational Needs	C-		
	School Buildings	B+		
	Patronage and Pluralism in Primary Education	B+		
Right to Health	Primary Care	C	D+	Free GP care for children aged 5 and under is welcome as first step to universal healthcare for all. Disappointing lack of progress in relation to children's hospital and mental health.
	Mental Health	E		
	Alcohol and Drugs	D+		
	Children's Hospital	C+		
Right to an Adequate Standard of Living	Child Poverty	E-	D	Budget 2014 was fairer for children and good progress made on ABC programme but child poverty target still not set.
	Area Based Childhood Programme	C+		
	Children and the Social Welfare System	D		
Right to Protection from Abuse and Neglect	Child and Family Agency	B+	B	Establishment of Child and Family Agency marks significant reform of child protection and welfare system. Positive steps taken to improve conditions for children in detention.
	Ryan Report Implementation Plan	B-		
	Youth Homelessness	C+		
	Children in Detention	B+		
Right to Equality and Non-discrimination	Traveller Children	E	E	No improvements for migrant or Traveller children. Announcement of upcoming legislation on family inequalities is welcome.
	Migrant Children	F		
	Inequalities in Family Life	D+		

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

Acknowledgements

The Children's Rights Alliance wishes to thank all those who contributed to the research and compilation of this report. In particular the Alliance would like to thank our partners in helping to produce the Report Card including the Atlantic Philanthropies, the Community Foundation of Ireland, the Katherine Howard Foundation, the Irish Youth Foundation and the Department of Environment, Community and Local Government.

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

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- Child and Family Agency
- Department of Children and Youth Affairs
- Department of Education and Skills
- Department of Health
- Department of Social Protection
- Irish Prison Service
- Judicial Studies Institute
- National Council for Special Education
- Reception and Integration Agency, Department of Justice and Equality
- Secretariat of the Constitutional Convention
- Traveller Policy Section, Department of Justice and Equality

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

- | | |
|---|---------------------------------------|
| - Alcohol Action Ireland | - Mental Health Reform |
| - Association of Secretary Teachers in Ireland (ASTI) | - National Parents Council of Ireland |
| - Barnardos | - Pavee Point |
| - Crosscare | - St Patrick's University Hospital |
| - Educate Together | - St. Vincent dePaul |
| - GLEN – Gay and Lesbian Equality Network | - Start Strong |
| - Immigrant Council of Ireland | - Treoir |
| - Irish Refugee Council | - Yoobyoo |
| - Irish Society for the Prevention of Cruelty to Children | - Youngballymun |
| - Irish Traveller Movement | |

Particular thanks is due to the Board of the Children's Rights Alliance for their oversight and guidance and to the research team, including Niamh Gallagher, in delivering another solid *Report Card*. The Alliance would also like to acknowledge the work of Children Now, based in California, whose annual report card provided the initial inspiration for this series.

Finally, we extend our thanks to the members of the External 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 External Assessment Panel comprised:

- Professor Pat Dolan, UNESCO Chair holder in Children, Youth and Civic Engagement and Director of the Child and Family Research Centre, National University of Ireland, Galway;
- Dr Orla Doyle, Lecturer of Economics at UCD Geary Institute;
- Professor Áine Hyland, Emeritus Professor and former Vice-President, University College Cork;
- Professor Ursula Kilkelly, Head of Department of Law, Dean of Faculty of Law, University College Cork;
- Sally Anne Kinahan, Assistant General Secretary, Irish Congress of Trade Unions;
- Danny McCoy, Director General, Irish Business and Employers' Confederation represented by Kara McGann, Policy Executive; and
- Judge Catherine McGuinness, Member of the Council of State and Personal Representative of the OSCE Chair-in-Office on Combating Racism, Xenophobia and Discrimination.

We would like to acknowledge two of our former panel members who were not in a position to participate this year but who have made valuable contributions to previous *Report Cards*: Professor Sheila Greene formerly of Trinity College Dublin and Professor Colin Harmon, current Professor of Economics at the University of Sydney.



“The fact that the Convention has recommended the lower voting age of 16 means that the result is even more positive than expected, given that the group was initially asked to consider 17... it is to be welcomed that Ireland is showing leadership on this rather than following in the wake of our neighbours.”

James Doorley, Deputy Director, National Youth Council of Ireland

Chapter 1:

Children's Constitutional Rights

Grade B



In The News

Challenge to Children's Referendum dismissed by High Court

By Sinéad O'Carroll

THE HIGH COURT has dismissed a challenge to the Children's Referendum which passed in November last year.

Justice Paul McDermott rejected Joanna Jordan's petition in his judgement today, stating that she failed to provide evidence that unconstitutional behaviour – in the form of a use of public money to fund an unbalanced information campaign - affected the outcome of the vote on 10 November.

He said the onus was on the challenger to prove the government's information campaign, which was subject to a successful Supreme Court challenge, had such an impact on the electorate as to produce a majority in favour of the proposal.

Jordan had unsuccessfully argued that she merely had to claim it had an impact on the Referendum as a whole – and not on the result.

The Children's Referendum passed by a margin of 58 per cent to 42 per cent based. Turnout on the day was quite low at 33.49 per cent.

Speaking at the Four Courts, Barnardos, the Children's Rights Alliance and the Irish Society for Prevention of Cruelty to Children (ISPCC) welcomed the decision.

"We strongly welcome today's detailed and thorough judgment by the High Court to accept the validity of the Children's Referendum. The people of Ireland clearly voted in favour of amending the Constitution that will make a positive difference in children's lives, especially those most vulnerable," noted Fergus Finlay of Barnardos.

"Children have waited long enough so now we must begin to put in place the legislation and policy that will ensure children's best interests are taken into account and their voices heard."

TheJournal.ie, 18 October 2013

1 | Children's Constitutional Rights

Overall
Grade **B**

Duty on States to provide for the rights of children

By ratifying the UN Convention on the Rights of the Child, States agree to undertake all appropriate legislative, administrative and other measures to ensure the implementation of the rights set out in the Convention. In relation to economic, social and cultural rights, States are obliged to undertake such measures to the maximum extent of their available resources. | Summary of Article 4 of the UNCRC

The Children's Rights Alliance has awarded the Government a 'B' grade in Children's Constitutional Rights, a fall from last year's 'A' grade. This reflects the fact that the positive referendum result has effectively stalled due to a legal challenge so the Government has been unable to progress its implementation of the Amendment. The Constitutional Convention did not specifically focus on rights impacting on children or young people and did not formally consult with them or incorporate their views into its findings. Separately the Chairman of the Constitutional Convention, Tom Arnold, was invited to preside over the proceedings of a Children and Young People's Constitutional Convention which was run by Youth Work Ireland and the Voices of Youth Group.¹

Ireland operates a dualist common law system, and under Article 29.6 of the Irish Constitution international agreements ratified by Ireland only take effect in domestic law if the Oireachtas (Irish Houses of Parliament) specifically provides for this through legislation. So although Ireland signed and ratified the UN Convention on the Rights of the Child (UNCRC) in 1992, the Convention did not automatically become part of Irish law. Law reform since 1992 has incorporated some aspects of the Convention into domestic law on an issue by issue basis. For example, the Children Act 2001 brought into Irish law the principle that detention of a young offender should be a measure of last resort, mirroring the language used in the UNCRC on the right to freedom from torture and deprivation of liberty (Article 37). To be compliant with the implementation of rights provision (Article 4) of the Convention, the principle and provisions of the Convention must be fully reflected in all Ireland's laws, policies and practice.

The UN Committee on the Rights of the Child's 2006 *Concluding Observations* on Ireland note with regret that the recommendations made in its 1998 report have not yet been fully addressed. In particular, it highlighted those rights related to the status of the child as a rights-holder, the adoption of a child rights-based approach in policies and practices and the failure to incorporate the UN Convention into domestic law and urged the Government to make every effort to progress these actions as a matter of priority.²

The Irish Constitution is the fundamental legal document of the State and it sets out how we, as a country, view and value children. The passage of the children's referendum in 2012 was a vital step towards the full implementation of the UNCRC in Ireland. The Amendment provides an explicit recognition to children as rights holders and progresses implementation of the right to non-discrimination (Article 2); the best interests of the child (Article 3); the voice of the child (Article 12); the right to protection (Article 19); the right to alternative care (Article 20) and adoption (Article 21). The timely and full implementation of this constitutional amendment will help to foster a culture that actively protects and safeguards the rights of children.

1 Youth Work Ireland, Young People's Constitutional Convention Saturday <http://www.youthworkireland.ie/what-we-do/news/young-peoples-constitutional-convention-saturday> [accessed 16 December 2013].

2 United Nations Committee on the Rights of the Child (2006) *Concluding Observations: Ireland* (CRC/C/IRL/CO/2 paragraph 9).

1.1 Children's Rights Referendum

Grade B

Government Commitment

The *Programme for Government* commits to establishing a process to ensure that the Constitution meets the challenges of the 21st century, by addressing a number of specific urgent issues as well as establishing a Constitutional Convention to undertake a wider review. It also promises to give priority to specific constitutional amendments, including:

- a referendum to amend the Constitution to ensure that children's rights are strengthened, along the lines recommended by the All-Party Oireachtas Committee on the Constitution.

Progress

Frozen

What's happening?

The legal challenge to the Constitutional Referendum on Children is currently under appeal to the Supreme Court and is due for hearing in 2014. The Constitutional Convention has been meeting to consider areas for potential Constitutional reform.

Children's Rights Referendum: The Government committed in its 2011 *Programme for Government* to hold a referendum to amend the Constitution to strengthen children's rights.³ On 19 September 2012, the Government published the Thirty-First Amendment to the Constitution Bill, which contained the text of a proposed constitutional amendment. On 10 November 2012, the referendum was held and the People of Ireland voted 58% to 42% in favour of the Thirty-First Amendment. Turnout was low at 33.5%.

The Amendment was carried despite a Supreme Court ruling on 8 November 2012, just two days before polling, which upheld a complaint by Dublin engineer Mark McCrystal.⁴ He claimed that parts of the Government's referendum materials and advertisements breached the 1995 McKenna Supreme Court judgment, which prohibits the spending of public monies to espouse a particular view in a referendum.⁵ The Court made a declaration that the Government had 'acted wrongfully' by spending public monies on referendum material that was 'not fair, equal or impartial'.⁶ The Court did, however, find that the Government acted in good faith in its production of the materials. The Court did not order the Government to cease distributing and publishing the material: the Government took such action itself prior to the ruling being handed down.

3 Government of Ireland (2011) *Programme for Government 2011*, Dublin: Stationery Office, p.17.

4 *McCrystal v Minister for Children and Youth Affairs, the Government of Ireland, Ireland and the Attorney General* [2012] IESC 53 (8 November 2012).

5 *McKenna v An Taoiseach* (No. 2) [1995] 2 IR 10.

6 *McCrystal v Minister for Children and Youth Affairs, the Government of Ireland, Ireland and the Attorney General* [2012] IESC 53 (8 November 2012). The Court also found that material contained a misstatement as to the effect of the referendum.

On 19 November 2012, relying in part on the McCrystal ruling, the High Court granted leave for a legal challenge to the referendum result. Mr Justice McDermott handed down judgment on 18 October 2013 in the case taken by Dublin homemaker Joanna Jordan. She argued that the breaches of the McKenna judgment as found in the McCrystal case were 'so egregious and serious' that they were likely to have had a material effect on the outcome of the referendum. She also contended that proceeding with the referendum two days after the McCrystal ruling 'exacerbated the effect of the unconstitutional conduct', which in turn further interfered with the democratic process. However, the High Court held that Ms Jordan had not succeeded in proving, on the balance of probabilities, that the Government's information booklet, website and advertising had a material effect on the referendum result. The Judge highlighted that the McCrystal judgment was a 'short, focused and definitive condemnation' of the unconstitutional manner in which public funds were spent. The extensive coverage of the McCrystal ruling was considered by the Court to have been reflective of this and also to have given rise to public debate and discussion on the matter.

On 24 October 2013, an appeal was filed with the Supreme Court along with an application for a priority hearing which will take place in 2014.⁷ A stay has been placed on the Order to confirm the provisional referendum certificate which means that the Amendment Bill – containing the text of the Amendment passed by the People of Ireland – continues to be frozen until the case is decided upon.

Constitutional Convention: On 1 December 2012, the inaugural meeting of the Constitutional Convention was held. It comprises 100 members: 66 citizens drawn from the electoral register, 29 members of the Oireachtas and four from the Northern Ireland Assembly. To date, the Convention has considered eight possible amendments: reducing the Presidential term from seven to five years; lowering the voting age from 18 to 17 years; a review of the Dáil electoral system; giving Irish citizens resident outside the State the right to vote in Presidential elections; a provision for same-sex marriage; amending the clause on the role of women in the home; increasing the participation of women in politics; and the removal of the offence of blasphemy from the Constitution. The Convention held a series of public meetings in Cork, Galway, Waterford, Dublin, Sligo, Athlone and Monaghan to collect the views of the public on the next phase of the Convention's work.⁸ The Convention has also completed reports on six issues to date⁹ and has decided to examine two additional issues in February 2014: Dáil reform and the inclusion of economic, social and cultural rights in the Constitution.¹⁰

In March 2013, the Convention considered the issue of a constitutional amendment to lower the voting age from 18 years. The majority, 52% of members decided in favour of reducing the voting age for all elections while 47% of members voted against the proposal. Members also indicated their preference for the new voting age: 48% favoured 16 years, 38% supported 17 years while 14% had no opinion. In terms of reducing the minimum age required of a candidate standing for election, the majority voted against reducing the age which is currently 21 years.¹¹ Youth representatives from the National Youth Council of Ireland were invited to make a presentation to the Convention on this issue.

In April 2013, Youth Work Ireland and its Voices of Youth Group facilitated a Children and Young People's Constitutional Convention which assembled 50 young people from around the country to discuss constitutional reform, along the lines of that under deliberation by the Convention. The Chairman of the Constitutional Convention, Tom Arnold, was invited to chair the proceedings.¹² In addition to the issues under review by the Convention, the young people made a number of recommendations for the Convention to consider including making the right to free education effective and real, making the separation between Church and State clearer and changing the Preamble.

7 Brophy Solicitors, 'Supreme Court Appeal in Referendum Challenge' <http://brophysolicitors.blogspot.ie/2013/10/supreme-court-appeal-in-referendum.html> [accessed 16 December 2013].

8 Constitutional Convention Meeting Schedule <https://www.constitution.ie/Meetings.aspx> [accessed 16 December 2013].

9 Reports have been completed on voting age, Presidential term, role of women, same-sex marriage, Dáil electoral system and votes outside the State, all available at: <https://www.constitution.ie/Meetings.aspx> [accessed 17 December 2013].

10 The Convention on the Constitution, 'Convention on the Constitution chooses (i) Dáil Reform and (ii) Economic, Social and Cultural rights for discussion at their final two meetings in February 2014' [press release], 17 December 2013.

11 The Convention on the Constitution, First Report of the Constitutional Convention, March 2013; <https://www.constitution.ie/AttachmentDownload.ashx?mid=e1f8e128-2496-e211-a5a0-005056a32ee4> [accessed 16 December 2013].

12 Youth Work Ireland, Young People's Constitutional Convention Saturday <http://www.youthworkireland.ie/what-we-do/news/young-peoples-constitutional-convention-saturday> [accessed 16 December 2013].

“The Convention considered the issue of a constitutional amendment to lower the voting age from 18 years. The majority, 52% of members decided in favour of reducing the voting age for all elections while 47% of members voted against the proposal. Members also indicated their preference for the new voting age: 48% favoured 16 years, 38% supported 17 years while 14% had no opinion.”

Comment

Children’s Constitutional Rights gets a ‘**B**’ grade in *Report Card 2014*, a fall from last year’s ‘**A**’ grade. This is due to the fact that the positive result of the referendum cannot yet be implemented and has been delayed. It also reflects the fact that some decisions have been made which will hopefully improve children’s constitutional rights through the Constitutional Convention, for example the examination of the inclusion of economic, social and cultural rights. However, it is regrettable that children and young people have not had a formal mechanism to feed into the Convention itself.

Children’s Rights Referendum: The judicial challenge to the Thirty-First Amendment Bill has effectively frozen the process of implementing the referendum result as it can only become law if the Court declares the petition before it to be null and void.¹³ The appeal to the Supreme Court, which will be heard in 2014, means that no law reform can take place to implement the referendum result until the case is decided.

The new article, Article 42A, will necessitate the introduction of specific legislation to ensure its implementation. Under Article 42A.2.2 the Oireachtas will have to legislate to allow for the adoption of a child in circumstances where the level of parental failure towards the child has reached an unacceptable threshold. Article 42A.4.1 also commits the Oireachtas to legislate to ensure that the best interests of the child will be ‘the paramount consideration’ in certain instances of decision-making affecting a child including child care proceedings brought by the State, adoption proceedings and in relation to guardianship, custody or access proceedings. Article 42A.4.2 requires legislation to be put in place to ensure that the views of the child are taken into account in relation to individual proceedings listed in Article 42A.4.1.

The General Scheme and Heads of Bill of the proposed Adoption (Amendment) Bill were published in September 2012, prior to the referendum. The provisions of the proposed Adoption (Amendment) Bill 2012 will change the criteria under which the High Court may authorise the making of an adoption order without parental consent. This will be in the case of a child where his or her parents have failed in their parental duty and where that child is in long term care with prospective adopters. The Bill will also provide for the voluntary placement for adoption of any child irrespective of the marital status of his or her parents.¹⁴ The Minister for Children and Youth Affairs, Frances Fitzgerald TD has expressed her intention to progress this legislation through the houses of the Oireachtas once the Referendum Bill is signed into law.¹⁵ It is not clear what other steps have been taken towards the preparation of the legislation necessitated by Article 42A.4.1 and Article 42A.4.2.

¹³ Referendum Act 1994, Section 40(2).

¹⁴ General Scheme Of Adoption (Amendment) Bill 2012. <http://www.dcy.gov.ie/documents/publications/GeneralSchemeAdoptionBill19thSept12.pdf> [accessed 20 January 2014].

¹⁵ Minister for Children and Youth Affairs, Frances Fitzgerald TD, Parliamentary Questions, Written Answers, 17 December 2013 [53852/13].

Report Card 2013 recommended that the Minister for Justice and Equality should provide funding to the Judicial Studies Institute to enable members of the Bench to engage in studies on children's rights to advance the interpretation of the Children's Amendment. The Committee for Judicial Studies held its national conference of judges in November 2012 with its main focus on various aspects of children's rights and the 2013 conferences of the Supreme, High, Circuit and District Courts, each focused on the voice of the child in legal proceedings.¹⁶ It remains to be seen what further judicial studies will be delivered following the decision of the Supreme Court and what the budget will be for any such training.¹⁷

Constitutional Convention: The Constitutional Convention is a welcome development. However, the exclusion of children and young people under 18 years from representation within the Convention, as well as the lack of focus on matters affecting children, is regrettable. The presentations made by young people to the Convention, during its discussion on the issue of lowering the voting age, was a positive step. However, the Youth Work Ireland event held in April 2013 demonstrated that children and young people have valuable opinions to contribute in relation to wider constitutional change and it is regrettable that their voices were not heard on all eight issues under discussion. The Chairman of the Convention attended and engaged with the Young People's Constitutional Convention, but unfortunately there was no formal mechanism to enable him to ensure that these views and recommendations were fed into the main Convention process. Any future public consultations of this kind should include a mechanism by which the views of children and young people can be heard and included in a formal manner.

The decision to examine economic and social rights in the final meeting of the Constitutional Convention is to be warmly welcomed. Economic and social rights are intrinsically linked to the enjoyment of fundamental human rights but are currently mostly considered to be non-justiciable (not capable of being challenged) before the Irish Courts. This means that decisions made when implementing laws and policies affecting housing, social security and health are not covered under the Constitution. The UN Convention on the Rights of the Child contains many economic and social rights such as the right to health and health services (Article 24) the right to social security (Article 26) and the right to an adequate standard of living (Article 27). The Constitutional Convention will provide a unique opportunity for economic and social rights to be examined and debated. A decision to include economic and social rights within the Constitution would bring full implementation of the rights contained in the UN Convention on the Rights of the Child one step closer.

16 Communication received by the Children's Rights Alliance from the Committee for Judicial Studies, 5 December 2013.

17 Communication received by the Children's Rights Alliance from the Committee for Judicial Studies, 5 December 2013.

Immediate Actions for 2014

Enact comprehensive legislation as required under the Constitutional Amendment

Should the Supreme Court find that the children's referendum result is constitutional, four provisions of the new article will necessitate the introduction of specific legislation;¹⁸ a failure to legislate would be a constitutional breach. The Oireachtas should use the opportunity when drafting such legislation to address omissions from the Amendment, for example to provide for a broader set of circumstances under Article 42A.4 in the areas of best interests and voice of the child.

Support the Judicial Studies Institute to address the interpretation of the Amendment

The Minister for Justice and Equality should provide funding to the Judicial Studies Institute to enable members of the Bench to undergo judicial studies on the application of children's rights and on child-friendly justice to advance the interpretation of the children's Amendment.

Ensure an appropriate plan is in place should the Constitutional Amendment be struck down by the Supreme Court

Should the Supreme Court find that the children's referendum result is unconstitutional, the will of the People to insert a new Article 42A into the constitution will be frustrated. The Government should ensure that a contingency plan is in place to ensure the will of the people can be implemented, for example by re-holding the referendum.

Ensure that in future consultations with citizens the views of children are heard and incorporated in a formal manner

Children and young people have the right to be consulted and have their views heard so the lack of a formal mechanism for the Constitutional Convention to consider their views of should be noted and represent a learning experience. All future consultations should include a formal mechanism by which the views of children and young people can be heard.

¹⁸ These are on aspects of adoption (Article 42A.2.2 and Article 42A.3); best interests of the child (Article 42A.4.1); and hearing the views of the child (Article 42A.4.2).



“With an extra 10,000 children starting school this year it is obvious there will be an increase in special needs children. Not all will have an assessment of need completed before enrolment. This is effectively saying that children will have to do without additional support for a full school year.”

Sheila Nunan Irish National Teachers Organisation
General Secretary

Chapter 2:

Right to Education

Grade B



Four primary schools in County Cork seek change of patronage

By Leo McMahon

A majority of parents in Carrigaline, Passage West, Cobh and Fermoy have opted for a move away from primary school patronage under the Dioceses of Cork and Ross and Cloyne but there's insufficient demand for change in Bandon and Youghal.

In The News

It's the result of a survey by the Department of Education across 38 areas in the country conducted in response to the Forum on Patronage and Pluralism and shows that 23 (over 60%) support an immediate change from an existing church patronage to either Educate Together, a VEC-run community national school, or An Foras Pátrúnachta schools.

'Almost two-thirds of the areas surveyed have shown sufficient parental demand for a wider choice of school patron. We will now be contacting the Catholic patron in each to request that they now consider options for reconfiguring the schools under their management in order to allow the transfer of a school to a new patron', said Minister for Education Ruairí Quinn. 'I would like to thank all of the Cork parents who took the time to express their interest in this topic. We have heard what you have to say and we will work with all the partners to reflect that in local school provision'.

A total of 978 valid responses were received from Carrigaline, Passage West, Cobh and Fermoy, where the primary schools have a total of 1,939 children. Nationally the total was 12,813 (10,715 valid) on behalf of 20,369 children and most replies were online.

There were 746 responses from parents of pre- and school-going children in the Carrigaline area, which also comprises Crosshaven, Ringaskiddy, Shanbally, Ballygarvan and Minane Bridge. These are currently under the patronage of either the Catholic or Protestant bishops or Educate Together and the area already has a Gaelscoil. The conclusion here is to request the Bishop of Cork and Ross to provide accommodation for a VEC English language community national school.

The Southern Star, 11 March 2013

2 | Right to Education

Overall
Grade **B**

The 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 UNCRC

The Children's Rights Alliance awarded the Government an overall 'B' grade in Education this year, a rise from last year's 'B-' grade. This strong grade reflects progress made on commitments in relation to patronage and pluralism, the introduction of investment initiatives such as the book rental scheme for primary schools, as well as the announcement of funding for a Minor Works Grant Scheme for schools and the increase in Special Needs Assistants (SNAs). The introduction of the Pre-School Quality Agenda coupled with reforms already initiated is welcome. However, this is diluted somewhat given that it was made in response to the exposure of the mistreatment of children in some privately run childcare centres. The failure to publish and implement a revised plan for the full enactment of the Education for Persons with Special Educational Needs (EPSEN) Act 2004 continues to be a disappointing response to the Government's own commitment to do so.

The objective of the right to education is described by the UN Committee on the Rights of the Child as aiming to 'to maximise the child's ability and opportunity to participate fully and responsibly in a free society'.¹⁹ The Committee, in its 2006 *Concluding Observations* on Ireland, welcomed efforts to strengthen the legal and policy framework for education in Ireland. However, it expressed concerns in relation to the cost of education materials, the participation of children in decisions affecting them and the high dropout rates among Traveller children and children with disabilities. The Committee made a series of recommendations to address shortcomings relating to children with special educational needs, improving school buildings and facilities, bullying and Traveller education. A number of these remain still outstanding.²⁰

The Department of Education and Skills was allocated an overall budget of almost €8.8 billion in Budget 2014, a decrease of €140 million compared to an allocation of €8.9 billion in 2013. The Budget consists of €8.22 billion in current expenditure, €540 million in capital expenditure; savings of €44 million will be made under Budget 2014.²¹ Education amounts to 16% of all government spending. Ireland invests 4.9% of its Gross Domestic Product in education, above the OECD average of 3.8%.²²

There are a number of key challenges that continue to affect a child's ability to fully exercise their right to education in Ireland. Education is a proven route out of poverty and is vital to improving children's life chances, yet the high costs of sending a child to school and the cuts to supports mean education remains a struggle for many families.²³ When compared internationally on the issue of early school leaving, Ireland's performance is well above average for secondary completion rates,²⁴ but this figure masks the high levels of early school leaving concentrated in low-income communities. Access to non-denominational or multi-denominational education remains a challenge for parents in 2013, although improvements continue to be made to address these challenges.

19 UN Committee on the Rights of the Child (2001) *General Comment No.1: The Aims of Education*, CRC/GC/2001/1.

20 UN Committee on the Rights of the Child (2006) *Concluding Observations on Ireland*, CRC/C/IRL/CO/2, paragraph 59.

21 Department of Education and Skills, 'Minister Quinn Protects Education' (Press Release), 15 October 2013, <http://www.education.ie/en/Press-Events/Press-Releases/2013-Press-Releases/PR13-10-15.html> [accessed 7 January 2014].

22 Latest available figures relate to 2010 and exclude tertiary education. OECD (2013) *Education at a Glance: OECD Indicators*, Paris: OECD, p. 218.

23 In 2013, going back to school cost €350 for a child in junior infants and €785 for a 1st year pupil in secondary school. Barnardos (2013) *School Costs Survey 2013*, Dublin: Barnardos, pp. 1-2.

24 OECD (2013) *Education at a Glance: OECD Indicators*, Paris: OECD, p. 47.

2.1 Early Childhood Care and Education

Grade C+

Government Commitment

The *Programme for Government* commits to maintaining the free pre-school year in Early Childhood Care and Education to promote the best outcomes for children and families; and to improving the quality of the pre-school year by implementing standards and reviewing training options.

It also commits that, as resources allow, the Government will invest in a targeted early childhood education programmes for disadvantaged children, building on existing targeted pre-school supports for families most in need of assistance such as the *youngballymun* project.

Progress

On track

**On track
(also see Chapter 4.2)**

What's happening?

The free pre-school year has been maintained. A new 'Pre-School Quality Agenda' was announced. However, this announcement was made in response to revelations about child protection failures within the pre-school registration and inspectorate. The report of the Expert Advisory Group was published in September 2013 but the National Early Years Strategy remains unpublished.

The free pre-school year continued to be available in 2013.²⁵ The scheme is available for up to three hours a day to all children in the year prior to commencing primary school, regardless of the economic status of their parents. Now in its fourth full year, 94% of eligible children are availing of the free pre-school year; that means there are almost 68,000 pre-school children in 4,300 services for the academic year 2012/2013.²⁶ The scheme cost €175 million in 2013, an investment of approximately 18% of the Department of Children and Youth Affairs overall budget.

25 The free pre-school year, administered by the Department of Children and Youth Affairs, is available to all children between the ages of 3 years and 2 months and 4 years and 7 months in September of the relevant year, entitling them to programme-based activities in the year preceding primary school.

26 Minister for Children and Youth Affairs Frances Fitzgerald TD, Parliamentary Questions: Written Answers 12 November 2013 [47700/13].

In May 2013, *RTE Prime Time* screened an investigation into privately-run early years' services, showing evidence of bad practice and maltreatment of children. In response, the Minister for Children and Youth Affairs, Frances Fitzgerald TD made a series of policy announcements to address concerns raised by the programme, collectively called 'The Pre-School Quality Agenda'.²⁷ The Agenda comprises eight actions: publication of inspection reports online; taking steps to make the pre-school inspection system more consistent and more robust; introduction of new protocols on regulatory enforcement and compliance; increasing and widening sanctions for non-compliance; introduction of minimum qualifications for all staff in pre-school services; introduction of a registration system for services; implementation of new national pre-school standards; and support for the implementation of *Síolta* and *Aistear*.²⁸ Budget 2014 allocated €4.5 million towards the implementation of the Pre-School Quality Agenda.

The Child and Family Agency Act 2013 introduced a statutory requirement for the registration of all pre-school services. It also provides, for the first time, for the prescribing of minimum qualification requirements for all staff working with children in pre-school services.²⁹ Under the 2013 Act, service providers in breach of the legislation can receive a fine of up to €5,000 and may be removed from the pre-school register or conditions may be attached to their registration.³⁰

Budget 2014 also provided funding for the establishment of a new National Quality Support Service for pre-school services as part of the Child and Family Agency. It will provide intensive support to early years services to improve the quality of pre-school care and education.³¹ The implementation of *Síolta* and *Aistear* in early years' services will now be supported by two new initiatives: the National Quality Support Service and the forthcoming integrated Practice Guidelines for *Síolta* and *Aistear*;³² and by existing support through the free pre-school year requirements, the Department of Children and Youth Affairs support for City and County Childcare Committees and the seven Voluntary Childcare Organisations.³³

In 2012, approximately 87% of leaders in services participating in the free pre-school year held a minimum qualification of Level 5 on the National Framework of Qualifications (NFQ).³⁴ A higher capitation rate is payable to services where all the pre-school leaders in the service have a qualification at a minimum of FETAC Level 7 (primary degree level) in childhood/early education, and all the pre-school assistants have at least a Level 5 qualification. The Pre-School Quality Agenda commits to introducing new qualification requirements for staff working in early years services. From September 2015, all staff working in these services will be required to hold a minimum qualification in early childhood care and education and pre-school leaders will have to meet a higher qualification than is currently required.³⁵ At the same time, the Department of Children and Youth Affairs continues to encourage services to employ more highly-qualified staff through the provision of a free pre-school year's higher capitation fee of which almost 20% of services are now availing.³⁶ The Department will also be supporting the existing workforce to meet the new qualification requirements in 2014 and 2015 by providing opportunities for subsidised training.³⁷ In 2014, additional inspection resources will be put in place to improve the rate of inspection of early years' services and major operational improvements are also being made to the inspection process.³⁸

27 Department of Children and Youth Affairs (2013) 'Minister Fitzgerald commits to comprehensive pre-school quality agenda' (press-release), 7 June 2013, <http://www.dcy.gov.ie/viewdoc.asp?DocID=2710> [accessed 30 August 2013]. Note there is no written policy document outlining the Agenda collectively.

28 Ibid.

29 Section 92 of the Child and Family Agency Act 2013, which amends Section 58 of the Child Care Act 1991.

30 Communication received by the Children's Rights Alliance from the Department of Education and Skills and the Department of Children and Youth Affairs on 23 December 2013.

31 Ibid.

32 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 31 January 2014.

33 Ibid.

34 Pobal (2013) *Pobal Annual Survey of the Early Years Sector 2012*, Dublin: Pobal and Department of Children and Youth Affairs, p. 41. All leaders of the free pre-school year were required to hold a minimum qualification of Level 5 on the National Framework of Qualifications (NFQ) by August 2012, as part of their contractual arrangement with the Department of Children and Youth Affairs. See Department of Children and Youth Affairs, *General Terms and Conditions governing participation in the Early Childhood Care and Education (ECCE) Programme*, http://www.dcy.gov.ie/documents/childcare/Terms_and_Conditions_for_ECCE_Scheme.pdf [accessed 4 December 2013].

35 A fund of €900,000 will be targeted at assisting early years practitioners who are currently unqualified to achieve a Level 5 award on the National Framework of Qualifications, and to assist those who currently have a Level 5 award to up-skill to Level 6. Communication received by the Children's Rights Alliance from the Department of Education and Skills and the Department of Children and Youth Affairs on 27 January 2014.

36 Communication received by the Children's Rights Alliance from the Department of Education and Skills and the Department of Children and Youth Affairs on 23 December 2013.

37 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 31 January 2014.

38 Ibid.

The National Early Years Strategy, announced in 2012 and due for publication in 2013, has not yet been published but is expected in 2014. The Expert Advisory Group on the development of the Strategy,³⁹ convened by the Minister for Children and Youth Affairs in 2012, published its report *Right from the Start* in September 2013.⁴⁰

Comment

Early Childhood Care and Education gets a 'C+' grade in *Report Card 2014*, a fall from last year's 'B-' grade. This grade reflects that funding for the free pre-school year remains intact and the introduction of the Pre School Quality Agenda. However, we could not give a higher grade as *Report Card 2013* called for an evaluation of the free pre-school year and the National Early Years Strategy to be published, neither of which has happened. Furthermore, while the revelations of the *RTE Prime Time* programme resulted in immediate action by the Minister and positive policy and legislative developments, they also highlighted the inadequacies in regulating and monitoring privately-run early years services which had continued up until the media exposé midway through 2013. It is of concern that these inadequacies were not exposed until this point, but it is hoped that the recent changes will result in positive outcomes for pre-school children in 2014.

All children have the right to education under Article 28 of the UN Convention on the Rights of the Child, with the UN Committee on the Rights of the Child interpreting the right to education during early childhood as beginning at birth.⁴¹ The right to education is closely linked to a child's right to maximum development, under Article 6(2).⁴² In addition, Ireland is under an obligation to provide assistance to parents, which includes quality childcare services to working parents, under Article 18(3).⁴³ The free pre-school year and the Child Benefit payment are currently the State's key mechanisms to support children in achieving these rights. The National Early Years Strategy must explore how best the Government can vindicate these rights over the next five years.

The most recent statistics from the Organisation of Economic Co-operation and Development (OECD) Family Database found Ireland's investment in early care and education to be well below international standards at 0.4% of GDP in 2009, compared to an OECD average of 0.7%.⁴⁴ The 0.4% figure includes spending on four and five-year old children in primary school, when adjusted for spending on early education and care prior to school entry, it falls to 0.2%.⁴⁵

"The National Early Years Strategy offers an important opportunity to provide a children's rights framework for the implementation of Government commitments in early childhood. To be successful, it must set out a clear and ambitious vision for early years in Ireland and have a strong focus on implementation."

39 The group comprised Eilis Hennessy (Department of Psychology, University College Dublin) Catherine Byrne (The Atlantic Philanthropies), Siobhan Feehan (Deansrath Family Centre, Clondalkin), Fergus Finlay (Barnardos), Irene Gunning (Early Childhood Ireland), Prof. Nóirín Hayes (Dublin Institute of Technology), Fiona McDonnell (National Specialist, Early Years Inspectorate), Roisin McGlone (Sligo Institute of Technology), Breda McKenna (Monaghan County Childcare Committee), Patricia Murray (Childminding Ireland), Fr. Gerard O'Connor (St. Ultan's, Cherry Orchard), Patricia O'Dwyer (Public Health Nursing Consultant), Biddy O'Neill (Health Service Executive), Kathryn O'Riordan (Cork City Childcare Committee), Thomas Walsh (Primary District Inspector, Department of Education and Skills) and Toby Wolfe (Start Strong).

40 Department of Children and Youth Affairs (2013) *Right from the Start, Report of the Expert Group on the Early Years Strategy*, Dublin: Government Publications.

41 UN Committee on the Rights of the Child (2006), *General Comment No.7: Implementing child rights in early childhood*, CRC/C/G/GC/7/Rev.1.

42 Ibid.

43 Ibid.

44 OECD (2012), OECD Family Database, Paris: OECD (www.oecd.org/social/family/database) PF3.1 Public spending on childcare and early education <http://www.oecd.org/els/soc/PF3.1%20Public%20spending%20on%20childcare%20and%20early%20education%20-%20200713.pdf> [accessed 7 January 2014].

45 Ibid.

The National Early Years Strategy, which is expected to be published in early 2014, is welcome. Its absence over many years indicated the inadequate priority afforded to this critical area.⁴⁶ The Strategy will sit within the broader framework of a National Children and Young People's Policy Framework and is expected to address policy issues affecting children from birth to six years of age. It will cover areas such as enhancing the quality of early childhood care and education and child-minding, the further development of the free pre-school year and improving health and physical fitness, including responding to obesity.⁴⁷

The Strategy offers an important opportunity to provide a children's rights framework for the implementation of Government commitments in early childhood. To be successful, it must set out a clear and ambitious vision for early years in Ireland, and it needs to have a strong focus on implementation, backed by increased resources. Its primary focus must be on children's best interests. Article 18 (parental responsibilities) of the UN Convention on the Rights of the Child places an obligation on the State to give 'appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities'. Serious consideration should be given to the Expert Group's recommendation to put in place a National Parenting Action Plan to ensure that parents can adequately support their children's development.

A key component of the Strategy must be a focus on delivering quality service provision. The *RTE Prime Time* investigation 'A breach of trust' broadcast in May 2013 exposed bad practice and maltreatment of children in a small number of childcare facilities. The programme also revealed figures showing widespread breaches of regulations, insufficient inspections and a lack of follow up on non-compliance. This programme highlighted the need for major reforms and resulted in further resources for the Pre-School Inspectorate as well as legislation to strengthen the inspection process.

It also demonstrated the necessity of a national roll-out of *Síolta*, the National Quality Framework for Early Childhood Education (2006)⁴⁸ and *Aistear*, the Early Childhood Curriculum Framework (2009).⁴⁹ The Pre School Quality Agenda makes a welcome commitment to 'support implementation of *Síolta* and *Aistear*, including examining the establishment of nationwide mentoring supports'.⁵⁰ The National Council for Curriculum and Assessment has been tasked to develop 'Practice Guidelines' which are expected to contain a priority set of elements from both *Síolta* and *Aistear*.⁵¹ Despite these positive improvements, there is still no plan for the national roll-out of *Síolta* or *Aistear*. The *Síolta* evaluation,⁵² published in 2012, raised concerns in consistency in its implementation, the dedicated staff time required, and costs and difficulties in interpreting the *Síolta* guidance.⁵³ The final report on the implementation of the *Síolta* Quality Assurance Programme was published in December 2013;⁵⁴ this Programme remains a pilot and has been limited to a small number of settings.⁵⁵ The findings and recommendations from both reports will inform the future implementation of the *Síolta* Quality Assurance Programme.⁵⁶

46 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs and the Department of Education and Skills on 23 December 2013.

47 Department of Children and Youth Affairs, 'Minister Frances Fitzgerald announces preparation of Ireland's first National Early Years Strategy' [press release], 25 January 2012, <http://www.dcy.gov.ie/viewdoc.asp?DocID=1751> [accessed 14 January 2013]; Department of Children and Youth Affairs, 'Minister Fitzgerald hosts first meeting of Expert Advisory Group on Ireland's first-ever Early Years Strategy' [press release], 18 June 2012, <http://www.dcy.gov.ie/viewdoc.asp?DocID=2140> [accessed 14 January 2013].

48 Centre for Early Childhood Development and Education (2006) *Síolta: The National Quality Framework for Early Childhood Education*, Dublin: Centre for Early Childhood Development and Education.

49 National Council for Curriculum and Assessment, 'Aistear: the Early Childhood Curriculum Framework', <http://www.ncca.biz/Aistear/> [accessed 18 January 2013].

50 Department of Children and Youth Affairs (2013) 'Minister Fitzgerald commits to comprehensive pre-school quality agenda' [press release], 7 June 2013 <http://www.dcy.gov.ie/viewdoc.asp?DocID=2710> [accessed 7 January 2014].

51 Information received by the Children's Rights Alliance from the Department of Children and Youth Affairs and the Department of Education and Skills on 23 December 2013.

52 Centre for Early Childhood Development and Education (2006) *Síolta: The National Quality Framework for Early Childhood Education*, Dublin: Centre for Early Childhood Development and Education.

53 The evaluation of the *Síolta* Quality Assurance Programme took place at an interim stage in the implementation of the Programme. The field test phase of the Programme is expected to conclude shortly and a final report is being prepared for submission to the Department of Education and Skills, Goodbody Economic Consultants (2011) *Evaluation of Initial Implementation of Síolta Final Report*, p. 97.

54 Communication received by the Children's Rights Alliance from the Department of Education and Skills on 23 December 2013.

55 Start Strong (2013) *Pre-budget submission 2014*, http://www.startstrong.ie/files/Start_Strong_Pre-Budget_Submission_2014.pdf [accessed 26 August 2013].

56 Communication received by the Children's Rights Alliance from the Department of Education and Skills on 23 December 2013.

In practice, participating providers in the free pre-school year are obliged to adhere to the Siolta principles and accept visits and advice from Siolta coordinators and County Childcare Committee staff.⁵⁷ Providers are not, however, obliged to undergo the twelve-step Siolta Quality Assurance Programme.

The Department of Education and Skills is currently working in consultation with the Department of Children and Youth Affairs to consider the most effective means of progressing Siolta's implementation.⁵⁸ Early years settings require considerable support to progress through this programme. Where training in Siolta is available, it is limited as financial support is not being made available to providers or to individual staff for up-skilling.⁵⁹ However, it is intended that the new National Quality Support Service will provide support in this area. The support for Aistear is even more limited than Siolta, and is largely confined to the infant classes of primary schools.

The skills and competencies of those working in early education and care are core to ensuring quality. Research demonstrates that high quality adult-child interactions are most consistently found where those working with children are highly qualified and where wages are high enough to ensure low staff turnover.⁶⁰ Yet despite this evidence, the proportion of graduates currently employed in early years settings in Ireland is 12%, shockingly low when compared with the 60% European benchmark recommended in a major 2011 report.⁶¹ Wages are low and staff must pay for their own training, with little financial reward for doing so.⁶² As is mentioned above, the Pre-School Quality Agenda will introduce minimum qualification requirements for all staff in pre-school services from September 2015: FETAC Level 6 for leaders and Level 5 for all other staff. Though this is welcome, it does not go far enough. FETAC Level 5 remains a low level qualification. To ensure quality services for young children higher minimum standards are required, accompanied by appropriately resourced training for practitioners, and intensive coaching and mentoring. The Pre-School Quality Agenda also commits to providing a training fund to support existing staff to meet the qualification requirements which are being introduced.

“The free pre-school year is Ireland’s key mechanism to support children in the early years and the Minister for Children and Youth Affairs has described it as ‘laying the solid foundation for a further expansion of universal childcare provision in Ireland, to support children and support families’.”

57 Department of Children and Youth Affairs, *General Terms and Conditions governing participation in the Early Childhood Care and Education (ECCE) Programme*, http://www.dcy.gov.ie/documents/childcare/Terms_and_Conditions_for_ECCE_Scheme.pdf [accessed 22 December 2011].

58 Communication received by the Children's Rights Alliance from the Department of Education and Skills on 23 December 2013.

59 There are approximately 25 Siolta coordinators working with 135 ECCE services across a broad spectrum of service provision. This is a small number considering an estimated 4,250 services will be contracted under the free pre-school year scheme for the 2011/2012 year.

60 Barnardos and Startstrong (2012) *Towards a Scandinavian childcare system for 0-12 year olds in Ireland?* Dublin: Barnardos, Startstrong, pp. 11-13.

61 University of East London and University of Ghent (2011) *Competence Requirements in Early Childhood Education and Care: Study for the European Commission Directorate General for Education and Care*, http://ec.europa.eu/education/more-information/doc/2011/core_en.pdf [accessed 26 August 2013].

62 A 2012 survey carried out by Early Childhood Ireland found that the average wage of unqualified staff in the sector was €10.10 per hour, that of staff qualified to FETAC Level 5 was €10.85 and that of graduate educators (degree level) was €11.24. See *Early Childhood Ireland Salary Survey 2012* <http://www.earlychildhoodireland.ie/policy-advocacy-and-research/surveys/salary-survey-2012/> [accessed 26 August 2013].

The Pre-School Quality Agenda commits to the development of a more robust, consistent and regular inspection system, to the tightening of sanctions for non-compliance. Inspection reports have been published since July 2013. These are welcome developments, but, again, they do not go far enough. The moratorium on public sector recruitment has reduced the size of the Pre-School Inspectorate and its ability to work consistently countrywide. The Inspectorate has now transferred to the Child and Family Agency. In addition, there are issues with the nature of inspections, which are primarily concerned with 'structural' dimensions of quality, such as health and safety rather than the quality of adult-child interactions. The introduction of the National Quality Standards will help to address this issue. The existing inspection regime has not formally integrated the principles under *Síolta* and *Aistear*. An overhaul of the inspection system is required to truly improve the quality and provide a consistent, responsive and resourced system that will drive quality in early years services. The Expert Advisory Group on the Early Years Strategy has recommended that quality standards should be improved before the introduction of a second free pre-school year,⁶³ a position with which the Minister for Children and Youth Affairs, Frances Fitzgerald TD has indicated she agrees.⁶⁴

A major concern with the Pre-School Quality Agenda is that it focuses solely on centre-based services and ignores the child protection risks and quality concerns that result from the exemption of most child-minders from the regulation. Start Strong estimates that nearly 50,000 children are cared for by some 19,000 child-minders most of whom are exempt from regulation and operate without supervision and support.⁶⁵

Report Card 2013 recommended that an evaluation of the free pre-school year be conducted. The pre-school year is currently in its fourth year of implementation. Research findings have recently begun to become available through the *Growing Up in Ireland* survey, which could inform such an evaluation.

The free pre-school year is Ireland's key mechanism to support children in the early years and the Minister for Children and Youth Affairs has described it as 'laying the solid foundation for a further expansion of universal childcare provision in Ireland, to support children and support families'.⁶⁶ This initiative supports a child's right to development under Article 6 of the UN Convention on the Rights of the Child and right to education under Article 28 of the Convention. The UN Committee on the Rights of the Child 'interprets the right to education during early childhood as beginning at birth and closely linked to young children's right to maximum development (Article 6.2)'⁶⁷ so the State's provision of pre-school care and education is essential in fulfilling this important right for young children and must be developed further.

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- 63 Department of Children and Youth Affairs (2013) *Right from the Start, Report of the Expert Group on the Early Years Strategy*, Dublin: Government Publications.
- 64 Minister for Children and Youth Affairs Frances Fitzgerald TD Parliamentary Questions Written Answers, 12 November 2013 [47700/13]. However, the current free pre-school year costs €175 million and the Department of Children and Youth Affairs has indicated to the Alliance that this funding is not available within current budget constraints communication received on 23 December 2013.
- 65 StartStrong, (2012) *Policy Brief - Child-minding: Regulation and recognition*, Dublin: Start Strong, http://www.startstrong.ie/files/Childminding_-_Regulation_and_Recognition.pdf [accessed 16 December 2013].
- 66 Department of Children and Youth Affairs, 'Government investing in important reforms for children and families - Fitzgerald' [press release], 15 October 2013, <http://www.dcy.gov.ie/viewdoc.aspx?Docid=29996&CatID=11&mn=6&StartDate=1+January+2013> [accessed 10 February 2014].
- 67 UN Committee on the Rights of the Child (2006) *General Comment No. 7: Implementing child rights in early childhood*, CRC/C/GC/7/Rev.1.

Immediate Actions for 2014

Launch and commence the implementation of the National Early Years Strategy

A rights-based National Early Years Strategy should be published and be accompanied by an adequately resourced implementation plan. The Strategy should contain a clear and ambitious vision for early years policy, commit to the introduction of a second year of the free pre-school year scheme and include comprehensive measures to improve the quality of early years services.

Conduct a quality audit across all early years services to provide baseline data for the implementation of the National Early Years Strategy

There is no coherent picture of quality across early years' services. To make necessary systemic improvements, baseline data is required. This should be gathered as part of an audit process in the Strategy's first year. An evaluation of the quality and impact of the pre-school year should be a core element of this process.

2.2 Child Literacy

Grade A-

Government Commitment

The *Programme for Government* commits to developing a National Literacy Strategy for children and young people as a matter of urgency, with school-level targets that are related to national targets.

Every school will be required to have a Literacy Action Plan, with demonstrable outcomes. Responsibility for achieving these outcomes will be vested in the school principals, who will also receive continuing professional development to support the implementation of the strategy.

The *Programme for Government* also commits to:

- improving pre-service and in-service training in the teaching of literacy for all primary and secondary school teachers, with dedicated literacy mentors to work intensively with teachers in the most disadvantaged primary schools.
- increasing time spent on literacy: Delivering Equality of Opportunity in Schools (DEIS) primary schools will be required to teach literacy for 120 minutes per day; non-DEIS schools to teach literacy for 90 minutes per day.⁶⁸ This time includes incorporating structured literacy tuition into the teaching of other subjects.

Progress

On track

On track

What's happening?

The National Literacy and Numeracy Strategy continues to be rolled out. Focus in 2013 was on progressing steps initiated in 2012. Budget 2014 saw the continued investment in the rollout of the Strategy.

Literacy and Numeracy for Learning and Life: the National Strategy to Improve Literacy and Numeracy among Children and Young People 2011-2020, launched in July 2011,⁶⁹ sets out clear targets for children's literacy performance at primary and second-level, with a view to substantially improving performance by 2020. Budget 2014 allocated €9 million towards the continued rollout of the strategy.

68 Department of Education and Skills Circular 0056/2011 states that: from January 2012 all primary schools will be required to increase the time spent on the development of literacy skills, particularly in the first language of the school, by one hour overall for language (Irish and English) per week (i.e. to 6.5 hours for infants with a shorter day, and to 8.5 hours per week for students with a full day).

69 Department of Education and Skills (2011) *Literacy and Numeracy for Learning and Life: The National Strategy to improve Literacy and Numeracy among Children and Young People 2011-2020*, Dublin: Department of Education and Skills.

There are now 28 primary and 12 post-primary full-time equivalent, literacy advisors and 12 primary and two post-primary full-time equivalent numeracy advisors within the Professional Development Service for Teachers (PDST).⁷⁰ The Strategy requires all schools to engage in school self-evaluation (SSE) and produce School Improvement Plans from 2012/2013, which includes specific targets for the promotion and improvement of literacy and numeracy.⁷¹ In 2013, school self-evaluation updates were published via an e-bulletin to support and engage schools in the SSE process.⁷² All schools have been invited to attend seminars on SSE and have been offered SSE support. As of December 2013, 2,893 primary schools and 666 post primary schools have availed of advisory visits by Inspectors from the Department of Education and Skills.⁷³ Primary schools are required to have an action plan for either literacy or numeracy in place no later than the end of the 2013/2014 school year, with an action plan for the other the following year. Schools are not required to submit SSE reports to the Department of Education and Skills but they are required to provide a summary SSE report and School Improvement Plan to their own school community by the end of June 2014.⁷⁴ All 860 Delivering Equality of Opportunity in Schools (DEIS) schools have individual action plans in which literacy is one of the key themes.⁷⁵ The Department of Education and Skills Inspectorate assesses progress on reaching targets related to time spent on teaching literacy and this information is collated by the Department.⁷⁶ It is not proposed to disaggregate data by county.⁷⁷ However, while the Programme for Government commits to increase the time spent on literacy in DEIS schools to 120 minutes per week, the guidance issued to all primary schools calls for literacy to be taught up to 8.5 hours a week which works out at 102 minutes a day, thus falling short of the commitment.⁷⁸

A number of steps have been taken to improve literacy in the past two years: departmental circulars were published for primary and post-primary level, providing advice on the implementation of the Strategy⁷⁹ and supports for schools, teachers and principals were made available through enhanced Continuing Professional Development (CPD).⁸⁰ In addition, School Self-Evaluation Guidelines were published,⁸¹ which aim to support ongoing consultation with parents and provide for reporting to parents on progress in literacy and numeracy.⁸² Extended and restructured undergraduate and post graduate Initial Teacher Education Programmes at both primary and post primary level are in progress, providing further time and focus for student teachers to learn about developing literacy and numeracy.⁸³ It is important that steps are taken for existing teachers to ensure CPD training is based on strong evidence and that a holistic approach is taken to implementing the Strategy in each school.

A 2013 evaluation of DEIS primary schools in urban areas was published and demonstrated positive results in both literacy and numeracy, although the level of achievement is still below that of children in non-DEIS schools.⁸⁴

70 Communication received by the Children's Rights Alliance from the Department of Education and Skills on 23 December 2013.

71 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 28 January 2013. See www.schoolself-evaluation.ie for more details. Department of Education and Skills, 'Minister Ruairi Quinn launches Guidelines on School Self-evaluation' [press release], 19 November 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR2012-11-19.html> [accessed 10 February 2014].

72 Department of Education and Skills (2013), *SSE Update: Primary Edition, Issue 2: September 2013*, <http://schoolself-evaluation.ie/post-primary/wp-content/uploads/2013/11/SSE-UPDATE-PP-Issue-2.pdf> [accessed 7 January 2014].

73 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 23 December 2013.

74 Ibid.

75 Ibid.

76 Minister for Education Ruairi Quinn TD, Parliamentary Questions, Dail Debates, 3 October 2013 [41697/13].

77 Ibid.

78 Department of Education and Skills Circular 0056/2011 states that: from January 2012 all primary schools will be required to increase the time spent on the development of literacy skills, particularly in the first language of the school, by one hour overall for language (Irish and English) per week (i.e. to 6.5 hours for infants with a shorter day, and to 8.5 hours per week for students with a full day).

79 Department of Education and Skills (2012), *Circular No. 0025/2012 to Boards of Management, Principal Teachers and Teaching Staff of Post-Primary Schools*, Dublin: Department of Education and Skills.

80 In December 2012, the PDST delivered CPD for literacy link teachers who are to support literacy across the curriculum in post-primary schools. The CPD consisted of a one-day seminar and is to be followed by further CPD for these teachers in the first half of 2013. A range of other literacy and numeracy related CPD opportunities are also available and the Department of Education strongly encouraged principals and teachers to avail of these relevant CPD opportunities and supports.

81 Ibid.

82 Department of Education and Skills, 'Address by the Minister for Education and Skills, Ruairi Quinn TD, to IBEC members' [press release], 21 November 2012, <http://www.education.ie/en/Press-Events/Speeches/2012-Speeches/SP2012-11-22.html> [accessed 10 February 2014].

83 Communication received by the Children's Rights Alliance from the Department of Education and Skills on 27 January 2014.

84 S. Weir and S. Denner (2013) *The evaluation of the school support programme under DEIS: changes in pupil achievement in urban primary schools between 2007 and 2013*, Dublin: Educational Research Centre.

Junior Cycle: In total, €3 million was allocated to Junior Cycle reform in 2013 following the publication of *A Framework for Junior Cycle* in 2012, which describes the new Junior Cycle in 24 statements of learning. Not all of the funding allocated to CPD was spent due in part to industrial relations issues.⁸⁵ The Framework, which moves away from the exam-based Junior Certificate towards a continuous assessment model, emphasises the role of all teachers in developing students' literacy and numeracy skills and places literacy and numeracy as two of the core key skills to be achieved at Junior Cycle.⁸⁶ Under the proposed Cycle, there will be two new national qualifications. The first, at Level 3 of the National Framework of Qualifications, will replace the Junior Certificate. The second, at Level 2, will be designed for students with special educational needs where such needs prevent students from accessing some or all of the subjects and courses on offer and require focused priority learning outcomes.⁸⁷

In December 2013, Minister Quinn announced the establishment of a new Working Group⁸⁸ on Junior Cycle reform which will consider and make recommendations on issues raised by unions and management bodies.⁸⁹ In addition, English is the only subject which will change in September 2014. Schools may choose to introduce short courses from September. All other subjects remain the same as in the current Junior Certificate.⁹⁰

Budget 2014 provided €4.8 million for the reform of the Junior Cycle which will cover necessary training for school personnel, including teachers and principals. Standardised testing in English and Mathematics will take place in spring 2017 for second year students rather than in 2015/16 as originally planned while standardised testing in Science and Irish (in Irish medium schools) will be introduced in 2018 for second year students rather than in 2017 as originally planned.⁹¹ This standardised testing at second level can be integrated with the existing primary level standardised tests in order to carry out longitudinal research on children's literacy development.

Book Rental Scheme: Budget 2014 allocated €5 million to primary schools for investment in book rental schemes.

“Equipping a child with adequate literacy and numeracy skills is central to their progression from a life of poverty, disadvantage and marginalisation and increases their ability to participate in society and in democracy.”

85 Communication received by the Children's Rights Alliance from the Department of Education and Skills on 27 January 2014.

86 Department of Education and Skills (2012) *A Framework for Junior Cycle*, <http://www.education.ie/en/Publications/Policy-Reports/A-Framework-for-Junior-Cycle-Full-Report.pdf> [accessed 27 August 2013].

87 Communication received by the Children's Rights Alliance from the Department of Education and Skills 15 January 2014.

88 The working group is made up of representatives from teacher unions, school management, the Department of Education & Skills and the National Council for Curriculum and Assessment.

89 Department of Education and Skills, 'Minister Quinn announces first meeting of Working Group on Junior Cycle Reform' [press Release], 16 December 2013 <http://www.education.ie/en/Press-Events/Press-Releases/2013-Press-Releases/PR2013-12-16.html> [accessed 15 January 2014].

90 Department of Education and Skills 'Statement from the Department of Education & Skills on the conclusion of the first meeting of the JCSA National Working Group' 17 January 2014 [press release], <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/PR2014-01-17.html> [accessed 28 January 2014].

91 Communication received by the Children's Rights Alliance from the Department of Education and Skills on 27 January 2014.

Comment

Child Literacy receives an 'A-' grade in *Report Card 2014*, a rise from last year's grade of 'B+' as the Department of Education and Skills has taken further steps to meet its targets on child literacy including improved teacher training with a focus on literacy and numeracy as well as further reform of the Junior Cycle. Improved 2012 PISA results and encouraging findings from the evaluation of DEIS primary schools published in 2013 demonstrate a measure of success. This grade reflects the continued investment in the roll-out of the Strategy as well as positive developments such as the introduction of a book rental scheme for primary schools.

Article 28 of the UN Convention on the Rights of the Child provides that every child has the right to education and that States such as Ireland that have ratified the Convention shall promote and encourage international cooperation in matters relating to education, in particular towards the elimination of illiteracy.⁹² Article 29(1) outlines the 'individual and subjective' right to a specific quality of education.⁹³ Equipping a child with adequate literacy and numeracy skills is central to their progression from a life of poverty, disadvantage and marginalisation and increases their ability to participate in society and in democracy.⁹⁴ Literacy and numeracy are about more than simply the ability to read and write. *Literacy and Numeracy for Learning and Life* defines literacy as 'the capacity to read, understand and critically appreciate various forms of communication including spoken language, printed text, broadcast media, and digital media.'⁹⁵ Similarly, numeracy is not just about basic arithmetic, but rather about using mathematical understanding and developing the skills to solve problems and meet the demands of day-to-day living.⁹⁶

The OECD Programme for International Student Assessment (PISA) is an internationally standardised test administered to 15-year olds in 65 countries around the world at three-year intervals. PISA 2012 saw the performance of 15 year olds rise significantly above average in maths⁹⁷, literacy and science. Ireland ranked fourth out of the 34 OECD countries in literacy achievement and ranked 13th in mathematics and ninth in science.⁹⁸ This demonstrates a marked improvement from 2009 figures when Ireland ranked 17th in reading, 26th in maths and 14th in science.⁹⁹ The rankings in relation to mathematics and science expose the need for a further focus on numeracy in schools.¹⁰⁰

Since 2005, the *Delivering Equality of Opportunity in Schools* (DEIS)¹⁰¹ Programme has offered a range of literacy and numeracy programmes with lower pupil-teacher ratios and an enhanced allocation of teachers under the General Allocation Model for learning support in Band 1 primary schools, as well as initiatives including the Home School Community Liaison Scheme and the School Completion Programme.¹⁰² The findings of an evaluation of DEIS primary schools, published in December 2013, showed that the programme is having a positive effect on combatting disadvantage in education and in improving the learning achievements of pupils in DEIS primary schools in urban areas.¹⁰³ Improvements were shown in both numeracy and literacy across all grades. Increased parental engagement in children's learning and in school life – a focus of the National Literacy and Numeracy Strategy – was a

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

93 UN Committee on the Rights of the Child (2001), *General Comment No.1: The aims of education*, CRC/GC/2001/1, paragraph 9.

94 United Nations Human Rights Council, Report of the Special Rapporteur on Extreme Poverty and Human Rights, Magdalena Sepúlveda Carmona, Twenty-third Session, UN Doc A/HRC/23/36 (11 March 2013).

95 Department of Education and Skills (2011), *Literacy and Numeracy for Learning and Life: The National Strategy to improve Literacy and Numeracy among Children and Young People 2011-2020*, Dublin: Department of Education and Skills.

96 E. Stack (2013) 'Quality and Accountability in our Post-Primary Schools' in F. O'Toole (eds.) *Why Education Matters: the importance of education to Ireland's economy and society*, Dublin: ASTI, pp. 27-30.

97 However it should be noted that there has been a small decline in the average maths score across OECD countries in 2013, which would have contributed to this.

98 R. Perkins, S. Sheils, B. Merriman, J. Cosgrave and G. Moran (2013), *The Performance and Progress of 15-year olds in Ireland, Summary Report*, Dublin: Educational Research Centre.

99 R. Perkins, G. Sheil, J. Cosgrave and G. Moran (2010) *PISA 2009: The Performance and Progress of 15-year olds in Ireland, Summary Report*, Dublin: Educational Research Centre.

100 In the overall table Ireland ranked 7th out of 64 countries in reading, 20th in mathematics and 15th in Science.

101 The DEIS Programme aims to address the educational needs of children and young people from disadvantaged communities, from pre-school through second-level education. Investment in educational disadvantage was €742 million in 2013.

102 Supports available in DEIS schools through the Home School Community Liaison Scheme (HSCL) and the School Completion Programme (SCP) include Reading Recovery, First Steps, Mathematics Recovery, Ready and Steady Go Maths. HSCL is in all Urban DEIS schools and DEIS post-primary schools. SCP is in all Urban DEIS primary schools, DEIS post-primary schools, some Rural DEIS schools and in some non-DEIS schools. Information received by the Children's Rights Alliance from the Department of Education and Skills, 27 January 2014.

103 S. Weir and S. Denner (2013) *The evaluation of the school support programme under DEIS: changes in pupil achievement in urban primary schools between 2007 and 2013*, Dublin: Educational Research Centre.

further positive element found in DEIS schools.¹⁰⁴ However, while improvements were shown it was noted that average scores in DEIS schools were still below average when compared to the general population.¹⁰⁵ A similar evaluation of DEIS post primary schools is expected to be published in 2014.¹⁰⁶

A separate report on the Expenditure and Statistical survey of DEIS schools was completed in 2013.¹⁰⁷ The survey looked at 75 primary schools and 25 post-primary schools in receipt of DEIS funding. The survey showed that there is considerable potential for financial resources to be more targeted. The survey also indicated that the majority of schools spend the grant on a range of literacy and numeracy initiatives, including in-service educational assessments and testing. It also found that the grant funds are being spent on ICT, sport and leisure activities, educational trips and after school and homework clubs.¹⁰⁸ The outcome of this and other evaluations will assist with planning future educational disadvantage strategies.¹⁰⁹ At present, existing DEIS schools continue to operate under year-to-year funding. In 2013, some 852 schools received DEIS funding, encompassing 167,000 students.¹¹⁰

It is also important to ensure a focus exists on literacy and numeracy for children in mainstream non-DEIS schools. In 2009, ESRI research showed that DEIS's focus on 'concentrated' disadvantage meant that 61% of students from disadvantaged backgrounds did not attend DEIS schools,¹¹¹ due to a focus on 'concentrated' rather than 'dispersed' disadvantage.¹¹² Literacy and numeracy is not just about disadvantage: children with special educational needs, children with speech and language difficulties or children in Children Detention Schools all have specific literacy and numeracy needs that must be addressed.¹¹³

The decision to allocate €5 million to primary schools in 2014 for investment in book rental schemes is welcome. This is a positive development from the point of view of improving literacy and reducing the cost burden on parents. Over three years, this investment will amount to €15 million. These funds will be paid to schools in the form of a seed capital grant, with DEIS schools receiving €150 per child and non-DEIS schools receiving €100 per child.¹¹⁴ In January 2013, 'Guidelines for Developing Textbook Rental Schemes' were issued to all schools to provide practical advice to primary and post primary schools on how rental schemes can be established and operated.¹¹⁵ This is an important first step to encourage widespread book rental schemes and it has the potential to alleviate the financial pressure on parents caused by the need to purchase expensive textbooks each year.

104 Joint Committee on Health and Children Debate, Tackling Childhood Poverty: discussion, 21 March 2013, <http://oireachtasdebates.oireachtas.ie/debates%20authoring/DebatesWebPack.nsf/committeetakes/HEJ2013032100006> [accessed 27 August 2013].

105 S. Weir and S. Denner (2013) *The evaluation of the school support programme under DEIS: changes in pupil achievement in urban primary schools between 2007 and 2013*, Dublin: Educational Research Centre.

106 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 23 December 2013.

107 Ibid.

108 Ibid.

109 The evaluation report in relation to rural schools was completed and published in 2009: S. Weir, P. Archer and D. Millar (2009) *Educational Disadvantage in Primary Schools in Rural Areas Report No. 1: Analysis of English Reading and Mathematics Achievement in Schools in the Rural Dimension of the Schools Support Programme*, Dublin: Education Research Centre.

110 Minister for Education Ruairi Quinn, Dail Parliamentary Questions, Written Answers, 8 October 2013 [42143/13].

111 61 per cent of young people from semi/unskilled manual backgrounds and 56 per cent of those from non-employed households attend non-DEIS schools (School Leavers Survey, 2007).

112 E. Smyth and S. McCoy (2009) *Investing in Education, Combating Educational Disadvantage*, Dublin: Economic and Social Research Institute.

113 Children's Rights Alliance (2011) *Children's Rights Alliance Submission in relation to A Draft National Literacy Plan to Improve Literacy and Numeracy in Schools*, Dublin: Children's Rights Alliance.

114 Communication received by the Children's Rights Alliance from the Department of Education and Skills 15 January 2014.

115 Communication received by the Children's Rights Alliance from the Department of Education and Skills 15 January 2014.

Immediate Actions for 2014

Continue rollout of the National Literacy and Numeracy Strategy

Build on the momentum and continue to invest in the successful rollout of the *National Literacy and Numeracy Strategy* in 2014. The guidance issued to schools should be reviewed to increase the length of time spent on literacy and numeracy to the full 120 minutes promised in the Programme for Government.

Develop a long term strategy for addressing educational disadvantage

DEIS has been found to positively impact on disadvantage in education. However, there has been uncertainty related to the future of DEIS since 2008, when its initial cycle formally ended. A strategy should be developed that clearly outlines the future strategic direction of supports for educational disadvantage based on long-term funding. As DEIS Schools were originally designated in 2005, there is a need to re-assess their disadvantaged status, as the level of disadvantage experience in an area may change.

2.3 Children with Special Educational Needs

Grade C-

Government Commitment

The *Programme for Government* commits to publishing a plan for the implementation of the Education for Persons with Special Educational Needs (EPSEN) Act 2004 to prioritise access for children with special needs to an individual education plan. It states that the priority will be to move to a system where necessary supports follow a child from primary to second level and to achieve greater integration of special needs-related services.

Progress

Limited progress

What's happening?

In May 2013, the National Council for Special Education published its policy advice on supporting students with special educational needs.

Implementation of the EPSEN Act 2004 remains on hold. A working group to review allocation of resource teachers to schools has been established.

Cuts to funding for special needs supports were announced in June 2013 but quickly reversed. The cap on the level of SNAs was increased.

A detailed Implementation Plan for the Education for Persons with Special Educational Needs (EPSEN) Act 2004 was published in 2006,¹¹⁶ but its delivery was put on hold due to cost. Further implementation of the Act was deferred by the previous Government in 2008 due to the prevailing economic circumstances.¹¹⁷ An estimate from the National Council for Special Education (NCSE) on the cost of the full implementation of the EPSEN Act suggests that an additional investment of up to €235 million a year over a period of years, across the education and health sectors, would be required.¹¹⁸ The Department of Education and Skills is of the opinion that the level of investment required would be greater than that envisaged in the NCSE report¹¹⁹ and in the current economic climate it is unlikely that the Government will fully implement the EPSEN Act in the short to medium term.¹²⁰

116 National Council for Special Education (2006) *Implementation Report: Plan for the Phased Implementation of the EPSEN Act 2004*, as submitted to the Minister for Education and Science, 1 October 2006, Kildare: NCSE.

117 Batt O'Keeffe TD, Minister for Education and Science, Parliamentary Questions: Written Answers, [45337/08], Dáil Debate, 9 December 2008, Vol. 670 No. 1.

118 Ruairi Quinn TD, Minister for Education and Skills, Parliamentary Questions: Written Answers [19162/11], Dáil Debate, 7 July 2011, Vol. 738 No. 1. The NCSE estimate was made in 2006.

119 Ibid.

120 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 23 December 2013.

In May 2013, the National Council for Special Education (NCSE) published *Supporting Children with Special Educational Needs in Schools*,¹²¹ in response to a request from the Minister for Education and Skills in June 2012. The paper explores policy options on how best to provide educational supports for students with special educational needs that can provide each child with the opportunity to participate and benefit from education as well as to develop his or her potential in line with provisions of the EPSEN Act.¹²² The paper makes clear the NCSE belief that 'the EPSEN Act 2004 continues to offer the most effective route to assessment and educational planning for children with special educational needs'¹²³ and calls on the Minister to implement the Act in full, as soon as resources become available. The paper highlights a number of issues requiring attention including exclusionary enrolment practices in schools; delay in access to assessments leading to delayed diagnosis and thus allocation of resources; a focus on diagnosis rather than broader support to guide a child's development and learning; lack of a joined-up approach across education and health services leading to duplication in assessment, and an unsuitable allocation model that does not provide all children with equitable access to educational supports. The NCSE calls for a new model for allocation of additional teaching resources to mainstream schools, based on the profiled need of each school and without the need for a diagnosis of disability.¹²⁴ The NCSE has made clear that this 'proposed model aims to move the system towards ultimate implementation of the EPSEN Act'.¹²⁵

In June 2013, the Minister for Education and Skills announced the establishment of a working group, chaired by former Chief Inspector Eamon Stack,¹²⁶ on foot of advice from the NCSE to 'develop a new model for how additional teaching resources should be allocated to ensure that students who need the greatest level of support can receive it'.¹²⁷ The Minister also called on the NCSE to 'urgently probe the reasons for the unprecedented 12 per cent rise in applications for resource teacher support' for the 2013/14 school year, compared with a 1.3% increase in the number of pupils attending school in the same year.¹²⁸ The Minister was briefed on the progress of the Stack Working Group in October 2013 and the final report is expected in spring 2014.¹²⁹

Also in June 2013, a 10% increase in the number of pupils eligible for resource teaching led to the announcement of a reduction in resource teaching hours allocated to pupils in order to operate within the assigned budget. There was a significant backlash and the move was quickly reversed.¹³⁰ However, it was also reported at the time that an additional 2,000 pupils would require a Special Needs Assistant (SNA) in the 2013/14 school year, an increase of 10%, but the number of SNAs was only due to increase by 1.5%.¹³¹ An additional 390 SNA posts are now due to come on-stream by the end of 2014 (170 in 2013 and a further 220 in 2014). This represents a total increase of 3.7% above the cap figure of 10,575 whole-time equivalent posts¹³² put in place by the previous Government under the *National Recovery Plan*.¹³³

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

122 Section 4(6) and section 7(3), EPSEN Act 2004.

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

124 *Ibid.*, p. 5.

125 *Ibid.*, p. 49.

126 Other members of the group include Áine Lynch, National Parents Council; Mary Byrne, Head of Special Education; Katherine O'Leary, parent and Inclusion Ireland; Done Mahon, Department of Education and Skills; Anne English, primary school principal; Maureen Costello, National Educational Psychological Service; Antoinette Nic Gerailt, post-primary school principal; Peter Archer, Educational Research Centre; Pat Kinsella, NCSE member; Brian Mac Giolla Phádraig, Department of Education and Skills; Eithne Fitzgerald, National Disability Authority; James O'Grady, NCSE member; and a staff member from the Department of Children and Youth Affairs.

127 Department of Education and Skills 'Former Chief Inspector, Eamon Stack, to chair working group to review special education' 25 June 2013 [press release], <http://www.education.ie/en/Press-Events/Press-Releases/2013-Press-Releases/Pr-2013-06-25.html> [accessed 28 January 2014].

128 *Ibid.*

129 Minister for Education and Skills Ruairi Quinn TD, Dail Debates, Priority Questions, 26 November 2013, [50780/13].

130 Carl O'Brien, 'Quinn reverses planned cuts to supports for special needs pupils', *The Irish Times* 25 June 2013.

131 Carl O'Brien, 'Special needs children face cut in support despite Government U-turn', *The Irish Times*, 28 June 2013.

132 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 27 January 2014.

133 This is a small increase on the 10,543 SNA posts in place in December 2010. Department of Education and Skills (2011), Circular 0006/2011, http://www.education.ie/en/Circulars-and-Forms/Active-Circulars/cl0006_2011.pdf [accessed 18 January 2013].

There was no further reduction in Budget 2014 to the overall number of whole time equivalent SNAs (10,575 posts) or Resource Teachers (9,950 posts).¹³⁴ While spending on special educational needs was also maintained at €1.35 billion in Budget 2014, there is a commitment to create 870 additional posts (480 resource teacher posts and 390 SNAs) and additional funding will be made available to meet these extra resources.¹³⁵ In December 2013, Minister for Education and Skills, Ruairi Quinn TD, announced that there would be an increase in the number of SNAs raising the cap to 10,745 for 2013 and 10,965 for 2014.¹³⁶

In September 2013, the draft General Scheme for an Education (Admission to Schools) Bill 2013 was published alongside draft regulations for discussion.¹³⁷ The Bill requires schools to include in their enrolment policies an explicit statement that they will not discriminate against an applicant for admission on a number of grounds¹³⁸ including disability and special educational needs.¹³⁹ This legislation, due to be enacted in 2014,¹⁴⁰ will ensure greater access for children with special educational needs to all schools.

Comment

Children with Special Educational Needs gets a 'C-' grade this year, a rise from last year's 'D' to reflect the publication of the NCSE report and the increase in the allocation of SNAs. However, the failure to implement the outstanding provisions of the EPSEN Act 2004 continues to be of concern. Additionally, the announcement in June 2013 to cut funding to special needs supports, although later reversed, caused unnecessary stress and anxiety for children and parents of children with special educational needs.

The right to education under Article 28 of the UN Convention on the Rights of the Child extends to all children. Children have the basic right to development and the State must ensure that every child's right is vindicated to the maximum extent possible, regardless of ability. One of the aims of education under the Convention is the development of the child's personality, talents and mental and physical abilities to their fullest potential.¹⁴¹ Children with disabilities have the right to assistance, appropriate to the child's condition, designed to ensure that the child has effective access to education and receives that education in a manner conducive to the child's achieving the fullest possible social integration and individual development.¹⁴² A 2013 report by the National Council for Special Education (NCSE) found that, while most schools welcome and enrol children with special educational needs, some erect overt and/or 'soft' barriers to prevent or discourage parents from enrolling their children in these schools.¹⁴³ These exclusionary practices cannot be permitted in any national system of education.¹⁴⁴

An estimated 25% of children in Ireland have special educational needs.¹⁴⁵ Historically, many of these children were isolated from mainstream education, as they were not expected to achieve at school, either academically or socially. Now, it is recognised that children with special educational needs can thrive in a mainstream education environment, once they

134 While the figure was capped under the Employment Control Framework (ECF) agreed by the Department of Education and Skills for the period 2011-2014, the Government has agreed to increase the cap on the number of SNAs by 390 in 2014.

135 Communication received by the Children's Rights Alliance from the Department of Education and Skills on 27 January 2014.

136 Department of Education and Skills 'Minister Quinn announces 390 extra SNA posts for coming year' 3 December 2013 [press release], <http://www.education.ie/en/Press-Events/Press-Releases/2013-Press-Releases/PR13-12-03C.html> [accessed 2 January 2013].

137 Department of Education and Skills, 'Minister Quinn publishes draft Admission to Schools bill to regulate the admission of children to primary and post primary schools' [press release], 2 September 2013 <http://www.education.ie/en/Press-Events/Press-Releases/2013-Press-Releases/PR13-09-02.html> [accessed 15 January 2014].

138 The grounds set out in the bill are: disability, special educational needs, sexual orientation, family status, membership of the Traveller community, race, civil status, gender, faith or religious tradition or on the grounds of the student being of no faith. A school can however give preference to an incoming student who already has a sibling enrolled in the school.

139 Head 3 Draft General Scheme of an Education (Admission to Schools) Bill 2013 <http://www.education.ie/en/The-Education-System/Legislation/Draft-General-Scheme-of-an-Education-Admission-to-Schools-Bill-2013.PDF> [accessed 15 January 2014].

140 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 15 January 2014.

141 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989), Article 29.

142 Ibid., Article 23.

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

144 A child is deemed to have a special educational need if he or she requires substantial additional educational provision in comparison with his/her peers (definition in S. Griffin and M. Shevlin (2007) *Responding to Special Educational Needs: An Irish Perspective*, Dublin: Gill and Macmillan).

145 This estimate is based on the definition of special educational needs found in the EPSEN Act 2004 and interpreted in broad terms taking into account the perspective of both parents and teachers. Boys show a higher prevalence at 29% with girls at 21%. National Council for Special Education (2011) *A Study on the Prevalence of Special Educational Needs: National Council for Special Education Research Report No.9*, National Council for Special Education, p. 96.

are properly supported. Indeed their presence has been shown to have a positive impact on classmates and the school as a whole.¹⁴⁶ Research undertaken in 2012, based on the nine-year-old cohort of the *Growing Up in Ireland* longitudinal study, found that children with special educational needs experience school differently depending on their disability. It showed that those with learning disabilities have more negative attitudes to school than those with a physical or sensory disability or a speech impairment; these children's enjoyment of school is enhanced however, by positive relations with teachers and peers.¹⁴⁷ Exceptionally able or 'gifted' children may also have special educational needs, but they are not included in the 25% figure; these children can become bored and frustrated in school and are often uncomfortable or self-conscious about their ability.¹⁴⁸ There is no national policy or standardised special educational provision to cater for this group of children in Irish schools.

The EPSEN Act 2004 provides the legislative framework for the assessment of need for children with special educational needs; the preparation and implementation of individual education plans; and the delivery of services.¹⁴⁹ To date, only certain sections of the Act have been commenced, primarily those concerned with the establishment of the National Council for Special Education.¹⁵⁰ When commenced in full, the EPSEN Act will provide additional entitlements to children with special educational needs, and benefit a larger cohort of children than those deemed to have had entitlements under previous statutory provisions. 2014 will mark ten years since the EPSEN Act was passed and it is disappointing that the potential cost has been the determining factor in the failure to implement it and that children with special needs have been left with inadequate educational supports. To improve next year, the Department must seriously consider and implement any recommendations made by the Stack Working Group to move towards a model of resource allocation which would be more in line with the intention outlined in the EPSEN Act.

Supports: The UN Committee on the Rights of the Child has noted that inclusive education should be the goal of educating all children with disabilities and the manner of which must be directed by the individual needs of the child.¹⁵¹

Children with special care needs arising from a disability, attending a mainstream school, can be allocated access to a SNA. SNAs provide care (rather than educational) support, such as assisting a child with eating or visiting the bathroom.¹⁵² Over 10,580 SNAs were deployed in 2013 in mainstream and special schools to meet the needs of over 22,000 children.¹⁵³ Over 7,500 applications were received and processed. Where access to SNA support was not granted, it was open to the school or the parent to appeal the decision. Less than 200 appeals were received from schools and parents, of which approximately 10% to 20% were from parents.¹⁵⁴ The remaining posts were withheld to respond to urgent applications for support throughout the school year.¹⁵⁵ The announcement that the cap on the number of SNAs will be increased by 390 by 2014 is to be welcomed.

146 S. Griffin and M. Shevlin (2007), *Responding to Special Educational Needs: an Irish Perspective*, Dublin: Gill and MacMillan, p. 76.

147 J. Banks and S. Mc Coy (2013) 'Educational engagement among children with special needs in mainstream schools' in *Economic and Social Research Institute Research Bulletin*, <http://www.esri.ie/UserFiles/publications/RB20130206/RB20130206.pdf> [accessed 30 August 2013].

148 National Council for Curriculum and Assessment (2007), *Exceptionally Able Students: Draft Guidelines for Teachers*, Dublin: NCCA.

149 In the absence of full commencement of the EPSEN Act, some steps have been taken: in 2006 the NCSE published guidelines on the individual education plan process and issued them to all schools. The Special Education Support Service (SESS) has commenced a series of training programmes for teachers on the individual education planning process.

150 The following sections of the Education for Persons with Special Educational Needs Act, 2004 [no. 30 of 2004] have been commenced – 1, 2, 14(1)(a), 14(1)(c), 14(2) to 14(4), 19 to 37, 40 to 53. These cover the adoption of the policy of inclusive education, the establishment of the NCSE, its staff, functions, etc, the adoption of the policy of detailed record keeping by the NCSE in the interest of provision to children with special educational needs; where requested, the support of local health boards in the work of the NCSE; the establishment of the duty of schools with respect to children with special educational needs; and some amendments to the Education Act (1998), e.g. the definition of disability.

151 UN Committee on the Rights of the Child (2006) *General Comment No. 9: The Rights of Children with Disabilities*, CRC/C/GC/9.

152 For full details see: Department of Education and Skills (2002), Circular SP. ED 07/02, <http://www.education.ie/en/Circulars-and-Forms/Archived-Circulars/Applications-for-Full-or-Part-time-Special-Needs-Assistant-Support-to-Address-the-Special-Care-Needs-of-Children-with-Disabilities-.pdf> [accessed 18 January 2013].

153 Communication received by the Children's Rights Alliance from the National Council for Special Educational Needs on 7 February 2014. Details of all of the resource teaching allocations made by the NCSE in October 2013 on a school by school and per county basis, including a breakdown between posts allocated at between the primary and post primary school sector are available at: <http://www.ncse.ie/statistics/national.asp> [accessed 8 January 2014].

154 Information received by the Children's Rights Alliance from the National Council for Special Educational Needs, 7 February 2014.

155 Ibid.

It will be important to monitor this increase to ensure that it is meeting rising demand. Entitlement to SNA support remains problematic as posts are allocated to schools on the basis of the assessed care needs of children, rather than attaching to a particular child, thus entitlement to SNA support does not transfer automatically with a child from one school to the next.¹⁵⁶ In addition, training is not mandatory and a large number of SNAs have not undertaken training programmes.¹⁵⁷ Issues have also arisen on the clarity of their role between teachers, parents and SNAs themselves.

Children with special educational needs who are attending a mainstream school are provided with additional resource teaching hours by way of learning support. These posts are an early intervention measure and are vital to support children struggling with a particular aspect of learning – for example literacy or numeracy. Almost 10,700 learning support/resource teacher posts were allocated to schools in 2012, including those provided under the General Allocation Model.¹⁵⁸ An additional 435 Resource Teacher posts were allocated in 2013.¹⁵⁹

The 2013 NCSE report found that the current allocation model does not provide all children with the same access to educational supports. Children whose school or parents can afford to pay for private assessments can access additional supports immediately, where they satisfy the criteria. Whereas those who cannot afford to pay for private assessments must wait for an assessment through the public system.¹⁶⁰ This two-tier system is unfair and must be changed. To do this, the report recommends the development of a new model for allocating additional teaching resources to mainstream schools, based on the profiled need of each school, without the need for a diagnosis of disability. The current approach – linking the allocation of additional supports to the number of class teachers – does not ensure an optimum use of available resources. Instead, the report advises that teaching supports be based on a suite of indicators of educational need. Once additional supports are allocated to a school, responsibility for their deployment should lie with the school. Recognising the concern and anxiety that any change to the current system may bring to parents and children, the NCSE strongly advises that sufficient time is taken to develop a new model and consult with relevant stakeholders.

The current Government commitment focuses on children with special needs within the school setting. It is important, however, that policy takes a holistic approach to supporting children with special needs, recognising their health – as well as educational – needs. Pending the full roll-out of the *National Programme on Progressing Disability Services for Children 0-18*, the HSE should develop a plan that provides adequate clinical and therapeutic supports for children and young people with special educational needs, irrespective of school placement.¹⁶¹ In addition, duplication in the assessment process required to access a range of State services was identified as a key problem in consultations for the 2013 NCSE report. This issue must be addressed by bringing together the relevant State Departments and agencies¹⁶² to develop and implement one national system of assessment which can be used to access services across all areas.¹⁶³ Now, as resources are tighter, collaborative working, integrated services and information sharing is vital. Children with special educational needs rely heavily on State supports – appropriately provided and administered early – to improve their educational experience and outcomes. The distress and frustration felt by children and their parents when access to these supports is not clear or straightforward is significant. Provision of special educational needs services to the children that need them is not an optional extra; it is a basic right that must be vindicated by the State even in times of recession.

156 Information received by the Children's rights Alliance from the Department of Education and Skills, 23 December 2013.

157 The minimum educational requirement for SNAs is a grade 'D' at Junior Certificate, the job description states that this is a care role only. The Department of Education and Skills provides an accredited 20 hour induction programme (one week in August and weekend seminars during the year). FETAC Level 5-6 training courses are also available, as are courses by private providers. In 2010, just 1,484 SNAs undertook an introductory training programme and 480 had undertaken a certificate programme. Department of Education and Skills (2011), *The Special Needs Assistant Scheme: A Value for Money Review of Expenditure of the Special Needs Assistant Scheme 2007/08-2010*, Dublin: Department of Education and Skills.

158 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 23 December 2013.

159 Ibid.

160 National Council for Special Education (2013) *Supporting Children with Special Educational Needs in Schools: NCSE Policy Advice Paper No. 4*, NCSE, p. 5. The report also distinguishes between two types of assessment: one undertaken to identify a pupil's learning needs and inform intervention and the other undertaken purely for diagnosis to satisfy criteria for the allocation of resources. The latter may result in premature labelling of children with a disability and may not always be in a child's best interest.

161 Ibid.

162 The Department of Health, the Department of Education and Skills, the Department of Social Protection and the Department of Children and Youth Affairs and the HSE.

163 National Council for Special Education (2013) *Supporting Children with Special Educational Needs in Schools: NCSE Policy Advice Paper No. 4*, NCSE, p. 165.

Immediate Actions for 2014

Publish and begin action on the plan to fully implement the EPSEN Act 2004, on foot of the NCSE policy advice

The 2013 NCSE policy advice is clear that the EPSEN Act 2004 continues to offer the most effective route to assessment and educational planning for children with special educational needs. The Minister for Education and Skills must make full implementation of the Act a clear priority as fundamental rights must be respected even in recessionary times. In the meantime, progress should begin immediately on implementing the interim proposals outlined by the NCSE in its policy advice.

Reform the support allocation model to bring an end to exclusionary practices

The two-tier system of access to supports for children with special educational needs must be reformed and made fair. Children who require additional support should not be forced to wait on an assessment due to lack of money on the part of their parents or depending on the location of the school they attend. Each decision on support allocation must be based on the best interests and requirements of the individual child with special educational needs and not based on a general factor such as the diagnosis of a particular disability.

2.4 School Buildings

Grade B+

Government Commitment

The *Programme for Government* commits to prioritising school building projects in a revised national development plan. It also makes a series of commitments in relation to school buildings, they include:

- To progressively phase-out the inefficient renting of school prefabs. In the interim, negotiation of prefab rental contracts will be part of a reformed public procurement policy to encourage value for money, transparency and reduce dependency on temporary accommodation.
- To overhaul the Department of Education and Skills' central database of school accommodation to ensure a complete inventory of school buildings and associated structures is maintained so deficiencies are easily identifiable.

Progress

On track

What's happening?

Work continues on the major capital investment programme to build new schools and replace rented prefabs. Some schools have difficulties funding necessary repairs. The Minister for Education and Skills, Ruairí Quinn TD, announced €28 million in funding for a Minor Works Grant Scheme and €40 million for a Summer Works Scheme in 2014.

Budget 2014 provided €540 million in capital expenditure in the area of education, with €470 million to be spent on the Schools Building Programme.¹⁶⁴ In March 2012, a €2 billion, five-year capital investment programme was launched by the Minister for Education and Skills, Ruairí Quinn TD, involving over 275 new major school projects planned to proceed to construction over the duration of the programme.¹⁶⁵ It is the first time the Department of Education and Skills has published such a plan for school buildings. The programme will provide over 171 new school buildings and major extensions at primary level, over 92 new school buildings and large scale extensions at post-primary level, 12 new special schools

¹⁶⁴ In July 2012, the European Investment Bank provided a loan of €100 million to support the Department of Education and Skills' capital investment programme in educational infrastructure. Department of Education and Skills, 'Minister Quinn protects frontline education services in Budget 2013' [press release], 5 December 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR2012-12-05.html> [accessed 18 January 2013]. See also, Department of Education and Skills, 'Minister Quinn welcomes €100m loan from the European Investment Bank in support of the Department's School Building Programme' [press release], 6 July 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR12-07-06.html> [accessed 18 January 2013].

¹⁶⁵ Department of Education and Skills, 'Minister Quinn announces details of 275 major school building projects – More than 15,000 jobs to be created over five years' [press release], 12 March 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR12-03-12.html> [accessed 18 January 2013]. The Department's Statement of Strategy 2011-2014, published in April 2012, contains several specific objectives in relation to school buildings in the context of a five year plan for educational infrastructure at primary and second level. Department of Education and Skills (2011), *Statement of Strategy 2011-2014*, Dublin: Department of Education and Skills, p. 13.

buildings and large scale extensions.¹⁶⁶ By December 2013, 37 projects were completed, 34 projects were under construction, a further 25 were at the tender stage and the remainder are progressing within the architectural planning process.¹⁶⁷

In 2013, €15 million was allocated to replace 115 prefab units in 46 schools. This allocation builds on 2012 funding to 170 schools to replace 458 prefab units with permanent accommodation. To date, 158 of these projects have gone to construction with 131 now completed. Nearly all (€37.5 million) of the original €42 million committed has been spent.¹⁶⁸ Savings of up to €5 million are expected as a result of the initiative; to date €2.5 million has been saved on rented accommodation.¹⁶⁹ In November 2013, it was announced that 70 major building projects are scheduled to proceed to construction in 2014 including: 22 new schools at primary level; 12 extensions at primary level; 12 new schools at post-primary; 20 extensions at post-primary; three new special schools and one major special school extension.¹⁷⁰ Furthermore, funding of €28 million as part of a Minor Works Grant Scheme for the 2013/14 school year was a most welcome development. This will assist primary schools in undertaking small scale repair works.¹⁷¹ Also announced was the introduction of a Summer Works Scheme for primary and post-primary school improvement works in 2014 for which €40 million will be made available. This will enable eligible schools to carry out small and medium scale building works that will improve and upgrade existing school buildings.¹⁷²

In 2013, a pilot study was undertaken by the Department of Education and Skills to develop an inventory of education infrastructure and related community assets in five areas of the country: Tuam, Navan, Clonmel, Portlaoise and part of Limerick City. The research gathered was combined with existing departmental information, providing a richer picture for future planning. The Minister for Education and Skills has stated his intention that this expanded inventory data will be developed on an incremental basis at national level.¹⁷³

“Budget 2014 provided €540 million in capital expenditure in the area of education, with €470 million to be spent on the Schools Building Programme.”

166 Communication received by the Children’s Rights Alliance from the Department of Education and Skills on 27 January 2014.

167 Ibid.

168 Ibid.

169 Ibid.

170 Minister Quinn announces 70 major school building projects as part of €2billion 5 year plan [press release], 29 November 2013 <http://www.education.ie/en/Press-Events/Press-Releases/2013-Press-Releases/PR13-11-29.html> [accessed 16 December 2013].

171 Department of Education and Skills, ‘Minister Quinn Announces €70million for school improvements’, 7 November 2013 [press release], <http://www.education.ie/en/Press-Events/Press-Releases/2013-Press-Releases/PR13-11-07.html> [accessed 2 January 2014].

172 Ibid.

173 Ruairí Quinn TD, Minister for Education and Skills, Parliamentary Questions: Written answers [32111/13], Dáil Debate, 2 July 2013.

Comment

School Buildings gets a 'B+' grade in Report Card 2014, a rise from last year's 'B' to reflect the continued capital investment in school building announced in Budget 2014 as well as the announcement in November 2013 of funding of €28 million as part of a Minor Works Grant Scheme for the 2013/14 school year and €40 million for a Summer Works Scheme in 2014. In its most recent review of Ireland, the UN Committee on the Rights of the Child recommended that the State ensure that budgetary allocations are directed at improving and upgrading school buildings, recreational equipment and facilities, and the sanitary conditions in schools.¹⁷⁴ The Government is to be praised for its commitment and investment in this area.

However, Government had little choice but to take this issue seriously, given the demographic challenge it faced. Total enrolment in Irish schools is expected to increase by approximately 70,000 pupils between 2012 and 2018 – 45,000 at primary level (almost 31,000 before 2014) and 25,000 students at post-primary level with second level enrolment expected to continue to grow until 2024 at the earliest.¹⁷⁵ The building programme will provide 100,000 additional permanent school places, over 80,000 of which will be new school places with the remainder replacing temporary or unsuitable accommodation. Progress on gathering detailed inventories of school accommodation is welcome, and vital to ensure that necessary information is available to decision-makers on school planning at local level. However, with over 3,000 primary schools in the State, an overarching long-term school replacement programme should be developed to ensure that decisions are not solely made in response to impending crises in the short to medium-term.

Report Card 2013 raised concerns in relation to the process of procuring of school building contracts, in particular the relative marks attributable to 'school design quality' in the list of criteria for the design process. Revised procedures for tendering for design teams were published by the Department of Education and Skills in 2012 and came into force early in 2013.¹⁷⁶ The new procedures have been utilised for smaller scale projects. Appointment of design teams for larger projects (over €2.5 million), using the restricted tender procedure, are made from *Frameworks of Suitably Qualified Consultants* which were put in place in 2012 and which expire in early 2014. The Department is currently completing a tender exercise to put in place new frameworks which will utilise the new recruitment procedures for all major school building projects. These new frameworks will be in place throughout 2014 and 2015.¹⁷⁷ The Department of Education and Skills should continue to take the necessary steps to update its school design guidelines on its website so that new developments in the changing nature of teaching and learning practices can be considered by design firms. Also in a welcome move in 2013, the Minister for Education and Skills introduced random audits on school building projects, to verify pay and conditions on building sites.¹⁷⁸

174 UN Committee on the Rights of the Child (2006), *Concluding Observations: Ireland, CRC/C/IRL/CO/2*, paragraph 59(b).

175 Department of Education and Skills (2013) *Projections of full time enrolment: Primary and second level 2013-2031*, <http://www.education.ie/en/Publications/Statistics/Statistical-Reports/Projections-of-full-time-enrolment-Primary-and-Second-level-2013-2031.pdf> [accessed 27 August 2013].

176 Communication received by the Children's Rights Alliance from the Department of Education and Skills on 28 January 2013.

177 Communication received by the Children's Rights Alliance from the Department of Education and Skills on 23 December 2013.

178 Department of Education and Skills, 'Random audits to verify pay and conditions on building projects in the education sector to be introduced by the Minister for Education and Skills' 24 April 2013 [press release], <http://www.education.ie/en/Press-Events/Press-Releases/2013-Press-Releases/PR13-04-24.html> [accessed 1 September 2013].

Report Card 2013 referred to the results of a 2012 survey which highlighted the absolute necessity of the Minor Works Grants for many schools.¹⁷⁹ Therefore, the announcement in November 2013 of funding of €28 million as part of a Minor Works Grant Scheme for the 2013/14 school year was a most welcome development. This will assist primary schools in undertaking small scale repair works.¹⁸⁰ The introduction of a Summer Works Scheme for primary and post-primary school improvement works in 2014 was also announced for which €40 million will be made available. This will enable eligible schools to carry out small and medium scale building works that will improve and upgrade existing school buildings.¹⁸¹

“In its most recent review of Ireland, the UN Committee on the Rights of the Child recommended that the State ensure that budgetary allocations are directed at improving and upgrading school buildings and recreational facilities in schools.”

179 Catholic Primary Schools Management Association, Survey on School Funding carried out by Amárach Research, November 2012. The survey received 540 responses from a total of 2,900 primary schools nationwide. 86% of primary schools reported to rely on ad-hoc funding to make up shortfalls in funding; 43% asked parents to make an annual 'voluntary contribution' and 25% were forced to rent out property to raise funds.

180 Department of Education and Skills, 'Minister Quinn Announces €70million for school improvements', 7 November 2013 [press release], <http://www.education.ie/en/Press-Events/Press-Releases/2013-Press-Releases/PR13-11-07.html> [accessed 2 January 2014].

181 Ibid.

Immediate Action for 2014

Ensure that the promised funding for the remainder of the School Buildings Programme is protected and that quality is maintained

The investments made as part of the five-year building programme to build new classrooms and to replace unsatisfactory or prefab accommodation are significant. Funding for this programme should be maintained in order to ensure that it is brought fully to fruition. Quality of design should also be a priority in the selection of firms bidding for contracts for school building design contracts to ensure that the designs can adapt to the changing nature of teaching and learning.

2.5 Patronage and Pluralism in Education

Grade B+

Government Commitment	Progress
The <i>Programme for Government</i> commits to initiating a time-limited Forum on Patronage and Pluralism in the Primary Sector to allow all stakeholders, including parents, to engage in open debate on change of patronage in communities where it is appropriate and necessary. The Forum will have concise terms of reference and will sit for a maximum of 12 months.	Completed
The Forum's recommendations will be drawn up into a White Paper for consideration and implementation by Government to ensure that the education system can provide a sufficiently diverse number of schools, catering for all religions and none.	On track

What's happening?

The final report of the Forum on Patronage and Pluralism was published in 2012. The White Paper has not yet been published. Parental surveys in 38 selected areas across Ireland were completed in 2013.

The Forum on Patronage and Pluralism in the Primary Sector, launched in April 2011¹⁸² completed its work within its one year remit.¹⁸³ The final report of the Forum's Advisory Group was published by the Minister for Education and Skills, Ruairi Quinn TD, in April 2012.¹⁸⁴ In June 2012, the Minister released an action plan in response to the recommendations of the Advisory Group's report. In its final report, the Advisory Group put forward three key recommendations. The first related to the divesting of patronage, which would take place in a phased process; the second related to the provision of Irish language schools, including the piloting of the concept of a 'satellite' school, which would be linked to a well-established 'parent' Irish medium school; and the third drew attention to the issues affecting 'stand-alone' schools (where there is no other choice of school nearby) and focused on how these schools can be more inclusive and respect the constitutional rights of all children.

The Government also committed to drawing up a White Paper in relation to promoting inclusiveness in all schools. Submissions were invited on the issue and the deadline was 22 November 2013. A White Paper on the issue is expected to be published in 2014.¹⁸⁵

182 The Forum comprised Professor John Coolahan (Chair); Dr Caroline Hussey and Fionnuala Kilfeather.

183 Patronage refers to the ownership and management of schools. In Ireland, the vast majority of primary schools are privately owned and supported by different churches. The State pays the bulk of the building and running costs and a local contribution is made towards the running costs.

184 J. Coolahan et al., *The Forum on Patronage and Pluralism in the Primary Sector (2012) Report of the Forum's Advisory Group*, <http://www.education.ie/en/Press-Events/Conferences/Patronage-and-Pluralism-in-the-Primary-Sector/The-Forum-on-Patronage-and-Pluralism-in-the-Primary-Sector-Report-of-the-Forum-Advisory-Group.pdf> [accessed 18 January 2013].

185 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 23 December 2013.

In June 2012, Minister for Education and Skills, Ruairí Quinn TD, announced that he would request the National Council for Curriculum and Assessment (NCCA) to explore the development of an Education about Religion and Beliefs (ERB) and Ethics programme, with education partners and religious interests.¹⁸⁶ An Education Officer was appointed by the NCCA in October 2013 to develop the Education about Religion and Beliefs (ERB) and Ethics programme.¹⁸⁷

Following a pilot survey of parents in five areas in autumn 2012, the Department of Education and Skills ran a wider parental survey in January 2013 regarding the possible divestment of existing patronage in 38 areas across Ireland. The areas were selected as suitable for some divestment from existing denominational patronage by virtue of having few or no multi-denominational primary schools, and because the option of building a new school was not considered feasible due to insufficient population growth.¹⁸⁸ Of the 38 areas surveyed in 2013, 23 demonstrated demand for an immediate change in the existing patron:¹⁸⁹ 22 areas opted for the establishment of an English language multi-denominational school and one chose the establishment of an Irish language school.¹⁹⁰ Existing patrons were given three months to provide an interim response to the Department after consulting with their local school communities, and six months to provide a final response.¹⁹¹ By the end of November, final responses were received from all but one of the main Patrons who are supportive of the process.¹⁹² The Department of Education and Skills is considering the responses.¹⁹³

In November 2013, a decision on patronage in relation to nine newly established primary schools was announced. Of these nine schools, Educate Together was awarded sole patronage of four schools and joint patronage with the Kildare and Wicklow Education Training Board of one further school. The remaining five patrons announced include; the Edmund Rice School Trust and the Education Training Boards of Cavan and Monaghan, Cork, Dublin and Dun Laoghaire.¹⁹⁴

186 Department of Education and Skills, 'Minister Quinn outlines his Action Plan in response to the report of the Advisory Group to the Forum on Patronage and Pluralism in the Primary Sector' [press release], 20 June 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/20-June-2012-Minister-Quinn-outlines-his-Action-Plan-in-response-to-the-report-of-the-Advisory-Group-to-the-Forum-on-Patronage-and-Pluralism-in-the-Primary-Sector-.html> [accessed 19 November 2012].

187 Communication received by the Children's Rights Alliance from the Department of Education and Skills 23 December 2013.

188 Department of Education and Skills (2013) *Report on the Surveys Regarding Parental Preferences on Primary School Patronage*, <http://www.education.ie/en/Publications/Policy-Reports/Report-on-the-surveys-regarding-parental-preferences-on-primary-school-patronage.pdf> [accessed 27 August 2013]. Department of Education and Skills, 'Minister Quinn asks parents for their views on patron options for primary schools' [press release], 22 October 2012, <http://education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR12-10-22.html> [accessed 19 November 2012].

189 Patrons are bodies that establish schools, appoint the Board of Management of the school and also determine the ethos of the school. Their responsibilities are set out in law under the Education Act 1998. The level of demand deemed sufficient to support a recommendation for a change in ethos of school was set at the minimum enrolment sufficient for a four teacher school. The outcomes and recommendations were verified by the New Schools' Establishment Group, which has responsibility for overseeing the process.

190 Parents expressed a preference for an Educate Together patron in 20 of the areas and the other two towns will see Community National Schools established, run by the local VEC. 30 of the 38 areas surveyed already have a gaelscoil option available for parents.

191 Department of Education and Skills, 'Pilot surveys on parental patronage preferences show demand for diversity' [press release], 12 December 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR12-12-12.html> [accessed 13 December 2012].

192 An acting Administrator is in place in the diocese of Waterford and Lismore therefore a response has not been received.

193 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 23 December 2013.

194 Department of Education and Skills, 'Minister Quinn announces patronage of 3 new post-primary schools to be established in Dublin in 2014' [press release], <http://www.education.ie/en/Press-Events/Press-Releases/2013-Press-Releases/PR13-11-28A.html> [accessed 16 December 2013].

Comment

Patronage and Pluralism in Primary Education gets a **B+** grade in *Report Card 2014* to reflect the continuing positive engagement on this issue by the Department of Education and Skills. It also reflects the completion of parental surveys on school patronage, the appointment of an Education Officer by the NCCA in October 2013 to develop an Education about Religion and Beliefs (ERB) and Ethics programme and the announcement of diverse patrons for nine new schools.

Every child's right to education is guaranteed under the UN Convention on the Rights of the Child (Article 28), as is the right to 'freedom of thought, conscience and religion' (Article 14). Of specific relevance to the issue of patronage is Article 2, which states that 'State Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion [...]'.¹⁹⁵ General Comment No.1 (2001) of the UN Committee on the Rights of the Child notes that Article 29 (1) (aims of education) provides that education should be directed by a wide range of values, overcoming the boundaries of religion, nation and culture. The Committee continues by stating that 'the school environment itself must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin called for in Article 29 (1) (b) and (d)'.¹⁹⁶

The Committee's 2006 Concluding Observations on Ireland called for the establishment of multi-denominational and non-denominational schools and recommended that the existing legislative framework be amended to eliminate discrimination in school admissions.¹⁹⁷ Similarly, in their *Concluding Observations* on Ireland in 2011, the Committee for the Elimination of Racial Discrimination (CERD) recommended that the State accelerate its efforts to establish alternative, non-denominational or multi-denominational schools and to amend the existing legislation that inhibits students from enrolling into a school because of their faith or belief.¹⁹⁸ In March 2012, the Government accepted a recommendation made during the Universal Periodic Review process requesting that efforts be accelerated in establishing a national network of schools to guarantee equal access to children irrespective of their religious, cultural or social background.¹⁹⁹

In its most recent report on Ireland, the European Commission against Racism and Intolerance (ECRI) expressed concern that where demand for schools exceeds the availability of places a school is entitled to adopt a preferential enrolment policy which can result in discriminatory behaviour.²⁰⁰

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

196 UN Committee on the Rights of the Child (2001), *General Comment No.1: The aims of education*, CRC/GC/2001/1.

197 UN Committee on the Rights of the Child (2006), *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 61.

198 UN Committee on the Rights of the Elimination of Racial Discrimination (2011), *Concluding Observations: Ireland*, CERD/C/IRL/CO/3-4, paragraph 26.

199 Department of Justice and Equality (2012), *Addendum to the Report of the Working Group on the UPR*, <http://www.upr.ie/Clients/CEGA/UPRWeb.nsf/page/reports-en> [accessed 7 December 2012].

200 European Commission against Racism and Intolerance, *Fourth Country Report on Ireland*, 19 February 2013, <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Ireland/IRL-CbC-IV-2013-001-ENG.pdf> [accessed 16 December 2013].

The parental survey initiative is to be welcomed. In total 10,715 valid surveys²⁰¹ were received in respect of almost 20,400 children.²⁰² Of the 38 areas surveyed in 2013, 23 demonstrated demand for an immediate change in the existing patron:²⁰³ Comprehensive reform of the 180 year-old primary education system to accommodate the diversity now present within the Irish population, both among Irish and migrant families, is clearly needed given that in 2011, 96% of schools were found to have a religious patron, with 89.6% under the patronage of the Catholic Church.²⁰⁴ The challenge is not to re-design the primary system, but to adapt it to be more inclusive and to devise new forms of patronage.²⁰⁵

In 2010, the Roman Catholic Church authorities, as lead patron, accepted the need for change and endorsed the principle of parental choice in education.²⁰⁶ In October 2012, the Bishops' Council for Education reiterated its commitment to parental choice with regard to education.²⁰⁷ A 2012 paper by the Catholic Schools Partnership stated that 'if sufficient demand for a school under different patronage [from denominational] can be demonstrated then all of the stakeholders should work in partnership towards this goal.'²⁰⁸

The commitment to develop a new programme, Education about Religion and Beliefs (ERB) and Ethics, with education partners and religious interests, is welcome. The appointment of an Education Officer by the NCCA to develop the programme is also to be welcomed. To address issues of diversity, many schools with religious patrons have developed practical solutions and good practice guidelines on how to accommodate the rights and needs of all pupils. While this remains *ad hoc*, it is evidence of how many schools are successfully accommodating greater cultural, ethnic, linguistic and religious diversity within their pupil bodies, and should be acknowledged and drawn upon when devising the new programme.

Finally, it is important to note that the work of the Forum applies to primary education only, and an important next step will be to take lessons learned and consider how they can be applied at second-level. The announcement of a diverse list of Patrons for the nine new post-primary schools is a welcome development. The decision making process involved the use of the New School Establishment Group, an independent advisory group that reported to the Department of Education and Skills. The criteria for selection required prospective patrons to provide evidence of parental demand and how the proposed schools under the respective patrons would provide for extending or strengthening diversity of school ethos in each area.²⁰⁹ The use of these criteria for new school buildings ensures that both parental demand and diversity of ethos are central when awarding new patronage.

201 2,098 surveys received were deemed invalid as they were duplicates or did not contain the respondent's name, address or Personal Public Service (PPS) Number.

202 Department of Education and Skills (2013) *Report on the Surveys Regarding Parental Preferences on Primary School Patronage*, <http://www.education.ie/en/Publications/Policy-Reports/Report-on-the-surveys-regarding-parental-preferences-on-primary-school-patronage.pdf> [accessed 2 January 2014].

203 Patrons are bodies that establish schools, appoint the Board of Management of the school and also determine the ethos of the school. Their responsibilities are set out in law under the Education Act, 1998. The level of demand deemed sufficient to support a recommendation for a change in ethos of school was set at the minimum enrolment sufficient for a four teacher school. The outcomes and recommendations were verified by the New Schools' Establishment Group which has responsibility for overseeing the process.

204 Department of Education and Skills (2011) 'Public Submissions: Forum on Patronage and Pluralism in the Primary Sector, Themes for Written Submissions', http://www.education.ie/servlet/blob/vlet/fpp_themes_for_written_submissions.pdf [accessed 12 December 2011].

205 Irish Human Rights Commission (2011), *Religion and Education: A Human Rights Perspective*, Dublin: Irish Human Rights Commission.

206 Cardinal Sean Brady, Archbishop of Armagh, 'Full text of address at the launch of Catholic Schools Week and the inauguration of Catholic Schools Partnership, in the Emmaus Centre, Swords, Co Dublin', *Irish Times* [online], 28 January 2010, <http://www.irishtimes.com/focus/2010/bradyspeech/index.pdf> [accessed 14 January 2013]. See also: Irish Catholic Bishops' Conference, 'Catholic Church reiterates importance of parental choice in school provision' [press release], 5 March 2010, <http://www.catholicbishops.ie/2010/03/08/catholic-church-reiterates-importance-of-parental-choice-in-school-provision/> [accessed 14 January 2013].

207 Irish Catholic Bishops' Conference, 'Bishops' Council for Education welcomes survey of parental opinion' [press release], 22 October 2012, <http://www.catholicbishops.ie/2012/10/22/bishops-council-education-welcomes-survey-parental-opinion/> [accessed 14 January 2013].

208 Catholic Schools Partnership (2012), *Catholic Primary Schools: Looking to the future*, Kildare: Catholic Schools Partnership.

209 Department of Education and Skills, 'Minister Quinn announces patronage of 3 new post-primary schools to be established in Dublin in 2014' [press release], <http://www.education.ie/en/Press-Events/Press-Releases/2013-Press-Releases/PR13-11-28A.html> [accessed 16 December 2013].

Immediate Actions for 2014

Commence divestment when appropriate and publish the White Paper on Patronage and Pluralism in Primary Education

A strong momentum has gathered around this issue over the past two years; this should be built on to bring to completion the divestment process when appropriate. The Department of Education and Skills should act on the interim and final reports that it has now received from the patrons of the areas identified for possible divestment in the Parental School Survey. In addition, as was called for in *Report Card 2012* and *2013*, the Government should publish the White Paper on Patronage and Pluralism in Primary Education.

Commence the development of a programme on Education about Religion and Beliefs (ERB) and Ethics

For many children the only local option will be a denominational school however, the right of these children to access education in a manner which reflects their cultural, ethnic, linguistic and religious beliefs must be upheld. It is essential that the programme on Education about Religion and Beliefs be developed and implemented within schools as a matter of priority.



“The evidence regarding the need to tackle alcohol-related harm is overwhelming and reports have been mounting for years now without anything happening in terms of a national strategy, so it’s very encouraging to finally see this Government take decisive action to tackle what is a major public health issue.”

Suzanne Costello, CEO Alcohol Action Ireland

Chapter 3:

Right to Health

Grade D+



Massive turn-out expected for march to save mental health unit

By Ciarán Tierney

A key four day period in the campaign to save a brand new €2.8 million acute mental health unit in Ballinasloe begins today when hundreds of people are expected to join a protest march through the town.

In The News

Four days later, on the day the Dáil resumes after its summer break, a delegation from the East Galway town will meet a group of politicians in Dublin – including Labour’s Minister of State for Health Kathleen Lynch – to make the case for keeping the unit open. The Health Service Authority (West) decision to close the brand new 22-bed unit has caused uproar throughout East Galway and Roscommon since it was announced six weeks ago. Doctors, mental health care professionals, sports and social clubs, and the families of service users have joined a vocal campaign group which has vowed to keep the unit at St Brigid’s Hospital open. The protest march on Sunday has been organised by the East Galway Mental Health Action Group, which sprung up after over 500 people attended an emotional meeting in the town two weeks ago.

This week, the Psychiatric Nurses Association (PNA) said the plans to remove the 22 acute beds from St Brigid’s without putting community health teams in place as an “abuse” of the national Vision for Change strategy for mental health services.

“Vision for Change is not so much that you need to remove beds more that the needs for beds is removed, while the HSE West is using Vision as a means of cutting beds without having the community supports in place to meet the demand for services,” said PNA National Secretary Noel Giblin. Mr Giblin said the reality of the situation in Galway and Roscommon was that 32 acute beds were being taken out of the system, while there were no acute mental health teams in place who could treat patients in their own homes.

Those attending the protest will assemble at the Ballinasloe Library car park at 12.30pm, before marching through Society Street, Main Street, and New Road, before finishing in St Michael’s Square, where a number of speakers will address the protestors.

Connacht Tribune, 15 September 2013

3 | Right to Health

Overall
Grade **D+**

The Right to Health

Every child has the right to life and development, to enjoy of 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 UNCRC

Health is awarded an overall 'D+' grade this year, the same grade as last year, to reflect the lack of progress and the continued failure to address many of the immediate actions recommended in previous report cards. The move to introduce free GP care for children aged five and under is welcomed and recognised in the 'C' grade awarded to primary care. However, the failure to put in place the primary care teams, coupled with the removal of discretionary medical cards from children with high level health needs, means that we cannot award it a higher grade. Concerns about the treatment of children and adolescents with mental health needs as well as further delays in the planning and construction of the Children's Hospital have also contributed to this disappointing grade.

In its 2006 *Concluding Observations*, the UN Committee on the Rights of the Child welcomed the development of a Primary Care Strategy, but noted the lack of a comprehensive legal framework, as well as the absence of statutory guidelines safeguarding the quality of, and access to health care services, particularly for children in vulnerable situations.²¹⁰ The Committee also raised concerns about the ongoing practice of treating children with mental health issues in adult in-patient units and the failure to address harmful levels of alcohol consumption by adolescents.²¹¹

In health, as in all aspects of childhood, the early years are vital. To truly improve children's right to health, especially among the most vulnerable, Government must invest early. The publication of *Healthy Ireland: A framework for improved health and wellbeing 2013-2015* is welcome. A single document bringing together Government's focus and objectives relating to the overall population's health is much needed and overdue. The recognition that health is a personal, social and economic good and that our nation's health is our most powerful resource is encouraging. The focus on addressing critical health challenges including obesity, alcohol and drug use, smoking and mental health in an integrated, collaborative way provides a positive future outlook. However, as with all policy documents, implementation is key. To be successful, the Framework must show that it can drive strategic direction in child health policy which, to date, has been missing. It must also align with the forthcoming National Children and Young People's Policy Framework, expected in early 2014. Next year's Report Card will assess whether necessary steps were taken to deliver on the Framework's promises.

Though *Healthy Ireland: A framework for improved health and wellbeing 2013-2015* provides a high-level strategy for addressing obesity in Ireland, there is still no political commitment or strategy to address the childhood obesity epidemic.²¹² This is a serious oversight and will have devastating, long-term implications for children's health. Addressing this issue must be a core element of the forthcoming National Children and Young People's Policy Framework, particularly given the cross-departmental and multi-agency response required to truly solve this problem. The prevalence of eating disorders among children, and the lack of strategy to tackle this problem, coupled with concern at childhood obesity and malnutrition as symptoms of food poverty are further issues of concern.

210 For a discussion on this issue see U. Kilkelly (2008) *Children's Rights in Ireland: Law, Policy and Practice*, Dublin: Tottel Publishing.

211 United Nations Committee on the Rights of the Child (2006) *Concluding Observations: Ireland* (CRC/C/IRL/CO/2 paragraphs 50 and 51).

212 Paul Cullen 'Children showing heart risk factors', *The Irish Times*, 17 January 2013.

3.1 Primary Care

Grade C

Government Commitment

Progress

The *Programme for Government* commits to introducing Universal Primary Care and removing fees for General Practitioner (GP) care within this Government's term of office. It also commits that:

- the legislative basis for Universal Primary Care will be established under a Universal Primary Care Act.
- Universal Primary Care will be introduced in phases so that additional doctors, nurses and other primary care professionals can be recruited.

Limited progress

What's happening?

Budget 2014 saw the announcement of free GP care for children aged five and under. Progress on primary care is slow and information is opaque.

Primary Care Teams: The Government pledged to create 530 Primary Care Teams by the end of 2011.²¹³ This target was revised down to 489 by the end of 2012 following a realignment of team boundaries and the amalgamation of certain teams.²¹⁴ This has been further revised to 485 operational teams in the HSE's 2014 *National Service Plan*. At the end of December 2013, 419 Primary Care Teams,²¹⁵ at different levels of development, were in operation across the country.²¹⁶ Although some new teams were established in 2013, some of the existing teams no longer qualify for inclusion in the overall total as GPs no longer participate in these teams. This has resulted in an overall decrease of six teams compared with the December 2012 figure.²¹⁷ The *HSE National Service Plan 2014* states that the primary care budget for 2014 will be €725 million, an increase of €231.3 million from 2013.²¹⁸

Primary Care Centres: A list of 35 Primary Care Centre sites was published in November 2012. In 2013, the Department of Health announced its intention to progress 29 of the 35 Primary Care Centre sites: 19 under Public Private Partnership (PPP) agreements, seven through operational leases and three through direct build or refurbishment projects. Building and refurbishment work is underway at 15 locations with six sites under construction and planning permission has been sought for a further 22 sites.²¹⁹ The *HSE National Service Plan 2014* commits to opening 21 primary care centres over 2014 and early 2015.²²⁰ Excluding these, the HSE is constructing a further 12 primary care centres. The Primary Care Centre PPP Project

213 Health Service Executive, http://www.hse.ie/eng/services/Find_a_Service/Primary/ [accessed 19 December 2012].

214 Health Service Executive (2012) *Update on Comptroller and Auditor General Report Chapter on Primary Care Teams for PCA Meeting*, Dublin: Health Service Executive, p. 7.

215 These teams hold multi-disciplinary clinical team meetings involving GPs and HSE staff.

216 Alex White TD, Minister of State for Primary Care, Parliamentary Questions: Written Answers, 20 November 2013 [49717/13].

217 Communication received by the Children's Right Alliance from the Department of Health, 27 January 2014.

218 Health Service Executive (2013) *National Service Plan 2014*, Dublin: Health Service Executive, p. 35.

219 Minister of State for Primary Care Alex White TD Parliamentary Questions, Written Answers, 20 November 2013 [49717/13].

220 Health Service Executive (2013) *National Service Plan 2014*, Dublin: Health Service Executive, p.35.

will be offered to the market as one project; 14 planning applications have been lodged with a further two to follow shortly.²²¹

Free GP Care: In May 2013, the Attorney General advised that the introduction of free GP care to people with certain chronic illnesses would be open to legal challenge, leading to the abandonment of this plan.²²² Despite this, the Taoiseach in May 2013 stated that the Government remained 'fully committed to delivering free GP care in its first term of office.'²²³ At a speech to the MacGill summer school in August 2013, the Minister for Health, James Reilly TD, revealed a remodelled strategy proposing the phased introduction of free GP care for all according to age group starting with young children.²²⁴ The Department of Health's *Future Health: A Strategic Framework for Reform of the Health Service 2012 – 2015*,²²⁵ refers to the ultimate goal of a universal healthcare system but acknowledges that 'reforms will be introduced in a step by step manner'. In Budget 2014, €37 million was allocated to provide free GP care for children aged five years and below amounting to approximately 420,000 children,²²⁶ an additional quarter of a million children on top of existing card holders.²²⁷ This was hailed by the Government as the first step towards universal free GP care.²²⁸ It is expected that this measure alongside the current level of medical card and GP visit card holders will result in almost half the population having free GP care at point of access.²²⁹ The medical card scheme is primarily a means-tested scheme. A review of the eligibility of current medical card holders (or medical card probity) to ensure that the medical card holder's entitlement is in line with the legislation governing the scheme was also announced in Budget 2014. Initially it was expected to result in €113 million in savings for the Department of Health but this has subsequently been revised down to €23 million.²³⁰

Frontline Staff: In July 2012, the Minister for Health, James Reilly TD, announced the recruitment of 272 key frontline health staff to address variation across the HSE's 17 integrated service areas including the ratios of health care professionals to population and bringing staffing towards the national average across service areas. This included 17 Clinical Nurse Specialists to support the Integrated Care Diabetes Programme and 255 other Primary Care Team staff. While €20 million was set aside to fund these posts they were not filled in 2012 as planned and funding was redirected by the HSE.²³¹

In early 2013, the HSE commenced recruitment of the 17 Clinical Diabetes Nurse Specialists. At the end of December 2013, 11 posts had been filled; five posts had been accepted by candidates (awaiting Garda clearance); and a supplementary recruitment campaign is in progress for one post.²³²

In March 2013, approval was granted to commence recruitment for 251 posts within Primary Care Teams: 70 public health nurses; 37 registered general nurses; 51 occupational therapists; 46 physiotherapists and 47 speech and language therapists. In August 2013, a further 13.5 Primary Care posts (two public health nurses, 3.5 registered general nurses, 1.5 occupational therapists, 1.5 physiotherapists and five speech and language therapists) were approved.²³³ The recruitment process is ongoing in relation to the 264.5 Primary Care Team posts. The position at the end of December 2013 was that 160 posts had been filled or start dates agreed.²³⁴

221 Communication received by the Children's Right Alliance from the Department of Health on 27 January 2014.

222 Paul Cullen, 'GP card plan for long-term illness to be dropped' *The Irish Times*, 8 May 2013. The Programme for Government commits: 'Access to primary care without fees will be extended in the first year to claimants of free drugs under the Long-Term Illness scheme at a cost of €17 million. Access to primary care without fees will be extended in the second year to claimants of free drugs under the High-Tech Drugs scheme at a cost of €15 million. Access to subsidised care will be extended to all in the next phase. Access to care without fees will be extended to all in the final phase.'

223 Gerry Moriarty 'Kenny insists Government will deliver on free GP care' *The Irish Times*, 9 May 2013.

224 Paul Cullen 'Reilly plans free GP care for the under-fives' *The Irish Times*, 6 August 2013

225 Department of Health (2012) *Future health: a strategic framework for reform of the health service 2012 – 2015*, Dublin: Department of Health.

226 Health Service Executive (2013) *National Service Plan 2014*, Dublin: Health Service Executive, p.38.

227 Communication received by the Children's Right Alliance from the Department of Health on 27 January 2014.

228 Minister for Public Expenditure and Reform, Mr. Brendan Howlin TD, *Address to Dáil Éireann on Expenditure Estimates 2014*, Tuesday 15th October 2013.

229 Information received by the Children's Rights Alliance from the Department of Health on 6 December 2013

230 Health Service Executive (2013) *National Service Plan 2013*, Dublin: Health Service Executive, p.17.

231 Communication received by the Children's Rights Alliance from the Department of Health on 27 January 2014.

232 Ibid.

233 Ibid.

234 Ibid.

Healthy Ireland: A framework for improved health and wellbeing 2013-2015 was published in March 2013.²³⁵ The framework is intended to improve the health and wellbeing of the population of Ireland over the coming generation. It is based around four central goals: increasing the proportion of people who are healthy at all stages of life; reducing health inequalities; protecting the public from threats to health and wellbeing and creating an environment where every individual and sector of society can play a part in achieving a healthy Ireland. These overarching goals are accompanied by 64 actions that drive cross-sectoral and collaborative working. The Cabinet Committee on Social Policy, chaired by An Taoiseach, is responsible for the Framework's implementation. The Department of Health is working with a number of other departments and statutory agencies, including the HSE, on the implementation of the Framework.²³⁶ The development of a three year health service implementation plan for the Framework is a priority for 2014.²³⁷

National Healthcare Charter for Children: The HSE is currently in the process of developing a National Healthcare Charter for Children in consultation with children, parents and healthcare workers. The Charter aims to ensure that children receive quality healthcare which is both appropriate to their needs and circumstances. The Charter is based primarily on: *You and Your Health Service Ireland*; the UN Convention on the Rights of the Child; and the Charter of the European Association for Children in Hospital. The Charter supports the implementation of the National Policy on Children's Participation in Decision-Making.²³⁸ This Charter is expected to be published in 2014.

Comment

Primary care gets a 'C' grade in *Report Card 2014*, an increase from last year's 'D' grade. This improved performance reflects the announcement of free GP care for all children aged five and under and the introduction of the *Healthy Ireland* framework. However, concerns still remain at the delay in the delivery of the primary care sites promised as well as long waiting lists for treatment and the removal of medical cards from some children with high level medical needs.

Article 24 of the UN Convention on the Rights of the Child calls on States to provide necessary health care to all children. It places particular emphasis on the development of primary health care.²³⁹ The UN Committee on the Rights of the Child in its *Concluding Observations* on Ireland in 2006 acknowledged that it was concerned about the lack of guidelines safeguarding access to healthcare. It also stated that Ireland should 'ensure that availability and quality of health care services are maintained throughout the country by providing targeted resources and by establishing statutory guidelines for the quality of these services'.²⁴⁰

Primary care is the most basic building block of a successful health service that responds to children's needs.²⁴¹ As a child's first point of contact with the health system, a well-resourced, responsive and effective primary care service has the potential to prevent the development of conditions that may later require more intensive treatment or hospitalisation, at greater cost to the child and the State. The UN Committee on the Rights of the Child has emphasised that primary care services should be accessible by self-referral and have a strong focus on working with communities and individuals to improve their health and social wellbeing.²⁴²

235 Department of Health (2013) *Healthy Ireland: A framework for improved health and wellbeing 2013-2015*, Dublin: Department of Health.

236 Communication received by the Children's Rights Alliance from the Department of Health on 27 January 2014.

237 Health Service Executive (2013) *National Service Plan 2014*, Dublin: Health Service Executive, p.5.

238 The Ombudsman for Children has also published a separate but complementary document on children's rights in a healthcare setting. OCO, 'Development of national policy on Child Friendly healthcare and Inter-sectoral alliances all key to children's rights in Ireland', 20 November 2013 [press release] <http://www.oco.ie/whats-new/media/press-releases/development-of-national-policy-on-child-friendly-healthcare-and-inter-sectoral-alliances-all-key-to-childrens-rights-in-health.html> [accessed 16 December 2013].

239 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989), Article 24 (b).

240 UN Committee on the Rights of the Child (2006), *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, para 45(b).

241 Sheila Greene (2011) '*Getting the First Steps Right*', Presentation at the Department of Health and Children Consultation, Dublin: Trinity Research Centre.

242 Ibid.

Free GP Care: The introduction of free GP care for children aged five and under is a positive first step by the Government in fulfilling its Programme for Government commitment to introduce universal health care. This development will greatly benefit children's right to access healthcare and supports an early intervention approach to health in line with General Comment No. 15 of the Committee on the Rights of the Child,²⁴³ which calls for 'universal coverage of quality primary health services'.²⁴⁴ The World Health Organisation has identified that the aim of 'universal health coverage is to ensure that everyone can use the health services they need without risk of financial ruin or impoverishment'.²⁴⁵ Furthermore, the UN General Assembly unanimously passed a draft resolution supporting universal healthcare in December 2012.²⁴⁶ The implementation of free GP care will require primary legislation and the necessary administrative arrangements will be put in place during the course of 2014.²⁴⁷ Proposals based on a range of options for introducing the free GP care for children under six will be brought to Government for its consideration to ensure the introduction of universal GP care on a phased basis.²⁴⁸ There must be equality of access and care for all children especially those who may be less likely to link in with the same GP on a regular basis: for example Traveller or Roma children. A system that ensures that all children under six living in Ireland can avail of free GP care needs to be tailored to meet the needs of particular groups of children so that no child is excluded from the scheme because they are not included on the Child Benefit register or because they do not have their own Personal Public Services (PPS) Number.²⁴⁹

While the introduction of free GP care is a welcome development, it is critical that this is not introduced at the expense of children with high level special needs and chronic illnesses. There have been a number of high profile media reports about the withdrawal of discretionary medical cards from children with very complex medical needs.²⁵⁰ Under the Health Act 1970 (as amended), depending on a person's financial circumstances and whether he or she would face undue hardship, a person can qualify for a medical card when he or she cannot afford GP, medical or surgical treatment for him or herself and any dependents. This is not related to any specific category of illness. This has resulted in protests at Crumlin Children's Hospital²⁵¹ and at various other locations around the country.²⁵² The Government maintains that there has not been any change in the policy of issuing discretionary medical cards to persons with serious illnesses.²⁵³ However, figures from the HSE show the total number of cards provided on the basis of severe medical needs rather than income had reduced from 63,126 last year to 53,884 by August 2013.²⁵⁴

Frontline Staff: The 272 frontline staff promised (but not delivered) in 2012²⁵⁵ were re-announced – and reduced to 264.5 posts – in 2013,²⁵⁶ with no mention that this was the delayed delivery of last year's promises and not new resources. By December 2013, 160 staff members had been recruited.²⁵⁷ Similarly, the change in the numbers of staff reported in the *HSE Service Plan* make it difficult to track progress year-on-year. In addition, there is no explanation as to what an 'operational' team is. The number of staff required per head of population, their professional profile, the range of services provided and the geographical make up of a designated primary care site is basic information that should be easily accessible to the public. Creating confusion with jargon and skewed statistics is unacceptable.

243 UN Committee on the Rights of the Child (2013) *General Comment No. 15: the right of the child to the enjoyment of the highest attainable standard of health* CRC/C/GC/15.

244 Ibid, para. 73.

245 World Health Organisation (2013) *The World Health Report 2013: Research for Universal Health Coverage*, Geneva: World Health Organisation.

246 UN General Assembly Resolution A/RES/67/81. Global health and foreign policy. Sixty-seventh session. Agenda item 123, 2012, http://www.un.org/ga/search/view_doc.asp?symbol=A/67/L.36&referer=http://www.un.org/en/ga/info/draft/index.shtml&Lang=E [accessed 6 February 2014].

247 Communication received by the Children's Rights Alliance from the Department of Health, 6 December 2013

248 Ibid.

249 Some children under six will not be included on the Child Benefit register as their parents will not qualify for the payment due to the application of the Habitual Residence Condition, a condition attached to all means-tested social welfare payments and Child Benefit. Also some children may not have a PPS number if their parents are undocumented.

250 Paul Cullen 'Calls for Medical Cards for Very Sick Children', *The Irish Times*, 22 October 2013

251 Christopher McKinley 'Hospital Vigil held in Protest at Removal of Medical Cards', *The Irish Times*, 27 October 2013.

252 Deirdre O'Reilly 'Don't take our Medical Cards', *The Evening Echo*, 11 November 2013.

253 Taoiseach Enda Kenny TD, Leaders Questions, 20 November 2013.

254 Deirdre O'Reilly 'Don't take our Medical Cards', *The Evening Echo* 11 November 2013.

255 Department of Health, 'Recruitment of New Staff for Primary Care', [press release], 17 July 2012, <http://www.dohc.ie/press/releases/2012/20120717c.html> [accessed 9 December 2012].

256 Communication received by the Children's Rights Alliance from the Department of Health, 27 January 2014.

257 Minister of State for Primary Care, Alex White TD, Parliamentary Questions: Written Answers, 20 November 2013 [49717/13].

Delays: During 2013, children still faced long waiting lists to access basic services,²⁵⁸ with geographical variation in HSE service provision proving problematic.²⁵⁹ The waiting lists in the country's two main children's hospitals show that 15,762 children are waiting for treatment at Our Lady's Hospital in Crumlin and 15,310 children are on the waiting lists at Temple Street Hospital. Over 8,000 of these children are waiting over a year and 1,150 children have been waiting up to three years for a heart specialist.²⁶⁰

There have been reports of almost 2,000 children who have problems with basic functions (such as walking) having to wait for over a year to see a specialist, more than 500 of whom have serious conditions such as autism.²⁶¹ There are also significant delays of over three years for children requiring food allergy testing.²⁶² Similarly young people are waiting for up to three years to access orthodontic care.²⁶³ The *HSE National Service Plan 2014* commits to reducing the waiting times for orthodontic treatment and has set a performance indicator that 90% of referrals will be assessed within one year.²⁶⁴ The plan also prioritises a reduction in patient waiting times for assessment and interventions but does not include specific targets.²⁶⁵

Delays in accessing health services like these can have devastating life-long consequences, affecting a child's right to health and education, as well as his or her social development and emotional wellbeing.²⁶⁶ The geographical variations are particularly worrying as the level of healthcare a child receives should not be dependent on the part of the country in which the child lives.

National Healthcare Charter for Children: The ongoing work on the National Healthcare Charter for Children by the HSE is welcome. The consultations with children, parents and healthcare workers are important to ensure that the final Charter is inclusive of the views of the different stakeholders. It is essential that this Charter provides a rights-based approach to dealing with children in the healthcare setting.

The Charter should protect the core principles of dignity, children's participation and consider the best interests of the child. A 2013 study on child-friendly healthcare, published by the Ombudsman for Children highlighted that children who come into contact with the healthcare system need to have their rights protected so they not only receive the healthcare treatment they need, but also that their broader needs as children are also met.²⁶⁷

“The geographical variations are particularly worrying as the level of healthcare a child receives should not be dependent on the part of the country in which the child lives.”

258 Carl O'Brien 'Failing our Children', *The Irish Times*, 12 October 2013.

259 Judith Crosbie 'Almost 2,500 Children Waiting Over a Year to See Specialists', *The Irish Times*, 8 October 2013.

260 N. Hunter, 'Sick Kids Wait Years to See Consultants', *Irish Health*, <http://www.irishhealth.com/article.html?id=22984> [accessed 16 December 2013].

261 Carl O'Brien, 'Failing our Children', *The Irish Times*, 12 October 2013.

262 Evelyn Ring 'Children Face 3 year delay for food allergy tests', *The Irish Examiner*, 17 June 2013.

263 Evelyn Ring '1,500 Teens Wait up to 3 years for Dental Care', *The Irish Examiner*, 22 April 2013.

264 Health Service Executive, (2013) *National Service Plan 2014*, Dublin: Health Service Executive, p.37.

265 Ibid.

266 Irish Association of Speech and Language Therapists, *Service Provision and Recommendations for Change*, <http://www.iaslt.ie/docs/public/exec/IASLT%20SSLT%20Position%20Paper%20Oct%202007.pdf> [accessed 25 January 2013], p. 8; and Fiona Gartland, 'Almost 24,000 children on hospital waiting lists', *The Irish Times*, 3 January 2012.

267 U. Kilkelly and E. Sweeney [2013] *Child Friendly Healthcare*, Dublin: Ombudsman for Children Office, p.14.

Immediate Actions for 2014

Ring-fence multi-annual funding for the delivery of the promised Primary Care teams

This has been an immediate action since *Report Card 2009* and remains unaddressed. To ensure this vital service is funded on a multi-annual basis, a new allocated sub-head should be introduced under the HSE vote (number 39) entitled 'Primary Care'. Spending under this sub-head should be detailed annually in the HSE Service Plans.

Enact the primary legislation necessary for the introduction of free GP care for children aged five and under

In order for the commitment to provide free GP care to children aged five and under to be realised, primary legislation is required. It is essential that this is followed through in early 2014 in order to ensure the scheme can be commenced without delay.

Clarify the Government's policy on the issuing of discretionary medical cards to children with chronic illness

The government needs to clarify the criteria for a child with a severe disability or chronic illness to receive a discretionary medical card.

3.2 Mental Health

Grade E

Government Commitment	Progress
The <i>Programme for Government</i> commits to ring-fencing €35 million annually from within the health budget to develop community mental health teams and services as outlined in <i>A Vision for Change</i> , to ensure early access to more appropriate services for adults and children and improved integration with primary care services. ²⁶⁸	Unsatisfactory
Review the Mental Health Act 2001 in consultation with service users, carers and other stakeholders, informed by human rights standards.	Delayed
Endeavour to end the practice of placing children and adolescents in adult psychiatric wards.	Unsatisfactory

What's happening?

Budget 2014 provided for €20 million of the committed €35 million development funding. Recruitment promised in 2012 and 2013 has yet to be completed. The number of children on waiting lists for appointments has increased. In 2013, 68 children were admitted to adult psychiatric units. Inspection reports for adolescent in-patient units have indicated serious failures in providing appropriate standards of care.

Research published in 2013 by the Royal College of Surgeons in Ireland found that by the age of 13 almost one in three young people will have experienced some form of mental health difficulty and over half will have experienced some mental ill-health by the age of 24.²⁶⁹

Budget 2014 allocated €20 million to be used primarily for the development of community mental health teams including child and adolescent mental health teams, 43% less than the €35 million committed to in the *Programme for Government*.²⁷⁰

268 This commitment aligns with another commitment in the *Programme for Government* within the Primary Care section, which states that: "Ring-fenced funding will be provided to recruit additional psychologists and counsellors to community mental health teams, working closely with primary care teams to ensure early intervention, reduce the stigma associated with mental illness and detect and treat people who are at risk of suicide."

269 Mary Cannon, Helen Coughlan et al (2013) *The Mental Health of Young People in Ireland: A Report of the Psychiatric Epidemiology Research across the Lifespan (PERL) Group*, Dublin: Royal College of Surgeons Ireland, p.37.

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

In Budgets 2012 and 2013, funding was allocated for the recruitment of a total of 894 posts for mental health teams, (417 in 2012 and 477 in 2013). By November 2013, 378 of the 414 posts for 2012²⁷¹ and 412 of the 477 posts for 2013 were filled or in the final stages of the recruitment process.²⁷² Of the €35 million provided for mental health in 2013, €3.6 million of this was allocated to child and adolescent mental health services.²⁷³

The *HSE National Service Plan 2013* committed to two targets: that 70% of child or adolescent referrals will be offered a first appointment and seen within three months and that no child or adolescent will wait over 12 months for a first appointment.²⁷⁴ Between October 2012 and 30 September 2013, 9,616 new cases were seen by community CAMHS teams compared with 8,671 for the previous 12 months, an increase of 11%. In the same period, there were 12,022 referrals accepted by CAMHS teams, which is a 21% increase on the previous 12 months.²⁷⁵ Over this period 50% of all new cases were seen within one month of referral and 71% within three months. Whereas 9% of new cases had waited between three and six months, 5% had waited between six and 12 months and 4% had waited more than one year to be seen, whilst 11% did not attend their first appointment. A total of 2,541 children and adolescents were waiting to be seen at the end of September 2013. This represented an increase of 485 (24%) from the total number waiting at the end of September 2012 (2,056). Forty-three (72%) community CAMHS teams had a waiting list of less than 50 cases and 17 (28%) teams had a waiting list of greater than 50 cases.²⁷⁶ The number of children and adolescents waiting greater than 12 months for an appointment increased from 272 in September 2012 to 413 in September 2013.²⁷⁷ The HSE has admitted that current funding is considerably strained, given rising demands on its services for children and adolescents.²⁷⁸ The *HSE National Service Plan 2014* has committed to a target of 75% of child or adolescent referrals to be offered a first appointment or be seen within three months. No target has been set for the number of children waiting over 12 months for a first appointment. The *National Service Plan 2014* also commits to developing an implementation plan for the last three years of *A Vision for Change* during the course of 2014.²⁷⁹

CAMHS: A Vision for Change recommended the establishment of 107 specialist Child and Adolescent Mental Health Services (CAMHS) teams.²⁸⁰ By the end of September 2013, there were 60 community CAMHS teams in operation, 13% less than the target of 69 set out in the *HSE National Service Plan 2013*.²⁸¹ In addition, there were three child and adolescent day hospital teams and three paediatric hospital liaison mental health teams, consistent with targets set out in the *HSE National Service Plan 2013*.²⁸² Of the 477 mental health posts allocated in 2013, 80 were for CAMHS teams and the remainder were general posts.²⁸³ By the end of November 2013, 412 (86%) of the general posts had been completed or were in the recruitment process but no details are available on the number of persons specifically recruited for the CAMHS teams.

In 2012, the Interim Report of the Steering Group on the Review of the Mental Health Act 2001 was published.²⁸⁴ The report stressed the need for a rights-based approach, including a greater allowance for consent and participation of children in their own mental healthcare and treatment, a proposition supported by Minister for State for Disability, Equality and Mental Health, Kathleen Lynch TD.²⁸⁵ The final findings of the group were due to be published in

271 Kathleen Lynch TD, Minister of State for Disability, Equality, Mental Health and Older People, Parliamentary Questions: Written Answers, 22 October 2013 [44619/13].

272 Kathleen Lynch TD, Minister of State for Disability, Equality, Mental Health and Older People Seanad Éireann Private Members Motion, 3 December 2013.

273 Health Service Executive (2012) *HSE National Service Plan 2013*, Dublin: Health Service Executive p.23.

274 Ibid.

275 Communication received by the Children's Rights Alliance from the Children and Adolescent Mental Health Service on 6 February 2014.

276 Ibid.

277 Health Service Executive (2013) *Health Service Data Management Report September 2013*, Dublin: Health Service Executive, p.78.

278 Judith Crosbie, 'Mental health of young at risk over cuts, HSE warns', *The Irish Times* [online], 3 January 2013, <http://www.irishtimes.com/newspaper/frontpage/2013/0103/1224328379516.html#UOVCjYeIP8> [accessed 3 January 2013].

279 Health Service Executive (2013) *National Service Plan 2014*, Dublin: Health Service Executive, p.48.

280 Department of Health (2006), *A Vision for Change*, Dublin: Stationery Office (revised as per Census 2011). Health Service Executive (2012), *Fourth Annual Child and Adolescent Mental Health Service Report 2011-2012*, Dublin: Health Service Executive, p. 9.

281 Health Service Executive (2013), *Health Service Data Management Report September 2013*, Dublin: Health Service Executive, p.76.

282 Ibid.

283 Health Service Executive (2013) *Health Service National Performance Assurance Report August 2013*, Dublin: Health Service Executive, p. 54.

284 Department of Health (2012) *Interim Report of the Steering Group on the Review of the Mental Health Act 2001*, Dublin: Department of Health.

285 Pamela Duncan, 'Enhance patient autonomy, advises report', *The Irish Times* [online], 22 June 2012, <http://www.irishtimes.com/newspaper/ireland/2012/0622/1224318456479.html> [accessed 2 January 2012].

2013²⁸⁶ but have been delayed pending the enactment of the Assisted Decision-Making (Capacity) Bill which was published in July 2013.

Assessment, Consultation and Therapeutic Service (ACTS): By November 2013, the national specialist multi-disciplinary team for children in special care and detention was operating in three Special Care units, but had not yet rolled out its clinical services to children in detention schools.²⁸⁷ In 2013, there was approval for the recruitment of 22 new posts.²⁸⁸

Bullying and Well-Being: In January 2013, the *Action Plan on Bullying: Report of the Anti-Bullying Working Group to the Minister for Education and Skills* was published.²⁸⁹ In addition to looking at bullying generally, the report examines homophobic, sexual, racist and cyber bullying, as well as bullying related to disability or special educational needs. The Plan sets out 12 actions to help prevent and tackle bullying in primary and post-primary schools. Funding of €500,000 was allocated for actions arising from the plan.²⁹⁰ In September 2013, new *National Procedures on Anti Bullying* were launched to be adopted and implemented by all schools. The procedures aim to give direction and guidance to school authorities and school personnel in preventing and tackling school-based bullying behaviour amongst its pupils. These procedures will replace guidelines issued to schools in 1993 and include specific requirements in relation to the use of prevention and education strategies and the consistent investigation, follow up and recording of bullying behaviour.²⁹¹ In autumn 2013, a total of €60,000 was allocated to the delivery of anti-bullying training for parents, to be delivered jointly by the National Parents' Council Primary and the National Parents' Council Post-Primary.²⁹² Also in 2013, the *Well-Being in Post-Primary Schools: Guidelines for Mental Health Promotion and Suicide Prevention* was published. The guidelines were developed by the Department of Education and Skills and the Department of Health, with the assistance of the HSE, the National Office for Suicide Prevention and the National Educational Psychological Service (NEPS) and are intended to be a practical tool for post-primary schools in promoting mental health and wellbeing in an integrated way and also provide evidence-based advice on how to support young people who may be at risk of suicidal behaviour.²⁹³ Furthermore, one of the key principles for the new Junior Cycle is the promotion of mental wellbeing.²⁹⁴

Adolescent In-Patients: In December 2013, the interim six bed unit in St Loman's Hospital Ground in Palmerstown was scheduled to be opened, increasing the number of adolescent in-patient beds to 66 out of the promised 108. Of these 66 beds only 44 are operational with the remaining 22 due to become operational in 2014.²⁹⁵ In the period January to September 2013, there was a total of 306 admissions of children and adolescents under the age of 18 years: 238 (78%) were admitted to child units and 68 (22%) to adult units. Of the 68 children admitted to adult units a total of 21 (31%) were subsequently transferred to a child unit. Seventeen (81%) of those cases were transferred to Health Service Executive funded units and four (19%) to a private unit.²⁹⁶

286 Kathleen Lynch TD, Minister of State for Disability, Equality, Mental Health and Older People, Parliamentary Questions: Written Answers, 18 September 2013 [38117/13].

287 Frances Fitzgerald TD, Minister for Children and Youth Affairs, Parliamentary Questions: Written Answers, 20 November 2013 [41818/13].

288 The service is led by a management team consisting of the national manager and two heads of discipline. There have been 20 clinicians recruited. The majority are based in Dublin with two regional teams (of four clinicians) in Cork and Limerick. Recruitment is ongoing in three posts and two posts, which were vacated in 2013, are awaiting approval for replacement. Communication received by the Children's Rights Alliance from the Child and Family Agency on 13 January 2014.

289 Department of Education and Skills (2013) *Action Plan on Bullying: Report of the Anti-Bullying Working Group to the Minister for Education and Skills*, Dublin: Department of Education and Skills.

290 Niall Murray, '€500,000 action plan to tackle bullying', *Irish Examiner* [online], 8 December 2012, <http://www.irishexaminer.com/ireland/500000-action-plan-to-tackle-bullying-216350.html> [accessed 3 January 2013].

291 Communication received by the Children's Rights Alliance from the Department of Education and Skills on 14 January 2014.

292 Ibid.

293 Ibid.

294 National Council for Curriculum Assessment *A Framework for Junior Cycle* <http://www.juniorcycle.ie/getmedia/28c6b9d2-b714-4c9e-b23b-41916c7bf98e/NCCA-Junior-Cycle-Leaflet.aspx> [accessed 12 February 2014].

295 Labour Party, 'Working Together: An update on Minister Kathleen Lynch's Programme of Work 2013', http://issuu.com/labour/docs/ministerial_report_from_kathleen_ly/?e=1335761/5983539 [accessed 9 January 2014].

296 Communication received by the Children's Rights Alliance from the Children and Adolescent Mental Health Service on 6 February 2014.

These figures surpass the HSE's target of less than 50 admissions of young people to adult facilities admissions for the whole of 2013;²⁹⁷ while in the corresponding period in 2012 there were 75 admissions, these accounted for only 25% of all admissions.²⁹⁸ Of the 68 admissions in 2013, five were children aged less than 16 years; 27 were children aged 16 years; and 36 were children aged 17 years. This compares to 2013 targets of having no children aged less than 16 years; 15 children aged 16 years; and 35 children aged 17 years admitted to an adult inpatient mental health facility.²⁹⁹ The HSE *National Service Plan 2014* commits to a target that 75% of admissions of children to Child and Adolescent Acute Inpatient Units will be to age appropriate units in 2014 (this figure excludes admissions to private units).³⁰⁰

A Vision for Change recommended that four in-patient child and adolescent mental health units be provided nationally. Units in Galway and Cork were delivered in 2010³⁰¹ and the adolescent in-patient services at St. Vincent's Hospital, Fairview, Dublin, was completed in 2012.³⁰² In January 2014, construction work commenced on the new 24-bed unit Linn Dara unit in the grounds of Cherry Orchard Hospital, which will replace the Interim Linn Dara unit in Palmerstown. On completion in 2015, the eight-bed younger adolescent unit, together with the new six-bed older adolescent unit, will transfer to the new facility.³⁰³ In May 2012, a number of CAMHS teams moved into the new Cherry Orchard facility and the new adolescent day hospital opened in September 2013.³⁰⁴

Three inspection reports for approved adolescent in-patient units have so far been published in 2013.³⁰⁵ The inspections have indicated serious failures in providing appropriate standards of care.

The unit at Merlin Park was found to be using seclusion at a rate and for a duration considered 'excessive',³⁰⁶ and significant errors in the administration of medication were also identified. The unit at Linn Dara was described by inspectors as 'not suitable' as a child and adolescent in-patient unit.³⁰⁷ When inspectors visited the adolescent in-patient unit at St Vincent's Hospital Fairview in May 2013, only eight out of the 12 beds were in use, yet there were 11 adolescents on the waiting list.³⁰⁸

In May 2013, the HSE published its *National Consent Policy*.³⁰⁹ The policy outlines the role of parents and legal guardians in terms of child and adolescent consent to medical treatment and issues relating to confidentiality. It also deals with the refusal of health or social care by minors including those aged between 16 and 18 years, or parents and legal guardians on the part of the child. The *National Consent Policy* reaffirms that the age of consent for treating a mental health disorder is 18.³¹⁰

297 Health Service Executive (2013) *Health Service Executive Operational Plan 2013: Implementing the National Service Plan*, Dublin: Health Service Executive, p.55.

298 Health Service Executive (2012) *Supplementary Report National Service Plan 2012*, Dublin: Health Service Executive, pp. 30-31.

299 Health Service Executive (2013) *Health Service Data Management Report September 2013*, Dublin: Health Service Executive, p.76.

300 Health Service Executive (2013) *National Service Plan 2014*, Dublin: Health Service Executive, Dublin: Health Service Executive, p.49

301 Merlin Park in Galway and Eist Linn in Cork were opened in December 2010, each with 20-bed capacity.

302 Health Service Executive (2013) *National Service Plan 2014*, Dublin: Health Service Executive, p.49.

303 Health Service Executive (2012) *Fourth Annual Child and Adolescent Mental Health Service Report 2011-2012*, Dublin: Health Service Executive.

304 Communication received by the Children's Rights Alliance from the Children and Adolescent Mental Health Service on 6 February 2014.

305 Mental Health Commission (2013), www.mhcirl.ie/Inspectorate_of_Mental_Health_Services/AC_IRs/ [accessed 2 December 2013].

306 Mental Health Commission (2013). *Report of the Inspector of Mental Health Services 2013, Merlin Park, 26 February 2013*, http://www.mhcirl.ie/File/IRs/CAMHS_Merlin_IR_2013.pdf [accessed 2 December 2013].

307 Ibid.

308 Mental Health Commission (2013). *Report of the Inspector of Mental Health Services 2013, Adolescent In-patient Unit at St Vincent's Hospital Fairview*, Dublin: Mental Health Commission, p.58.

309 Health Service Executive (2013) *National Consent Policy*, Dublin: Health Service Executive.

310 Ibid.

Comment

Mental health gets an **'E'** grade in *Report Card 2014*, a fall from last year's 'D'. This poor performance reflects the failure of the Government to ring-fence the previously promised €35 million in Budget 2014. It is also based on the continued placement of children in adult psychiatric units and the serious failures in providing adequate standards of care in in-patient adolescent facilities as highlighted by HIQA in its inspection reports.

The UN Committee on the Rights of the Child *General Comment No. 4 on adolescent health* notes the obligations on States to ensure the availability of mental health services that are of appropriate quality and sensitive to adolescents' concerns and the implementation of preventative and mental health promotion measures for adolescents.³¹¹ This General Comment should be reviewed and considered by the Department of Health and the HSE in the future development of mental health services for children and adolescents.

The 2013 *Being Young and Irish* report – the result of a national consultation facilitated by President of Ireland Michael D. Higgins – found mental health emerged as a key theme and participants called for 'a better mental health system for young people'.³¹² The 2012 report *Life as a Child and Young Person in Ireland* found that bullying and peer pressure are among the worst eight things about being a child in Ireland, along with the economy, finances and crime.³¹³ The *My World Survey*, published in 2012, found that nearly 10% of adolescents and 20% of young adults reported significant personal problems they felt needed professional help but did not seek it.³¹⁴ These findings illustrate the continued importance of an effective, accessible and targeted mental health service for children and young people.

In November 2012, the HSE issued *Access Protocols for 16 and 17 year olds to Mental Health Services*. The protocol provides that, from 1 January 2013, CAMHS will accept referrals of all new cases of children up to their 17th birthday, and from 1 January 2014, or earlier where feasible, up to their 18th birthday.³¹⁵ Between October 2012 and the end of September 2013, of the 9,616 new cases seen, 1,551 (16%) were 16 years of age and over. This was an increase of 446 (40%) compared with the previous year.³¹⁶

The HSE *National Service Plan 2014* commits to continuing the implementation of the *Access Protocols for 16 and 17 year olds*.³¹⁷ This is a welcome development, intended to end the unacceptable situation whereby some CAMHS teams remain unable to take on new referrals of 16- and 17-year-olds, due to a lack of resources.³¹⁸ This gap in care must be resolved as a matter of priority; the target date set is 1 January 2014.³¹⁹

On admission to hospital for mental health treatment, children are categorised as either 'voluntary' or 'involuntary' patients. The term 'voluntary' is a misnomer, as by law those under 18 years cannot consent to enter or leave hospital and it is their parent or guardian who has the legal entitlement to provide consent on behalf of their child.³²⁰ In addition, 'voluntary' patients do not have the same level of automatic protections and safeguards as those afforded to 'involuntary' patients.³²¹ The Law Reform Commission examination of this issue found that 'children are being made to fit within the parameters of a law that was drafted with adults in mind'.³²² In addition to this, there is an unclear relationship between the 2001 Mental Health Act, which defines a child as under 18 years old and the Non-Fatal Offences against

311 UN Committee on the Rights of the Child (2003), *General Comment No. 4: Adolescent Health*, CRC/GC/2003/4.

312 Office of the President, *Being Young and Irish: A report on President Michael D. Higgins consultation 'Being young and Irish'* with young people between May and November 2012, http://www.dit.ie/cser/media/ditcser/documents/Take%20Charge%20of%20Change_%20Being%20Young%20and%20Irish%202012%20Full%20Report%5B1%5D.pdf [accessed 9 January 2014].

313 Department of Children and Youth Affairs (2012) *Life as a Child and Young Person in Ireland*, Dublin: Department of Children and Youth Affairs, p. 30.

314 University College Dublin and Headstrong (2012) *Emerging Themes from My World Survey*, Dublin: University College Dublin and Headstrong.

315 Minister of State for Disability, Equality, Mental Health and Older People Kathleen Lynch TD, Parliamentary Questions: Written Answers, 27 March 2012, [51940/12].

316 Communication received by the Children's Rights Alliance from the Children and Adolescent Mental Health Service on 6 February 2014.

317 Health Service Executive (2013) *National Service Plan 2014*, Dublin: Health Service Executive, p.48

318 Communication received by the Children's Rights Alliance from the Health Service Executive in January 2013.

319 Health Service Executive (2013) *Health Service Data Management Report September 2013*, Dublin: Health Service Executive, p.76.

320 A parallel concern is that children on care orders have to be admitted under Section 25 of the Mental Health Act if they wish to voluntarily enter a mental health hospital. This practice has been criticised as stigmatising children in care. See Health Service Executive (2013) *National Consent Policy* for further detail on children and consent.

321 Evelyn Ring, 'Children's consent on treatment urged' *Irish Examiner* [online], 27 June 2012, <http://www.irishexaminer.com/ireland/childrens-consent-on-treatment-urged-198795.html> [accessed 6 February 2014]; Pamela Duncan, 'Enhance patient autonomy, advises report' *The Irish Times* [online], 22 June 2012, <http://www.irishtimes.com/newspaper/ireland/2012/0622/1224318456479.html> [accessed 15 September 2013].

322 Law Reform Commission (2011), *Children and the Law: Medical Treatment*, Dublin: Law Reform Commission.

the Person Act 1997, which states that persons over 16 years can give consent for surgical, medical and dental procedures. This creates confusion as to the capacity of 16- and 17-year-olds admitted under the 2011 Act to make mental healthcare decisions, and whether they can consent to treatment without the consent of a parent or legal guardian.³²³

Adult Units: The UN Committee on the Rights of the Child says that, where placement in a psychiatric unit is necessary, adolescents should be separated from adults, where appropriate; and any decision on their care should be made in accordance with the best interests of the child.³²⁴ Placing children in such units, as a consequence of the shortage of age-appropriate mental health facilities, is therefore a clear violation of their rights. This practice also exposes children to situations that pose a risk to their physical and psychological wellbeing and thus contravenes the child's right to protection from abuse and neglect (Article 19).³²⁵ The practice of placing children in adult units must end urgently but in the interim the remaining 48 beds promised must be made available to children who need this support.

The Children's Mental Health Coalition has called for the 2001 Act to be amended to specifically provide that no child under 18 years be admitted to an adult in-patient unit, save in exceptional circumstances where it would be in his or her best interests to do so.³²⁶ The Mental Health Commission's *Code of Practice* sought to phase-out the placement of children in inappropriate settings, including adult units, between July 2009 and the end of 2011, except in 'exceptional circumstances'.³²⁷ The most recent HSE report indicates that in September 2013, five children under the age of 16; 27 sixteen-year-olds; and 36 seventeen-year-olds had been admitted to adult in-patient wards.³²⁸ Clearly, given the admission of these children to adult units in the first nine months of 2013, the non-legally binding Code has not been successful. The use of existing capacity needs to be examined. Two independent adolescent units hold an additional 26 beds but have unfilled capacity on an annual basis, while children are still inappropriately being placed in adult units.³²⁹

Children in Care and Detention: Someone to Care, a 2013 report by the Children's Mental Health Coalition, examines the mental health needs of children with experience of the care and youth justice systems.³³⁰ The Coalition estimates the present system costs €63,000 for each child in care or detention and calls for preventative measures to avoid the 'escalation of a care or youth justice case' as this 'is likely to save money'.³³¹ In recommending alternatives, it emphasises the need for systemic change and robust supports for children's psychological wellbeing as well as good inter-agency and multi-disciplinary planning and service provision.³³² The report also called for a coherent policy statement and national strategy to address the mental health and emotional needs of children and young people in detention or the care of the State, involving all relevant government departments and agencies. A review of current practice and procedure, as well as consultation with young people, should inform the development of such a strategy.

The increased focus on well-being and positive mental health in schools through the newly reformed Junior Cycle and *Guidelines for Mental Health and Suicide Prevention* for post primary schools is a positive development. This focus represents a welcome shift from the model of crisis intervention to a more holistic and preventative approach to promote young people's positive mental health. Community mental health projects, such as the Headstrong Jigsaw projects,³³³ are already operating in local communities and provide examples of good practice in mental health promotion and support.

323 Health Service Executive (2013) *National Consent Policy*, Dublin: Health Service Executive, p. 60.

324 UN Committee on the Rights of the Child (2003) *General Comment No. 4: Adolescent Health*, CRC/GC/2003/4.

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

326 Children's Mental Health Coalition, Submission to the Department of Health on the Review of the Mental Health Act 2001, http://childrensrights.ie/sites/default/files/submissions_reports/files/CMHC-SubDeptHealthReviewMentalHealthAct2001_071011.pdf [accessed 6 February 2014]

327 It is expected that children and adolescents who live a considerable distance from the approved centres for children will fall under the 'exceptional circumstances' category and will continue to be treated in local approved centres for adults in order to remain close to family support.

328 Health Service Executive (2013) *Health Service Data Management Report September 2013*, Dublin: Health Service Executive, p.76.

329 Twelve beds exist at St John of God's, Dublin and fourteen at St Patrick's University Hospital, Dublin.

330 R. McElvaney et al (2013) *Someone to Care: the mental health needs of children and young people with experience of the care and youth justice systems*, Dublin: Children's Mental Health Coalition.

331 Ibid p.20. This figure is made up of the annual cost of providing homes for children in care: €233.2 million, annual cost of detention: €61.3 million (min), cost of providing mental health services: €11.1 million. Total annual cost of these three elements is €300 million, which is €63,000 per child.

332 Ibid., p.21.

333 See <http://www.jigsaw.ie/> for further details [accessed 20 January 2014].

Immediate Actions for 2014

Reverse the €15 million reduction in development funding for mental health services

The €15 million reduction in Mental Health funding in Budget 2014 should be reversed with immediate effect and the commitment to ring-fence €35 million annually should be restored. An allocated sub-head for 'Mental Health' should be introduced under the HSE vote (number 39) in the national budget. The specific allocation within mental health can then be provided in the HSE's annual Service Plan, and the child and youth proportion accounted for in the annual *Child and Adolescent Mental Health Services Report*.

Ensure all children under 18 years receive age-appropriate and timely mental health services and treatment

The practice of treating children in adult mental health facilities must be ended as a matter of urgency and the HSE's *Access Protocols for 16 and 17 year olds to Mental Health Services* must be complied with. Achieving this requires the appropriate provision of in-patient beds and ongoing investment in the development of Child and Adolescent Community Mental Health teams, including the staffing of the promised 150 posts.

Put in place a legislative framework to fulfil the rights of children and adolescents with mental health difficulties

The Mental Health Act 2001 should be amended to address issues affecting children, including the anomaly regarding a young person's ability to consent to psychiatric treatment, in line with the principles and provisions of the UN Convention on the Rights of the Child.³³⁴

Develop a National Strategy to address the mental health needs of young people in care and detention

As recommended in the *Children in care and detention: Someone to Care* report, a review should be undertaken to inform the development of a national strategy to address the mental health needs of young people in care and detention and inform policy and practice in this area.

Complete recruitment of a specialist therapeutic team for children in special care and detention

The mental health needs of children in care and within the youth justice system are well documented.³³⁵ The Assessment, Consultation and Therapeutic Service (ACTS) must ensure that a placement in either a Special Care Unit or a Children Detention School is therapeutic rather than merely containment. The potential of ACTS and CAMHS to work together to meet the needs of all children and young people in the care and youth justice systems should be explored.

³³⁴ The updated Act should provide a guarantee that an assessment of the child's best interests (Article 3) is informed by the views of the child; the child's evolving capacities (Article 5) are respected as a legislative principle; and the child has access to information and participates in decision making in relation to their mental health (Article 12).

³³⁵ Dr. J.M Hayes and Dr. G. O'Reilly (2007) *Emotional Intelligence, Mental Health and Juvenile Delinquency*, Cork; Juvenile Health Matters and R. McElvaney et al (2013) *Someone to Care: the mental health needs of children and young people with experience of the care and youth justice systems*, Dublin: Children's Mental Health Coalition.

3.3 Alcohol and Drugs

Grade D+

Government Commitment

The *Programme for Government* commits to ensuring that every Government department, agency or task force responsible for implementing elements of the *National Addiction Strategy* will be required to account to the Minister for their budget annually and to demonstrate progress on achieving targets.

Progress

Very slow

What's happening?

The National Addiction Strategy was not published in 2013. There is no Government policy on tackling alcohol misuse; no Government decision has been made on recommendations of the Steering Group on the alcohol section of the National Substance Misuse Strategy. The *Tobacco Free Ireland Report* was published in October 2013.

In September 2013, Minister of State at the Department of Health Alex White TD said that the *National Addiction Strategy* – more commonly referred to as the *National Substance Misuse Strategy* addressing alcohol and drug use in a single strategy would be presented to Cabinet in October 2013.³³⁶ This Strategy is long overdue. In the interim alcohol and drugs policy continue to be addressed in separate documents. The drugs section of the Strategy, an *Interim National Drugs Strategy 2009-2016*, was published in 2009.³³⁷

In 2013, allocations attributed to drugs programmes across all Departments and agencies amounted to approximately €241 million in 2013.³³⁸

Budget 2014 increased excise duty on cigarettes by 10 cent per pack of 20 with a pro-rata increase for other tobacco products. Also announced was an increase in the one-off charge on retailers who wish to register to sell tobacco products. This increase will be in line with the *Tobacco Free Ireland* policy approved by the Government in July 2013, the legislation for this has yet to be set and the fee has yet to be agreed.³³⁹ In 2013, the Government approved measures to begin the process of introducing standardised cigarette packaging.³⁴⁰ An interdepartmental steering group has been set up to inform the drafting of the heads of a bill to regulate the retail packaging of tobacco products in Ireland.³⁴¹ The *HSE National Service Plan 2014* has committed to producing an implementation plan for the recommendations contained in the *Report on a Tobacco Free Ireland* during the course of 2014.³⁴²

336 Seán McCárthaigh, 'Cabinet to sign off on delayed alcohol strategy' *The Irish Examiner*, 20 February 2013.

337 The 2011 Progress Report can be found at: Department of Health, National Drugs Strategy 2009-16: Implementation of Actions: Progress Report End 2011, http://www.dohc.ie/other_health_issues/national_drugs_strategy/NDS2009-2016.pdf?direct=1 [accessed 2 January 2013].

338 Communication received by the Children's Rights Alliance from the Department of Health on 8 December 2013.

339 Communication received by the Children's Rights Alliance from the Department of Health on 28 January 2014.

340 Minister for Health James Reilly TD, Parliamentary Questions, Written Answers, 7 November 2013 [47625/13].

341 Minister for Health James Reilly TD, Parliamentary Questions, Written Answers, 24 October 2013 [45559/13].

342 Health Service Executive (2013) *National Service Plan 2014*, Dublin: Health Service Executive, p. 41.

Alcohol: A Steering Group was established in 2009³⁴³ to develop proposals on the alcohol section of the *National Substance Misuse Strategy*.³⁴⁴ The Group's report was eventually published in February 2012 as the *Steering Group Report on a National Substance Misuse Strategy*.³⁴⁵ The Report makes 45 recommendations: 15 of these are in relation to supply control, seven are in relation to prevention, 20 are in relation to treatment and rehabilitation and three are in relation to research; they include proposals on the minimum pricing for alcohol; a ban on all outdoor advertising, and phasing out sponsorship of sports events by 2016. A range of agencies has been assigned primary responsibility for the different recommendations.³⁴⁶ The *HSE National Service Plan 2014* has committed to prioritise and implement the health service related actions contained in the report of the steering group during the course of 2014.³⁴⁷ A National Coordinating Committee for Drug and Alcohol Task Forces will replace the Drugs Advisory Group from January 2014.³⁴⁸ The purpose of this body will be to ensure that there is more effective coordination between statutory bodies and the community and voluntary sector in delivering on the objectives of the National Drugs Strategy.³⁴⁹

The report also recommended the establishment of a National Coordinating Committee for Drug and Alcohol Task Forces and a review of the national structures under which they operate.

In October 2013, the Cabinet approved a number of measures to be included in a Public Health (Alcohol) Bill, including the limitation of advertising of alcohol on minimum pricing for alcohol and the restricting of outdoor advertising of alcohol.³⁵⁰ It is reported that the Bill will also increase the powers of Environmental Officers to tackle underage drinking.³⁵¹ Work is ongoing on developing a framework for the necessary legislation.³⁵² A health impact assessment has been commissioned in conjunction with Northern Ireland as part of the process of developing a legislative basis for minimum unit pricing. The health impact assessment will study the impact of different minimum prices on a range of areas such as health, crime and likely economic impact.³⁵³

In July 2013, the Joint Committee on Transport and Communications published its report *Sponsorship of Sports by the Alcohol Drinks Industry*. Based on hearing evidence from the medical profession, sporting organisations, the drinks industry and advocacy groups, the Committee stated that it 'does not believe that the link between sponsorship and consumption has been proved' and that 'before any prohibition could be contemplated [...] other identifiable streams of funding, which could adequately replace that provided by the alcohol drinks industry, would have to be identified.'³⁵⁴ In October 2013, the Government decided that the existing voluntary code that governs sports sponsorship will be placed on a statutory footing.³⁵⁵ A working group was set up to examine the regulation of sports sponsorship. The working group is chaired by the Department of the Taoiseach and is comprised of a number of departments. The group held its first meeting in December 2013 and it is due to report back within twelve months.³⁵⁶

343 Originally the Steering Group was jointly chaired by the Department of Health and Children and the Department of Community, Rural and Gaeltacht Affairs (which later became the Department of Community, Equality and Gaeltacht Affairs) and its membership included representatives from the Departments of Arts, Sport and Tourism, Environment, Heritage and Local Government, Justice and Equality, and Education and Skills. Chairmanship was then taken over by Dr. Tony Holohan.

344 The Steering Group's terms of reference include undertaking a review of evidence and best practice, identifying effective policies and actions to tackle alcohol-related harm, and deciding on appropriate structures and frameworks for implementation of the Strategy. Department of Health, Steering Group to develop proposals for a National Substance Misuse Strategy, http://www.dohc.ie/consultations/closed/substance_misuse_strategy/terms.pdf?direct=1 [accessed 22 December 2011].

345 Department of Health Steering Group, Report on a National Substance Misuse Strategy, <http://healthupdate.gov.ie/wp-content/uploads/2012/02/Steering-Group-Report-on-a-National-Substance-Misuse-Strategy-7-Feb-11.pdf> [accessed 5 December 2012].

346 Royal College of Physicians of Ireland (2013) *RCPI Policy Group on Alcohol: Reducing Alcohol Health Harm*, Dublin: RCPI.

347 Health Service Executive (2013) *National Service Plan 2014*, Dublin: Health Service Executive, p.37

348 Communication received by the Children's Rights Alliance from the Department of Health on 7 January 2014.

349 Communication received by the Children's Rights Alliance from the Department of Health on 7 January 2014.

350 Department of Health and Children, 'Ministers Fitzgerald, Reilly and White announce measures to deal with alcohol misuse', 24 October 2013 [press release] <http://www.merriestreet.ie/index.php/2013/10/ministers-fitzgerald-reilly-and-white-announce-measures-to-deal-with-alcohol-misuse/>.

351 Cormac Murphy 'Revealed: How the Government Plans to tackle Alcohol Abuse' *The Irish Independent* 24 October 2013.

352 Minister of State for Primary Care Alex White TD Parliamentary Questions, Written Answers, 12 November 2013 [47870/13].

353 Communication received by the Children's Rights Alliance from the Department of Health on 15 January 2014.

354 Joint Oireachtas Committee on Transport and Communications, Sponsorship of Sports by the Alcohol Drinks Industry <http://www.oireachtas.ie/parliament/media/committees/transportandcommunications/JCTC-Report-on-Sponsorship-of-Sports-by-the-Alcohol-Industry-July-2013.pdf> [accessed 12 February 2014].

355 'Ministers Fitzgerald, Reilly and White announce measures to deal with alcohol misuse', 24 October 2013 [press release] <http://www.merriestreet.ie/index.php/2013/10/ministers-fitzgerald-reilly-and-white-announce-measures-to-deal-with-alcohol-misuse/> [accessed 10 February 2014].

356 Communication received by the Children's Rights Alliance from the Department of Health Alcohol Control Unit, on 29 January 2014.

Smoking: In May 2012, a number of senators³⁵⁷ introduced a private member's Bill to provide a ban on the smoking of tobacco in vehicles when any child under 18 years is present. The Department of Health is now working with the Office of the Attorney General to draft the necessary amendments to the Protection of Children's Health from Tobacco Smoke Bill 2012 to provide for the enactment of this legislation.³⁵⁸

In October 2013, the report *Tobacco Free Ireland* was published by the Department of Health.³⁵⁹ The report sets a target of 2025 to have a tobacco free Ireland or in other words to have a prevalence rate of smokers at less than 5%. There are two key themes in the report: protecting children and the de-normalisation of smoking.³⁶⁰

Comment

Alcohol and Drugs gets a 'D+' grade in *Report Card 2014*. This slightly improved performance reflects the initial steps taken towards creating a Tobacco Free Ireland and some positive movement in relation to alcohol. However, this has not yet translated into concrete actions that will protect children and young people from the devastating impact of substance misuse. Much more must be achieved to improve the grade in next year's *Report Card*.

Publication of a National Substance Misuse Strategy, addressing both alcohol and drug misuse, is long overdue. Despite the hundreds of recommendations contained in these reports (the two Reports of the Strategic Taskforce on Alcohol alone – 2002 and 2004 – made 100), and the UN Committee on the Rights of the Child 2006 recommendations,³⁶¹ positive policy change has been minimal; and the trend is not changing: two important reports were published in 2012, with little positive policy follow up.³⁶²

Alcohol: The World Health Organization states that alcohol consumption is now considered to be a significant risk factor for global health.³⁶³ In Ireland, alcohol-related crime and the impact on the health service of alcohol-induced problems cost the Irish taxpayer €3.7 billion annually.³⁶⁴ Family breakdown, neglect, abuse, financial struggle and stress are just some of the effects that alcohol can have on children's lives.³⁶⁵ The UN Committee on the Rights of the Child recommends the development of a strategy to raise awareness of the problems of children misusing alcohol and to prohibit the advertising of alcohol that targets children.³⁶⁶

Marketing shapes children's attitudes to alcohol from a very early age³⁶⁷ and leads them to start drinking at a younger age, and to drinking more.³⁶⁸ Of concern is the changing and increased nature of the availability of alcohol marketing, including through social media. Evidence demonstrates that the top three key actions that have a positive effect on alcohol-related harm are: alcohol pricing; the availability of alcohol; and the marketing of alcoholic beverages.³⁶⁹ The Children's Rights Alliance, alongside the Irish Medical Organisation, has long supported a total ban on alcohol advertising.³⁷⁰ The Joint Oireachtas Committee on Transport and Communications only examined the issue of alcohol advertising in relation to the sponsorship of sporting events by alcohol companies and not from a health perspective as this was not within its remit. The Committee heard from sporting organisations, representatives from the drinks industry as well as groups who put forward some evidence of a link between alcohol advertising and drinking at an early age – both Alcohol Action Ireland

357 Independent Senators John Crown and Jillian Van Turnhout and Fianna Fáil Senator, Mark Daly.

358 Minister for Health James Reilly TD, Parliamentary Questions, Written Answers, 19 June 2013. [29627/13].

359 Department of Health and Children (2013) *Tobacco Free Ireland*, Dublin: DOHC.

360 Ibid.

361 UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 51.

362 Department of Health Steering Group (2012), *Report on a National Substance Misuse Strategy*, <http://healthupdate.gov.ie/wp-content/uploads/2012/02/Steering-Group-Report-on-a-National-Substance-Misuse-Strategy-7-Feb-11.pdf> [accessed 5 December 2012] and Joint Oireachtas Committee on Transport and Communications (2013) *Sponsorship of Sports by the Alcohol Drinks Industry*

363 World Health Organization, WHO Expert Committee on Problems Related to Alcohol Consumption (2007), *Second report. WHO technical report series 944*. Geneva: World Health Organization, p. 1.

364 Health Service Executive (2013) *National Service Plan 2014*, Dublin: Health Service Executive, p. 2.

365 For a detailed analysis of this issue, see: The Children's Society (2010), *Swept Under the Carpet: Children Affected by Parental Alcohol Misuse*, London: Alcohol Concern.

366 UN Committee on the Rights of the Child (2006), *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 49.

367 Ann Hope (2009), *Get 'em Young: Mapping Young People's Exposure to Alcohol Marketing in Ireland*, Dublin: National Youth Council of Ireland.

368 Alcohol Action Ireland, *Marketing alcohol - children under the influence*, <http://alcoholireland.ie/alcohol-policy/marketing-alcohol-children-under-the-influence/> [accessed 4 December 2012]. See also Peter Anderson et al (2009), 'Impact of alcohol advertising and media exposure on adolescent alcohol use: a systematic review of longitudinal studies', *Alcohol and Alcoholism*, 44: pp. 229-43.

369 World Health Organisation (2009) *Handbook for action to reduce alcohol-related harm*, p. 13.

370 'IMO supports calls for total ban on alcohol advertising' *The Irish Times* [online], 9 September 2009, <http://www.irishtimes.com/newspaper/health/2009/0915/1224254543757.html> [accessed 1 December 2012].

and the College of Psychiatrists of Ireland called for an outright ban on alcohol advertising of sporting events.³⁷¹ However, the Committee stated that while a ban on alcohol advertising might be a 'very worthwhile aspiration', it was not realistic in the 'current economic climate' as sporting organisations 'would suffer inordinately if legislation for such a prohibition was introduced'. Ultimately, the majority of the Committee members 'held the view that the link between sponsorship and the misuse of alcohol in society had not been established' and believed that a legislative ban was not warranted at this time.³⁷²

The Children's Rights Alliance welcomes the health impact assessment and the intention of developing a legislative basis for minimum unit pricing. Setting a minimum unit price for alcohol is recognised as being one of the most effective methods of reducing alcohol related harm and is one of the key recommendations contained in the 2012 Steering Group Report on the National Substance Misuse Strategy.³⁷³

The phenomenon of binge drinking is evident in Irish childhoods.³⁷⁴ Not only does alcohol have an immediate impact on children's health in the form of accidents, public safety and violence, it also affects long-term health development and mental health. The Irish Association of Suicidology lists substance abuse as a risk factor for youth suicide,³⁷⁵ and the UN Committee has expressed concern about the link between substance abuse and Ireland's suicide rate.³⁷⁶ World Health Organisation 2012 research shows that the adolescent brain is particularly susceptible to alcohol, and the older a young person is before they begin to drink the less likely it is that alcohol-related problems will emerge in adult life.³⁷⁷

The 2012 *Report of the Independent Child Death Review Group*, found that parental alcohol and drugs misuse was a factor in a number of the cases,³⁷⁸ contributing to children being exposed to poor parenting, neglect, abuse and psychological harm.³⁷⁹ Alcohol in the home was a prevalent issue in one third (37) of the 112 unnatural deaths reviewed, in some cases the children themselves went on to misuse alcohol and drugs.³⁸⁰ The 2013 HSE *Review of Practice and Audit of the Management of Cases of Neglect* found that parental alcohol misuse was a factor in 62% of families in the overall sample; and states that 'family dysfunction was often associated to chronic alcohol and drug misuse'.³⁸¹ In 18.6% of all child care applications contained in the *Interim Report of the Child Care Law Reporting Project*, the reason for the state seeking an order of the Court was due to parental alcohol or drug misuse.³⁸² The reforms in service delivery and the establishment of the Child and Family Agency provide an important opportunity to focus on risk factors such as parental substance misuse.³⁸³

371 Alcohol Action Ireland, 'Submission to the Joint Committee on Transport and Communications on Alcohol Sponsorship of Sports', June 2013, <http://alcoholireland.ie/wp-content/uploads/2013/06/Submission-to-the-Joint-Committee-on-Transport-and-Communications-on-Alcohol-Sponsorship-of-Sports.pdf> [accessed 12 February 2014].

372 Joint Oireachtas Committee on Transport and Communications, Sponsorship of Sports by the Alcohol Drinks Industry <http://www.oireachtas.ie/parliament/media/committees/transportandcommunications/JCTC-Report-on-Sponsorship-of-Sports-by-the-Alcohol-Industry-July-2013.pdf> [accessed 12 February 2014]

373 Alcohol Action Ireland, <http://alcoholireland.ie/campaigns/minimum-pricing/> [accessed 17 January 2014].

374 Health Research Board (2012), Alcohol: Public Knowledge, Attitudes and Behaviours, http://www.hrb.ie/uploads/tx_hrbpublications/Alcohol_-_Public_Knowledge_Attitudes_and_Behaviours_Report.pdf [accessed 8 January 2013]; ESPAD, The 2011 ESPAD Report: Substance Use Among Students in 36 European Countries, http://www.espad.org/Uploads/ESPAD_reports/2011/The_2011_ESPAD_Report_FULL_2012_10_29.pdf [accessed 8 January 2013].

375 The Irish Association of Suicidology, Risk Factors - Youth Suicide, http://www.ias.ie/index.php?option=com_content&view=article&id=38%3Arisk-factors-youth&catid=7&Itemid=18 [accessed 4 December 2012].

376 UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 50.

377 World Health Organization (2012) *Alcohol in the European Union, Consumption, Harm and Policy Approaches*, Denmark: WHO Regional Office for Europe, p. 6. See also M. Bellis, et al (2009) Teenage drinking, alcohol availability and pricing: a cross-sectional study of risk and protective factors for alcohol-related harms in school children, *BMC Public Health*, 9(1), 380.

378 Dr. G. Shannon & N. Gibbons (2012) *Report of the Independent Child and Death Review: Executive Summary*. Dublin: Department of Children and Youth Affairs, p. 6 and p. 23. The report details 196 children who died between the years 2000 and 2010 who were in the care of the state at the time of their death, young adults who were in aftercare and other children who were not in care but were known to the HSE.

379 Ibid., pp. 22-23.

380 Alcohol Action Ireland called on the Government to produce a report similar to the *Hidden Harm Report* published in Northern Ireland, which focuses specifically on the needs of children. Health and Social Care Board and Public Health Agency, Hidden Harm Action Plan: Responding to the needs of children born to and living with parental alcohol and drug misuse in Northern Ireland, <http://alcoholireland.ie/wp-content/uploads/2011/04/northern-ireland-hidden-harm-action-plan-public-health-agency-and-the-health-and-social-care-board-october-2009.pdf> [accessed 10 February 2014].

381 Health Service Executive (2013) *Review of Practice and Audit of the Management of Cases of Neglect*, Dublin: Health Service Executive.

382 Dr C. Coulter Child Care Law Reporting Project Interim Report, Dublin: Child Care Law Reporting Project, p.38 <http://www.childlawproject.ie/wp-content/uploads/2013/11/correctedinterimreport.pdf> [accessed 18 December 2013].

383 An assessment of HSE child care datasets indicate that the primary reason for 14% of children being taken into state care was "a family member abusing drugs/alcohol". Department of Children and Youth Affairs (2012), Statement by Minister Frances Fitzgerald: Early intervention and family support services, <http://www.dcy.gov.ie/viewdoc.asp?Docid=1820&CatID=12&mn=8&StartDate=1+January+2012> [accessed 10 February 2014].

Drugs: Recent studies of adolescent drug users have shown that attitudes towards drug taking are becoming more liberal.³⁸⁴ Polydrug use is commonplace and those who drink alcohol and use other drugs place themselves at greater risk.³⁸⁵ In addition, there is a growing availability of illicit drugs online. This normalisation of drug use is seen within urban and rural society alike,³⁸⁶ and is attributed to easier access to drugs and a wider range of substances on offer.³⁸⁷ Between 2005 and 2010, there were 2,295 cases of under-18s who used a drug treatment centre for the first time, a more than 50% increase in demand over this five-year period.³⁸⁸ The Citywide Campaign has highlighted the emerging problem of drug dealers and gangs employing teenagers to carry out illegal activities on their behalf, such as dealing drugs and collecting money. In recent years, a number of teenagers have been killed or children have witnessed their parents being killed in suspected gang and/or drug-related violence.³⁸⁹ This phenomenon is deeply concerning. The UN Convention on the Rights of the Child has affirmed that States must introduce legislative, administrative, social and educational measures to protect children from illicit drug use and to prevent them becoming used in the illicit production and trafficking of such substances (Article 33).

Youth Work: Nine per cent of child respondents to a Department of Children and Youth Affairs' consultation in 2012 stated they were unhappy with the level of anti-social behaviour in their communities, including illicit drug use, misuse of alcohol, smoking and crime.³⁹⁰ Drug- and alcohol-free spaces for young people to socialise in locally can provide structured or informal support, from preventive measures, brief interventions and referrals to other services, as appropriate.³⁹¹ Funding in this area is hard to decipher; Budget 2014 allocated an extra €1 million to youth programmes but at the same time reductions of €2million were made across various other youth programmes.³⁹² In December 2013, the Minister for Children and Youth Affairs, Frances Fitzgerald TD, announced the allocation of €1.5 million in capital funding for the provision of 30 new Youth Cafés.³⁹³ The severe budget cuts to the youth work sector must be examined to fully understand their impact.

Smoking: The *Report on a Tobacco Free Ireland* highlighted that almost all smokers start smoking regularly before they are 18.³⁹⁴ Of concern is that fact that 12% of children report that they smoke.³⁹⁵ Research has shown that nicotine is a highly addictive substance and children can become addicted within weeks of experimenting with tobacco.³⁹⁶ Half of all smokers who start smoking as children die prematurely from a smoking related disease.³⁹⁷ Between €1 and €2 billion of the annual health budget is spent on treating tobacco related disease.³⁹⁸ The effects on passive smoking on children are well documented, and the Protection of Children's Health from Tobacco Smoke Bill 2012 is welcome.³⁹⁹ The initial steps taken to introduce a Tobacco Free Ireland are also a positive development.

384 Marie Claire van Hout (2009), Drug and alcohol use among rural Irish adolescents: a brief exploratory study, *Drugs and Alcohol Today*, 9 (1). pp. 20-26.

385 Polydrug use is the consumption of a number of different substances at the same time. These substances can include alcohol, cannabis, cocaine, heroin, methadone, 'legal highs' and prescription drugs.

386 Marie Claire van Hout (2009), Youth alcohol and drug use in rural Ireland: parents' views, *Rural and Remote Health*, 9: 1171.

387 CityWide Drugs Crisis Campaign (2012), *The Drugs Crisis in Ireland: A New Agenda for Action*, http://www.citywide.ie/download/pdf/the_drugs_crisis_in_ireland_a_new_agenda_for_action.pdf, p. 12 [accessed 10 February 2014].

388 K. Murphy et al (2013) Substance use in young persons in Ireland: a systematic review in *Addictive Behaviors* vol. 38 pp. 2392-2401.

389 Conor Lally, 'Gardaí identify two men linked to murder of Tallaght teenager', *The Irish Times* [online], 10 February 2012, <http://www.irishtimes.com/newspaper/ireland/2012/0210/1224311576260.html> [accessed 2 January 2013]; 'Gardaí to speak to child who saw father shot dead in Dublin', *RTE News* [online], 26 September 2012, <http://www.rte.ie/news/2012/0925/declan-oreilly-dublin.html> [accessed 3 January 2013].

390 Department of Children and Youth Affairs' (2012) *Life as a child and young person in Ireland: Report of a National Consultation*, Dublin: Government Publications.

391 Youth Cafés are only effective in this regard if they provide tailored services; simply being there and being open late is not, on its own, sufficient to address adolescent substance misuse. T. Byrne et al (2006), *Free Time and Leisure Needs of Young People living in Disadvantaged Communities*, Dublin: Children's Research Centre, Trinity College, p. 61.

392 Department of Public Expenditure and Reform (2013), *Expenditure Report 2014: October 2013*, Dublin: the Stationery Office, p.55.

393 Department of Children and Youth Affairs, 'Minister Fitzgerald announces €1.3 million in Capital Funding for 30 new Youth Cafés' [Press release] <http://www.dcy.gov.ie/viewdoc.asp?DocID=3051> [accessed 16 December 2013].

394 Department of Health and Children (2013), *Tobacco Free Ireland*, Dublin: Department of Health and Children, p.53.

395 C. Kelly, A. Gavin, M. Molcho and S. Nic Gabhainn (February 2012) *The Irish Health Behaviour in School-aged Children Study 2010* Health Promotion Research Centre, National University of Ireland, Galway.

396 Department of Health and Children (2013), *Tobacco Free Ireland*, Dublin: Department of Health and Children, p.53.

397 Ibid.

398 Health Service Executive (2013) *National Service Plan 2014*, Dublin: Health Service Executive, p. 2.

399 *Protection of Children's Health from Tobacco Smoke Bill 2012, Second Stage, Seanad Debate, 9 May 2012, Vol. 215 No. 5.*

Immediate Actions for 2014

Urgently adopt a national strategy to tackle alcohol misuse and ensure it is coherent with the Interim National Drugs Strategy 2009-2016

There should be a clear focus on the impact of alcohol and drugs on children, including reducing children's access to alcohol and drugs; curbing the widespread availability of cheap alcohol;⁴⁰⁰ restricting the promotion of alcohol; raising awareness of the potential harmful effects of alcohol and drugs and developing youth appropriate addiction treatment services.⁴⁰¹ It must also address harmful parental drinking and its impact on children. The Strategy must be accompanied by a clear plan, with targets, timeframes and accountability structures.

The working group set up to look at the regulation of sports sponsorship should revisit the proposal to introduce a legislative ban to protect children from alcohol marketing in line with the *National Substance Misuse Strategy*

The proposal to introduce a legislative ban on alcohol marketing was an immediate action of *Report Cards 2013, 2012 and 2011* and remains unaddressed. The report of the working group due later in 2014 presents another opportunity to examine this issue.

Sustain investment in alcohol and drug free space for young people

Adequate provision of alcohol- and drug-free spaces for young people in their communities is key to ensuring we create an alternative to the 'pub culture'.

Protect children from smoking

Enact the *Protection of Children's Health from Tobacco Smoke Bill 2012* without delay. Also put in place the legislation to standardise cigarette packaging. Priority should be given to working towards *A Tobacco Free Ireland 2025* goals.

400 The price of alcohol in off-licences has fallen dramatically in recent years; it now costs more than 50% less to drink at home than it did in 1996. Conor Pope, 'Is alcohol too cheap?' *The Irish Times*, 18 October 2010.

401 Department for Health and Children (2004), *Strategic Taskforce on Alcohol: Second Report*, Dublin: Stationery Office, pp. 23-4.

3.4 Children's Hospital

Grade C+

Government Commitment

The *Programme for Government* commits that the National Children's Hospital will be built.

Progress

Further delayed

What's happening?

Governance of the National Children's Hospital has been reorganised. The Government aims to secure planning by December 2014. Meanwhile, children are being treated in below-standard facilities.

The new National Children's Hospital is intended to be the core component of an integrated healthcare system, by amalgamating acute paediatric services in Dublin into a single hospital, located alongside a leading adult teaching hospital. An independent review of the project to build the National Children's Hospital on the site of the Mater Hospital, Dublin, commissioned by the Minister for Health, James Reilly TD, in May 2011, found in favour of this site. However, in February 2012, An Bord Pleanála turned down planning permission by reason of its height and scale. In November 2012, St. James's Hospital was announced as the new site location.

From January to August 2013, a transitional board of officials from the Department of Health and the HSE was responsible for steering the children's hospital project. The Board established a shared services group to identify the facilities that can be shared between the new children's hospital and the adult hospital; published a contract notice for the procurement of a new design team; commenced pre-application planning discussions and began a review of the configuration of satellite urgent care centres, which is central to finalising the scale of the new facilities required at the St. James's campus and informing the design.⁴⁰²

In August 2013, the Minister for Health, James Reilly TD, announced the establishment of two new Boards: the Children's Hospital Group Board and the National Paediatric Hospital Development Board. The Group Board is the end-user and client for the building project and will oversee the operational integration of the three hospitals in advance of the move to the new hospital.⁴⁰³ The Development Board is responsible for the design, planning, building and equipping of the new children's hospital, in other words the "building board".

Dr. Jim Browne was appointed as Chair of the Children's Hospital Group Board. He, along with nine board members,⁴⁰⁴ will be responsible for overseeing the operational integration of the three hospitals – Our Lady's Children's Hospital Crumlin, Children's University Hospital

402 Department of Health, 'Minister Reilly announces children's hospital board appointments', 2 August 2013 [press release], <http://www.dohc.ie/press/releases/2013/20130802.html> [accessed 18 September 2013].

403 It will also deal with any matters relating to the operational transfer to the new hospital in due course, and to philanthropy.

404 Members of the Board are: Dr. Jim Browne (Chairman), Mr. John Hennessy (representing the Chair of Our Lady's Hospital in Crumlin), Mr. Michael Scanlan (Chair, Tallaght Hospital Board), Mr. Sean Sheehan (Chair of the Board of the Children's University Hospital), Dr. Jim Shmerling (CEO Children's Hospital Colorado), Ms Catherine Guy (Partner, Byrne, Wallace Solicitors), Ms. Caithriona Redmond (General Manager, Microsoft Ireland), Dr. John Jenkins CBE (Queen's University & retired paediatrician), Ms. Nicola Byrne (Founder and CEO 11890 and Stenics Media) and Ms. Marian Quinn (CEO of Childhood Development Initiative, Tallaght). Department of Health, 'Minister Reilly announces children's hospital board appointments' 2 August 2013 [press release], <http://www.dohc.ie/press/releases/2013/20130802.html> [accessed 18 September 2013].

Temple Street and the paediatric service at Tallaght Hospital – in advance of the move to the new children’s hospital. The Group Board will also play a key role in ensuring that the hospital is optimally designed and completed as quickly as possible. In September 2013, Eilish Hardiman was appointed as CEO of the Children’s Hospital Group and will work with the Board and the hospitals in delivering these priorities.

The National Paediatric Hospital Development Board will be restructured through legislation to reflect its sole focus on the building project. In advance of this re-structuring, in August 2013, the Minister appointed a Board of 12 members, chaired by Tom Costello.⁴⁰⁵ This restructuring reflects a change in approach towards the development of the hospital.⁴⁰⁶ The design team, due to be appointed in October 2013, will now be selected in spring 2014, which is expected to create a delay in the planning application and process. A Programme Director for the project was appointed in November 2013.⁴⁰⁷ However, the Department of Health has stated that the delay can be recouped at the tender stage. It is expected that construction will begin in spring 2015 and that the hospital will begin service in 2018.⁴⁰⁸

The Government’s Capital Development Plan pledges funding (though it does not state how much) for the development of the new National Children’s Hospital.⁴⁰⁹ The cost of this large-scale project will be generated from an upfront payment of €200 million arising from the sale of the National Lottery, complemented by Exchequer funding from the capital budget. The Minister for Health, James Reilly TD, had indicated that the hospital will cost an additional sum of between €120 million and €140 million,⁴¹⁰ with a final figure of €478 million as a ‘tight’ estimate.⁴¹¹ A new figure of up to €600 million was mooted in 2013.⁴¹² Approximately €39 million was spent on preparing to develop the children’s hospital at the Mater Hospital. Of that, €13 million can be reused on the St. James’s Hospital site but €26 million will not be recovered.⁴¹³

In May 2013, the Minister for Health, James Reilly TD, announced plans to move the National Maternity Hospital from Holles Street to the St. Vincent’s University Hospital Campus at Elm Park.⁴¹⁴ This came on foot of a recommendation made in the *Independent Review of Maternity and Gynaecology Services in the Greater Dublin Area Report* that Dublin maternity hospitals should be located alongside adult acute services.⁴¹⁵ The Government has approved €150 million for the project; however the final cost is not yet known. Accommodation at the new hospital will include a High Dependency Unit (HDU), a Neo-Natal Intensive Care Unit (NICU) and a Special Care Baby Unit (SCBU). Ante- and post-natal care will be provided in mostly single, en-suite rooms. Birthing accommodation will include operating theatres, birthing rooms (including for multiple births) and a midwife-led birthing unit.⁴¹⁶

405 This Board replaces the interim Board, which included officials from the Department of Health and the HSE who are now stepping down as planned to make way for these new appointments. The Board members are: Mr. Tom Costello (Chairman), Mr. Tim Bouchier Hayes (Partner, McCann Fitzgerald), Ms. Anne Butler (Chartered Engineer), Mr. John Cole CBE (architect), Professor Ian Hann (Professor of Paediatric Haematology and Oncology and Associate Medical Director of Great Ormond St Children’s Hospital), Mr. Karl Kent (architect), Mr. John Martin (Planner), Ms. Regina Moran (CEO Fujitsu Ireland), Mr. Paul Quinn (Department of Public Expenditure and Reform), Ms. Marguerite Sayers (ESB), Mr. Ian Carter (HSE National Director of Acute Hospitals), Mr. Brian Fitzgerald (CEO, St. James’s Hospital).

406 Christina Finn, ‘Delay in Appointing national Children’s Hospital Design team but Construction Begins in 2015’, *The Journal* 28 November 2013, <http://www.thejournal.ie/national-childrens-hospital-board-1197144-Nov2013/> [accessed 16 December 2013].

407 Minister welcomes selection of programme director for the new children’s hospital project, [press release] 28 November 2013, <http://healthupdate.gov.ie/news-room/new-children%E2%80%99s-hospital.html> [accessed 16 December 2013].

408 Christina Finn, ‘Delay in Appointing national Children’s Hospital Design team but Construction Begins in 2015’, *The Journal*, 28 November 2013, <http://www.thejournal.ie/national-childrens-hospital-board-1197144-Nov2013/> [accessed 16 December 2013].

409 Department of Public Expenditure and Reform (2011), *Infrastructure and Capital Development 2012-2016: Medium Term Exchequer Framework*, Dublin: Stationery Office.

410 Martin Wall, ‘New children’s hospital not to open in Coalition’s lifetime, says Minister’, *Irish Times*, 6 November 2012.

411 Paul Cullen, ‘Reilly declines to say how much new hospital will cost’, *Irish Times*, 7 November 2012.

412 Paul Cullen, ‘Children’s hospital delayed until at least 2019’ *The Irish Times*, 16 May 2013.

413 Martin Wall, ‘Planning risks a major factor in choice of St. James’s for hospital’ *Irish Times*, 7 November 2012.

414 Department of Health, ‘Minister for Health Announces Relocation of the National Maternity Hospital’ [press release] 27 May 2013, Dublin: Department of Health, <http://www.dohc.ie/press/releases/2013/20130527.html> [accessed 17 January 2014].

415 KPMG (2008) *Independent Review of Maternity and Gynaecology Services in the Greater Dublin Area Report*, Dublin: KPMG.

416 Department of Health, Minister for Health Announces Relocation of the National Maternity Hospital, Holles Street, Dublin, [press release] 27 May 2013 <http://www.dohc.ie/press/releases/2013/20130527.html> [accessed 17 January 2014].

Comment

Children's Hospital gets a 'C+' grade in *Report Card 2014*, a rise from last year's 'D' grade. This performance on the *Programme for Government* commitment reflects the establishment of the Children's Hospital Group Board and the National Paediatric Hospital Development Board as well as the announcement and committed funding for a new national maternity hospital. However, continued delays in the delivery of the National Children's Hospital with further delays in obtaining planning permission and in the appointment of the design team are regrettable.

The UN Convention on the Rights of the Child must underpin all work undertaken in the field of children's health. This is not limited to the achievement of the 'highest attainable standard of health' but crucially to 'facilities for the treatment of illness and rehabilitation of health' (Article 24), as well as all other aspects of a child's life in the hospital setting, including the right of the child to participate in matters relating to them (Article 12); the best interests of the child (Article 3); the child's right not to be separated from his/her parents (Article 9); the child's right to rest, leisure, play and recreational activities (Article 31); and the right to education (Article 28).⁴¹⁷ The UN Committee on the Rights of the Child has said that, in the event of hospitalisation, the child should be given the maximum possible opportunity to enjoy all his or her rights as recognised under the Convention, including the rights to education and to access recreational activities.⁴¹⁸ These rights are far from being realised in healthcare settings at present.

The speed at which the hospital project is progressing is unacceptable. A new, single national children's hospital was recommended in a 2006 report,⁴¹⁹ since then its location has been subject to ongoing debate and review. The change of site in 2012 delayed the process by at least two-and-a-half years and incurred a cost of €26 million.⁴²⁰ The current completion date is estimated at 2018, 12 years after the initial recommendation.⁴²¹ Meanwhile, the two main children's hospitals in Ireland (Our Lady's Hospital for Sick Children in Crumlin, Dublin and the Children's University Hospital, Temple Street, Dublin) struggle to provide quality care in facilities that fall well below today's standards and are in poor structural condition.⁴²² As an immediate measure, investment must be made to these existing hospitals to ensure they can still provide the necessary level of care to sick children, many of whom spend significant periods of their childhoods in hospital.

Hospital Design and Experience: The design of the new children's hospital must have the best interests of the child as its underpinning principle. There was extensive consultation with children and families in the designing of the Mater site.⁴²³ It is vital that ongoing consultation is undertaken in relation to the new St. James's Hospital site to ensure that the new location is world-class, innovative and child-centred in design. All aspects of the hospital – from the basic design, to medical procedures and day-to-day practice and running of the hospital – must centre upon the needs of the child, and must ensure that, for a child, their environment will never cause distress or fear; instead, it should facilitate calm and a sense of homeliness, and be accessible and navigable for all children. The hospital must facilitate parents and children to stay together, especially when children are very ill. It is important, too, that hospital services and design are sympathetic to the changing needs of children as they grow older; for example, teenagers' desire for privacy should be recognised and respected.

Age Issues: The National Children's Hospital should provide facilities and treatment for all children up to 18 years,⁴²⁴ consistent with the definition of a child under the UN Convention on the Rights of the Child⁴²⁵ and with the provisions in legislation affecting children such as the Child Care Act, 1991 and the Children Act, 2001. Children's hospitals currently impose a cut-off age of 16 years, with some flexibility for those already in the system. The new children's hospital provides an opportunity to address the well-documented gap in adolescent health services in existing children's hospitals.

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

418 UN Committee on the Rights of the Child (2003), *General comment No. 4: Adolescent Health*, CRC/GC/2003/4.

419 See *The New National Children's Hospital*, Children's Health First McKinsey Report (2006), <http://www.newchildrenshospital.ie>, [accessed 12 February 2014]

420 Paul Cullen, 'Reilly declines to say how much new hospital will cost', *Irish Times*, 7 November 2012.

421 Frank McDonald, 'Massive project will not be completed before 2018' *Irish Times*, 7 November 2012.

422 Department of Public Expenditure and Reform (2011) *Infrastructure and Capital Development 2012-2016: Medium Term Exchequer Framework*, Dublin: Stationery Office.

423 Consultations were undertaken in 2009 in relation to the design and experience of the new National Children's Hospital. For further details see: Ireland's New Children's Hospital, 'Children's Consultation', http://www.newchildrenshospital.ie/index.cfm/page/_for_parents [accessed 6 January 2012].

424 Beyond this, some flexibility is required in the case of certain young people over 18 years, for example those with intellectual disabilities.

425 Article 1 of the UN Convention on the Rights of the Child states that "a child means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier".

Begin and expedite the process of building the new National Children's Hospital

This was an immediate action of *Report Cards 2013* and *2012* and remains unaddressed. The St. James' Hospital site in Dublin has now been confirmed as the location for the National Children's Hospital. The hospital's design and ethos must uphold the rights of children. It is vital that ongoing consultation is undertaken in relation to the new St. James' Hospital site to ensure that the new location is world-class, innovative and child-centred in design. This should build on the consultation completed to date. Plans must translate into action during 2014. The amended design must be completed in 2014 and planning permission must be secured. A completion date any later than 2018 simply cannot be accepted.



“The challenges facing the families we talked to are heartbreaking. Every single parent wants to give their children the best they can. But the impact of five brutal budgets is pushing them to the limits. Many parents have told us that putting food on the table for their children often means going without food themselves.”

Fergus Finlay, Chief Executive, Barnardos

Chapter 4:

Right to an Adequate Standard of Living

Grade D



In The News

Boost for local children

By Jack Gleeson

PARENTS and young children in Finglas are set to benefit from a new childhood programme designed to improve the lives of children in disadvantaged areas.

Finglas was one of 13 locations nationwide selected for the €30 million Area-Based Childhood (ABC) early intervention programmes to support health and social projects in several countries. The ABC programme targets investment in evidence-based early interventions – from pregnancy onwards – to improve the lives and futures for children and families living in areas of disadvantage.

Local TD Róisín Shortall (Ind) welcomed the inclusion of Finglas in the children and parenting initiative, which was the result of a successful application from Better Finglas, a consortium made up of local groups, schools, Dublin City Council and State agencies. "I fought hard to have a commitment to such funding contained in the Programme for Government," said Deputy Shortall. "I am glad to see that this is one promise the Government appears to be delivering on. Early intervention programmes are vital if we are ever to break the cycle of poverty and exclusion in large parts of Dublin." "It is about giving kids a chance in life and preventing problems before they begin. And it saves money in the long run."

Following the successful application confirmed last week, the Finglas ABC Programme now moves forward to design stage. If it receives final approval it will be a Barnardos-led project designed to provide better services for parents and children in Finglas South, Finglas West and part of Finglas East.

The Finglas programme will be modelled on the successful youngballymun Initiative with an emphasis on child mental health, supports for parents and early interventions in literacy, numeracy and identifying health issues.

There was good news too for the youngballymun programme which is now set to come under the ABC umbrella. Minister for Children and Youth Affairs, Frances Fitzgerald, said that evaluations from three pilot programmes, including youngballymun, demonstrated significant improvements in outcomes for children in a number of areas.

Northside People West, 2 December 2013
www.dublinpeople.ie

4 | Right to an Adequate Standard of Living

Overall
Grade **D**

The 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 UNCRC

The Right to an Adequate Standard of Living gets a 'D' grade this year, a slight increase from last year's 'D-' grade. However, child poverty remains high: the EU Survey of Income and Living Conditions (EU SILC) figures, published in 2013, shows that 9.3% of children are living in consistent poverty while 18.8% of children are at risk of poverty.⁴²⁶ While the Department of Social Protection's *Social impact assessment of the main welfare and direct tax measures in Budget 2013* found that there was no significant change in the at-risk-of-poverty rate, it also confirmed that households with children were the worst affected by the cuts made in Budget 2013, in particular lone parent households.⁴²⁷

Child Poverty gets an 'E-' grade this year – an improvement on *Report Card 2013*. This is due to the fact that although the Government, protected rates of child income supports in Budget 2014 and children for the most part, and families were spared the harsh cuts of previous budgets, it was not enough to reverse the impact that austerity budgets have already had on them. It is also disappointing that the sub-target to reduce child poverty has still not been set. Area Based Childhood (ABC) Programme gets a 'C+' grade in recognition of the allocation of €4 million in Budget 2014 and the selection of an additional nine sites for this important initiative. In *Children and the Social Welfare System*, the recommendations of the Advisory Group on Tax and Social Welfare have not been implemented resulting in a 'D' grade to reflect the lack of any real change.

Budget 2014 maintained child income supports at existing rates. This is a welcome reprieve from severe cuts in successive budgets, which has saved the Exchequer €450 million since 2009.⁴²⁸ However, cuts to Maternity Benefit will have a detrimental effect on working mothers with newborn babies contrary to Article 18 (parental responsibilities) of the UN Convention on the Rights of the Child. Furthermore, the failure to reverse cuts to the Back to School Clothing and Footwear Allowance will have a negative impact on children fulfilling their right to education under Article 28 as many parents cannot afford the high cost of school uniforms or the necessary clothing items to ensure that their child is properly dressed for school.

The UN Committee on the Rights of the Child, in its 2007 day of General Discussion on 'Resources for Rights', made clear the obligation on States to undertake targeted measures to move as expeditiously and effectively as possible towards the full realisation of economic, social and cultural rights of children and that a financial crisis should not be used as a reason to delay.⁴²⁹ The UN Independent Expert on Human Rights and Extreme Poverty reiterated this point on her trip to Ireland in 2011.⁴³⁰ The Government's commitment in its *Strategy for Growth: Medium-Term Economic Strategy 2014 – 2020* to 'reduce inequality and improve poverty outcomes across society, with a particular emphasis on child poverty'⁴³¹ is welcome but this must not be done at the expense of human rights.

426 Central Statistics Office (2013) *EU Survey on Income and Living Conditions 2011 & Revised 2010 Results*, Dublin: Stationery Office.

427 Department of Social Protection, *Social impact assessment of the main welfare and direct tax measures in Budget 2013*, http://www.welfare.ie/en/downloads/2013-03_SIABudget2013_Final.pdf, p. 1. [accessed 11 February 2014].

428 End Child Poverty Coalition, *Position Paper on Reforming Child Income Supports April 2013*, <http://www.endchildpoverty.ie/publications/documents/ECPCPositionPaperReformingChildIncomeSupports.pdf>, p. 3. [accessed 11 February 2014].

429 UN Committee on the Rights of the Child, 46th session (2007) Day of General Discussion on 'Resources for the Rights of the Child – Responsibility of States', <http://www.ohchr.org/Documents/HRBodies/CRC/Discussions/Recommendations/Recommendations2007.doc> [accessed 5 January 2014].

430 UN General Assembly (2011), *Report of the Independent Expert on the Question of Human Rights and Extreme Poverty*, A/HRC/17/34/Add.2.

431 Department of Finance (2013) *A Strategy for Growth: Medium-Term Economic Strategy 2014 – 2020*. Dublin: Stationery Office, p.15.

4.1 Child Poverty

Grade E-

Commitment

The *Programme for Government* states that the elimination of poverty is an objective of this Government and that it is committed to achieving the targets in the *National Action Plan for Social Inclusion* to reduce the number of people experiencing poverty.

Progress

Limited progress

What's happening?

A new national sub-target to reduce child poverty was promised but has not yet been set by Government. There were no further cuts to child income supports in Budget 2014. However, Maternity Benefit was subject to a further cut and the Back to School Clothing and Footwear Allowance was not restored to its previous value. The School Meals budget was maintained at €37 million.

Budget 2014 did not introduce any further cuts to rates for child or family income supports. However, the change announced in Budget 2013 to introduce a uniform rate of Child Benefit of €130 per month for all children came into operation in January 2014.

The rate of Back to School Clothing and Footwear Allowance (BSCFA) was not reduced as it had been in the previous two years. However, young people over 18 in third level education will no longer receive the payment: this measure is expected to save €2.5 million.

Maternity Benefit and Adoptive Benefit were standardised to a weekly rate of €230 for all new applicants. Previously the minimum rate of payment was €217.80 and the maximum rate was €262.⁴³² 90% of women claim the higher rate of Maternity Benefit.⁴³³

In the *National Action Plan for Social (NAP) Inclusion 2007-2016*,⁴³⁴ the Government committed to reduce the number of people experiencing consistent poverty to between 2% and 4% by 2012, with the aim of eliminating consistent poverty⁴³⁵ by 2016. In 2012, the Government revised this figure, following publication of a review of the national poverty target.⁴³⁶ The target has been renamed the 'national social target for poverty reduction' and is now set at reducing consistent poverty to 4% by 2016 (interim target) and to 2% or less by 2020, from the 2010 baseline rate of 6.2%. In November 2013, a biennial report was

432 For full analysis of Budget 2014 and its impact on children, see: Children's Rights Alliance (2013) *Analysis of Budget 2014 and its Impact on Children*, Dublin: Children's Rights Alliance.

433 Kitty Holland, 'Maternity benefit cut anti-women and anti-family' *The Irish Times*, 15 October 2013.

434 Office for Social Inclusion (2007) *National Action Plan for Social Inclusion 2007-2016*, Dublin: Stationery Office.

435 A person is consistently poor if he or she lives in a household with equivalised income below the 60% of median income threshold and they lack two of more of the 11 basic deprivation items.

436 The Review focused on developing and adopting appropriate and achievable national poverty targets in line with national and EU commitments. See: Department of Social Protection (2012) *National Social Target for Poverty Reduction: Policy Briefing on the Review of the National Poverty Target*, Dublin: Department of Social Protection.

issued⁴³⁷, which monitors progress on the four high level goals relating to children contained in *NAPinclusion 2007-2016* with a focus on children as one of the key lifecycle groups. Three of these high level goals relate to education (pre-school education, literacy initiatives and second-level education completion rates), while one relates to income support. A number of government departments are also involved in the 49 actions underpinning the high level goals including the Department of Children and Youth Affairs (21 actions) and the Department of Education and Skills (12 actions) in relation to the child lifecycle group.⁴³⁸

A new national sub-target for the reduction of child poverty has yet to be agreed, in consultation with relevant stakeholders, to reduce the differential in the rate of consistent poverty between children and adults. According to the latest available data, the differential between adults and children experiencing consistent poverty in 2011 was 9.3 per cent as the child poverty rate was 1.6 times the adult rate.⁴³⁹ The sub-target for child poverty reduction is expected to be included in the Policy Framework on Children and Young People, which is due to be published in the first quarter of 2014.⁴⁴⁰ This framework will take a 'multi-dimensional social investment approach' to a child's lifecycle across a number of different policy areas.⁴⁴¹

The *EU 2020 Strategy* requires EU Member States to set a national poverty target that will contribute to meeting the EU poverty target of lifting at least 20 million people out of poverty or social exclusion by 2020.⁴⁴² Ireland's contribution to reaching the EU target is to lift a minimum of 200,000 people out of poverty by 2020.⁴⁴³ In February 2013, the EU Commission issued a recommendation on child poverty and well-being called *Investing in children: breaking the cycle of disadvantage*⁴⁴⁴, which recognised that children are more susceptible to poverty than the overall population.⁴⁴⁵

Food poverty is an issue of growing concern and a number of different factors can have an impact on this type of poverty including adequate income, the cost of food as well as education about nutrition and access to healthy food choices. A paper funded by the Department of Social Protection in 2012 used EU SILC data to examine how to construct a food poverty indicator for Ireland.⁴⁴⁶ This research found that 10% of the population in Ireland were living in food poverty; the rate of food poverty increased to 18% for households with three or more children and 23% for lone parent families.⁴⁴⁷ Furthermore, the Health Behaviour Survey in School-aged Children (HBSC)⁴⁴⁸ carried out with 12,556 children aged between 10 and 17 years found that almost 21% stated that they had gone to school or to bed hungry.⁴⁴⁹ The research found that 10- and 11-year-olds were most likely to answer that they sometimes went hungry.⁴⁵⁰ According to an analysis of 2012 data by the Central Statistics Office, food prices in Ireland were above the EU average.⁴⁵¹

437 Department of Social Protection (2013) *Social Inclusion Report Incorporating Annual Reports for 2011 & 2012*, Dublin: DSP, <http://www.socialinclusion.ie/documents/2013-11-14AnnualReportIndesignWEBCopy.pdf> [accessed 3 February 2014].

438 Department of Social Protection (2013) *Social Inclusion Report Incorporating Annual Reports for 2011 & 2012*, Dublin: Department of Social Protection, and also see the associated Table of Actions, http://www.socialinclusion.ie/documents/FinalwithBlankTableofActionLandscapeReport_000.pdf [accessed 3 February 2014].

439 Office for Social Inclusion (2013) *Social Inclusion Monitor*, Dublin: Department of Social Protection, p.12.

440 Communication received by the Children's Rights Alliance from the Department of Social Protection on 18 December 2013.

441 Communication received by the Children's Rights Alliance from the Department of Social Protection on 31 January 2014.

442 This target is broader than just the number of people at risk of poverty as it also refers to households experiencing severe material deprivation and very low work intensity households. Communication received by the Children's Rights Alliance from the Department of Social Protection on 31 January 2014.

443 The EU will be tracking the 'at risk of poverty' measure. The Irish figure is based on the 2010 baseline rate of 6.3%. Department of Social Protection (2012) *National Social Target for Poverty Reduction: Policy Briefing on the Review of the National Poverty Target*, Dublin: Department of Social Protection, p.3.

444 European Commission (2013) *Recommendation on investing in children: breaking the cycle of disadvantage*, Brussels: European Commission.

445 *Ibid.*, p.2.

446 C. Carney and B. Maitre (2012) *Social Inclusion Technical Paper No. 3 Constructing a Food Poverty Indicator for Ireland using the Survey on Income and Living Conditions*, Dublin: Department of Social Protection.

447 Food Safety (2012) *Measuring Food Poverty in Ireland - the indicator and its implications*, Dublin: The Food Safety Promotion Board.

448 M. Callaghan & S. Nic Gabhainn (2013). *Appendix 1: Nutrition behaviours and outcomes: a special analysis of the HBSC survey as part of the implementation of the National Strategy for Research and Data on Children's Lives, 2011-2016*. Dublin: Department of Children and Youth Affairs, p.53. The figures in Table 185 were used to calculate the overall percentage.

449 The majority stated that they have gone to school or bed hungry 'sometimes' while smaller percentages stated that they go to bed or school hungry 'always' or 'often'.

450 *Ibid.*, Table 183.

451 Central Statistics Office Price Level Indices for Food, Beverages and Tobacco in Europe 2012, http://www.cso.ie/en/media/csoie/releasespublications/documents/prices/2012/plieur_2012.pdf [accessed 11 February 2014].

Comment

Child Poverty gets an 'E-' grade in *Report Card 2014*, an increase on last year's 'F' grade. While Budget 2014 was a more reasonable budget for children and families, it did not reverse or negate the impact of previous austerity budgets. The 12% cut to Maternity Benefit was particularly harsh given the high birth rate in Ireland. Budget 2014 was not poverty proofed; each government department has a responsibility to carry out social impact assessments in relation to their own budgetary decisions. However, only the Department of Social Protection published such an assessment of Budget 2013 but only after final budgetary decisions were made.

The exit of the European Union (EU)/International Monetary Fund (IMF)/European Central Bank (ECB) Troika in December 2013 was a positive step that hopefully signalled a reduced need for continuing austerity measures. However, it is important to note that the Government is also subject to other international obligations, namely international human rights law. In particular, the International Covenant on Economic, Social and Cultural Rights (ICESCR) requires the State to ensure the implementation of economic, social and cultural rights to the fullest extent possible even in times of recession. Article 4 of the UN Convention on the Rights of the Child (UNCRC) reiterates this obligation in the context of children's economic, social and cultural rights. The Special Rapporteur on Extreme Poverty and Human Rights has repeatedly highlighted the onus on states to provide 'minimum essential levels of non-contributory social protection – not as a policy option, but rather as a legal obligation'.⁴⁵² She has also highlighted the need to prioritise children's rights 'given that most of those living in poverty are children and that poverty in childhood is a root cause of poverty in adulthood'.⁴⁵³ She calls on States to take steps to eradicate childhood poverty.

The Center for Economic and Social Rights (CESR), in its 2012 rights analysis of the economic crisis in Ireland, called on the Government to introduce progressive tax reforms; it was concerned that Ireland's low tax rates may prevent the realisation of economic and social rights as they may 'place a greater burden on the poor and may be discriminatory in effect'.⁴⁵⁴ The CESR also notes that indirect taxation such as increases to Value Added Tax (VAT) hits families on low incomes particularly hard.⁴⁵⁵ This is because VAT and other forms of indirect taxation reduce a person's spending power. If Government is considering tax reforms, it should take steps to make the tax system more equitable, and in particular, examine the rate of VAT as well as its application to different types of consumer goods and services.

Children and families were not directly targeted in Budget 2014 as they had been in previous budgets but the cumulative impact of cuts since 2008 means that monthly child income supports have been reduced by almost €100 for families with three or more children over the past six years. Despite a 9% decrease in the birth rate since the same quarter in 2012,⁴⁵⁶ Ireland still records the highest fertility rate in the EU at 2.05 live births per woman,⁴⁵⁷ the EU average was 1.57 births. There were 22,781 recipients of Maternity Benefit at the end of November 2013.⁴⁵⁸

The decision to cut Maternity Benefit by 12%, on top of taxing this payment in Budget 2013, will push women back to work early, interfering with their ability to breastfeed and care for their newborn child. The Department of Social Protection has indicated that the decision to reduce the rate of the payment was made as a savings measure but it prioritised maintaining the 26 week duration of the payment 'because this time is important for families and their children' and it is also longer than the 14 weeks requirement set out in EU law.⁴⁵⁹

452 Sepúlveda and Nyst, (2012) *Human Rights Approach to Social Protection*, Finland: Ministry of Foreign Affairs.

453 United Nations Human Rights Council (2012) *Final draft of the guiding principles on extreme poverty and human rights, submitted by the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona A/HRC/21/39*, p.8.

454 Center for Economic and Social Rights (2012) *Mauled by the Celtic Tiger: Human Rights in Ireland's Economic Meltdown*, Rights in Crisis Briefing Paper, p.14.

455 *Ibid.*, p. 15.

456 Central Statistics Office (2013) *Vital statistics First Quarter 2013* Dublin: Stationery Office.

457 Eurostat (2013) *Basic Figures on the EU: Winter 2013/2014 edition*, Brussels: European Commission.

458 Communication received by the Children's Rights Alliance from the Department of Social Protection on 18 December 2013.

459 *Ibid.*

The UN Committee on the Rights of the Child in its General Comment No. 7 on implementing child rights in early childhood highlighted that: '[e]arly childhood is the period of most extensive (and intensive) parental responsibilities related to all aspects of children's well-being covered by the Convention'.⁴⁶⁰ The Committee reminds States that children's rights and well-being are dependent on the support and resources available to their parents and encourages the State to ensure that the best interests of the child are considered when making decisions that may impact on a parent's ability to care for his or her child, including taxation and social security benefits. It is not clear that the best interests of newborn children were taken into consideration when making cuts to Maternity Benefit.⁴⁶¹

Child Benefit is a payment designed to assist parents with the cost of raising a child while it also contributes to alleviating child poverty. It is currently paid to 611,000 families in respect of almost 1.17 million children.⁴⁶² This payment ensures that the State is providing the necessary support to parents and legal guardians in compliance with Article 18 of the UN Convention on the Rights of the Child. However, from January 2014, larger families will be subjected to a further monthly cut as a result of the reduction of the payment from €140 to €130 for fourth and subsequent children, announced in Budget 2013. Furthermore, some children are not able to avail of this crucial support as their parents do not meet certain qualifying criteria set out in social welfare legislation.⁴⁶³ In these cases, parents are prevented from accessing the payment on the basis of their immigration status, which contravenes the non-discrimination principle in Article 2 of the UNCRC.

“The Special Rapporteur on Extreme Poverty and Human Rights has repeatedly highlighted the onus on states to provide ‘minimum essential levels of non-contributory social protection – not as a policy option, but rather as a legal obligation.’”

460 UN Committee on the Rights of the Child (2005) General Comment No. 7: Implementing Child Rights in early Childhood, UN Doc. CRC/GC/2005/7.

461 For full analysis of Budget 2014 and its impact on children see: Children's Rights Alliance (2013) *Analysis of Budget 2014 and its Impact on Children*, Dublin: Children's Rights Alliance.

462 Communication received by the Children's Rights Alliance from the Department of Social Protection on 18 December 2013. These figures are accurate as of the end of November 2013.

463 The Habitual Residence Condition (HRC) is set out in Section 246 of the Social Welfare (Consolidation) Act 2005. At the end of 2009, the legislation was changed to exclude anyone in the asylum process from being habitually resident following a number of successful social welfare appeals which demonstrated that there was no blanket exclusion of these applicants being able to access social welfare payments subject to HRC.

The failure to reverse the cuts to Back to School Clothing and Footwear Allowance will continue to cause hardship for families struggling with the high costs of going back to school. The expense of attending school coupled with the year-on-year reduction to the payment means that this could negatively impact on a child's right to education (Article 18). Almost 174,000 families availed of the payment in 2013.⁴⁶⁴ In its *2013 School Costs Survey*, Barnardos found that the cost of sending a child to senior infants was €350 while parents had to spend €785 to send a child to secondary school.⁴⁶⁵ The survey also found that the cost of crested uniforms greatly increases school clothing costs, an issue which the Minister for Education, Ruairi Quinn TD has committed to address through the introduction of a policy to give parents control over the cost of uniforms.⁴⁶⁶ In December 2013, schools were issued with a survey, developed in consultation with the education partners which schools were due to implement by the end of February 2014. This is to ensure that any necessary changes can be made by Boards of Management before the beginning of the next year school year in September 2014.⁴⁶⁷

The allocation of €5 million towards a national book rental scheme in 2014 is an important first step to encourage widespread book rental schemes and should help to alleviate the burden of school book costs on parents. But more can be done. The European Commission also noted in its recommendation on *Investing in Children* that impoverishment can have a negative impact on the school performance of less well-off children as well as on their health and that they are less likely to 'realise their full potential later in life'.⁴⁶⁸

Child Poverty: The Department of Social Protection's impact assessment of Budget 2013 demonstrated that households with children were the worst affected by the main welfare and direct tax measures.⁴⁶⁹ Rates of child poverty remain high, with 18.8% of children and young people under the age of 18 living at risk of poverty while 9.3% continue to live in consistent poverty.⁴⁷⁰ However, further research by the ESRI has also found that while 'Ireland has the highest at-risk-of-poverty before social transfers for children and for the working-age population', the impact of social transfers has resulted in reducing 'the Irish child at-risk-of-poverty rate to a lower level than the EU15 average'.⁴⁷¹

According to research published by UNICEF in 2013,⁴⁷² Ireland was ranked tenth best place to be a child in 2011, out of a total of 29 countries; however, it fell to 17th place when material well-being was measured. Furthermore, UNICEF's Report Card noted that several countries including Ireland 'allowed the child poverty gap to widen to more than 30%' by 2011.

Following Budget 2014, the Vincentian Partnership for Social Justice highlighted that while the majority of primary social welfare payments had not been reduced, the rise in the cost of living coupled with the 'failure to at least increase social welfare rates in line with inflation results in an effective cut in the value of social welfare payments to households trying to attain a minimum standard of living'.⁴⁷³ The Partnership also noted the higher cost of raising a teenager and called for an increase in the Qualified Child Increase to acknowledge this additional expense for parents.⁴⁷⁴

464 Statistics supplied to the Children's Rights Alliance by the Department of Social Protection on 18 December 2013.

465 Barnardos (2013) *School Costs Survey 2013*, Dublin: Barnardos.

466 Katherine Donnelly, 'School uniform price controls on way, says Quinn' *Irish Independent*, 16 October 2013.

467 Communication received by the Children's Rights Alliance from the Department of Education and Skills on 14 January 2014.

468 European Commission (2013) *Recommendation on investing in children: breaking the cycle of disadvantage*, Brussels: European Commission.

469 Department of Social Protection (2013) *Social impact assessment of the main welfare and direct tax measures in Budget 2013*, Dublin: Department of Social Protection.

470 Central Statistics Office (2013) *EU Survey on Income and Living Conditions (SILC) 2011 & revised 2010 results*, Dublin: CSO.

471 Watson, D, and Maitre, B (2013) *Social Transfers and Poverty Alleviation in Ireland: An Analysis of the CSO Survey on Income and Living Conditions 2004-2011*, Social Inclusion Report No. 4. Dublin: Department of Social Protection and the Economic and Social Research Institute.

472 UNICEF Office of Research (2013) *Child Well-being in Rich Countries: A comparative overview*, Innocenti Report Card 11, Florence: UNICEF Office of Research.

473 Dr. B. Mc Mahon et al (2013), *Budget 2014: Minimum Essential Budget Standards Impact Briefing*, Dublin: Vincentian Partnership for Social Justice, p.1.

474 *Ibid.*, p.3.

Children in certain situations are particularly at risk of poverty, including children in lone parent families and children in jobless households. In addition, Traveller and Roma children, migrant children, children living in direct provision centres,⁴⁷⁵ young care leavers, children with a disability and homeless children experience high levels of poverty, but large scale studies, such as the EU SILC, fail to capture these children's experiences.⁴⁷⁶

Indeed, current measures of poverty are, with some exceptions, household-focused, rather than child-focused. By using indicators that primarily relate to adults' lives they do not give a clear or full picture of children's lived experiences.⁴⁷⁷ The ESRI has stated that child poverty must be addressed in the context of poverty among people of working age as in the majority of households with children, the social welfare supports are not child-related but are related to the status of the parents, whether they are unemployed, lone parents or disabled.⁴⁷⁸ Using a direct measure of child deprivation would provide a more complete understanding of child poverty.⁴⁷⁹ There are currently three official national measures of poverty in Ireland: at-risk-of-poverty; material deprivation and consistent poverty, an overlap of the two.

Poverty targets: Since 1997, five targets have been set by Government to reduce poverty. The first target was the 1997 *National Anti-Poverty Strategy* which aimed to reduce the consistent poverty rate from 9% to 5% and the at-risk of poverty rate from 15% to 10%, in the period 1997-2007.⁴⁸⁰ *Building an Inclusive Society*, the 2002 review of the national anti-poverty strategy, set a second target aimed to reduce consistent poverty from 6.2% to 2%, and, if possible, to 0% between 2002 and 2007.⁴⁸¹ A third target was set by the *National Action Plan for Social Inclusion 2007-2016*, which aimed to reduce consistent poverty from 7% to 0% by 2016, with an interim target of between 2% and 4% by 2012.⁴⁸²

In 2012, a fourth target was set (a revision of the third target) to reduce consistent poverty to 4% by 2016 (interim target) and to 2% or less by 2020.⁴⁸³ 2012 also saw the setting of a fifth target (to be reached in tandem with the fourth target), 200,000 people are to be lifted out of poverty by 2020, in line with Ireland's obligations under the EU 2020 Strategy, which commits to lift at least 20 million people out of at-risk of poverty in the EU.⁴⁸⁴

Child poverty target: Children are the group most at risk of poverty, and, without earning capacity, they are reliant on their parents' income and on the State for support. The UN Committee, in its *General Comment No. 5*, is clear that implementation of children's socio-economic rights is not a charitable process but a basic obligation of Government.⁴⁸⁵ The Children's Rights Alliance, as part of the End Child Poverty Coalition, called for a specific child poverty target linked to the national target; the Government has committed to introduce such a sub-target.⁴⁸⁶ The target for reducing poverty among children is due to be announced in early 2014, following consultation with relevant stakeholders, including children's Non-Governmental Organisations. The new sub-target will act as a means through which progress on child poverty can be measured and as a tool to inform children's policy development. To ensure the target is met, it must be accompanied by an implementation plan. Furthermore, achieving the target must be seen as a whole of Government target and not solely the

475 Direct provision is a scheme whereby asylum seekers and people seeking other forms of protection are provided with accommodation on a full board basis with all their basic needs provided for directly. Direct provision residents receive a weekly payment of €19.10 for an adult and €9.60 for a child.

476 H. Frazer and M. Devlin (2011) *An Assessment of Ireland's Approach to Combating Poverty and Social Exclusion among Children from European and Local Perspectives*, Maynooth: Department of Applied Social Studies, National University of Ireland Maynooth.

477 L. Swords et al (2011) *All you need is... Measuring children's perceptions and experiences of deprivation*, Dublin: Children's Research Centre, Trinity College Dublin.

478 D. Watson and B. Maitre (2013) *Social Transfers and Poverty Alleviation in Ireland: An Analysis of the CSO Survey on Income and Living Conditions 2004 - 2011*, Social Inclusion Report No. 4. Dublin: Department of Social Protection and Economic and Social Research Institute.

479 Eurostat (2012) *Measuring material deprivation: Indicators for the whole population and child-specific indicators*, Luxembourg: Publications Office of the European Union.

480 Department of Social, Community and Family Affairs (1997) *Sharing in Progress: the National Anti-Poverty Strategy*, Dublin: Stationery Office.

481 Department of An Taoiseach (2002) *Building an Inclusive Society: Review of the National Anti-Poverty Strategy under the Programme for Prosperity and Fairness*, Dublin: Stationery Office.

482 Office for Social Inclusion (2007) *National Action Plan for Social Inclusion 2007-2016*, Dublin: Stationery Office.

483 Department of Social Protection (2012) *National Social Target for Poverty Reduction: Policy Briefing on the Review of the National Poverty Target*, Dublin: Department of Social Protection.

484 Department of An Taoiseach (2011) *National Reform Programme for Ireland under the EU 2020 Strategy*, Dublin: Stationery Office.

485 UN Committee on the Rights of the Child (2003) *General Comment No. 5: General measures of implementation of the Convention on the Rights of the Child, CRC/GC/2003/5*, Arts. 4, 42 and 44, paragraph 6.

486 For further detail on the Children's Rights Alliance position on ending child poverty, see www.childrensrights.ie/resources.

concern of the Department of Social Protection. Another sub-target on jobless households will also be set in tandem with the child poverty sub-target.⁴⁸⁷

The European Commission encourages Member States to put in place and implement 'multidimensional' integrated strategies that address 'child poverty and social exclusion' while 'promoting children's well-being'.⁴⁸⁸ The Commission also recommends that Member States adopt a rights-based approach with particular reference to the European Charter of Fundamental Rights as well as the UN Convention on the Rights of the Child.⁴⁸⁹ This important recommendation adopted at EU level will bring a welcome focus to tackling child poverty and ensuring that children within the EU can live in dignity.

Food poverty: Food poverty is a growing issue of concern. Although it does not have an official definition in Irish social policy, it is usually referred to 'as the inability to have an adequate and nutritious diet due to issues of affordability or accessibility'.⁴⁹⁰ Research has found that lone parent households or larger families with three or more children are more likely to suffer food poverty.⁴⁹¹ The UN Committee on Economic, Social and Cultural Rights has made it clear that, even in times of recession or economic adjustment, States have a positive obligation to ensure that everyone has the right to be free from hunger.⁴⁹² This means that people must have adequate food as well as being able to access nutritious food. Eurostat information has shown that prices for food in Ireland are above the EU average; fresh fruit, vegetables and potatoes cost 38% more than the EU average while milk, eggs and cheese cost 19% more.⁴⁹³

The School Meals Programme, funded through the Department of Social Protection, is a positive way to ensure regular and healthy food services for disadvantaged school children. In 2013, 205,000 children in almost 1,600 schools and local organisations benefitted from the programme.⁴⁹⁴ In 2013/2014, a total of 2,573 food clubs will be funded of which 647 are Breakfast Clubs. Funding is also provided for snacks, lunches, dinners and afterschool clubs.⁴⁹⁵ This is an important initiative to combat food poverty given that one in ten people were found to suffer from food poverty in 2010.⁴⁹⁶

More must be done to reduce the high numbers of people who now find themselves and their families suffering from food poverty. According to the Vincentian Partnership for Social Justice, food is one of the biggest expenses for households with children, second only to rent and childcare.⁴⁹⁷ Meanwhile food banks like that operated by Crosscare estimated that by the end of 2013, they will have distributed 750 tonnes of food to people in need⁴⁹⁸ while the Capuchin Daycare Centre feeds on average more than 1,000 people a day.⁴⁹⁹ Concern has also been expressed about the negative impact of food poverty on a child's ability to learn⁵⁰⁰ as well as the lack of knowledge about healthy eating amongst early school leavers.⁵⁰¹

487 Communication received by the Children's Rights Alliance from the Department of Social Protection on 31 January 2014.

488 European Commission (2013) *Recommendation on Investing in Children: Breaking the Cycle of Disadvantage*, Brussels: European Commission, p.4.

489 Ibid.

490 Food Safety (2012) *Measuring Food Poverty in Ireland - the indicator and its implications*, Dublin: The Food Safety Promotion Board.

491 C. Carney and B. Maitre (2012) *Social Inclusion Technical Paper No. 3 Constructing a Food Poverty Indicator for Ireland using the Survey on Income and Living Conditions*, Dublin: Department of Social Protection, p.38.

492 UN Economic, Social and Cultural Committee (1999) *General Comment No. 12: The Right to Adequate Food (Article 11)*, E/C.12/1999/5.

493 Central Statistics Office Price Level Indices for Food, Beverages and Tobacco in Europe 2012, http://www.cso.ie/en/media/csoie/releasespublications/documents/prices/2012/plieur_2012.pdf [accessed 11 February 2014].

494 Communication received by the Children's Rights Alliance from the Department of Social Protection on 31 January 2014.

495 All of the statistics related to this programme have been provided to the Children's Rights Alliance by the Department of Social Protection on 18 December 2013.

496 Mandate Trade Union and Unite Trade Union (2013) *Hungry for Action: Mapping Food Poverty in Ireland* Dublin: Mandate and Unite.

497 Dr B. Mac Mahon, G. Weld, R. Thornton and Dr M. Collins (2012) *The Cost Of A Child: A consensual budget standards study examining the direct cost of a child across childhood* Dublin: Vincentian Partnership for Social Justice.

498 Sinead O'Carroll 'Food appeal for struggling Dublin families as Food Bank can't cope with requests' *The Journal*, [online].

<http://www.thejournal.ie/food-appeal-dublin-1175124-Nov2013/> [accessed 11 February 2014].

499 Jim Cusack 'Many 'new poor' among 1,540 seeking food aid from Capuchins in a single day', *Irish Independent*, 7 April 2013.

500 Michelle Hennessy, 'Rising food poverty hinders students' ability to learn' <http://www.thejournal.ie/food-poverty-primary-school-767184-Jan2013/> [accessed 11 February 2014].

501 M. Share, M. Hennessy, B. Stewart-Knox & J. Davison (2013) *Early School Leavers and Nutrition: A needs assessment from a nutrition perspective*. Dublin: Safefood, The Food Safety Promotion Board.

Each government department should carry out a social impact assessment in advance of budgetary decisions being finalised for Budget 2015 to protect children and families

While the Department of Social Protection has begun to carry out social impact assessments following the Budget, it should ensure that these are conducted and published in advance of decisions being made. In addition, other government departments should also carry out similar assessments as their decisions often have an impact on children. Budget 2015 should be poverty proofed and ensure that even in times of recession, human rights are respected.

Introduce the promised child poverty target as a matter of urgency

Both Report Card 2012 and Report Card 2013 called for the introduction of the child poverty target as an immediate action but this has been delayed and did not take place in 2013. Some consultation has taken place but a national sub-target for child poverty reduction must be prioritised and introduced in early 2014. It should be accompanied by a Child Poverty Target Implementation Plan, outlining the objectives, actions and agreed timelines for each Department or Agency with responsibility for delivery, though overall monitoring responsibility should rest with the Minister for Children and Youth Affairs.

4.2 Area Based Childhood (ABC) Programme

Grade C+

Government Commitment

The *Programme for Government* acknowledges that a new approach is needed to break the cycle of child poverty where it is most deeply entrenched. It pledges to adopt a new Area Based Approach to Child Poverty, which draws on best international practice and existing services to tackle every aspect of child poverty. Initially, this model will be rolled out to up to ten of Ireland's most disadvantaged communities, in cooperation with philanthropic partners to co-fund and manage the project.

Progress

Some progress made

What's happening?

Budget 2014 provided €1.5 million in additional funding for the Area-Based Childhood (ABC) Programme bringing the total 2014 government spend on the programme to €4 million with a further €5 million allocation from Atlantic Philanthropies.

In April 2013, the Department of Children and Youth Affairs invited proposals for funding under the *Area Based Response to Child Poverty Programme 2013-2016*⁵⁰² to break the cycle of child poverty where poverty is most deeply entrenched. While the application process was open to all projects working with children up to the age of 18 years, particular emphasis was placed on programmes working with children from birth to six years of age. The programme builds on and continues the work of the Prevention and Early Intervention Programme. There will be an overall investment of almost €30 million into the ABC Programme from 2013-2016. A total of 12 sites will be funded under the ABC Programme with a further three being supported through these projects, which exceeds the Government's own commitment to fund up to ten sites.

An Interdepartmental Project Team was established comprising representatives from the Departments of Children and Youth Affairs, Public Expenditure and Reform, Social Protection, Education and Skills and the Department of Health, as well as the Department of the Taoiseach and the Office of the Tánaiste. Representatives from the Centre for Effective Services (CES), the HSE, Pobal and co-funder, the Atlantic Philanthropies, also form part of this team.⁵⁰³ The team has met a total of five times and has helped to identify specific difficulties in inter-agency working while at the same time helping to find workable solutions. Individual members of the team have brought experience and knowledge to the process of designing the programme.⁵⁰⁴ A Working Group was also set up comprised of Department of Children and Youth Affairs, Atlantic Philanthropies, CES and Pobal, which meets more regularly and deals with tasks that the Project Team has assigned to it.⁵⁰⁵

502 Department of Children and Youth Affairs Area Based Response to Child Poverty Programme 2013-2016 : Application/Programme Guidelines, [https://www.pobal.ie/FundingProgrammes/Area%20Based%20Childhood%20\(ABC\)%20Programme/Pages/default.aspx](https://www.pobal.ie/FundingProgrammes/Area%20Based%20Childhood%20(ABC)%20Programme/Pages/default.aspx) [accessed 2 December 2013].

503 Ibid., Appendix 4.

504 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs on 18 December 2013.

505 Ibid.

The application form and guidelines issued by Pobal included specific selection and scoring criteria with projects having to demonstrate evidence of need which made up 40% of the overall score. The deadline for applications was 31 May 2013 and the selection process consisted of two stages. The first stage identified the applications with the greatest likelihood of success and those with the highest score were invited to proceed to the second stage where successful projects had to meet all of the programme requirements.

The programme, now called the Area Based Childhood (ABC) programme, is co-funded by the Department of Children and Youth Affairs and The Atlantic Philanthropies and has a total funding allocation over 2013-2016 of almost €30 million.

Fifty applications were received in total⁵⁰⁶, which included applications from the three existing pilot Prevention and Early Intervention Programmes (PEIP). As well as the existing three pilot schemes, an additional nine areas were selected to participate in the design stage of the ABC programme including: Bray; Ballyfermot/Dublin 10; Clondalkin/Archways; the Dublin Docklands; a Barnardos-led project in Finglas; Grangegorman/North West Inner City; Knocknaheeny in Cork; a joint proposal facilitated by Limerick Children Services Committee; Drogheda and Dundalk in Louth and the Midlands as part of Northside project.⁵⁰⁷

Three existing projects were already operating in Dublin under the Prevention and Early Intervention Programme on a five-year pilot basis: the Childhood Development Initiative in Tallaght West; Preparing for Life in the Northside communities of Darndale, Belcamp and Moatview; and youngballymun. A fund of €36 million was provided by the Department of Children and Youth Affairs and Atlantic Philanthropies for these projects over a five year period. The Minister highlighted the positive evaluation reports of the pilot programmes carried out at each of the three existing sites, which 'demonstrated significant improvements in outcomes for children' including in relation to parenting programmes and programmes to 'support pro-social skills, emotion understanding...have shown significant improvements in school attendance and improvements in children's' behaviour towards each other'.⁵⁰⁸

The majority of the other sites approved for design stage require further development before they can begin to provide services under the ABC programme. In some cases the project intends to carry out further consultation before choosing the type of intervention to use, while others have to develop the service model, finalise the consortium of members or verify costs. Pobal and the Centre for Effective Services (CES) will manage the implementation of the programme on behalf of the Department and the Atlantic Philanthropies and will support applicants to proceed to the final approval stage.⁵⁰⁹

Comment

An Area Based Approach to Tackling Child Poverty gets a '**C+**' grade in *Report Card 2014*, an increase on last year's 'C-' grade. The rise in the grade is in recognition of the allocation of an additional €1.5 million in Budget 2014 to commence an Area Based Childhood Programme as well as the additional number of sites selected to participate in the initiative. The open application process – recommended in *Report Card 2013* – is a welcome development and ensures greater transparency and fairness in relation to the selection criteria, in particular the need for prospective grantees to demonstrate that they intend to operate evidence-based programmes. However, it is regrettable that the project is so dependent on philanthropic funding and there are no independent experts on the Working Group on the Area Based Response to Child Poverty as recommended by the Children's Rights Alliance last year.

The UN Committee on the Rights of the Child recognises the negative impacts of growing up in both relative and absolute poverty, noting that absolute poverty poses a threat to a child's survival and their health. Growing up in relative poverty also 'undermines children's wellbeing, social inclusion and self-esteem and reduces opportunities for learning and development'.⁵¹⁰

506 Department of Children and Youth Affairs, 'Government announces €30m investment in new ABC (Area-Based Childhood) programme' [press release], <http://www.dcy.gov.ie/viewdoc.asp?DocID=3034> [accessed 20 December 2013].

507 Three additional programmes were invited to participate but not as standalone projects; instead they will be affiliated with two of the successful proposals. This means a total of 15 out of the original 50 proposals are now at design stage while a further 12 projects have been invited to avail of mentoring under the programme. Information received by the Children's Rights Alliance from the Department of Children and Youth Affairs on 18 December 2013.

508 Department of Children and Youth Affairs, 'Government announces €30m investment in new ABC (Area-Based Childhood) programme' [press release], <http://www.dcy.gov.ie/viewdoc.asp?DocID=3034> [accessed 20 December 2013].

509 Ibid.

510 UN Committee on the Rights of the Child (2005) General Comment No. 7: Implementing Child Rights in Early Childhood, CRC/C/GC/7/Rev.1, paragraph 10.

Commenting on obligations arising from Article 27 (adequate standard of living), the Committee has called on States to implement systematic strategies to reduce poverty in early childhood as well as combat its effects on children's wellbeing. All possible means should be employed, including 'material assistance and support programmes' for children and families, to assure young children a basic standard of living consistent with rights.⁵¹¹

Area-Based Projects: The ABC projects are a positive development which will hopefully contribute to the alleviation of poverty in a number of disadvantaged areas. However, in the wider context of child poverty, this initiative must be part of a suite of measures to tackle child poverty and inequalities, including addressing parental unemployment, household debt and access to housing and health care. In order to ensure that the projects can have longer-term impacts, the structural causes of inequalities must be identified and addressed in each area. This will provide information and an evidence base for future developments of the overall project.

Poverty exists in communities across Ireland, but the experience of a child may differ depending on the community. The experience of a child growing up in a densely populated urban area with a concentration of families living in poverty and with a high rate of criminality and anti-social behaviour will differ from the experience of a child growing up in a small rural townland, whose family live in consistent poverty, but whose neighbours, for the most part, do not. The social context of poverty may result in a multiplier effect.

It is vital that the evidentiary lessons from the existing pilot sites form the basis for the design of the new initiative. The programme design must take into account the specific conditions that led to the successful outcome of the selected interventions, for example embryonic projects may take some time to yield results. In the past, the three projects have not applied the same, standardised model, rather they have used a range of pilots that will be benchmarked and evaluated, to provide learning for future policy and service development, and direct government investment in children. There have been a number of evaluations carried out but further evaluations have yet to emerge from the PEIP. However, the findings produced to date have informed the selection process for the proposals under the ABC programme, and will continue to inform developments and consideration for improvement of children and young people's services in the future.⁵¹² The Department's intention is that a standardised evaluation process will be used throughout the new projects to allow trends to emerge as it may be that a certain programme is more effective in a particular context. These may also have to be adapted in certain local contexts but the intention is to keep the evaluation of each intervention as comparable as possible so that by the end of the Programme, robust data will be available to show which programmes most positively impact on child outcomes. Where possible, that evidence will be used to support the case for further investment in these interventions on a wider and/or more comprehensive basis, as appropriate.⁵¹³

Furthermore, research has shown that the impact of early investment in disadvantaged children is lessened if it is not followed up by investment at a later age: investments appear to be complementary and require follow-up to be effective.⁵¹⁴ There must be a connection to other key sites of investment, for example the DEIS programme, which also adopts an area-based approach. How a child fares in education is the single most important determinant of his or her future success and a proven route out of poverty.⁵¹⁵ Continued and sustained investment must be made to prepare children for school and reduce the incidences of early school leaving.

The ABC programme can benefit hugely from the learnings from the existing programmes and must implement best practice from each. However, it is also clear that each site must tailor its selection and implementation of evidence-based interventions to suit the particular needs of the children living in poverty in its vicinity to ensure that they benefit from this targeted support.

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

512 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs on 18 December 2013.

513 Ibid.

514 F. Cunha and J.J. Heckman (2010) *Investing in Our Young People*, Working Paper 16201, Cambridge: National Bureau of Economic Research, p 5.

515 UK Cabinet Office (2009) *Getting On, Getting Ahead: a discussion paper analysing the trends and drivers of social mobility*, London: Cabinet Office.

Immediate actions for 2014

Put in place adequate supports to allow the communities selected for the area-based childhood initiative to begin providing services as soon as possible in 2014

The fact that a total of fifteen proposals will be funded under the ABC programme is welcome but the design stage must not be prolonged given the limited lifespan of the project funding. In order to guarantee impact they must be operational at an early date to allow them to be bedded down in the community and produce positive and measureable outcomes.

Ensure communities and those participating in the ABC projects are involved in the oversight and evaluation of the projects

Communities and participants must be consulted in examining how the projects will be implemented in the community. Children's voices, in particular, must be heard when evaluating how the project is working.

Ensure that the different ABC projects are proofed against the UN Convention on the Rights of the Child

Children's rights principles must underpin the various ABC projects and be incorporated into their methods of working. In particular each project must consider the best interests of the child and consult with children when making decisions that will impact on them.

Introduce a standardised evaluation process to the greatest extent possible

A standardised evaluation process will ensure that the results of the various projects are measured in a comparable way in order for them to provide useful data for policy development and service provision for children and families into the future.

4.3 Children and the Social Welfare System

GRADE: D

Commitment

The *Programme for Government* pledges that the Commission on Taxation and Social Welfare will examine and make recommendations on the interaction between taxation and the welfare system to ensure that work is worthwhile. In particular, it will examine family and child income supports.

Progress

No change

What's happening?

A report on child and family income supports by the Advisory Group on Tax and Social Welfare was published in February 2013. It recommended that Child Benefit should remain a universal payment but that a 'two-tier' system should be introduced with better targeted supports for low income families. The recommendations have been put on hold.

An Advisory Group on Tax and Social Welfare was established by the Minister for Social Protection, Joan Burton TD, in June 2011. The Group's terms of reference 'constitute a forum to which the Minister [...] may refer specific issues around income supports and tax systems so that they provide good incentives to take up work and to contribute to the reduction of poverty and child poverty in particular'.⁵¹⁶ The Group, chaired by Ita Mangan, comprises 15 members, drawn from the public service, including a representative from the Department of Children and Youth Affairs, as well as from academia, business and trade unions.⁵¹⁷ Members were selected by the Minister on the basis of their expertise but no civil society representative was nominated.

In 2012, the Advisory Group submitted its report on child and family income supports to the Minister for Social Protection who shared it with her colleagues in a ministerial steering group that also included the Minister for Children and Youth Affairs, the Minister for Finance and the Minister for Public Expenditure and Reform. The report was published in February 2013⁵¹⁸, but no final decision has yet been made on the core recommendations given the complexity of the 'fiscal, operational and legal considerations, as well as the implications for child poverty and employment incentives'.⁵¹⁹

⁵¹⁶ Department of Social Protection, Advisory Group on Tax and Social Welfare: Terms of Reference, http://www.welfare.ie/EN/AboutUs/Documents/Terms_of_reference.pdf [accessed 7 November 2011].

⁵¹⁷ Membership as of May 2012: Ita Mangan, Chairman of the Advisory Group; John Bohan, Department of Social Protection; Gerry Harrahill, Office of the Revenue Commissioners; Micheál Collins, Department of Economics, Trinity College Dublin (since moved to a position with the Nevin Economic Research Institute); John Conlon, Department of Public Expenditure and Reform; Catherine Hazlett, Department of Children and Youth Affairs; Paul Kealy, Department of Jobs, Enterprise and Innovation; GERALYN McGARRY, Citizens Information Board; Aebhric McGibney, Dublin Chamber of Commerce; Pat Mahon, Pricewaterhouse Coopers (PwC); Brenda McVeigh, Department of Finance; Mary P. Murphy, Department of Sociology, National University of Ireland, Maynooth; Brian Nolan, School of Applied Social Science in UCD; Marie Sherlock, SIPTU; John Sweeney, National Economic and Social Council.

⁵¹⁸ Department of Social Protection, 'Minister Burton publishes the Report of the Advisory Group on Tax and Social Welfare' [press release], <http://www.welfare.ie/en/pressoffice/pdf/pr200213.pdf> [accessed 11 February 2014].

⁵¹⁹ Communication received by the Children's Rights Alliance from the Department of Social Protection, 18 December 2013.

The Advisory Group recommended the retention of Child Benefit as a universal payment for all families but at a reduced rate and the introduction of a 'second tier' child income support for families on low incomes or in receipt of primary social welfare payments. The second tier support would replace Qualified Child Increases and Family Income Support (FIS). The Group also gave one example where the gross household income limit for means-testing families to qualify for a second-tier payment would be set at €25,000 but a number of different options could be possible.

Comment

Children and the Social Welfare System gets a 'D' grade, which is the same as last year's grade as there has been no meaningful change. The Group's report has now been published and while the proposals to retain a universal payment to support children is most welcome, there are concerns that the proposed abolition of Family Income Supplement⁵²⁰ would lead to low-paid working families being unfairly affected by this change. However, there has been no further action on this issue.

Article 27 of the UN Convention on the Rights of the Child provides that every child has the right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. While the provision recognises that parents and guardians have the primary role in providing financially for a child, the State must take appropriate measures to assist parents and guardians according to its means, including the provision of material assistance and support programmes. This is a qualified right,⁵²¹ subject to the economic conditions of the State. That said, children and struggling families should not disproportionately bear the brunt of budgetary cuts, nor should there be unreasonable delays in receiving payments to which they are entitled. The UN Committee on the Rights of the Child has stated that States should not take regressive steps in a recession.

The recession has had a deep impact on families and children, with many experiencing poverty for the first time as a result of job losses, falling incomes and cuts to take home pay. A recent longitudinal study of children showed that the percentage of parents of three-year-olds reporting financial difficulties rose from 44% in 2008/2009 to 61% in 2010/2011.⁵²² Families who had the lowest income at the beginning of the recession were more likely to report that the recession had 'a very significant negative impact on them than those with higher incomes at that time'.⁵²³ The Central Statistics Office *Quarterly National Household Survey* for July to September 2012 examined the effect on households of the economic downturn⁵²⁴ and found the primary reason given by households with children that experiencing financial difficulties was the loss of employment, while a reduction in working hours as well as pay-cuts were also given as reasons. This survey found that up to 82% of households had reduced their spending during the recession, with almost a quarter of them cutting back on five or more categories of spending including groceries, clothing, footwear, housing, health insurance (where relevant) and social activities. Households with children were found to have significantly more cutbacks than others while the two main additional costs that contributed to financial difficulties for these households were utility bills and school or university costs.

The social welfare system, however, continues to provide a vital safety net and is responsible for protecting many families from being pushed even deeper into poverty. The Central Statistics Office Household Budget Survey showed an increase of 73% in State financial supports to families since 2005, from €125.41 to €217.00, to support them through wage cuts and job losses.⁵²⁵ However, according to research conducted by the Children's Research Centre in Trinity College Dublin and the Family Support Agency, 40% of families 'at risk of poverty' reported that they did not receive any social welfare supports in addition to the Child Benefit payment while one third of families relied on social welfare for all of their household income.⁵²⁶

520 Family Income Supplement (FIS) is a weekly tax-free social welfare payment available to low-paid employees with children.

521 A qualified right is a right that the State can lawfully interfere with in certain circumstances where the public or state interest, on balance, overrides those of the individual.

522 Economic and Social Research Institute, Trinity College Dublin, Department of Children and Youth Affairs (2013), *Growing Up In Ireland, National Longitudinal Study of Children, Infant Cohort, Key Findings: 3 Year Olds, No. 5*, Dublin: Department of Children and Youth Affairs.

523 *Ibid.*, p.112.

524 Central Statistics Office, *Quarterly National Household Survey: Effect on Households of the Economic Downturn*, <http://www.cso.ie/en/media/csoie/releasespublications/documents/labourmarket/2012/QNHSeconomicdownturnq32012.pdf> [accessed 4 December 2013].

525 Central Statistics Office, *Household Budget Survey 2009-2010: volume 2*, <http://www.cso.ie/en/media/csoie/releasespublications/documents/housing/2010/full.pdf> [accessed 4 December 2013].

526 L. Swords, B. Merriman and M. O'Donnell (2013) *Family Wellbeing on a Limited Income: A Study of Families Living at Risk of Poverty in Ireland*, Dublin: Children's Research Centre, Trinity College and the Family Support Agency, p.58.

“The recession has had a deep impact on families and children, with many experiencing poverty for the first time as a result of job losses, falling incomes and cuts to take home pay. A recent longitudinal study of children showed that the percentage of parents of three-year-olds reporting financial difficulties rose by 17% between 2008 and 2011.”

The Advisory Group on Tax and Social Welfare noted that the Department’s own value for money report demonstrated that while Ireland spent significantly more on cash benefits, the child poverty rate in Ireland was still higher than the average in other Organisation for Economic Cooperation and Development (OECD) countries.⁵²⁷ Meanwhile the Department of Social Protection’s *Social Impact Assessment of Budget 2013* showed that without these social welfare payments, 51% of Ireland’s population would be at risk of poverty – a steady increase from 39.8 % in 2004.⁵²⁸

Addressing child poverty means ensuring that the social welfare system works for those that need it most, namely vulnerable children and families. The Children’s Rights Alliance has long advocated on this issue, calling for greater coordination between the tax and social welfare systems to allow for more efficient targeting of child income supports, by facilitating a move towards an integrated child income support payment. Our position is built on learning from the United Kingdom, where the Government, having considered integration of tax and social welfare systems, opted for strategic (partial) rather than structural (full) integration. This approach means greater coordination between tax and welfare systems, with closer cooperation on policy, standardisation of information systems and more transfer of information between the agencies concerned, but not full integration of systems and services.⁵²⁹ Steps have been taken to ensure that the tax and welfare systems work better together in relation to child income supports. It is important that poverty and unemployment traps are avoided.⁵³⁰

Towards an integrated child income support payment: The debate over the last number of years has centred on the issues related to taxing or means testing the Child Benefit payment, which is a universal payment (paid to more than 611,000 families in 2013 at a cost of more than €1.9 billion to the Exchequer, 84% of the total amount spent on child income supports)⁵³¹

However, the package of child income supports is larger than Child Benefit alone and a change to this payment will automatically impact on others. To truly address this issue, the current social welfare system (which is complex and cumbersome) must be reformed to become more responsive to individual families’ needs, through more joined-up working between the tax and welfare systems⁵³² The successful introduction and administration of a new, integrated child income support payment, as outlined in the Department of Social Protection’s 2010 *Policy and Value for Money Review of Child Income Supports and Associated Programmes*, would require significant cooperation between the Department of Social Protection and the Revenue Commissioners. There is precedence for such

527 Advisory Group on Tax and Social Welfare, First Report: Child and Family Income Support, p.11, <http://www.welfare.ie/en/downloads/Advisory-Group-on-Tax-and-Social-Welfare-First-Report-Child-and-Family-Income-Support.pdf> [accessed 11 February 2014].

528 Central Statistics Office (2011) *European Survey of Income and Living Conditions (EU SILC) 2010*, Cork: CSO, p. 26.

529 D. Clinton et al (1994), *The Commission for Social Justice: Integrating Taxes and Benefits?* London: Institute of Public Policy Research. See also: Martin Taylor (1998), *The Modernisation of Britain’s Tax and Benefit System*, Number Two: Work Incentives, London: HM Treasury.

530 Work has been done to better integrate the information held by the Department of Social Protection and the Revenue Commissioners.

531 Department of Public Expenditure and Reform, (2013) *Revised Estimates for Public Services 2014*, Dublin: Stationery Office. However, this figure does not include the Qualified Child Increase. In 2013, the estimated expenditure on QCIs was €694 million according to a communication received by the Children’s Rights Alliance from the Department of Social Protection on 31 January 2014.

532 This would involve greater coordination between the Revenue Commissioners and the Department of Social Protection, with closer cooperation on policy, standardisation of information systems and more transfer of information between relevant agencies, but not full integration of systems and services.

cooperation.⁵³³ Currently the level of matching of Department of Social Protection data from the Child Benefit file with data on households held by the Revenue Commissioners is around 87%.⁵³⁴

Moving to a new system would, of course, incur initial costs and take time, but these costs must be considered in the context of the longer-term costs of failing to address child poverty and the Government's commitment to reduce poverty and make efficient and effective budgetary decisions, with positive long-term savings and impact. ESRI research in 2007, looking at a potential 'second tier' child income support payment similar to the integrated payment, estimated that this measure would reduce child poverty by 4.5%,⁵³⁵ thus ultimately generating Government savings that would reduce the need for State supports, specifically in relation to income, health and justice.

A key stumbling block is how to compensate low income families that currently receive the Family Income Supplement (FIS), could face significant losses under an integrated child income support payment. FIS is not solely a child support payment, but an employment support, so reforming FIS requires both a child and an employment response. Reform of 'in-work' income supports – for example by introducing a refundable working tax credit – is urgently needed. While the Advisory Group recommended the abolition of FIS in favour of introducing a second tier payment, the analysis found that this would result in over 80% of FIS recipients losing some portion of their income supports.⁵³⁶ Instead, FIS should be retained, at least on an interim basis, to assist those families currently in employment as well as those who may require an in-work income support payment for future employment. Furthermore, the proposed annual income threshold of €25,000 for means-testing a household for the second-tier payment is much too low. The End Child Poverty Coalition, of which the Children's Rights Alliance is a member, has recommended that this income threshold is raised to at least €35,000.⁵³⁷ The Advisory Group is also reviewing 'working age' income supports and its report is due to be completed in the second quarter of 2014.⁵³⁸ Through its Pathways to Work programme, the Government intends to make it easier to apply for FIS and to encourage employers to raise awareness of the support available to eligible employees.⁵³⁹ Given that ESRI research has demonstrated the importance of maintaining child income supports, this must be prioritised.

533 The Revenue Commissioners and the Department of Social Protection currently cooperate in relation to two existing tax credits: the One-Parent Family Tax Credit and the Home Carers' Tax Credit. The Office of the Revenue Commissioners, Home Carer Tax Credit, <http://www.revenue.ie/en/tax/it/credits/home-carers.html> [accessed 1 March 2010].

534 Communication received by the Children's Rights Alliance from the Department of Social Protection on 31 January 2014.

535 T. Callan et al (2006), *Child Poverty and Income Supports: Ireland in a Comparative Perspective* in Callan (ed.), *Budget Perspectives 2007*, Dublin: ESRI.

536 Advisory Group on Tax and Social Welfare, *First Report: Child and Family Income Support*, p.28, <http://www.welfare.ie/en/downloads/Advisory-Group-on-Tax-and-Social-Welfare-First-Report-Child-and-Family-Income-Support.pdf> [accessed 11 February 2014].

537 End Child Poverty Coalition, *Position Paper on Reforming Child Income Supports*, p.3. <http://www.endchildpoverty.ie/publications/documents/ECPCPositionPaperReformingChildIncomeSupports.pdf> [accessed 11 February 2014].

538 Department of Finance (2013) *A Strategy for Growth: Medium-Term Economic Strategy 2014 – 2020*, Dublin: The Stationery Office.

539 *Ibid*, p.50.

Immediate action for 2014

Introduce a modified two-tier system of child income supports with specific additional in-work support for low-income working families

The Government should consider the recommendations made by the Advisory Group on Tax and Social Welfare to introduce a two-tier structure with a universal element and an in-work benefit for working families with a low income. FIS should be maintained until a more effective substitute is put in place. Furthermore, the income threshold for an in-work support should be set at a minimum of €35,000 rather than the €25,000 limit suggested by the Advisory Group.



“The decision by Government to close the prison is a strong statement that where institutions cannot meet basic human rights standards, radical action will be taken. In that respect, this decision is a powerful vindication that the Inspection system is working.”

Liam Herrick, Executive Director, Irish Penal Reform Trust

Chapter 5:

Right to Protection from Abuse and Neglect

Grade B



In The News

We need to adjust our understanding of what it means today to be homeless

By Sr Stanislaus Kennedy

It is 30 years since I carried out my first research project on homelessness in Dublin. After three decades it is hard to accept the reality that the situation is now worse. When I started, people had a narrow view of homelessness: the perception was of a single older man, probably with an alcohol problem or mental health issues, living rough and visible on the streets. Certainly the men struggling with a life on the streets existed then and they exist today. But it is not the typical experience of homelessness. As well as those sleeping rough, we have all kinds of people, including horrifying numbers of children, without a safe and secure place to call home in Dublin, and it is getting worse every day.

Focus Ireland's latest figures show that 173 families lost the roof over their heads in Dublin in the first nine months of this year, double the number last year. These newly homeless families include 191 children. Broken down another way: five children are becoming homeless in Dublin every week. This is unacceptable.

Despite our efforts, the grim reality is the situation continues to deteriorate rapidly, and we all know why. There are all kinds of reasons why people become homeless, but severe economic pressure is the most obvious. I am sure we all know people who have been badly affected by the recession: they have lost their jobs, their businesses, their pensions, their incomes, their homes. Imagine having to leave your accommodation in the morning and spend the day trudging around with your children until you can get back in at nightfall. Imagine getting your children out to school in the morning and not having anywhere for them to do their homework when the school day is over. How can you bring children up properly in such an unstable situation?

Giving priority to blindly balancing the books without looking at the wider impact has not worked and will not work. We need a system that places the needs of people first and adopts a compassionate approach to those in the greatest need. In 2014 the Government must recommit itself to promises made to end homelessness by 2016.

Irish Times, 18 December 2013
www.irishtimes.ie

5 | Right to Protection from Abuse and Neglect

Overall
Grade B

The Right to Protection from Abuse and Neglect

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 UNCRC

The right to protection from abuse and neglect gets a 'B' grade in Report Card 2014, which is a rise from last year's 'B-'. This chapter again focuses on the Child and Family Agency, the Ryan Report Implementation Plan, youth homelessness and children in detention. The improvement in this year's overall grade reflects the actions initiated by the Government, in particular the Minister for Children and Youth Affairs, to fulfil Government commitments to child protection and vulnerable children.

In its 2006 *Concluding Observations*, the UN Committee on the Rights of the Child noted its concern at delays in accessing child protection services and at the detention of children aged 16 and 17 years-old in St. Patrick's Institution. It recommended comprehensive vetting for those working with children, the development of a child abuse prevention strategy, a legislative ban on corporal punishment within the family, as well as giving consideration to putting the *Children First Guidelines* on a statutory basis.⁵⁴⁰

2013 marked a significant milestone in the reform of child protection and family support as the legislation to establish the Child and Family Agency was enacted in December 2013. The Agency was formally established on 1 January 2014 fulfilling key commitments made by this Government and represents a major piece of public sector reform and is awarded a 'B+' in this year's Report Card. A key challenge for the new Agency will be to ensure that it is adequately resourced at the outset and that comprehensive protocols are put in place to ensure efficient intra-agency and interagency working as well as appropriate sharing of information as it brings together more than 4,000 members of staff.

There was no further progress on the publication of revised Heads and General Scheme of the Children First Bill 2012 and while the National Vetting Bureau (Children and Vulnerable Persons) Bill 2012, was enacted it has not yet been commenced. To improve its grade in next year's Report Card both of these key commitments of the *Ryan Report Implementation Plan* must be implemented in full. The final report of the Ryan Report Implementation Group must be published and a mechanism put in place for future monitoring of the commitments contained within it. The *Review of Youth Homelessness Strategy* was published in 2013 and highlighted progress made in tackling homelessness but the definition used is narrow in scope and does not include all children and young people who may in fact be left homeless and unable to access services as they are reliant on informal supports. The Minister's announcement on her intention to introduce a statutory right to aftercare was a welcome development.

In recognition of the Government's steady progress in relation to children in detention it has maintained its high 'B+' grade from last year. The ongoing redevelopment of the National Children's Detention Centre at Oberstown as well as the steps taken to complete the closure of St. Patrick's Institution demonstrate the commitment made to young people in the youth justice system. However, it is hoped that St. Patrick's Institution will finally close its doors in 2014 to all young people under the age of 18.

⁵⁴⁰ UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 37.

5.1 Child and Family Agency

Grade B+

Government Commitment

The *Programme for Government* commits to fundamentally reform the delivery of child protection services by removing child welfare and protection from the HSE, and creating a dedicated Child Welfare and Protection Agency, reforming the model of service delivery and improving accountability to the Dáil.

Progress

Historic progress

What's happening?

The Child and Family Agency Bill 2013 was published in July and enacted in December 2013. The Agency was established on 1 January 2014. Approximately 4,000 staff have transferred to the Agency.

On 1 January 2014, the Child and Family Agency Act 2013 came into force. This legislation established a new, dedicated Child and Family Agency. The Agency is comprised of approximately 4,000 staff members.⁵⁴¹ Norah Gibbons was appointed as Chair and an interim board was appointed in September 2013. The Board will provide oversight and direction for the Agency.⁵⁴²

The Child and Family Agency Bill 2013 was published in July 2013 and enacted by 1 January 2014. The Minister for Children and Youth Affairs Frances Fitzgerald TD and her Department consulted widely on the Bill (as was recommended in *Report Card 2013*) including with the community and voluntary sector. The Agency now includes the following bodies and services: HSE Children and Family Services,⁵⁴³ Family Support Agency, National Education Welfare Board, Pre-school Inspection Services, services relating to the psychological welfare of children and services relating to domestic, sexual and gender-based violence.⁵⁴⁴

A number of services that the Task Force on the Child and Family Support Agency, which advised the Department of Children and Youth Affairs on the establishment of the Agency, had recommended should be transferred to the remit of the Agency were not included at this stage. These included Public Health Nurses, Child and Adolescent Mental Health Services and Speech and Language Therapy.⁵⁴⁵ The Minister for Children and Youth Affairs has stated that additional services may be transferred following further consideration and review of the recommendations of the Task Force.⁵⁴⁶ If it is considered appropriate to implement further recommendations, following consultation with other relevant departments including the Department of Health, then this will take place according to a 'less immediate timescale'.⁵⁴⁷

541 Department of Children and Youth Affairs, 'Board and Chief Executive of New Child and Family Agency appointed' [press release], 1 January 2014, http://www.dcyia.gov.ie/viewdoc.asp?fn=/documents/HSE_CFA_Press_Release20140101.htm [accessed 12 February 2014].

542 The new members of the Board are: Mr. PJ Fitzpatrick, Mr. Gary Joyce, Mr. Noel Kelly, Ms. Sylva Langford, Ms. Ita Mangan, Mr. Rory O'Ferrall and Dr. Noelle Spring.

543 These services comprise child welfare and protection services; foster and residential care and aftercare; and adoption services, which were formerly under the remit of the Health Service Executive.

544 The HSE will retain responsibility for Sexual Assault Treatment Units, which are located in acute hospitals and other medical services.

545 Meeting of the Community and Voluntary Forum with Gordon Jeyes, National Director, Children and Family Services, HSE, 15 November 2012.

546 Ibid.

547 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs on 5 February 2014.

A joint protocol for inter-agency working between the HSE and the Child and Family Agency, has been agreed following extensive dialogue between Children and Family Services, Primary Care, Disability Services and Mental Health Services. The protocol aims to ensure a consistent national approach to service delivery where two or more services are involved in the same case. The protocol provides for local collaboration across care groups at local practitioner level with a mechanism for escalation to area level and beyond if required.⁵⁴⁸

The Agency has been allocated funding of €609 million in 2014 including €7m in capital funding. This funding line forms part of the Vote of the Department of Children and Youth Affairs. An additional €6.7 million was allocated in 2014 to the Agency to support the reform of child welfare and protection services.⁵⁴⁹

In advance of the Agency's establishment, the HSE had been undertaking a reform programme to modernise delivery of Children and Family Services⁵⁵⁰ including the formation of an area structure comprising four Regional Service Directors and 17 Children and Families Area Managers, operating under the leadership of the then National Director, Gordon Jeyes (the newly appointed Chief Executive Officer of the Child and Family Agency).⁵⁵¹ A key plank of the reform process is the creation of a National Service Delivery Framework⁵⁵² for children's services and the development of a single, consistent mechanism for assessment, referrals and tracking, supported by a new child protection notification system.⁵⁵³ This new mechanism, known as a Local Area Pathway,⁵⁵⁴ comprises a network of community, voluntary and statutory service providers which collaborate in relation to referrals when social work intervention is not necessary but a family still requires support. In 2013, a number of areas nationwide have developed such pathways.⁵⁵⁵

Comment

Child and Family Support Agency gets a 'B+' in Report Card 2014, a rise from last year's 'B-' grade. This grade reflects the significance of the new agency which has now come into being. This also reflects the fact the Department of Children and Youth Affairs consulted widely on the Bill and that key children's rights principles are included in the primary legislation underpinning the Agency.

The Act brings together a range of key services within the Agency's remit and is a progressive move since one of the major failings of the child protection system has been the lack of a coordinated approach by bodies working separately with the same individual children and families.⁵⁵⁶ A 2013 report, commissioned by the Department of Children and Youth Affairs, analysed five specific inquiry reports relating to child protection failings to determine to what extent the recommendations had been implemented to date.⁵⁵⁷ Key findings of the report indicated the need for clear policies and procedures to determine roles and responsibilities in cases where a number of professionals are involved as well as protocols on interagency cooperation.⁵⁵⁸

It is disappointing that some universal services have not been transferred to the new Agency, including the Public Health Nurses (PHNs) and the Child and Adolescent Mental Health Services (CAMHS) as recommended by the Task Force on the Child and Family Support Agency.⁵⁵⁹ The Task Force felt that they should be included due to the important early intervention and prevention role they play, although it also recognised the logistical challenges this might pose. The Institute of Community Health Nursing (ICHN), the representative body for PHNs, has recognised the important child protection role PHNs

548 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs on 5 February 2014.

549 Department of Children and Youth Affairs, 'Government investing in important reforms for children and families – Fitzgerald' [press release], 15 October 2013, <http://www.dcy.gov.ie/viewdoc.asp?Docid=2999&CatID=11&mn=8&StartDate=1+January+2013> [accessed 12 February 2014].

550 Health Service Executive (2010) *Report of The Task Force for Children and Families Social Services*, Dublin: Health Service Executive, pp. 3-5.

551 HSE Children and Family Services (2012) *September Newsletter*, HSE.

552 HSE Child and Family Services (2012) *Universal Services SDF September 2012*, (handout) Dublin: Health Service Executive.

553 Ibid.

554 HSE Children and Family Services (2013) *February Newsletter*, HSE.

555 Frances Fitzgerald TD, Minister for Children and Youth Affairs, Dáil Debates, 19 September 2013, Vol. 813 No. 2.

556 This failure has been noted in several inquiry reports including the HSE (2010) *Roscommon Child Care Case report: Report of the Inquiry Team to the Health Service Executive*, Dublin: HSE, p.69 and p.73.

557 H. Buckley and C. Nolan (2013) *An examination of recommendations from inquiries into events in families and their interactions with State services, and their impact on policy and practice*, Dublin: Department of Children and Youth Affairs.

558 Ibid., p.76

559 Health Service Executive (2012) *Child and Family Support Agency – From Vision to Practice – The Compelling Story*, Dublin: Health Service Executive.

play and has recommended the provision of a dedicated child and family health nursing service.⁵⁶⁰ However, this would necessitate significant reorganisation of public health nursing services since currently PHNs provide services to all age groups within a local area. In addition, the Task Force also prioritised the Child and Adolescent Mental Health Services (CAMHS) for inclusion in the Agency's remit given its 'exclusive focus on children and adolescents.'⁵⁶¹ While these services have not been included in the initial phase of the Agency, the Minister has indicated that her Department has adopted 'an incremental approach' to the organisations and services included in the preliminary stage and she stated that the other recommendations of the Task Force will be examined.⁵⁶²

As already indicated, funding of €609 million (including €7 million capital funding) has been allocated to the Child and Family Agency in 2014. This is welcome given that it is important that the Agency begins its work with the slate wiped clean. Nevertheless, there is concern that the service and demographic pressures facing the Agency are such as to mean that demands may outstrip the resources available. Furthermore, the Minister for Children and Youth Affairs, in conjunction with the Child and Family Agency, is examining ways to reduce legal costs incurred by the Agency. A total of €31.1 million was spent in 2012; €15.9 million was spent on HSE solicitor contracts and barristers' fees, €10.8 million was spent on the Guardian ad Litem service and €3.3 million on related costs.⁵⁶³ The Minister has expressed her wish to see these costs reduced. This will involve a variety of measures being taken by the Agency in relation to legal costs, in order to have more effective and efficient use of legal resources. It is important that while the Agency must ensure value for money, it must also ensure that the service to children is not compromised in any way.

The establishment of the Child and Family Agency represents a major piece of public sector reform which will change how the State interacts with some of the most vulnerable children and families in need of support. The Agency's work must be firmly based on the principles of the UN Convention on the Rights of the Child, in particular its structures, governance, design and service delivery. The UN Committee on the Rights of the Child has emphasised that child protection must begin with proactive prevention. Under the Convention, the child has a right to protection from abuse and neglect (Article 19), sexual and other forms of exploitation (Articles 34-36) and to rehabilitative care (Article 39).⁵⁶⁴ A children's rights approach to child protection starts with prevention and builds children's capacity to protect themselves, enhances their understanding of their right to protection, and promotes their participation. Central to this approach is the right of a child to be cared for by his or her parents,⁵⁶⁵ and not to be separated from their parents unless it is in their best interests.⁵⁶⁶

The inclusion in the Child and Family Agency Act 2013 of two key children's rights principles – the best interests of the child (Article 3) and the voice of the child (Article 12)⁵⁶⁷ – within the function of the Agency is a significant development. Section 9(1) now obliges the Agency to 'have regard to the best interests of the child' when carrying out its functions. However, the legislation does not explicitly state how Agency workers should interpret this principle. It is recommended that the Minister for Children and Youth Affairs provide clarity by issuing a regulation clearly setting out how Agency workers should implement this principle.

Section 9(3) of the Act places an obligation on the Agency to consult with children and young people when exercising its functions. Section 9(4) sets out that in dealing with an individual child, the Agency shall ensure that the views of the child are heard where that child is capable of forming and expressing his or her own views, giving due weight to the age and maturity of the child. This is a welcome development as it places an obligation on the Agency to consult and listen to children both in the planning and functioning of the Agency and in its work with individual children and families. The right of all children to be heard and taken seriously

560 Institute of Community Health Nursing (2013) *Best Option for Children: Discussion Paper on Child Health*. Dublin: ICHN.

561 *Ibid.*, p 45.

562 Frances Fitzgerald TD, Minister for Children and Youth Affairs, Seanad Éireann Debate, Child and Family Bill 2013: Second Stage, (27 November 2013).

563 Fiach Kelly, 'Social workers get training to act instead of solicitors', *The Irish Times*, 28 December 2013.

564 Other relevant articles include the specific protections for children in the care system such as the child's right not to be separated from his parents and protection for children without families (Articles 9 and 20), the review of care placements (Article 25) and the best interests of the child in adoption cases (Article 21).

565 Under the UN Convention on the Rights of the Child, the term 'parent' is interpreted to mean genetic, birth and psychological parent, the latter referring to a person who is not biologically related to the child but cares for the child for significant periods of their childhood as they are 'intimately bound up in children's identity' and identity rights.

566 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989), Art. 9.

567 Health Service Executive (2012) *Child and Family Support Agency – From Vision to Practice – The Compelling Story*, Dublin: Health Service Executive.

constitutes one of the fundamental values of the UNCRC.⁵⁶⁸ Article 12 places an obligation on states to ensure that the views of children are heard in all matters affecting them and that these views are given due weight in accordance with the age and maturity of the child.

The definition of the term 'family' set out in the legislation is both welcome and progressive; it recognises family members such as grandparents, step-parents and siblings including step or half-siblings or 'any other person who, in the opinion of the Agency, has a bona fide interest in the child'. The definition of couple is not limited to a married couple but refers to co-habiting couples as well as same-sex couples and civil partners. These definitions recognise and better reflect the diverse range of families living in Irish society today. The inclusion in Section 8 of the Agency's objective to ensure the 'effective functioning of families' including delivery of 'preventative family support services' is welcome but it is not clear how exactly the Agency will achieve this aim.

Traditionally, contact with child protection services has aroused fear among families that their children will be taken into State care. The universal aspects of its services provide an opportunity to present the new Agency in a non-stigmatising manner, casting it as an organisation that supports and assists parents in their parenting role.⁵⁶⁹ A public campaign should be run to promote the full breadth of the Agency's work, communicating that the Agency's role is to provide family support and services for children in care, as well as child welfare and protection. Ultimately, to win back public confidence, the Agency must address waiting lists, deliver high-quality services and improve the experience and outcomes for children and families using the services. In order to boost staff morale, the Agency will need to consult with its staff, service providers and community and voluntary organisations to ensure that its performance framework and other corporate plan has buy-in from across all sectors and is effective in serving children and families in Ireland.

“The establishment of the Child and Family Agency represents a major piece of public sector reform which will change how the State interacts with some of the most vulnerable children and families in need of support.”

568 Committee on the Rights of the Child, General Comments No.12 (2009) The Right of the Child to be Heard, CRC/C/GC/12

569 Department of Children and Youth Affairs (2012) *Report of the Task Force on the Child and Family Support Agency*, Dublin: Government Publications, p. 29.

Immediate Actions for 2014

Consult comprehensively on the performance framework and corporate plan which will underpin how the Agency operates on a day-to-day basis

The corporate documents of the Agency must ensure that appropriate protocols are put in place to ensure that there are clear internal lines of responsibility and that data can be shared where necessary. Protocols must also be put in place for effective interagency working.

Ensure the Agency does not carry over any budgetary deficits and is adequately resourced

The Agency must not begin life carrying over budgetary problems from the HSE Children and Family Services. In addition, it is critical that it is appropriately staffed and has the necessary financial, capital, IT and human resources to enable it to function effectively.

Introduce a regulation clarifying how the best interests of the child contained in Section 9 of the Child and Family Agency Act 2013 should be interpreted

It is essential that the best interests' principle is interpreted correctly. The legislation does not explicitly state how Agency workers should interpret the best interests of the child (Article 3). It is recommended that the Minister for Children and Youth Affairs provide clarity by issuing a regulation clearly setting out how Agency workers should implement these principles in their work.

5.2 Ryan Report Implementation Plan

Grade B-

Government Commitment

The *Programme for Government* commits to implementing the recommendations of the Ryan Report including putting the *Children First Guidelines* on a statutory footing and legislating for the use of “soft information”.

Progress

Some

What’s happening?

The final progress report of the *Ryan Report Implementation Plan* was due to be published in 2013 but has been delayed. The Heads and General Scheme of Children First Bill were published for consultation in 2012, the revised version has not been published but is due in 2014. The National Vetting Bureau Act 2012 has yet to be commenced. Further resources were made available for Garda Vetting in Budget 2014.

The *Ryan Report Implementation Plan*, published in July 2009 to respond to the recommendations contained in the Ryan Report, identified key weaknesses in the Irish child care and protection system and provides a roadmap for reform.⁵⁷⁰ The Fourth Progress Report was due to be published before the end of 2013 but has not been issued. This report will provide an update on each of the Implementation Plan’s 99 actions along with a list of key actions to be progressed in 2014. The *Third Progress Report*⁵⁷¹ published in November 2012 reported that, of the 99 actions, 59 were complete, 27 were not yet complete, and 13 were classed as ‘implementation ongoing’ (these are actions which by their very nature do not have a defined end date).⁵⁷² Among other things, it set out priorities for 2013 including the strengthening of family support services within the new Child and Family Agency; reform and rationalisation of the Child Protection Notification System; establishment of a multidisciplinary team for children in special care and detention and the agreement of future policy for the management and funding of the Guardian ad Litem service. The Minister for Children and Youth Affairs chairs a cross-agency steering group which is responsible for overseeing the continued implementation of the *Ryan Report Action Plan*.

570 The Report of the Commission to Inquire into Child Abuse (known as the Ryan Report) was published in May 2009, revealing horrific wrongdoings perpetrated against children living in institutions during the period 1936 to 2000.

571 €24 million was provided towards the rollout of the actions contained in the Implementation Plan: €15 million in 2010 and €9 million in 2011, it was allocated to the HSE (€23.27 million), HIQA (€0.63 million); and OMCYA/DCYA (€0.10 million). Department of Children and Youth Affairs (2012) *Ryan Report Implementation Plan Third Progress Report*, Dublin: Government Publications, p. 4.

572 Of the 99 actions in the Plan, 37 have a timeframe of ‘ongoing’ as they are not once-off actions. Department of Children and Youth Affairs (2012) *Ryan Report Implementation Plan Third Progress Report*, Dublin: Government Publications, p. 10.

In 2013, a number of significant reports relevant to the Ryan recommendations were published including the sixth annual report of the Special Rapporteur on Child Protection;⁵⁷³ a report by the Rape Crisis Network of Ireland (RCNI) *Hearing Child Survivors of Sexual Violence: Towards a National Response*;⁵⁷⁴ an audit of cases carried out on behalf of the Health Service Executive, *A Review of Practice and Audit of the Management of Cases of Neglect*;⁵⁷⁵ a research report commissioned by the Department of Children and Youth Affairs to examine the extent to which recommendations from past child abuse inquiries into interfamilial abuse have been implemented⁵⁷⁶ and the fourth tranche of reviews of safeguarding practice in Catholic Dioceses and Religious Congregations.⁵⁷⁷ Work is under way in the Department of Children and Youth Affairs to prepare a monitoring framework for all significant child care reports: this framework will replace the work of the Ryan Report Implementation Group.⁵⁷⁸

Social Workers: The Ryan Report Implementation Plan contained a commitment to recruit 270 social workers, with the objective of ensuring every child in care would have an allocated social worker by December 2010. The HSE completed recruitment of the full additional 270 social workers in 2013.⁵⁷⁹ In addition to the recruitment of additional staff, the HSE has been filling the vacancies that have arisen due to individuals leaving the service or taking up posts elsewhere in the service.⁵⁸⁰ At the end of October 2013, there were 6,486 children in care of which 5,886 or 90.7% had an allocated social worker and 89.6% had an up-to-date Care Plan.⁵⁸¹

Survivors of Sexual Abuse: In October 2013, the Minister announced the recruitment of four new regional coordinators of services for children demonstrating sexually harmful behaviour.⁵⁸² This came on foot of the findings of a report by the Rape Crisis Network of Ireland (RCNI) on sexual violence⁵⁸³ which indicated that 37% of the perpetrators of sexual abuse against the child survivors with whom RCNI worked were themselves under the age of 18. The report also found that of the 192 children and young people they worked with in 2012, 67% were 16 or 17 years old, 26% were 14 or 15 years old, 4% were 11-13 years old and 4% were under 10 years old in 2012.

Children First: The Heads and General Scheme of the Children First Bill were first published by the Minister for Children and Youth Affairs, Frances Fitzgerald TD, in April 2012. The Heads of the Bill outlined proposals to place specific aspects of the revised 2011 national child protection guidelines, *Children First Guidance*⁵⁸⁴ on a statutory footing. It provided for a legal duty on certain staff and professionals to report suspected child abuse, to share relevant information and co-operate with other relevant services in the best interests of the child. A range of sanctions for non-compliance were also included. Following an examination and public hearing, the Joint Committee on Health and Children presented a lengthy report to the Minister of Children and Youth Affairs in July 2012.⁵⁸⁵ The Cabinet approved revised Heads

573 G Shannon, *Sixth Report of the Special Rapporteur on Child Protection*, January 2013 http://www.childrensrights.ie/sites/default/files/submissions_reports/files/GShannon-SixthRapporteurReport0713.pdf [accessed 10 February 2014].

574 Rape Crisis Network Ireland (2013) *Hearing Child Survivors of Sexual Violence: Towards a National Response*, Galway: RCNI.

575 L. Peyton (2012) *A Review of Practice and Audit of the Management of Cases of Neglect: Report on the Findings of the Pilot Phase of the National Audit of Neglect*, Dublin: Health Service Executive.

576 In 2012, the Department of Children and Youth Affairs awarded a grant to the School of Social Work and Social Policy in Trinity College Dublin to examine five interfamilial child abuse inquiries (Kilkenny, Kelly Fitzgerald, West of Ireland Farmer, Monageer and Roscommon). The Children's Rights Alliance recommended that such a mechanism be considered in its submission to the Ryan Report Implementation Plan process. Children's Rights Alliance (2009) *Learning from the Past: Responding to the Recommendations of the Commission to Inquire into Child Abuse Report*, Dublin: Children's Rights Alliance.

577 The National Board for Safeguarding Children in the Catholic Church, *Safeguarding Review Reports – 4th Tranche*, December 2013 <http://www.safeguarding.ie/safeguarding-review-reports-4th-tranche/> [accessed 12 February 2013].

578 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs on 31 January 2014.

579 Minister for Children and Youth Affairs, Frances Fitzgerald TD, *Dáil Debate*, 12 November 2013, <http://www.kildarestreet.com/debates/?id=2013-11-12a.81&s=social+worker+recruitment#g84> [accessed 12 February 2014].

580 Department of Children and Youth Affairs (2012) *Ryan Report Implementation Plan Third Progress Report*, Dublin: Government Publications, p. 37.

581 Health Service Executive, *October 2013 National Performance Assurance Report*, pp. 34-35, <http://www.hse.ie/eng/services/Publications/corporate/performance-reports/oct13pareport.pdf> [accessed 12 February 2014].

582 Department of Children and Youth Affairs 'Minister Fitzgerald commits to 'coordinated national approach' for sexual abuse services for children and young people' [press release], 9 October 2013, <http://www.dcy.gov.ie/viewdoc.aspx?Docid=2989&CatID=11&mn=6&StartDate=01+January+2013> [accessed 12 February 2014].

583 Rape Crisis Network Ireland (2013) *Hearing child survivors of sexual violence: Towards a National Response*, Galway: RCNI.

584 Department of Children and Youth Affairs (2011) *Children First: National Guidance for the Protection and Welfare of Children*, Dublin: Department of Children and Youth Affairs. The Guidance was also accompanied by a practitioner handbook: Health Service Executive (2011) *Child Protection and Welfare Practice Handbook*, Dublin: Health Service Executive.

585 Joint Committee on Health and Children (2012) *Report on Children First (Heads of) Bill*, Dublin: Houses of the Oireachtas.

of Bill in July 2013⁵⁸⁶ and a Bill is expected to be introduced into the Oireachtas in 2014.⁵⁸⁷ The legislation will include provision for mandatory reporting of child welfare and protection concerns by certain individuals. It is also intended to improve child protection arrangements in organisations providing services to children as well as raising awareness of child abuse and neglect in general.⁵⁸⁸

The Children First Implementation Inter-Departmental Group (CFIDG)⁵⁸⁹ is providing support to Departments and their sectors in bringing forward tailored implementation plans based on an assessment of current arrangements and activities and future developments and requirements. The Departments represented on the group have completed Children First Sectoral Implementation Plans, which were published in July 2013 on their websites. The next phase of the Group's work will focus on quality assurance mechanisms in relation to implementation and compliance, and the necessary preparations required for the forthcoming legislation putting *Children First* on a statutory basis.⁵⁹⁰

Vetting/Soft Information: The National Vetting Bureau (Children and Vulnerable Persons) Bill 2012 was enacted in December 2012.⁵⁹¹ The Act places the vetting of people working with children and vulnerable adults on a statutory basis and allows for the exchange of 'relevant' or 'soft' information between the National Vetting Bureau and a registered organisation. However, the Minister for Justice and Equality, Alan Shatter TD, indicated that this piece of legislation would be commenced in early 2014 following a review of certain provisions, including minimising the need for duplicate vetting when a person works/volunteers for a number of organisations.⁵⁹²

Additional funding of €2 million was announced in Budget 2014. The number of applications for Garda Vetting to the Garda Central Vetting Unit has almost doubled since 2007 from approximately 187,000 to 350,000, resulting in delays in the turnaround of vetting applications.

Monitoring and Inspection: In July 2012, the Health Information and Quality Authority (HIQA) published the National Standards for the Protection and Welfare of Children, for Health Service Executive Children and Family Services⁵⁹³ to monitor how the HSE child protection service is implementing the Children First Guidance. The first of these inspections was published in May 2013⁵⁹⁴ and a program of inspections will continue to be rolled out over three years.⁵⁹⁵ In July 2013, an overview report was published of 33 inspections of foster and children's residential services carried out in 2012 by HIQA. Examples of good practice were found but the report also called for a 'proactive national strategy' to be put in place by the new Child and Family Agency to deal with vulnerable children placed in care.⁵⁹⁶

In 2013, HIQA published 47 reports on children's residential centres and in October 2013, it published an inspection report on Rath na nÓg (a High Support Unit) which came under particular media scrutiny as it raised a number of serious concerns. The report indicated that children were subjected to systematic bullying at the centre, child protection concerns were not properly reported to the HSE, there were fire safety concerns and issues around the locking of the young people in the centre at night. As a result of the serious concerns raised, the Minister for Children and Youth Affairs announced that the HSE had decided to

586 Department of Children and Youth Affairs, 'Government approve revised Heads of Children First Bill – Fitzgerald' [press release], 23 July 2013, <http://dcya.gov.ie/viewdoc.asp?Docid=2772&CatID=11&mn=8&StartDate=01+January+2013> [accessed 12 February 2014].

587 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs on 31 January 2014.

588 Ibid.

589 A Children First Inter-departmental Group (CFIDG) has been established to promote the importance of Children First compliance across Government and to ensure consistency of approach.

590 Information received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 31 January 2014.

591 A year earlier in July 2011, the Minister published the Scheme of the Bill and the Joint Committee on Justice, Defence and Equality debated it, including issuing a call for submissions and holding public hearings.

592 Alan Shatter TD, Minister for Justice, Equality and Defence, Parliamentary Questions: Written Answers [51754/13], Dáil Debate, 3 December 2013.

593 Health Information and Quality Authority (2012), *National Standards for the Welfare and Protection of Children, for Health Service Executive Children and Family Services*, Dublin: Health Information and Quality Authority.

594 Health Information and Quality Authority (2013) *Inspection of the HSE Child Protection and Welfare Service in Carlow/Kilkenny Local Health Area in the HSE South Region*, Dublin: Health Information and Quality Authority.

595 Department of Children and Youth Affairs (2012) *Ryan Report Implementation Plan Third Progress Report*, Dublin: Government Publications, p. 29.

596 Health Information and Quality Authority, 'HIQA publishes analysis of children's inspections' [press release], 25 July 2013, <http://www.hiqa.ie/press-release/2013-07-25-hiqa-publishes-analysis-children%E2%80%99s-inspections> [accessed 12 February 2014].

close the unit.⁵⁹⁷ The Minister also announced that the closure of the unit formed part of a 'broader National Review of Residential Care including the reconfiguration of High Support and Special Care Units'.⁵⁹⁸ Crannóg Nua, another High Support Unit will close in May 2014 to undergo refurbishment to change the unit into a Special Care facility. It is expected to increase the number of Special Care places from 17 places to 25 places when the unit reopens in January 2015.⁵⁹⁹

Comment

The *Ryan Report Implementation Plan* gets a 'B-' grade in *Report Card 2014*, the same grade as last year. This grade reflects the fact that the final *Ryan Report Implementation Plan* progress report has not yet been published and it is unclear what monitoring mechanism will be put in place to ensure that work continues to implement the ongoing recommendations contained in the *Ryan Report Implementation Plan*. While a number of positive steps have been achieved, including the commitment to put in place a national coordinated approach for sexual abuse services for children and young people and the publication of a number of HIQA reports, more action is still needed to progress all 99 actions of the Implementation Plan including placing *Children First* on a statutory footing.

The UN Convention on the Rights of the Child provides that a child has a right to protection from abuse and neglect (Article 19), including sexual and other forms of exploitation (Articles 34–36).⁶⁰⁰ To ensure that children are adequately protected, the UN Committee on the Rights of the Child recommends that States coordinate and implement child protection policies, strategies and services.⁶⁰¹ In their *Concluding Observations* on Ireland in 2006, the UN Committee urged the Government to consider placing *Children First* on statutory basis, and called for proper vetting of prospective employees and volunteers for all those working with children.⁶⁰²

The momentum that has built up in relation to child protection reforms must be capitalised upon to bring the remaining *Implementation Plan* commitments to fruition. The Monitoring Group for the Implementation Plan was due to conclude its work in 2013 but a final report has not been submitted. The monitoring framework which will replace the Monitoring Group must continue to implement any ongoing or outstanding commitments and learning from the *Implementation Plan*. It is important that this framework will incorporate into the work of the Department of Children and Youth Affairs and the Child and Family Agency, relevant recommendations from other reports, including the reports of the Special Rapporteur on Child Protection, the National Review Panel for Serious Incidents and Child Deaths, the Health Information and Quality Authority and the Ombudsman for Children. The framework should allow for input from organisations working on children's rights and child protection issues to ensure that progress continues to be made. It should also help to inform the implementation strategies for the National Framework on Children and Young People.

Social Workers: While the recruitment of extra social workers is welcome, there are concerns related to the high rate of social workers on maternity leave who have not been replaced and retention of social workers in general. The Minister has acknowledged these concerns and in September 2013 called for a panel to be put in place to fill those positions on a temporary basis.⁶⁰³ However, the fact that not all children have an allocated social worker or written care plan falls short of the *Ryan Implementation Plan* recommendations. Budget 2014 allocated €6.7m (€12m in a full year) to support the reform of child welfare and protection services. This is expected to include provision for the recruitment of social workers, with details expected to be provided in the Child and Family Agency's Business Plan which is to be submitted to the Minister within 30 days of the Agency's establishment.

597 Department of Children and Youth Affairs, 'Minister Fitzgerald confirms closure of HSE High Support Unit following HIQA inspection' [press release], 8 October 2013, <http://www.dcy.gov.ie/viewdoc.asp?Docid=2988&CatID=11&mn=#StartDate=01+January+2013> [accessed 12 February 2014].

598 Ibid.

599 Frances Fitzgerald TD, Minister for Children and Youth Affairs, Parliamentary Questions: Written Answers [47701/13], Dáil Debate, 12 November 2013.

600 Other relevant articles include the right to rehabilitative care (Article 39), the specific protections for children in the care system such as the child's right not to be separated from his parents and protection for children without families (Articles 9 and 20), the review of care placements (Article 25) and the best interests of the child in adoption cases (Article 21).

601 UN Committee on the Rights of the Child (2009) *General Comment No. 13: The right of the child to freedom from all forms of violence*, CRC/C/GC/13, Section 42.

602 UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 37.

603 Frances Fitzgerald TD, Minister for Children and Youth Affairs, Priority Questions [38725/13], Dáil Debates, 19 September 2013.

Children First: The Implementation Plan commits to put aspects of *Children First* on a statutory footing and ensure the Guidance is uniformly and consistently implemented across the country.⁶⁰⁴ The Department of Children and Youth Affairs is responsible for producing the legislation while the Child and Family Agency and Gardai will be responsible for its implementation. The need for such reform is well documented.⁶⁰⁵ While the Bill itself is welcome, it is unfortunate that the legislation is not yet in place given that it has been under consideration since 2012. It is critical that *Children First* is put on a statutory footing as soon as possible so as to ensure consistency of practice throughout the country, and reduce the risk of child protection cases not being referred to the authorities. The revised Bill should ensure that criminal liability is attached to those who fail to report child protection concerns so as to create a robust regime where no offender can hide. It is essential that education and training are provided to support those working in the area. Further, in the initial stages following the introduction of the legislation, extra social workers will be needed to respond to the increase in referrals that will arise from the attaching of criminal liability to non-reporting.

Vetting: The National Vetting Bureau (Children and Vulnerable Persons) Act 2012 is welcome but it is disappointing that it has not yet come into force. It is of concern that child minders remain excluded from vetting. It is estimated that 50,000 children are cared for by 19,000 child minders in Ireland.⁶⁰⁶ This represents a huge gap in the child protection system which needs to be addressed. The Act is due to be reviewed before its commencement. It is not clear that all of the remaining gaps in the legislation will be addressed. The additional funding announced in Budget 2014 coupled with a streamlined approach to vetting will also help to address delays in this process.

“It is critical that *Children First* is put on a statutory footing as soon as possible so as to ensure consistency of practice throughout the country, and reduce the risk of child protection cases not being referred to the authorities.”

604 Office of the Minister for Children and Youth Affairs (2009) *Report of the Commission to Inquire into Child Abuse, 2009: Implementation Plan*, Dublin: Department of Health and Children, actions 85, 86, 89.

605 Office of the Minister for Children and Youth Affairs (2008) *National Review of Compliance with Children First: National Guidelines for the Protection and Welfare of Children*, Dublin: Department of Health and Children; Office of the Ombudsman for Children (2010) *A Report Based on an Investigation into the Implementation of Children First: National Guidelines for the Protection and Welfare of Children*, Dublin: Ombudsman for Children's Office; Special Rapporteur on Child Protection, Geoffrey Shannon (2009) *Third Report of the Special Rapporteur on Child Protection: A Report Submitted to the Oireachtas*, http://www.dcy.gov.ie/documents/publications/Child_Protection_Rapporteur_Report.pdf [accessed 12 February 2014]; H. Buckley, S. Whelan, N. Carr and C. Murphy (2008), *Service users' perceptions of the Irish Child Protection System*, Dublin: Office of the Minister for Children and Youth Affairs.

606 Start Strong, Policy Brief, Childminding - Regulation and Recognition, October 2012, http://www.startstrong.ie/files/Childminding_-_Regulation_and_Recognition.pdf [accessed 10 February 2014].

Immediate Actions for 2014

Publish the final progress report of the *Ryan Report Implementation Plan* and clarify how the work of the Monitoring Group will be mainstreamed into the work of the Department of Children and Youth Affairs

The final progress report must be published in early 2014. Steps must be taken to ensure that any outstanding commitments are addressed and the learning from the Monitoring Group will be mainstreamed into the work of the Department of Children and Youth Affairs and the new Child and Family Agency.

Publish the Children First Bill and enact it as a matter of priority

Publish the Children First Bill taking into account the concerns raised during the consultation phase on the Scheme and Heads of Children First Bill 2012. This Bill should be enacted as a matter of priority.

Finalise the review of the National Vetting Bureau Act 2012 and commence it

Commence the revised legislation and provide support and training of relevant organisations and professionals to enable them to comply with their new statutory duties under the National Vetting Bureau Act 2012.

5.3 Youth Homelessness

Grade C+

Government Commitment

The *Programme for Government* commits to ending long-term homelessness and the need to sleep rough. To address the issue of existing homelessness it commits to reviewing and updating the existing Homeless Strategy, including a specific focus on youth homelessness, and taking into account the current demands on existing housing and health services with a view to assessing how to best provide additional services.

Progress

Partially completed

What's happening?

The review of the *Youth Homelessness Strategy* was published. The Government approved plans for legislation to provide for a statutory right to an aftercare plan.

The Department of Children and Youth Affairs engaged the Centre for Effective Services (CES) in 2011 to facilitate a high level review of the 2001 *Youth Homelessness Strategy*.⁶⁰⁷ The objective of the review was to establish the extent to which the Strategy has been successful, identify blockages and challenges to its implementation and make recommendations⁶⁰⁸ Consultations were held in early 2012 with relevant service providers, NGOs and young people, and the report was published in July 2013.⁶⁰⁹ The review found that the number of children considered homeless - or at risk of homelessness - has decreased since the introduction of the *Youth Homelessness Strategy*. It also found that instances of children sleeping rough have become very rare.⁶¹⁰ Access to emergency accommodation was found to have improved and there is a greater range of accommodation available to children who present as homeless including residential beds in units in urban areas and in more rural areas, an emergency place to stay scheme operates.⁶¹¹ However, it recommended that the use of Garda Stations as a means to accessing emergency accommodation for the first time should be avoided⁶¹² and emergency accommodation in Dublin should remain open to children during the day.⁶¹³

607 Department for Health and Children (2001) *Youth Homelessness Strategy*, Dublin: Department of Health and Children.

608 Centre for Effective Services, Project Outline, Youth Homelessness Strategy Review, <http://www.effectiveservices.org/images/uploads/file/projects/P203/Project%20Outline%20Youth%20Homelessness%20Strategy%20Review.pdf> [accessed 12 December 2012].

609 Department of Children and Youth Affairs (2013) *Every Child a Home: A Review of the Implementation of the Youth Homeless Strategy*, Dublin: Department of Children and Youth Affairs.

610 Ibid., p.44.

611 Under the emergency place to stay scheme a number of emergency foster placements are available for children that need to be taken into emergency care or children who present as homeless.

612 Ibid., p.38.

613 Ibid., p.5.

The report recommended that another strategy was not needed and instead called for the issue of homeless children to be addressed as part of a wider, integrated response to children in need.⁶¹⁴ The Department of Children and Youth Affairs has indicated that they are engaging with the HSE (now the Child and Family Agency), the National Educational Welfare Board and the Departments of the Environment, Community and Local Government, Education and Skills, Social Protection and Health to ascertain their views on how the recommendations of the Youth Homeless Strategy Review can be implemented.⁶¹⁵

In February 2013, a new *National Homeless Policy Statement* was issued by the Department of Environment, Community and Local Government.⁶¹⁶ The policy reaffirms the Government's commitment to end long term homelessness by adopting a housing led approach to homelessness. Although the policy centres on adult homelessness, it recommends that the approach to tackling all forms of homelessness, be they child, youth or adult homelessness, should be fully integrated.⁶¹⁷

The Health Service Executive's *National Service Plan 2012* committed that in 2012 a baseline would be established for the two performance indicators on youth homelessness.⁶¹⁸ To date the baseline has yet to be set⁶¹⁹ and the HSE's *National Service Plans* for both 2013 and 2014 fail to make any mention of this baseline.⁶²⁰

Aftercare: Currently, there is no statutory obligation to provide aftercare or an aftercare plan to children leaving care when they turn 18. Aftercare comprises a range of services designed to support the young person 'while they make the transition from living in foster or residential care, to adulthood'⁶²¹ and may include financial support or assistance in finding accommodation or employment for example. However, some children do not qualify for aftercare including those who are accommodated under Section 5 of the Child Care Act 1991 (as amended)⁶²² as they are not formally in the care of the State. The review of the *Youth Homeless Strategy* highlighted that there were inconsistencies in the provision of aftercare and issues with eligibility criteria.⁶²³

In a welcome development in November 2013, Minister for Children and Youth Affairs, Frances Fitzgerald TD announced plans to amend the Child Care Act 1991 to provide for a statutory right to the preparation of an aftercare plan.⁶²⁴ The purpose of the proposed amendment is to provide clarity around eligibility for aftercare and the arrangements for preparing, reviewing and updating an aftercare plan and for monitoring young care leavers. The detail of this legislative amendment is expected in 2014.⁶²⁵ Discussions have been held between the Department of Children and Youth Affairs, the HSE, the Child and Family Agency and service providers on the proposed legislative change and on improving service delivery.⁶²⁶ Meetings have also taken place between the Department and its counterparts in Northern Ireland to discuss the impact of legislating for aftercare and issues they have subsequently encountered in service provision.⁶²⁷ At the end of December 2013, there were 1,457 young people in receipt of an aftercare service.⁶²⁸ In addition, a protocol is being

614 Ibid., p.3.

615 Minister for Children and Youth Affairs Frances Fitzgerald TD, Parliamentary Questions, Written Answers, 12 November [47845/13].

616 Department of Environment, Community and Local Government, *National Homelessness Policy Statement*, Dublin: 2013, <http://www.environ.ie/en/PublicationsDocuments/FileDownload,32434,en.pdf> [accessed 18 December 2013]

617 Ibid., p.2.

618 Health Service Executive (2012) *National Service Plan 2012*, Dublin: Health Service Executive, p. 63. These performance indicators as set out in the *National Service Plan 2012* are: 1. The number of children placed in youth homeless centres or units for more than four consecutive nights (or more than 10 separate nights over a year) and 2. The number and percentage of children in care placed in a specific homeless centre/unit.

619 It has not appeared in the monthly HSE Performance or Supplementary Reports. See Health Service Executive (2012) October 2012, *Supplementary Report, National Service Plan*, Dublin: Health Service Executive; and Health Service Executive (2012) October 2012, *Performance Report, National Service Plan 2012*, Dublin: Health Service Executive.

620 Health Service Executive (2013) *National Service Plan 2014*, Dublin: Health Service Executive.

621 EPIC, *Aftercare Advocacy & Support Programme*, May 2010, <http://www.epiconline.ie/aftercare-advocacy--support-programme.html> [accessed 12 February 2014].

622 This provision places a duty on the HSE to accommodate a child who is homeless or at risk of homelessness.

623 Department of Children and Youth Affairs (2013) *Every Child a Home: A Review of the Implementation of the Youth Homeless Strategy*, Dublin: Department of Children and Youth Affairs.

624 Department of Children and Youth Affairs, 'Cabinet approves policy proposal to strengthen legislative provisions for aftercare' [press release], 6 November 2013.

625 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs on 12 December 2013.

626 Minister for Children and Youth Affairs Frances Fitzgerald TD, Parliamentary Questions, Written Answers, 26 September [40138/13].

627 Ibid.

628 Minister for Children and Youth Affairs Frances Fitzgerald TD, Parliamentary Questions, Written Answers, 18 July [36657/13].

finalised between the Child and Family Agency and the housing authorities to provide a framework for good practice in identifying aftercare accommodation for care-leavers. It will also commit local authorities to consider the needs of young care leavers when carrying out their statutory assessments of housing need.⁶²⁹

Comment

Youth homelessness gets a 'C+' grade in *Report Card 2014*, an improvement on last year's 'C' grade. This grade reflects the completion of the review of the *Youth Homeless Strategy* and the commitment by the Government to introduce a statutory right to an aftercare plan. However, the narrow definition of homelessness contained in the *Youth Homeless Strategy* does not take into account all young people who may find themselves without a home. The definition used in the Strategy captures only those who are in temporary accommodation, sleeping rough or sleeping in shelters. It does not include young people who are part of a homeless family or young people who are temporarily staying with friends but who have no home.⁶³⁰ Children and young people who are homeless as part of a family group require a different policy response which falls within the remit of the Department of the Environment, Community and Local Government.

Any action on youth homelessness must be rooted in the UN Convention on the Rights of the Child. A child who is homeless is an extremely vulnerable and the State is obliged under the UNCRC to provide special protection to children deprived of their family environment, so that appropriate alternative family or institutional care is available to them (Article 20). Under Article 27(3) (right to adequate standard of living) States have an obligation to assist parents and guardians and 'in cases of need provide material assistance and support programmes particularly with regard to nutrition, clothing and housing.' The UN Committee on Economic, Social and Cultural Rights has stated that: '[t]he right to housing should not be interpreted in a narrow or restrictive sense which equates it with [...] merely having a roof over one's head [...]. Rather it should be seen as the right to live somewhere in security, peace and dignity.'⁶³¹

Children with their Families at Risk of Homelessness: The number of homeless families in Dublin has doubled in the last six months of 2013 with 16 families losing their home each month. This means on average five children a week are being made homeless.⁶³² Homeless families may be accommodated in domestic violence refuges or provided with private emergency accommodation. This may mean living in a Bed and Breakfast, with whole families living in one small room, together with all of their belongings, leaving little to no space for children to play or do homework. This accommodation is neither suitable for families with children nor cost effective for the State. For children, the frequent accommodation moves and subsequent difficulty in inviting friends over to their home, means they often find it difficult to develop and maintain friendships.⁶³³ Reform is urgently needed.

In Budget 2014 the Government announced a pilot phase for a new model of financing social investment which is seeking private sector investment partners to provide long term stable homes for families. The project is aimed at providing families and in particular children with better lives through increasing levels of social participation and reducing levels of homelessness.⁶³⁴ The Government has indicated that 5,000 social housing units will be provided in 2014.⁶³⁵ In 2013, 142 people in Cork, including 50 children, were moved out of homelessness by the charity Threshold through its access housing unit helps homeless people transition in private rented accommodation.⁶³⁶ This scheme demonstrates the potential for public-private partnerships to address the issue of homeless families in an effective manner.

629 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs on December 2012

630 Department of Health and Children (2001) *Youth Homelessness Strategy*, Dublin: Department of Health and Children.

631 Committee on Economic, Social and Cultural Rights (CESCR) General Comment No.4: The right to adequate housing (Art.11 (1)):13/12/1991.

632 'Rise in Dublin families Becoming Homeless says Focus Ireland', *The Irish Times* [online], 8 December 2013 <http://www.irishtimes.com/news/social-affairs/rise-in-dublin-families-becoming-homeless-says-focus-ireland-1.1621063> [accessed 17 December 2013].

633 A.M. Halpenny, A.F.Keogh and R. Gilligan (2002) *A Place for Children? Children in Families Living in Emergency Accommodation: The Perspectives of Children, Parents and Professionals*, Dublin: Children's Research Centre, Trinity College, p. 39.

634 Minister for Public Expenditure and Reform Brendan Howlin TD, Budget 2014 speech to the Dail, 15 October 2013, <http://www.budget.gov.ie/Budgets/2014/EstimateStatement.aspx> [accessed 18 December 2013].

635 Tanaiste and Minister for Foreign Affairs Eamon Gilmore TD Leaders Questions 7 November 2013.

636 Michelle Hennessy, 'Housing Charity in Cork moved 50 children out of homelessness this year', *The Journal*, <http://www.thejournal.ie/cork-homeless-1224431-Dec2013/> [accessed 18 December 2013].

“The narrow definition of homelessness contained in the Youth Homeless Strategy does not take into account all young people who may find themselves without a home. The definition used in the Strategy captures only those who are in temporary accommodation, sleeping rough or sleeping in shelters. It does not include young people who are part of a homeless family or young people who are temporarily staying with friends but who have no home.”

Children in Care at Risk of Homelessness: The publication of the 2001 *Youth Homelessness Strategy Review* is to be welcomed. The review concluded that the introduction of another Youth Homeless Strategy was not necessary and instead proposed that a wider integrated approach to the issue of youth homelessness needed to be adopted. The review noted young people accessing emergency homeless services through Garda Stations as an area of concern. Lefroy House Nightlight, in Dublin city centre, is now the only centre providing emergency accommodation to lone children under 18 years in the country.⁶³⁷ A child must be known to the service before he or she can access it directly. From 9pm onwards, those not already known to the service – newly homeless young people often in crisis – must present at a Garda station to access this service. Young people who participated in the Ombudsman for Children 2012 report, *Homeless Truths, Children's Experiences of Homelessness in Ireland*, recalled the experience of attending a Garda station to access accommodation to be embarrassing and felt ashamed or anxious.⁶³⁸ The Review recommended that this practice end where possible and that alternative responses to Garda stations should be developed where practical.

Youth homelessness is closely associated with leaving state care or youth detention;⁶³⁹ addiction problems; familial abuse or neglect, poverty and household instability; disconnection from the education system or poor mental health.⁶⁴⁰ The review of the *Youth Homeless Strategy* found that 62% of stakeholders felt that the needs of children and young people being discharged from criminal detention were either poorly met or not at all met.⁶⁴¹ The legal duty to provide accommodation and care to homeless children will transfer from the HSE to the new Child and Family Agency.

637 A child can refer themselves in person (8pm-2am), if already known to the service or by agency referral through the Out of Hours Service for young people. After 2am referrals will still be accepted but only through the Out of Hours Service. The Nightlight project also has a reception centre (8pm-2am) where up to 14 young people can access emergency accommodation. The project is open until 9.30am Mon-Fri and 2pm Sat-Sun & bank holidays. Nightlight is run by the Salvation Army in cooperation with the HSE crisis intervention. Families with children who present as homeless are accommodated separately.

638 Ombudsman for Children (2012) *Homeless Truths, Children's Experiences of Homelessness in Ireland*, Dublin: Ombudsman for Children's Office.

639 P. Mayock and E. O'Sullivan (2007) *Lives in Crisis: Homeless Young People in Dublin*, Dublin: The Liffey Press; P. Kelleher, C. Kelleher and M. Corbett (2000) *Left Out on their Own: young people leaving care in Ireland*, Dublin: Oak Tress Press; EPIC (2011) *Summary of EPIC Research Findings on Outcomes for Young People Leaving Care in North Dublin*, Dublin: EPIC, p. 3.

640 Geoffrey Shannon (2010) *Fourth Report of the Special Rapporteur on Child Protection, A Report Submitted to the Oireachtas*, <http://www.dcy.gov.ie/documents/publications/Rapporteur-Report-2010.pdf> pp. 33-35 [accessed 12 February 2014].

641 Department of Children and Youth Affairs (2013) *Every Child a Home: A review of the implementation of the youth homelessness strategy*, Dublin: Department of Children and Youth Affairs, p.28.

The Child and Family Agency needs to play a critical role for children who find themselves homeless. The Agency must ensure that the new policy maps out the necessary links with other departments and agencies across professions to effectively tackle youth homelessness. This will include improving working relationships between child protection services and the care system, mental health, domestic violence, education, family services and housing. There needs to be an acknowledgement that a continuum of care exists for young people who are homeless. To this end, there needs to be flexibility in relation to access to aftercare provision. The intention of the Minister Fitzgerald to create a legislative right to an aftercare plan is to be welcomed. It is vital that the staff and resources are put in place to ensure that assessments take place in a timely manner and that the aftercare supports are put in place.⁶⁴² It is also crucial that multi-agency aftercare planning takes place to prevent a young care leaver experiencing homelessness. The transition for a young person from child to adult services is at a critical stage. Radical improvements are needed to ensure that young people are properly supported during this transition and their vulnerability is recognised by the adult services. This must be the case for vulnerable care leavers and also for those older teenagers who only become involved with the social services in the lead up to their 18th birthday and therefore do not qualify for aftercare support.

2012 figures show that 39 children spent up to 10 nights accessing emergency accommodation.⁶⁴³ There has been progress made since 2001 in reducing youth homelessness (in particular rough sleeping) which may be linked to improvements in the care system for at-risk children. A broader range of children's residential centres – including high support and special care units – and better trained staff, are now available to meet the needs of children with behavioural and emotional difficulties. Homelessness in the past was often linked to a placement breakdown or lack of appropriate placement. A number of hostels for homeless children, including Grove Lodge, Dublin, have closed over the past few years or have been designated as mainstream residential children care homes. Such closures may reflect a recognition that hostel living is not appropriate for children and concerns over the suitability of the specific centres. It is important that we interrogate the changed pattern of children presenting as out of home or in an emergency situation to ensure that the decrease is not masking a reluctance to present to services.

642 Focus Ireland, Press Release: 06 November 2013, <http://www.focusireland.ie/about-homelessness/resource-centre/press/press-releases/828-press-release-06-november-2013> [accessed 18 November 2013].

643 Catherine Shanahan, '39 Children Placed in Homeless Centres', *The Irish Examiner*, 10 July 2013.

Immediate Actions for 2014

Invest in appropriate accommodation for homeless families

The Department of the Environment, Community and Local Government and relevant housing agencies, must consider flexible and creative approaches to ensure homeless families are provided with family-friendly emergency accommodation and then supported to move on to stable accommodation. Both emergency and longer term accommodation must provide adequate homework and play facilities and residents must be allowed to stay at the hostel during the day rather than being forced out onto the street.

Ensure that appropriate emergency accommodation facilities are available for children and young people presenting as homeless

The review of the Youth Homelessness Strategy found that the current mechanism of presenting at a Garda station in order to access emergency homeless services was inappropriate and could be intimidating for children or young people.⁶⁴⁴ It recommended that the Child and Family Agency develop an alternative wherever practical.

The Child and Family Agency must ensure that there is interagency co-operation on the issue of youth homelessness particularly when a new strategy is not going to be put in place

The Agency must ensure that appropriate protocols and procedures are put in place to ensure that all agencies working with homeless children or children at risk of homelessness are cooperating effectively to accommodate and care for these children.

Introduce a statutory entitlement to aftercare support for all children leaving care and detention

The necessary legislation should be drawn up and implemented without delay. It is vital that the staff and resources are put in place to ensure that assessments take place in a timely manner and that aftercare supports are put in place.

⁶⁴⁴ Department of Children and Youth Affairs (2013) *Every Child a Home: A Review of the Implementation of the Youth Homeless Strategy*, Dublin: Department of Children and Youth Affairs, p.30.

5.4 Children in Detention

Grade B+

Government Commitment

The *Programme for Government* commits to ending the practice of sending children to St. Patrick's Institution.

Progress

On track

What's happening?

Construction work is underway on the new National Detention Facility at Oberstown. All 17 year olds serving a custodial sentence have been transferred from St Patrick's Institution to a dedicated unit in Wheatfield Prison with the exception of the small number of those on remand⁶⁴⁵ who remain at St. Patrick's Institution.

In April 2012, the Minister for Children and Youth Affairs, Frances Fitzgerald TD, announced that Government had committed to build a new National Children Detention Facility at Oberstown, Co. Dublin,⁶⁴⁶ which will allow for an end to the detention of 16 and 17-year-old boys in St. Patrick's Institution. The Oberstown campus currently houses three detention schools: Oberstown Boy's School, Trinity House School and Oberstown Girl's School.⁶⁴⁷ The new facility will encompass six detention units the first three of which will be used to house 17 year olds and are due to be operational by autumn 2014. The other three units, to replace the existing accommodation in the Oberstown campus, are expected to be finished in 2015.⁶⁴⁸ The completed development will integrate the three existing detention schools with the newly constructed units into one single national children detention facility. This will accommodate all children on remand or serving a custodial sentence, as originally provided for in the Children Act 2001. An amendment to the Children Act 2001 is planned in early 2014 to provide a secure legal framework for the operation of the campus as a single integrated facility.⁶⁴⁹

645 A person 'on remand' is someone who is charged/detained in custody but who has not yet been convicted of a crime and is awaiting trial or sentencing. The initial remand period can be extended.

646 Department of Children and Youth Affairs, 'Minister Fitzgerald to End Detention of 16 and 17 Year Olds in St. Patrick's Institution' [press release], 2 April 2012, <http://www.dcy.gov.ie/viewdoc.asp?DocID=1842> [accessed 12 February].

647 The total current operational capacity on the campus is 44 places for males and eight places for females. Under current arrangements, the children detention schools are authorised to detain males up to the age of 17 years and females up to the age of 18 years. The buildings accommodating Oberstown Boy's School are in need of replacement.

648 Department of Children and Youth Affairs, 'Oberstown construction demonstrates Government commitment to implementing long-awaited reforms – Fitzgerald' [press release], 14 October 2013, <http://www.dcy.gov.ie/viewdoc.asp?Docid=2994&CatID=11&mn=&StartDate=01+January+2013> [accessed 10 January 2014].

649 Minister for Children and Youth Affairs, Frances Fitzgerald TD, Parliamentary Question: Written Answers, 17 December 2013 [53846/13].

Three-year capital funding of €56 million has been granted to the Oberstown redevelopment project.⁶⁵⁰ Work commenced on site in September 2013 and Budget 2014 released €31 million in capital funding for building works with a further €6.4million approved to cover the full cost of the work.⁶⁵¹

In addition, a programme of operational reforms is ongoing aimed at enhancing the effective management and capacity of services on the Oberstown campus in advance of, and to support, the expanded facilities to be provided.⁶⁵² In 2012, the Minister for Children and Youth Affairs appointed 12 members to the Oberstown Board of Management chaired by Joe Horan, for a two year period.⁶⁵³ The Directors of the three detention schools report to the Board⁶⁵⁴ which in turn reports to the Minister for Children. Pat Bergin was appointed as Campus Manager for the entire Oberstown site in December 2013 and will report to the Board of Management.⁶⁵⁵ Under a Labour Relations Commission agreement with the Irish Youth Justice Service a third party arbitrator was appointed to oversee a joint review by management and staff of the operation of the staffing roster which began implementation in February 2013 and is ongoing.⁶⁵⁶ A recruitment programme for 67 new care staff has been approved by Government; they are expected to be recruited on a staged basis from early 2014.⁶⁵⁷

In July 2013, the Inspector of Prisons published his 2012 Annual Report calling for the complete closure of St Patrick's Institution due to 'very disturbing incidents of non-compliance with best practice and breaches of the fundamental rights of prisoners'.⁶⁵⁸ On foot of this report, the Minister for Justice, Equality and Defence, Alan Shatter TD, announced his intention to close St Patrick's Institution and transfer all 17 year olds to a dedicated unit in Wheatfield prison until the completion of the three new units in Oberstown in autumn 2014.⁶⁵⁹ In December 2013, all of the 17 year olds serving sentences were transferred to the interim unit in Wheatfield prison. As of the December 31 2013, three 17 year olds remained in St Patrick's Institution on remand as they cannot be transferred to Wheatfield for legal reasons.⁶⁶⁰

The current capacity on the Oberstown campus comprises 24 male detention places in Trinity House School, eight female detention places in Oberstown Girls School, and 22 male detention places in Oberstown Boys School (which represents an increase of two places from October 2013).⁶⁶¹ From March to November 2013, there were a total of 88 boys remanded in custody and 29 boys committed to a period of detention to either Trinity House School or Oberstown Boys School.⁶⁶²

650 Department of Children and Youth Affairs, 'Oberstown construction demonstrates Government commitment to implementing long-awaited reforms – Fitzgerald' [press release] 14 October 2013. <http://www.dcy.gov.ie/viewdoc.aspx?Docid=2994&CatID=11&mn=8&StartDate=01+January+2013> [accessed 10 January 2014].

651 Department of Finance Budget 2014, Expenditure Allocation 2014-2016 <http://budget.gov.ie/Budgets/2014/Documents/Part%2011%20-%20Expenditure%20Allocations%202014%20-%202016.pdf> [accessed 10 January 2014].

652 Minister for Children and Youth Affairs, Frances Fitzgerald TD, Parliamentary Questions, Written Answers, 17 December 2013 [53846/13].

653 The Board comprises Mr. Joe Horan (Chair), Mr. Dan Kelleher, Mr. Gerard McKiernan, Dr. Ursula Kilkelly, Mr. Diego Gallagher, Ms. Sylva Langford, Mr. Colin Fetherston, Mr. Pat Rooney, Mr. Elizabeth Howard, Mr. Deirdre Keyes, Mr. Barry Rooney and Rachel Grimes.

654 Irish Youth Justice Service, Children Detention Schools, http://www.iyjs.ie/en/IYJS/Pages/WP08000052#Board_of_Management [accessed 13 January 2014].

655 Minister for Children and Youth Affairs, Frances Fitzgerald TD, Parliamentary Questions, Written Answers, 17 December 2013 [53846/13].

656 Ibid.

657 Communication received by the Children's Rights Alliance from a meeting with Minister for Children and Youth Affairs, Frances Fitzgerald TD on 17 October 2013.

658 Inspector of Prisons (2013), *Annual Report 2012*, Inspector of Prisons: Tipperary, p. 23.

659 Department of Justice, Equality and Defence, 'Minister Shatter publishes Inspector of Prisons Annual Report for 2012: An Assessment of the Irish Prison System by the Inspector of Prisons and announces plans for the future use of St Patrick's Institution' [press release], 3 July 2013, <http://www.merrionstreet.ie/index.php/2013/07/minister-shatter-publishes-inspector-of-prisons-annual-report-for-2012-an-assessment-of-the-irish-prison-system-by-the-inspector-of-prisons-and-announces-plans-for-the-future-use-of-st-patricks-in/> [accessed 10 January 2013].

660 Communication received by the Children's Rights Alliance from the Irish Prison Service on 31 January 2014.

661 Minister for Children and Youth Affairs, Frances Fitzgerald TD, Parliamentary Questions, Written Answers, 26 November 2013 [50860/13].

662 Ibid.

In November 2013, the Health Information and Quality Authority (HIQA)'s inspection report highlighted that the overall care provided to young people in Oberstown was of a good standard.⁶⁶³ However, HIQA was concerned by the frequent use of 'protection rooms' in Trinity House; these rooms had been used 67 times in one month and the duration of confinement was not recorded. The inspectors called for a review of the use of 'protection rooms' as they did not consider them suitable or necessary.⁶⁶⁴ The inspectors were also concerned at the failure, due to staffing issues, to implement the comprehensive programme to reintegrate young people into the community.⁶⁶⁵

The Assessment, Consultation and Therapy Service (ACTS) was operating in three special care units by November 2013⁶⁶⁶ but the rollout of its clinical services to children in detention schools is ongoing.⁶⁶⁷ Young people detained in Oberstown will have access to either the Central Mental Hospital or a forensic psychologist if necessary.⁶⁶⁸ Under the ACTS service, all children in detention can be screened using an evidence based assessment tool to see if they require clinical services and will be referred on to the clinical team for treatment.⁶⁶⁹ This new procedure should allow court reports to focus on the young person's risk of offending rather than whether they require assessment for services.⁶⁷⁰

In December 2013, 10 of the 33 children in detention had been in care prior to being sent to Oberstown and 25 had an allocated social worker.⁶⁷¹ Given that many children who are known to the social services also come into contact with the youth justice system, in 2012 the Irish Youth Justice Service and the Health Service Executive (HSE) issued a Joint Protocol for social workers and those working in Children Detention Schools which was reviewed in October 2013.⁶⁷² The protocol outlines a number of measures to achieve interagency working including the continuing involvement of the social worker with a young person who had an allocated social worker before arriving in a detention school, direct input by the social work team into the assessment process, placement plan and reintegration home plan; ensuring that the allocated HSE social worker is informed about incidents and any other relevant information regarding the child; the appropriate sharing of information including the provision of a copy of the young person's care plan to the children detention schools and ensuring a complaints procedure is put in place for children.⁶⁷³

Comment

Children in Detention receives a '**B+**' grade in Report Card 2014, the same as last year's grade. This recognises the ongoing construction work on the new Oberstown facility as well as the positive measures to improve the operation of Oberstown. While the transfer of 17 year olds from St. Patrick's Institution is a welcome step, the transfer to a new interim facility at Wheatfield prison must be a short-term solution. It is unfortunate that St. Patrick's Institution cannot completely close until a suitable alternative for 17 year olds on remand is put in place.

The commitment to the Oberstown project represents a unique opportunity to build a world class facility and put in place a child-centred, education-focused regime in the new facility, rooted within a children's rights framework. Critical to this is delivering a rights based approach to youth justice and an understanding that, first and foremost, all those under 18 years are children. Oberstown is designed to be a children's detention school rather than a prison where children can receive therapeutic interventions and education. The UN Convention on the Rights of the Child is clear that States treat children in conflict with the law in a manner that promotes the child's sense of dignity and worth, reinforces the child's respect for human rights, and takes account of the child's age and the desirability of promoting reintegration (Article 40(1): administration of juvenile justice).

663 Health Information and Quality Authority, *Inspection Report of a Children Detention School on Oberstown Campus*: Report ID No. 636, 15 November 2013. www.hiqa.ie/system/files/inspectionreports/636.pdf [accessed 12 February 2014].

664 *Ibid.*, p. 22.

665 *Ibid.*, p. 12.

666 Frances Fitzgerald TD, Minister for Children and Youth Affairs, Parliamentary Questions: Written Answers, 20 November 2013 [41818/13].

667 Communication received by the Children's Rights Alliance from the Child and Family Agency on 13 January 2014.

668 Frances Fitzgerald TD, Minister for Children and Youth Affairs, Parliamentary Questions: Written Answers, 20 November 2013 [41818/13].

669 Communication received by the Children's Rights Alliance from the Child and Family Agency on 13 January 2014

670 *Ibid.*

671 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs on 15 January 2014.

672 Health Service Executive and the Irish Youth Justice Service, Protocol for Working Together: HSE Social Workers & Children Detention Schools, 1 October 2013, <http://www.iyjs.ie/en/IYJS/Protocol%20CDS%20and%20SW%20Final%20Version.pdf/Files/Protocol%20CDS%20and%20SW%20Final%20Version.pdf> [accessed 13 January 2014].

673 *Ibid.*, pp. 4 – 5.

“The commitment to the Oberstown project represents a unique opportunity to build a world class facility and put in place a child-centred, education-focused regime in the new facility, rooted within a children’s rights framework.”

In 1989, on the international stage, the Irish Government lodged a reservation to Article 10 (2b) of the International Covenant on Civil and Political Rights (right to liberty) which states that: ‘Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication’.⁶⁷⁴ Given the positive measures which will result in the removal of 16 and 17 year olds of St. Patrick’s Institution, we urge the Government to withdraw this reservation. The Department of Children and Youth Affairs has stated that it will consider withdrawal of this reservation following the transfer of all 17 year olds to Oberstown campus in the third quarter of 2014.⁶⁷⁵

The detention of children in an adult prison that operates a penal regime was previously criticised as a glaring human rights violation by a number of domestic and international bodies⁶⁷⁶ as it is in direct contravention to Article 37 of the UN Convention on the Rights of the Child (torture and deprivation of liberty).⁶⁷⁷ St. Patrick’s Institution was considered to be the most violent prison in Ireland, responsible for one third of all assaults in the prison system.⁶⁷⁸

The decision to close St Patrick’s Institution is a positive and long overdue development. However, the decision to transfer 17 year olds to an interim unit in Wheatfield Prison is to be cautiously welcomed as long as it remains ‘a temporary, short-term measure’, as articulated by Emily Logan, Ombudsman for Children.⁶⁷⁹ An adult prison, even one where a dedicated unit has been put in place, is entirely unsuitable for young people in the longer-term. The units for 17 years olds are expected to be complete towards the end of 2014. While there are a small number of 17 year olds remaining in St Patrick’s Institution they cannot be transferred to the Wheatfield facility as they are held on remand but given the previous criticisms of the poor conditions in St Patrick’s Institution, an alternative needs to be put in place until the new facility is operational.

The issue of inadequate capacity in the existing three detention schools in Oberstown continues to be of concern as the high level of demand for detention places for young males has meant that Trinity House School and Oberstown Boys School are frequently at full occupancy with no available spaces.⁶⁸⁰ On the other hand, there has been no shortage of spaces at Oberstown Girls School over the past two years. The Ombudsman for Children has warned that care must be taken in relation to space, ‘not to place institutional interests ahead of the interests of children’.⁶⁸¹ It is equally important that the detention of children is always used as a measure of last resort, in line with the Children Act 2001.

674 UN General Assembly, International Covenant on Civil and Political Rights, A/RES/21/2200, 999 U.N.T.S. 171,(16 December 1966).

675 Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs on 15 January 2014.

676 For further detail see Children’s Rights Alliance (2013) *Report Card 2013*, Dublin: Children’s Rights Alliance, pp. 77-78.

677 Article 37(c) states that “Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances”.

678 Cormac O’Keeffe, ‘30% of St Pat’s inmates on protection and locked up for over 20 hours a day’, *Irish Examiner*, 28 September 2012.

679 Ombudsman for Children’s Office, Address by the Ombudsman for Children to the Joint Oireachtas Committee on Health and Children, 17 July 2013 <http://www.oco.ie/assets/files/Statements/PresentationtotheOireachtasCommitteeonHealth&ChildrenJuly2013.pdf> [accessed 13 January 2013].

680 Based on daily occupancy reports from the Irish Youth Justice Service in the period 1 March - 25 November 2013, it is estimated that there were 108 days where there was a male detention place available in either Trinity House School or Oberstown Boys School. On most other days, both sites were at maximum occupancy and no further places were available. The estimate excludes weekends and public holidays.

681 Ombudsman for Children’s Office, Address by the Ombudsman for Children to the Joint Oireachtas Committee on Health and Children, 17 July 2013, <http://www.oco.ie/assets/files/Statements/PresentationtotheOireachtasCommitteeonHealth&ChildrenJuly2013.pdf> [accessed 13 January 2013].

In 2013, 103 young people were detained on remand for 138 different periods which ranged from one day up to several months,⁶⁸² as the same young person may be remanded more than once before being convicted or sentenced. In December 2013, there were nine young people on remand.⁶⁸³ However, in the same month, the High Court ruled that the lack of provision for remission of a sentence for those detained in Oberstown, in the same manner as adult prisoners, was a breach of Article 40.1 of the Constitution (the right to equality before the law).⁶⁸⁴ On foot of this ruling, the applicant and six other young persons were immediately released from Oberstown under the rules of remission where a person who has reached three quarters of their sentence is entitled to be released.⁶⁸⁵

However, another issue of concern is that young people on remand who have not been convicted are detained alongside those who have been convicted contrary to Article 10(2)(a) of the International Covenant on Civil and Political Rights (right to liberty). While in Oberstown 'where practicable',⁶⁸⁶ accused young people are held in a separate location from those who have been found guilty of a crime, this should always be the case.

The Irish Youth Justice Service is due to finalise its Youth Justice Action Plan 2014-2018 in early 2014 as part of the Children and Young People's Policy Framework 2014-2018.⁶⁸⁷ It will also form part of the National Anti-Crime Strategy. The plan aims to improve the effectiveness and efficiency of interventions in addressing the behaviour and needs of children to achieve better outcomes for children who get into trouble with the law. It is expected that the strategy will be published in spring 2014. It is important that the Youth Justice Action Plan embodies key children's rights principles and conforms to international youth justice standards in particular Article 40 (administration of juvenile justice) of the UNCRC.

A 2013 report by the Children's Mental Health Coalition⁶⁸⁸ examined the mental health needs of children in the youth justice system. While it welcomed the rehabilitation and diversionary options available to young people who come into contact with the law, it also noted a lack of diversionary options specifically addressing the mental health of young offenders to enable access at the earliest opportunity to divert them to community services that can address their mental health needs.⁶⁸⁹ The report highlighted the need to amend the Mental Health Act 2001 and the Children Act 2001 to allow for more robust sentencing options for young offenders with mental health problems, which could include community orders with a mental health dimension and hospital orders.⁶⁹⁰ It was also recommended that there be a review of practices in youth detention schools to assess the extent to which positive mental health is promoted in the facilities.⁶⁹¹

It is important that the needs of those leaving detention are met in a similar manner to those who are leaving care. The intention of the Minister for Children and Youth Affairs to introduce a statutory right to an aftercare plan (see section 5.3) should be extended to include those leaving detention to help ensure their reintegration into society following their release.

682 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs on 15 December 2013.

683 Ibid.

684 *Byrne (a minor) v Director of Oberstown School* IEHC 562, 12 November 2013.

685 The Irish Times online, 'Judge says prison rules on remission apply at Oberstown', 11 December 2013, <http://www.irishtimes.com/news/crime-and-law/courts/judge-says-prison-rules-on-remission-apply-at-oberstown-1.1623634> [accessed 3 February 2014].

686 Children Act, 2001 s.88 (8).

687 Minister for Children and Youth Affairs, Frances Fitzgerald TD, Parliamentary Questions, Written Answers, 13 November 2013 [48467/13].

688 R. McElvaney et al (2013) *Someone to Care: the mental health needs of children and young people with experience of the care and youth justice systems*, Dublin: Children's Mental Health Coalition.

689 Ibid., p.129.

690 Ibid., p.130.

691 Ibid., p.130.

Immediate Actions for 2014

Immediately withdraw the reservation to Article 10 (2b) of the International Covenant on Civil and Political Rights

Given the positive measures taken in relation to St. Patrick's Institution and towards the building of a dedicated National Children Detention Facility, the Government must withdraw this reservation without delay.

Ensure the legislative entitlement to aftercare for children extends to those leaving detention

Young people leaving detention have ongoing and complex care needs similar to young people leaving care. The commitment by the Minister for Children and Youth Affairs to introduce a statutory right to an aftercare plan should be extended to include those in detention.

A review should be carried out on the use of remand for children and young people to ensure that it is used appropriately

Data on the use of remand should be reviewed to ensure that children and young people are not held on remand longer than necessary and that their cases come before the court within a reasonable period of time. Resources must be made available to ensure that children and young people held on remand are kept separately to children who have been convicted and are serving a sentence.

An individual case tracking system should be put in place to track the outcomes for young people who leave detention

There is a need to adopt an evidence based approach to youth justice and interventions by examining trends in the behaviour of young people following their release from detention in order to determine whether they have been rehabilitated, reoffend or end up in adult prisons. This would allow the Irish Youth Justice Service to plan resources and ensure that best practice is put in place to prevent reoffending.



“Minister Shatter has promised to radically reform family law and ensure equality for all children. The legislation, if enacted, will result in some unmarried fathers acquiring automatic guardianship rights to their children. Regretfully for some fathers and children the situation will not change. We welcome that carers such as step parents, grandparents and others will be able to apply for guardianship.”

Margaret Dromey, Chief Executive Officer, Treoir

Chapter 6:

Right to Equality and Non-Discrimination

Grade E



In The News

Closing Our Eyes: Irish Society and Direct Provision

By Liam Thornton

Direct provision is front page news in Ireland today. Carl O'Brien has a number of in today's *Irish Times* on inspection reports that have found that asylum seekers live in dismal conditions in direct provision centres.

This of course will be of no surprise to the Department of Justice (and Equality.....) or the current Minister for Justice, Mr Alan Shatter TD. In fact, it is of no surprise to the political system as a whole, given the extensive reports from non-governmental organisations and the Ombudsman and the Ombudsman for Children. Institutions of the state know and have known for quite a bit of time about significant systemic problems with the system of direct provision. Nothing is being done about this.

What many in human rights organisations suspect (or are afraid to admit openly) is that Irish society knows full well about the system of direct provision, the vast majority of the population could not care less. In fact, the vast majority may even want a harsher system (at least if thejournal.ie commentators had their way). Politicians in the Dáil have said to me, over the years that their work on direct provision is costing them support. Not just a few votes here and there, but very noticeable support.

Nevertheless, some TDs (from the government parties and opposition parties) continue to highlight the major problems with the system of direct provision. In the Seanad, Senator Jillian van Turnhout raises the issue of direct provision continuously.

Concerns raised about direct provision since 2001 have included: the lack of any legal basis for the system of direct provision, the reports of poor food quality, infestations, cramped living conditions, individuals institutionalised in direct provision for several years. It might be helpful to put in place a timeline, so we can see just how much the legal and political systems and Irish society as a whole know of these problems with direct provision.

Depressingly, as before, Irish society ignores, punishes and demonizes 'problematic' populations.

Human Rights in Ireland, 8 October 2013
www.humanrights.ie

6 | Right to Equality and Non-Discrimination

Overall
Grade **E**

The Right to Equality and Non-Discrimination

Every child has the right to equal treatment and 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 UNCRC

The 'Right to Equality and Non-Discrimination' chapter continues to track progress on issues affecting Traveller and migrant children as well as examining inequalities in family life. The overall 'E' grade reflects the slow progress made in these three areas. To merit a higher grade, we call on Government to clarify its intentions by making clear commitments and to take action to uphold the rights of the children affected.

The section on 'Traveller Children' gets an 'E' grade in *Report Card 2014*, to reflect little or no meaningful action for Traveller children while the section on 'Migrant Children' gets an 'F' grade as the Government has failed to review the policy of direct provision despite calls at both the national and international level. Furthermore, it has not prioritised necessary legislation which could have a positive impact on the lives of migrant children. Last year was the first time either of these sections received a grade. *Report Card 2013* called on the Government to clarify its intentions by making clear commitments to Traveller and Migrant children in the forthcoming National Children and Young People's Policy Framework and its associated implementation mechanisms. To ensure an improvement in next year's Report Card the Government must make specific commitments and demonstrate that it has taken concrete actions to improve the lives of these children.

'Inequalities in Family Life' was a new section in the Report Card series in 2013 and gets a 'D+' grade. While the grade awarded reflects the lack of real action taken in 2013 it also reflects the Government's promise to enact the Children and Family Relationships Bill in 2014. This legislation will represent a progressive step to address some of the inequalities faced by children of unmarried parents, in particular children of cohabiting or civil partnered parents to whom a commitment has been given in the *Programme for Government*. These legislative reforms will also tackle difficult issues which have come before the courts and currently are not reflected in statute such as assisted human reproduction, surrogacy and the diverse make-up of contemporary family units.

6.1 Traveller Children

Grade E

Government Commitment

The *Programme for Government* commits to promoting greater co-ordination and integration of delivery of services to the Traveller community across Government, using available resources more effectively to deliver on principles of social inclusion, particularly in the area of Traveller education.

Progress

Very limited

What's happening?

A Sub-Group has been established to consider recognition of Traveller ethnicity. The Joint Oireachtas Committee on Justice, Defence and Equality has held consultations on Traveller ethnicity and is due to report back to the Dáil.

At Ireland's hearing for the UN Universal Periodic Review (UPR) in October 2011, the Minister for Justice and Equality, Alan Shatter TD, announced that the Government was 'seriously considering' recognition of Travellers as an ethnic minority group.⁶⁹² In March 2012, Ireland did not take the opportunity to grant Travellers ethnic minority status when it formally rejected a recommendation as part of the UPR process.⁶⁹³ During the UPR process, the State did, however, accept recommendations on protecting vulnerable groups from discrimination, including the social inclusion and integration of Travellers.

In 2012, the National Traveller Monitoring and Advisory Committee (NTMAC) established a sub-group specifically to consider the issue of Traveller ethnicity.⁶⁹⁴ Following on from this, a conference was held on 27 September 2012 which heard submissions from a number of interested parties. In February 2013, the Minister for Justice and Equality again indicated that the issue of Traveller ethnicity continues to be under 'serious consideration' but there are no plans as yet to introduce any legislation on the matter.⁶⁹⁵ However, in April 2013, the Government responding to the Third Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities (FCNM), a Council of Europe body, reiterated that no legislation to recognise Traveller ethnicity was forthcoming.⁶⁹⁶

692 Pavee Point (2011), *Briefing: Why recognise Travellers as an Ethnic Group?*, <http://www.paveepoint.ie/briefing-why-recognise-travellers-as-an-ethnic-group/> [accessed 13 February 2014].

693 Department of Justice and Equality (2012), Addendum to the Report of the Working Group on the UPR, <http://www.upr.ie/Clients/CEGA/UPRWeb.nsf/page/reports-en> [accessed 7 December 2012].

694 Minister for Justice and Equality Alan Shatter TD, Parliamentary Questions: Written Answers [35587/12; 35588/12], Dáil Debate, 18 July 2012.

695 Minister for Justice and Equality Alan Shatter TD, Parliamentary Questions: Written Answers [6004/13], Dáil Debate, 6 February 2012.

696 Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities, Comments Of The Government Of Ireland On The Third Opinion Of The Advisory Committee On The Implementation Of The Framework Convention for the Protection of National Minorities by Ireland received on 19 April 2013 [GVGT/COM/III(2013)003].

The Joint Committee on Justice and Equality held a number of discussions on the issue of Traveller ethnicity, where relevant stakeholders made written and oral submissions calling for the Travellers to be recognised as an ethnic minority.⁶⁹⁷ The Committee is due to prepare a report to the Dáil after considering these submissions. Currently there is no timeframe for when this report will be finalised.

Recognition of Traveller ethnicity would require public authorities and policymakers to ensure that the identity and culture of Travellers is respected in matters affecting them. It would also ensure that Travellers would be afforded protection under the EU Race Directive. Recognition of the ethnic minority status of Travellers would open a new dialogue as to how the State interacts with Travellers into the future.

Comment

The section on 'Traveller Children' gets an 'E' grade in *Report Card 2014*, to reflect little or no meaningful action to improve the lives of Traveller children. The repeated failure to recognise Travellers as an ethnic group as well as the lack of focus or implementation of existing policy for Travellers continues to be of concern.

According to Census 2011, there are 14,913 Traveller children in Ireland, a 30.3% increase on the 2006 Census figures.⁶⁹⁸ Travellers have a very young population with 42% of Travellers under the age of 15.⁶⁹⁹ The UN Committee on the Rights of the Child has expressed its concern about the lack of adequate recognition, action and positive measures taken by Ireland to enhance the rights and life opportunities for Traveller children.⁷⁰⁰ In 2011, the UN Committee on the Elimination of Racial Discrimination found little had changed in relation to the status of Travellers from its previous examination in 2005.⁷⁰¹

Outcomes for Traveller children are almost universally worse than their settled peers. In contravention of the right to life, survival and development (Article 6) of the UN Convention on the Rights of the Child, many Traveller children live in conditions that are far below the minimum required for healthy child development and this is reflected in their health outcomes. In 2011, the UN Committee on the Elimination of Racial Discrimination called on the Irish Government to ensure that concrete measures are undertaken to improve the livelihoods of the Traveller community by focusing on improving students' enrolment and retention in schools, employment, and access to healthcare, housing and transient sites.⁷⁰²

Ethnic Minority Status: Recognition of Traveller ethnicity has been recommended by the Equality Authority, the Human Rights Commission, the National Consultative Committee on Racism and Interculturalism (NCCRI), the UN Human Rights Committee, the Council of Europe Commissioner for Human Rights, the UN Committee on the Rights of the Child and the UN Committee on the Elimination of Racial Discrimination. The Advisory Committee on the Implementation of the Framework Convention for the protection of national minorities (FCNM) called on the Government to recognise Travellers as an ethnic minority and to ensure application of non-discrimination and minority rights standards in both fact and law.⁷⁰³

Since the UPR hearing in 2011, the Government has repeatedly stated that it is giving serious consideration to the issue of granting Traveller ethnicity. This year there has been discussions held by the Joint Committee on Justice and Equality on the issue of Traveller ethnicity following on from the NTMAC conference held in late in 2012. While this progress is moving in the right direction, there are currently no plans for legislation on the matter and no timeframe for when the report of the Joint Committee on Justice, Defence and Equality on Traveller Ethnicity will be finalised. This report should be given due consideration.

697 Oireachtas Joint Committee on Justice, Defence and Equality, Committee Discussions: 17 April 2012, 12 June 2013 and 13 November 2013.

698 Central Statistics Office, Census 2011 Profile 7 – Religion, Ethnicity and Irish Travellers, <http://www.cso.ie/en/media/csoie/census/documents/census2011profile7/Profile,7,Education,Ethnicity,and,Irish,Traveller,entire.doc.pdf> [accessed 30 January 2011].

699 Pavee Point Travellers' Centre (2010), *Profile of the Traveller Family For Family Resource Centres* (2010), Dublin: Pavee Point.

700 UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraphs 45, 58, 59, 78, 79.

701 UN Committee on the Elimination of Racial Discrimination (2011) *Concluding Observations: Ireland*, CERD/C/IRL/C/3-4, paragraph 13.

702 Ibid., paragraphs 45, 58, 59, 78, 79.

703 Council of Europe Advisory Committee On The Framework Convention For The Protection Of National Minorities, Third Opinion On Ireland Adopted On 10 October 2012, Acfc/Op/iii(2012)006.

Ethnic Identifier: In *Report Card 2013*, it was highlighted that the lack of disaggregated data is hugely problematic. It means that it is not clear how Traveller children are progressing in the fields of education, health and child protection systems. If an ethnic identifier was introduced, it would enable the monitoring and assessment of the effectiveness of the State's initiatives directed at Traveller children. Best practice in this area stresses the importance of a universal question where everyone is asked to identify the group to which they belong, not just minorities. The UN Committee on the Rights of the Child has called for States to employ data-collection mechanisms that can study the situation of specific groups, including ethnic and/or indigenous minorities.⁷⁰⁴

Traveller Representation: The NTMAC was established in 2007 to provide a forum for Traveller organisations to advise on the development of policies which impact on the Traveller community. However, as a non-statutory advisory body, to date, it has had little impact. It is required to report every two years; its first and only report was published in December 2009.⁷⁰⁵

Policy Focus: The National Children and Young People's Policy Framework, which follows on from the *National Children's Strategy*, remains under development and represents an ideal opportunity for the Government to make clear commitments as to how it will further protect and support the rights of Traveller children. The Minister for Children and Youth Affairs has indicated that the Framework will address issues of social inclusion of marginalised groups including those of the Traveller community.⁷⁰⁶ Its related dropdown strategies on early childhood, children and youth must also contain concrete actions as well as measureable indicators.

Inclusion and Bullying: Article 2 of the UNCRC requires States to ensure that children are not discriminated against, including upon grounds of birth, or ethnic or social origin. An Economic and Social Research Institute (ESRI) report on second year students' experiences notes that;

...students from minority backgrounds newly arrived in Ireland or from the Traveller community, are significantly more likely to report having been bullied than other students, a pattern which is in keeping with that found among first year students.⁷⁰⁷

Three consecutive consultations with children undertaken by Pavee Point in 2006, 2009 and 2011 indicate that discrimination continues within the school system.⁷⁰⁸ It is a welcome move that the Government's new *Action Plan on Bullying* makes specific mention of bullying of Traveller children and its negative impact.⁷⁰⁹ It is hoped that the prevalence of such bullying will be recorded as a thematic issue to determine how widespread it may be so appropriate steps can be taken to effectively address it. However, it is not clear that any such records will be relayed back to the Department of Education and Skills or will form part of the school inspection process. There is no provision in the policy for external monitoring to ensure that in any school where anti-Traveller bullying trends are identified, the school will adequately respond to such behaviour.

The Irish Traveller Movement's Yellow Flag Programme is an innovative model, which supports schools to develop anti-racism policies and procedures.⁷¹⁰ *Report Card 2013* recommended that consideration be given to mainstreaming this model. This was ruled out on cost grounds by the Minister for Education and Skills Ruairí Quinn TD in February 2013.⁷¹¹

704 UN Committee on the Rights of the Child (2003), General Comment No.4: Adolescent Health, CRC/GC/2003/4.

705 National Traveller Monitoring and Advisory Committee, National Traveller Monitoring and Advisory Committee Report to Minister for Justice, Equality and Law Reform (December 2009), <http://www.justice.ie/en/JELR/NTMAC%20Report%20to%20Minister%20Final%20Version.pdf/Files/NTMAC%20Report%20to%20Minister%20Final%20Version.pdf> [accessed 11 November 2012].

706 Minister for Children Frances Fitzgerald TD, Dail Parliamentary Questions, Written Answers, 16 April 2013 [17307/13].

707 E. Smyth et al (2006) *Pathways through the Junior Cycle*, Dublin: Liffey Press and ESRI.

708 Communication received by the Children's Rights Alliance from Pavee Point, December 2011.

709 Department of Education and Skills (2013) *Action Plan On Bullying Report of the Anti-Bullying Working Group to the Minister for Education and Skills*, Dublin: Department of Education and Skills.

710 Irish Traveller Movement, Irish Traveller Movement Submission July 2012, Tackling Bullying in Schools, http://www.itmtrav.ie/uploads/publication/ITM_Tackling_bullying_submission_Aug_2012.pdf [accessed 19 November 2012].

711 Ruairí Quinn TD, Minister for Education and Skills, Dáil Debate, 19 February 2013.

Health Inequalities: The right to health and health services (Article 24) in the UNCRC declares the duty upon States Parties to recognise and ensure each child's right to health and declares that States Parties must take appropriate measures to diminish infant and child mortality. However infant mortality among the Traveller population is 3.6 times the rate of the general population.⁷¹² A higher proportion of Traveller children are underweight at birth.⁷¹³ Other areas of continuing concern include high rates of asthma and speech, hearing and eyesight problems.⁷¹⁴ *The All Ireland Traveller Health Study: Our Geels* commissioned by the Department of Health and undertaken by UCD in collaboration with Pavee Point Traveller and Roma Centre with other Traveller organisations identified barriers that hinder Travellers accessing health services for their children include: a relatively low level of trust in health professionals, waiting lists, embarrassment and a lack of information.⁷¹⁵ Some Travellers have also reported difficulties in securing a medical card due to a lack of, or changing, postal addresses.⁷¹⁶

Education for Traveller Children: Article 28 of the UNCRC lays out the right to education for all children, while Article 29 affirms that such education must be directed to the development of 'respect for the child's parents, his or her own cultural identity, language and values, [...]' These articles affirm, both themselves, and when read in the context of the non-discrimination right articulated in Article 2, the duty upon the Government to ensure the right to education for all children in Ireland, including Traveller children.

In the 2011 Census it was reported that 10,500 young Travellers were enrolled in school, 8,086 of which were primary school students.⁷¹⁷ Out of the Travellers that participated in the census, there is 100% enrolment in primary school and 100% enrolment at the beginning of secondary school. However, 55% of Traveller pupils have left school by the age of 15, on average 4.7 years earlier than the general population.⁷¹⁸ The percentage of Travellers with no formal education in 2011 was 17.7%, compared with 1.4% in the general population. For many Travellers their traditional lifestyle, combined with the prejudice they often encounter, creates severe problems in acquiring basic levels of educational qualification and this translates into poorer living circumstances.⁷¹⁹

Despite the very obvious challenges faced by Travellers in education, the Visiting Teachers for Travellers (VTT) Programme – and the 42 associated posts – were abolished in Budget 2011.⁷²⁰ This change was not reversed by the new Government on taking office. The Resource Teachers for Travellers (RTT) scheme was also abolished at the same time; 569 posts in total were withdrawn across primary and post-primary schools⁷²¹ although approximately 290 were retained in the system and redeployed to be used in adjustment or alleviation measures by schools.⁷²² Research on the impact of austerity measures on Travellers states that the completion rate at second level is only 13% compared to 90% for the general population.⁷²³ *The Survey of Traveller Education Provision in Irish Schools and Report and Recommendations for a Traveller Education Strategy* are important resources but both were published in 2006 so may be out of date. An implementation plan was never developed for the *Report and Recommendations for a Traveller Education Strategy* and delivery on its recommendations has been limited.⁷²⁴ Indeed, progress in some areas has been reversed;

712 Department of Health (2010) *All Ireland Traveller Health Study: Our Geels*, Dublin: Department of Health, p. 87.

713 Department of Children and Youth Affairs (2013) *Ireland's Third and Fourth Consolidated State Report to the Committee on the Rights of the Child July 2013*, Dublin: Department of Children and Youth Affairs.

714 Department of Health (2010) *All Ireland Traveller Health Study: Our Geels*, Dublin: Department of Health, p. 160 and p. 80.

715 *Ibid.*, p. 79 and p. 76.

716 *Ibid.*, p. 131.

717 Central Statistics Office, Census 2011 Profile 7 – Religion, Ethnicity and Irish Travellers, <http://www.cso.ie/en/media/csoie/census/documents/census2011profile7/Profile,7,Education,Ethnicity,and,Irish,Traveller,entire,doc.pdf> [accessed 16 November 2012].

718 *Ibid.*

719 The Equality Authority and ESRI (2011) *Multiple Disadvantage in Ireland: An Equality Analysis of Census 2006*, Dublin: Equality Authority and the Economic and Social Research Institute.

720 The éist project, providing training in diversity and equality to staff in the early childhood sector has also been cut. However, some of its work has been mainstreamed through diversity and equality training within the County and City Childcare Committees.

721 Ruairi Quinn TD, Minister for Education and Skills, Parliamentary Questions: Written Answers, [7412/13], Dáil Debate, 12 February 2013.

722 Communication received by the Department of Education and Skills on 30 January 2014. These posts were retained to include Travellers in the valid enrolment for the purposes of allocating additional teaching resources in DEIS schools (Delivering Equality of Opportunity in Schools), as well as under the Revised General Allocation Model for high incidence special educational needs. The posts were also used to implement limited alleviation measures in certain schools which had a high percentage of Traveller pupils who were previously supported by RTT posts (Resource Teachers for Traveller).

723 B. Harvey (2013) *Travelling with Austerity: Impacts of Cuts on Travellers, Traveller Projects and Services*, Dublin: Pavee Point, p.35.

724 Its implementation is overseen by the Traveller Implementation Group, and Traveller Education Strategy Advisory and Consultative Forum.

investment in Traveller education has been reduced from €76.5 million in 2008 to €10.2 million in 2013.⁷²⁵

The Minister for Education and Skills, Ruairi Quinn TD has stated that there has been a deliberate phasing out of segregated education for Traveller children. Instead these supports have been mainstreamed to ensure that allocation of 'additional resources provided in the education system are allocated on the basis of identified individual educational need rather than that of ethnic or cultural background'.⁷²⁶ However, while there continues to be a high drop-out rate and an inequality in the academic achievement made by Traveller children compared with the settled population, it is not clear that reducing targeted supports to Traveller children will address the concern expressed by the FCNM Advisory Committee at the overall situation for the education of Traveller children in Ireland⁷²⁷ despite some minor improvements.⁷²⁸ In September 2012, an 'education passport' was introduced which is an end-of-year report card for 6th class students.⁷²⁹ This report will be sent to the new secondary school to assist the child in his or her transition from primary level to secondary school. The Department of Education and Skills hopes that this will be an important development, in particular for Traveller children.⁷³⁰

The Traveller Education Strategy Advisory & Consultative Forum (TESACF) was established in 2009. It was tasked with ensuring the implementation of recommendations made in the Report and Recommendations for a *Traveller Education Strategy*⁷³¹ and to identify issues and obstacles to its implementation. One of the key issues highlighted by the forum was the lack of comprehensive data on Traveller education. The Department of Education and Skills, following discussions with the Data Protection Commissioner, has committed to introducing an ethnic identifier which asks all children to identify their ethnicity, across the education system in the near future.⁷³² In 2013, the forum was working on a thematic review of the Strategy and intends to develop a plan for its implementation in 2014.⁷³³

In September 2013, a draft General Scheme for an Education (Admission to Schools) Bill 2013 was published alongside draft regulations.⁷³⁴ The Bill requires schools to include in their enrolment policies an explicit statement that they will not discriminate against an applicant for admission on a number of grounds⁷³⁵ including membership of the Traveller community.⁷³⁶ It is intended that this legislation, which is due to be enacted in 2014,⁷³⁷ will ensure greater access to schools for children who are members of the Traveller community. However, there are concerns about the restrictiveness of the proposed appeals system as well as the placing of the 'past pupil criterion' on a statutory footing as the parents of Traveller children are 'statistically much less likely to have been educated to secondary school level'⁷³⁸ or may not have a sibling currently enrolled in the school.⁷³⁹

725 B. Harvey (2013) *Travelling with Austerity: Impacts of Cuts on Travellers, Traveller Projects and Services*, Dublin: Pavee Point, p.36.

726 Ruairi Quinn TD, Minister for Education and Skills, Parliamentary Questions: Written Answers [49494/13], Dáil Debate, 19 November 2013.

727 Council of Europe Advisory Committee On The Framework Convention For The Protection Of National Minorities, Third Opinion On Ireland Adopted On 10 October 2012, Acfc/Op/Iii(2012)006, p.2.

728 Ibid., p.21.

729 Communication received by the Children's Rights Alliance from the Department of Education and Skills on 14 January 2014.

730 Ibid.

731 Department of Education and Skills (2006) *Report and Recommendations for a Traveller Education Strategy*, Dublin: Stationery Office.

732 See further information at: http://www.education.ie/en/Schools-Colleges/Services>Returns/National-School-Annual-Census-Return/stat_census_form_instructions.pdf [accessed 22 January 2014]. This question can only be answered with parental consent.

733 Communication received by the Children's Rights Alliance from, the Department of Education and Skills on 14 January 2014.

734 Department of Education and Skills, 'Minister Quinn publishes draft Admission to Schools bill to regulate the admission of children to primary and post primary schools' [press release], 2 September 2013 <http://www.education.ie/en/Press-Events/Press-Releases/2013-Press-Releases/PR13-09-02.html> [accessed 15 January 2014].

735 The grounds set out in the bill are: disability, special educational needs, sexual orientation, family status, membership of the traveller community, race, civil status, gender, faith or religious tradition or on the grounds of the student being of no faith.

736 Department of Education and Skills, Head 3 Draft General Scheme of an Education (Admission to Schools) Bill 2013, <http://www.education.ie/en/The-Education-System/Legislation/Draft-General-Scheme-of-an-Education-Admission-to-Schools-Bill-2013.PDF> [accessed 15 January 2014].

737 Communication received by the Children's Rights Alliance from the Department of Education and Skills on 14 January 2014.

738 Irish Traveller Movement, 'Submission to Joint Oireachtas Committee on Education & Skills Re: Draft General Scheme of an Education (Admission to Schools) Bill 2013', 30 October 2013, http://itmtrav.ie/uploads/publication/ITM_Submission_to_Joint_Oireachtas_Committee_on_Education.pdf [accessed 3 February 2014].

739 See also Pavee Point Traveller and Roma Centre, 'Submission to the Oireachtas Joint Committee on Education and Social Protection on the Draft General Scheme of an Education (Admission to Schools) Bill 2013', 31 October 2013, http://www.paveepoint.ie/temp/site3/wp-content/uploads/2010/08/Pavee-Point_Submission-to-Joint-Committee-on-Education-and-Social-Protection_-Admissions-Bill.pdf [accessed 3 February 2014].

Immediate Actions for 2014

Grant recognition of Traveller Ethnicity

This was an immediate action of *Report Card 2013* which has not been addressed. Travellers should be recognised as an ethnic minority, in line with their wishes and in respect of the principle of self-identification. This would improve the consideration of Traveller children's identity and needs in the policy arena. The Report of the Joint Oireachtas Committee on Justice, defence and Equality should be presented to the Government and made public.

Include specific commitments to Traveller children in the forthcoming National Children and Young People's Policy Framework and its associated implementation strategies

This was an immediate action of *Report Cards 2012 and 2013* and remains unaddressed. There is no document outlining Government commitments on Traveller children. The forthcoming National Children's and Young People's Policy Framework provides an opportunity to make commitments to improve outcomes, with associated actions, timeframes and accountability structures. Minister Fitzgerald has indicated that this will be the case.

Introduce an ethnic identifier across health and care

This is an immediate action from *Report Card 2013* and it is welcome that the Department of Education and Skills plans to introduce an ethnic identifier which will require all parents to identify to which group their child belongs to, not minorities only. The collection of disaggregated data is a key factor in the ability of the Government to measure the efficacy of Traveller specific initiatives that have been introduced. Similar questions should also be asked in terms of health and children in care. It is key that the Government is able to measure outcomes so as to improve the position of Traveller children.

Re-energise activities in supporting the participation of Traveller children in education

This was an immediate action in *Report Card 2013* which has made some limited progress. A short time-limited assessment is needed to establish the current needs of Traveller children in education and what difficulties are arising, with proper consultation with Traveller representative groups. The assessment should explore the impact of the abolition of the Visiting Teachers for Travellers and Resource Teachers for Travellers Programmes in 2011, and impact to date of the *Intercultural Education Strategy*⁷⁴⁰ This assessment should then feed into the development of an updated Implementation Plan for the *Report and Recommendations for a Traveller Education Strategy*.

740 Department of Education and Skills (2010) *Intercultural Education Strategy 2010-2015*, Dublin: Department of Education and Skills.

6.2 Migrant Children

Grade F

Government Commitment

The *Programme for Government* commits to promoting policies that integrate minority ethnic groups in Ireland, and that promote social inclusion, equality, diversity and the participation of immigrants in the economic, social, political and cultural life of their communities.

Progress

Unsatisfactory

What's happening?

There is little evidence of targeted activity to support migrant children. Key legislation remains unpublished.

An updated version of the Immigration, Residence and Protection Bill remains unpublished despite assurances by the Minister for Justice and Equality, Alan Shatter TD, that the Bill would be published 'as soon as possible in 2013'.⁷⁴¹ In October 2011, Ireland's human rights record was examined by other UN countries for the first time, under the Universal Periodic Review (UPR) process.⁷⁴² During its hearing, the Government stated that treating national, religious or ethnic minorities as inferior was unacceptable, as was discrimination against children and failure to recognise their vulnerability.⁷⁴³ In March 2012, Ireland accepted several recommendations with regard to discrimination of migrants during the UPR process, but reiterated its position against the ratification of the UNESCO Convention on Discrimination in Education.⁷⁴⁴

In 2013, Council of Europe bodies, the European Commission against Racism and Intolerance (ECRI) and the Group of Experts on Action against Trafficking in Human Beings (GRETA) published their reports and recommendations following official visits to Ireland to monitor progress in relation to migrants, minorities and victims of trafficking.

The National Children and Young People's Policy Framework has not yet been published but it is expected to go to Cabinet in the first quarter of 2014. It is also expected that it will address some of the needs of marginalised groups including migrant children.⁷⁴⁵

741 Letter from Minister for Justice and Equality Alan Shatter TD to Nils Muižnieks, Council of Europe Commissioner for Human Rights, 29 November 2012, <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2196541&SecMode=1&DocId=1960438&Usage=2> [accessed 13 December 2012].

742 For more information on the Universal Periodic Review process, see: <http://www.iccl.ie/the-universal-periodic-review.html> [accessed 15 December 2011].

743 UN Human Rights Council, Draft Report of the Working Group on the Universal Periodic Review: Ireland, A/HRC/WG.6/12/L.7 (10 October 2011).

744 Department of Justice and Equality, Addendum to the Report of the Working Group on the UPR, <http://www.upr.ie/Clients/CEGA/UPRWeb.nsf/page/reports-en> [accessed 7 December 2012].

745 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 18 December 2013.

Comment

The Migrant Children section gets an 'F' grade in *Report Card 2014* to reflect the continued lack of clear focus or action from Government. It is not clear that efforts have been made to improve the situation for migrant children, including those who may be particularly at risk of social exclusion such as children living in direct provision who were identified in *Report Card 2013* as a vulnerable group. Therefore, this 'F' grade reflects an unacceptable performance having little or no positive impact on the issues affecting migrant children.

In Census 2011, 93,716 foreign national children were recorded as living in Ireland.⁷⁴⁶ In addition, there are many naturalized Irish citizens that belong to various minority ethnic groups.

The UN Convention on the Rights of the Child protects every child, regardless of nationality or immigration status. Article 2 of the UNCRC requires the State to ensure that children are not discriminated against, including because of their parentage. Article 7 stipulates that a child shall have a right to a nationality, while Article 10 calls for family reunification decisions to be dealt with in a 'positive, humane and expeditious manner'. Article 30 commits States to ensure that children of an ethnic, religious or linguistic minority are not denied the right to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language.⁷⁴⁷ The UN Committee on the Rights of the Child has affirmed that the enjoyment of rights stipulated in the UNCRC is not limited to children who are citizens of a State Party and must therefore, if not explicitly stated otherwise, also be available to all children – including asylum-seeking, refugee and migrant children – irrespective of their nationality, immigration status or statelessness.⁷⁴⁸

Revised Heads of the Immigration Residence and Protection Bill were due to be published in 2013 but these have not yet been finalised. Preparations for this piece of legislation were first carried out as far back as 2001⁷⁴⁹ and the first draft of the Bill was published in January 2008.⁷⁵⁰

The Bill will be a key legislative development that will affect the rights of migrant children living in Ireland. It is critical that the Bill be proofed against Ireland's obligations under the UNCRC. The procedural safeguards currently laid down must apply to decisions and practices affecting children including that: children should not be discriminated against (Article 2), the best interests of the child must be a primary consideration in matters affecting them (Article 3) and that the views of the child should be taken into account in matters affecting him or her (Article 12).

The Bill must ensure that every child has access to public services and benefits provided by the State, regardless of their or their parents' legal status, even if unlawfully present (undocumented).⁷⁵¹ For example, a child must be entitled to access education without restriction,⁷⁵² medical treatment, child protection/family support services and any welfare benefits. At present, due to the application of the Habitual Residence Condition to means-tested social welfare payments, many children are denied access to the Child Benefit payment.⁷⁵³ Further, the Bill should pay special attention to vulnerable migrant groups of children particularly separated children, children of asylum seekers, children at risk of trafficking and undocumented children.

746 An additional 19,020 children were recorded with no response to the question of nationality or as having no nationality. Communication received by the Children's Rights Alliance from the Central Statistics Office in December 2012.

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

748 UN Committee on the Rights of the Child, General Comments No.6, CRC/GC/2005/6.

749 Department of Justice, Equality and Law Reform, 'Launch of new Immigration Bill' [press release], 29 January 2008, <http://www.justice.ie/en/JELR/Pages/Launch%20of%20new%20Immigration%20Bill> [accessed 13 February 2014].

750 Houses of the Oireachtas, Committee on Justice, Defence and Women's Rights – 2010, <http://debates.oireachtas.ie/committees/2010/JU.asp> [accessed 14 February 2014].

751 UN Committee on the Rights of the Child (2005) *General Comment No.7, CRC/GC/7/Rev.1*, para.24.

752 *Timishev v Russia*, ECHR, Application nos. 55762/00 and 55974/00 (13 December 2005).

753 The Habitual Residence Condition (HRC) is a set of criteria relating to a person or person's residency within the State, in order to qualify for certain social welfare payments including the One Parent Family Payment and Child Benefit.

Migrant Children and Education: In its report on Ireland, ECRI notes that approximately 10% of primary school children and 12% of post-primary school children living in Ireland come from a migrant background.⁷⁵⁴ In particular it highlights that up to 75% of children for whom English is not their first language may require extra English language support.⁷⁵⁵ *The Annual Monitoring Report on Integration 2012* found that despite the fact that 'one-third of migrant pupils in secondary schools received the lowest scores in reading', expenditure on English language support was cut by 19% in 2012.⁷⁵⁶ It is important that migrant children are supported in schools to enable them to participate in education on the same basis as their peers to ensure that all children receive an adequate education.

Children in the Asylum System: Of the 4,434 asylum seekers in State direct provision accommodation⁷⁵⁷ at the end of 2013, over one third, or 1,666, were children.⁷⁵⁸ In 2012, the Special Rapporteur on Child Protection, Geoffrey Shannon, called for an examination to establish whether the system itself is detrimental to their welfare and development and, if appropriate, an alternative form of support and accommodation would be more suitable for families and particularly children.⁷⁵⁹ In July 2013, the then Ombudsman, Emily O'Reilly also criticised the direct provision system and its potential impact on children⁷⁶⁰ following an investigation into the circumstances of one family who left direct provision due to mental health concerns for a teenage daughter.⁷⁶¹

The direct provision centres are managed by private providers through contracts with the Reception and Integration Agency (RIA) – a Department of Justice and Equality body. RIA does have a child protection policy that obliges it to report any incidences of suspected child protection or welfare matters to the Health Service Executive. It also employs an independent inspection company to carry out physical inspections of the premises with an aim of three inspections per year⁷⁶² but these do not take into account the views of staff or residents. This policy and inspection system does meet the requirements of the national standards for children in care and accompanying independent inspection regime that is carried out by Health Information Quality Authority (HIQA). The distinction in systems is based on the fact that children living in direct provision are 'not in the care of the State' as they live with their families, but they are living in an environment created and controlled by the State.

Moreover, direct provision centres are not a normal parenting environment and accommodate residents from many different backgrounds; parents do not have a choice where they will live, or who they will live with, in communal centres. Of particular concern is the potential exposure to child protection risks.⁷⁶³ While RIA's *Child Protection Policy* is based on *Children First Guidance*, it dates from 2005 and does not reflect the revisions which have taken place in policy since then. RIA is in the final stages of revising its current policy following the establishment of the Child and Family Agency in order to make 'the process clearer and more easily understood'.⁷⁶⁴ In 2012, 120 cases of child protection or welfare concerns were reported to social services about children living in direct provision.⁷⁶⁵ *The Interim Report of the Child Law Reporting Project*, which looked at 333 child care cases coming before the courts in 2012, expressed particular concern about a small number of cases where children were taken into care because their mothers had been admitted from direct provision hostels

754 European Commission against Racism and Intolerance (2013) *ECRI Report on Ireland (fourth monitoring cycle)*, Strasbourg: Council of Europe, p.23.

755 Ibid.

756 F. McGinnity, E. Quinn, G. Kingston and P. O'Connell (2013) *Annual Monitoring Report on Integration 2012*, Dublin: Economic and Social Research Institute and the Integration Centre.

757 Direct provision is a system of accommodation provided by the State to all people seeking asylum in Ireland. It provides room and board within former hotels, hostels or other large buildings, usually in the form of shared rooms. Each centre is managed by private contractors, after a tendering process but remains subject to oversight and standards put in place by the Reception and Integration Agency. In addition to room and board, adult asylum seekers receive a weekly allowance of €19.10 while a child receives a weekly allowance of €9.60. The accommodation is not compulsory for those seeking asylum but those who do not avail of it, do not receive their weekly allowance.

758 Communication received by the Children's Rights Alliance from the Reception and Integration Agency on 3 February 2014.

759 Department of Children and Youth Affairs, Fifth Report of the Special Rapporteur on Child Protection, Geoffrey Shannon 2012, <http://www.dcy.gov.ie/documents/publications/5RapporteurRepChildProtection.pdf> [accessed 2 December 2012].

760 Emily O'Reilly (2013) 'Dealing with asylum seekers: why have we gone wrong?', *Studies Magazine*, vol.102, no.406, Summer 2013.

761 The Office of the Ombudsman, Appeal Overruled: A failure to provide basic income for a family seeking asylum, June 2013, <http://www.ombudsman.gov.ie/en/publications/investigation-reports/health-service-executive/appeal-overruled-failure-to-provide-basic-income-for-family-seeking-asylum/> [accessed 13 February 2014].

762 Reception and Integration Agency, Latest Centre Inspections, <http://www.ria-inspections.gov.ie/en/RIAIR/Pages/Latest> [accessed 3 February 2014].

763 Irish Refugee Council (2012) *State sanctioned child poverty and exclusion*, Dublin: Irish Refugee Council.

764 Communication received by the Children's Rights Alliance from the Reception and Integration Agency, 3 February 2014.

765 Carl O'Brien, 'Social services alerted over child welfare in asylum centres', *Irish Times*, 15 October 2013.

to psychiatric hospitals. It stated that if it was found that the length of time spent in direct provision may have been a contributing factor to the deterioration of the mother's mental health, this would call for a review of the policy from a children's rights perspective.⁷⁶⁶

In July 2013, a family of six living in direct provision accommodation made an application to the High Court to judicially review the system.⁷⁶⁷ In October 2013, leave was granted to three families in total to challenge the system on the basis that it did not have a legal basis and it violated their family rights under the Constitution and the European Convention on Human Rights.⁷⁶⁸ Two of the families have withdrawn from the case. The judicial review in respect of the third case is scheduled to begin in the High Court at the end of April 2014.⁷⁶⁹

This follows a decision by the Northern Irish High Court in August 2013 which refused to return a Sudanese family, who had been granted refugee status in Northern Ireland, to the Republic of Ireland under the Dublin II Regulation.⁷⁷⁰ In his judgment, Justice Stephens considered such a return would not be in the best interests of the child and argued that the UK Border Agency had failed to consider this properly when seeking the return order. A 2013 report published in the UK on *Considering the Best Interests of a Child Within a Family Seeking Asylum* highlights the legal obligation in British law⁷⁷¹ 'to have regard to the need to 'safeguard and promote the welfare' of children in accordance with the best interests principle (Article 3) of the UN Convention on the Rights of the Child.⁷⁷² Under this provision decision-makers have to provide written reasons and demonstrate that they have considered the best interests of the child in reaching their decision.⁷⁷³ A similar provision should be incorporated into the forthcoming Immigration, Residence and Protection Bill.

The running of the direct provision centres must be subject to independent inspection which includes meetings with residents and relevant staff, along the lines of those carried out by HIQA against a published set of national standards. Given the expertise developed by HIQA in the area of health and children's services, it seems logical to extend their remit to inspect the centres.

“The UN Committee on the Rights of the Child has affirmed that the enjoyment of rights stipulated in the UNCRC is not limited to children who are citizens of a State Party and must therefore, if not explicitly stated otherwise, also be available to all children – including asylum-seeking, refugee and migrant children – irrespective of their nationality, immigration status or statelessness.”

766 C. Coulter (2013) *Child Care Law Reporting Project: Interim Report*, Dublin: Child Care Law Reporting Project.

767 *N.M and others v Minister for Justice and Equality, Minister for Social Protection, Attorney General and Ireland* [2013] 553 JR.

768 Ruadháin. MacCormaic, 'Asylum seeker families allowed to challenge direct provision', *Irish Times*, 21 October 2013.

769 Communication received by the Children's Rights Alliance from the Reception and Integration Agency, 3 February 2014 and R. MacCormaic, 'African family withdraws challenge to direct provision scheme', *Irish Times*, 10 December 2013.

770 *ALJ and A, B and C's Application for Judicial Review* [2013] NIQB 88, para 111

771 Borders, Citizenship and Immigration Act 2009, s.55.

772 United Nations High Commissioner for Refugees Representation to the UK (2013) *Considering the Best Interests of a Child Within a Family Seeking Asylum*, London: UNCHR Representation to the UK, p.6.

773 *Ibid.*, p.8.

Separated Children Seeking Asylum: Separated children seeking asylum - also referred to as unaccompanied minors - are a particularly vulnerable group which merit specific attention and protection as was highlighted in the UN Committee on the Rights of the Child's Concluding Observations to Ireland in 2006.⁷⁷⁴

The number of separated children referred to the HSE's Team for Separated Children Seeking Asylum (TSCSA) has declined from a high of 1,085 in 2001 to 71 in 2012⁷⁷⁵ and in the first eight months of 2013, 48 referrals were made to the HSE.⁷⁷⁶ In 2009, the Ombudsman for Children noted the high number of separated children that had gone missing from State care; 454 children went missing from 2000 to 2008 and of these, only 58 were later found.⁷⁷⁷ While only five children from this cohort were reported missing in 2012, with three of them subsequently found, the Separated Children in Europe Programme notes that '[a]lthough the numbers of children going missing from the care of the Health Service Executive (HSE) has decreased as a result of the decrease in numbers of children arriving and positive protective measures, the percentages of children going missing has stayed largely constant'.⁷⁷⁸

Improvements made to the way in which separated children are treated in the State have been broadly welcomed following the recommendation in the 2009 *Ryan Report Implementation Plan* which called for the closure of separate hostels for these children and for them to be treated equally with other children in the care system.⁷⁷⁹ This has resulted in the placement of separated children in foster care or in supported lodgings under the Child Care Act 1991. A 2013 report published by Barnardos and the HSE concluded that while the change from hostel placements to foster care or supported lodgings was a positive step and could help integration, it is important to ensure that each separated child is given individualised care suitable for their needs and in their best interests.⁷⁸⁰ It also highlighted the importance of maintaining a child's cultural, ethnic or linguistic identity and fulfilling his or her developmental needs in this regard in line with Article 20 of the UNCRC. A one size fits all approach will not work so each child should be consulted on how best to accommodate him or her with proper needs assessments carried out.

Child Victims of Trafficking: Trafficking is usually an issue associated with migrants despite the fact that in 2012, only four of the 23 children identified as victims of trafficking were migrants. The other 19 children were recorded as Irish citizens. All of the 23 child victims were trafficked for the purpose of sexual exploitation. Child victims of trafficking have been assisted and supported by the HSE to date but will now come within the remit of the new Child and Family Agency.

While the State ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children in 2010 it is the only European Union Member State which has not yet ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. During a visit by the UN Special Representative on Violence Against Children in 2012, the Minister for Children and Youth Affairs agreed to consider the ratification of this instrument following the constitutional referendum, the establishment of the Child and Family Agency and the State's report to the UN Committee on the Rights of the Child.⁷⁸¹ Irish law is broadly in compliance with the Second Optional Protocol except for the legal requirement to introduce victims' legislation for children. The Minister for Justice and Equality needs to introduce this legislation as a matter of urgency so Ireland can finally ratify the Protocol.

774 UN Committee on the Rights of the Child (2005), General Comment No. 6: Treatment of Unaccompanied and Separated Children Outside their Country of Origin, CRC/GC/2005/6.

775 M. Ní Raghallaigh (2013) *Foster Care and Supported Lodgings for Separated Asylum Seeking Young People in Ireland*, Dublin: Barnardos and the Health Service Executive.

776 Separated Children in Europe Programme, Newsletter No. 40 – Fall 2013, <http://www.scepnetwork.org/images/12/261.pdf> [accessed 2 January 2014].

777 Ombudsman for Children (2009), *Separated Children Living in Ireland: A Report by the Ombudsman for Children's Office*, Dublin: Ombudsman for Children's Office, p.42.

778 Separated Children in Europe Programme, Newsletter No. 40 – Fall 2013, <http://www.scepnetwork.org/images/12/261.pdf> [accessed 2 January 2014], p.26.

779 Department of Health and Children (2009) *Ryan Report Implementation Plan*, Dublin: Stationery Office.

780 M. Ní Raghallaigh (2013) *Foster Care and Supported Lodgings for Separated Asylum Seeking Young People in Ireland*, Dublin: Barnardos, and the Health Service Executive, p. 88.

781 Department of Children and Youth Affairs (2013), *Ireland's Consolidated Third and Fourth Report to the UN Committee on the Rights of the Child*, Dublin: Department of Children and Youth Affairs, p. 31.

The Group of Experts on Action against Trafficking in Human Beings (GRETA),⁷⁸² the European body which monitors the implementation of the European Convention on Action against Trafficking in Human Beings, published its report on Ireland in September 2013 and issued recommendations in October 2013. The Group welcomed the improvements made by the Government in dealing with child victims of trafficking including the development of a guide to services available to these children.⁷⁸³ However, it also recommended that the authorities should set up a dedicated identification mechanism for suspected child victims of trafficking to ensure that their specific needs and best interests are taken into account.⁷⁸⁴ A collective complaint made to the European Committee on Social Rights in January 2013 by the Federation of Catholic Family Associations in Europe (FAFCE) alleges that Ireland has not provided sufficient protection for child victims of trafficking.⁷⁸⁵ The Government has responded setting out various measures it has put in place including the instigation of Operation Snow, under which immigration officers in 2011 and 2012 have referred about 100 children and young people to the HSE for further investigation as being potential child trafficking victims but in the majority of cases the child was coming to join a family member.⁷⁸⁶ The complaint was deemed admissible but it has not yet come before the Committee.

Roma Children: It is estimated that there are between 3,000 and 5,000 Roma living in Ireland but exact figures are not available.⁷⁸⁷ The UN Committee on the Rights of the Child in its Concluding Observations on Ireland in 2006, called on the Government to prevent the marginalisation and social exclusion of Roma children. However, little has been done to specifically target Roma children.

While the Government has put in place the *National Traveller Roma Integration Strategy*⁷⁸⁸ as part of the EU Framework for National Roma Integration Strategies up to 2020, a 2013 assessment by the European Commission was critical of Ireland's strategy as it found that of 22 criteria, the State had met just four of them.⁷⁸⁹ Civil society organisations continue to raise concerns about the lack of action to integrate and support Roma families and children, in particular highlighting problems in accessing social protection and services.⁷⁹⁰ The Minister for Justice, Equality has since expressed his dissatisfaction at the lack of progress made and has asked his department to 'consider the existing mechanisms for consultation, implementation, monitoring and review of the National Strategy'.⁷⁹¹ In December 2013, the EU Council adopted a *Recommendation on effective Roma integration measures in the Member States*⁷⁹² providing guidance on how to take concrete measures to improve Roma integration building on the existing EU framework of national strategies. It also calls on States to take steps to improve access to education, employment, healthcare and housing with a particular focus on 'protecting Roma children and women and addressing poverty'.⁷⁹³

782 Council of Europe, About GRETA – the Group of Experts on Action against Trafficking in Human Beings, http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Monitoring/GRETA_en.asp [accessed 22 January 2014].

783 Department of Justice and Equality, Services for Victims of Child Trafficking, [http://www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/page/9C331687B4D5714A80257A800030D36E/\\$file/Services%20for%20Victims%20of%20Child%20Trafficking.pdf](http://www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/page/9C331687B4D5714A80257A800030D36E/$file/Services%20for%20Victims%20of%20Child%20Trafficking.pdf) [accessed 2 January 2014].

784 Group of Experts on Action against Trafficking in Human Beings (GRETA) (2013) *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ireland: First Evaluation Round*. Strasbourg: Council of Europe, p.44.

785 European Committee of Social Rights (2013), *Federation of Catholic Family Associations in Europe (FAFCE) v. Ireland Complaint No 89/2013*, http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC89CaseDoc1_en.pdf [accessed 13 February 2014].

786 Ibid.

787 Official sources estimate 3000 in the National Roma Integration Strategy but civil society organisations such as Pavee Point believe the number is closer to 5000.

788 Department of Justice and Equality, Ireland's National Traveller / Roma Integration Strategy, <http://www.justice.ie/ga/JELR/Ireland%E2%80%99s%20National%20Traveller%20Roma%20Integration%20Strategy%202011.pdf/Files/Ireland%E2%80%99s%20National%20Traveller%20Roma%20Integration%20Strategy%202011.pdf> [accessed 8 January 2014].

789 European Commission (2013), *The European Union and Roma – Country Factsheet: Ireland*, Brussels: European Commission, http://ec.europa.eu/justice/discrimination/files/roma_country_factsheets_2013/ireland_en.pdf [accessed 13 February 2014].

790 HSE and Pavee Point (2012) *Roma Communities in Ireland and Child Protection Considerations – summary, Dublin: HSE; and Pavee Point and Nasc (2013) In From the Margins – Roma in Ireland: Addressing the Structural Discrimination of the Roma Community in Ireland*, Cork: Nasc.

791 Alan Shatter TD, Minister for Justice, Equality and Defence, Parliamentary Questions: Written Answers [39783/13] Dáil Debate, 25 September 2013.

792 Council of the European Union, *Council recommendation on effective Roma integration measures in the member states*, 9-10 December, Brussels: Council of the EU.

793 European Commission (2013), 'First ever EU legal instrument for Roma inclusion adopted' (press release) 9 December 2013. Brussels: European Commission,

The HSE National Social Inclusion Unit facilitates the position of a Roma Outreach worker which aims to link families into health services⁷⁹⁴ but this role is not a permanent position and its funding is not secure.⁷⁹⁵ A series of seminars were co-hosted by the HSE and Pavee Point on issues faced by this cohort,⁷⁹⁶ but to date only one of these reports has been published⁷⁹⁷ and it is not clear that any of the findings or recommendations have been implemented. A further two reports on maternal health and education will be published on International Roma day in April 2014.⁷⁹⁸

In October 2013, international media outlets reported an alleged case of child abduction in which Greek authorities suspected that a young girl had been kidnapped by adults of Roma origin solely on the basis of her appearance as she had blonde hair and blue eyes.⁷⁹⁹ While the child was found not to have been the child of the couple in question, DNA testing proved that she was in fact of Roma origin. Following these reports, two young children from two different Roma families living in Ireland were taken into the protective care of the Gardaí. The Gardaí received reports from members of the public that both children were potential abductees as they, having a blonde hair and blue eyes, did not resemble their parents.⁸⁰⁰ The children were immediately removed from their parents care but were returned in both instances.⁸⁰¹

Minister for Justice Alan Shatter TD stated that due to the 'concerns' in both these cases,⁸⁰² he was extending the remit of the Ombudsman for Children, Emily Logan, to investigate the two cases.⁸⁰³ The Ombudsman for Children's report is due to be published in 2014. Reports carried out by the HSE and the Garda Síochána, have been sent to the Minister for Justice and Equality but have not yet been made public.⁸⁰⁴

794 Department of Children and Youth Affairs (2013) *Ireland's Third and Fourth Consolidated State Report to the Committee on the Rights of the Child*, Dublin: Department of Children and Youth Affairs, p. 31.

795 Communication received by the Children's Rights Alliance from Pavee Point, 8 January 2014. Pavee Point is the organisation which has received funding for this position but has stated that the title is Roma Community Worker and that the position has been underfunded.

796 Department of Children and Youth Affairs (2013) *Ireland's Third and Fourth Consolidated State Report to the Committee on the Rights of the Child* Dublin: Department of Children and Youth Affairs, p. 31.

797 HSE and Pavee Point (2012) *Roma Communities in Ireland and Child Protection Considerations – summary*, Dublin: HSE and Pavee Point.

798 Communication received by the Children's Rights Alliance from Pavee Point on 31 January 2014.

799 BBC news online, 'Maria: Greek Roma couple charged with abduction', 21 October 2013, <http://www.bbc.co.uk/news/world-europe-24605954> [accessed 13 February 2014].

800 Department of Justice and Equality, 'Statement on child protection cases – Shatter 23 October 2014' [press release], <http://www.merrionstreet.ie/index.php/2013/10/statement-on-child-protection-cases-shatter/> [accessed 20 January 2014].

801 Carl O'Brien 'Facebook post and hysteria led to Roma children's removal', *Irish Times*, 26 October 2013.

802 Minister for Justice and Equality Alan Shatter TD, Parliamentary Questions, Seanad Debate, 23 October 2013.

803 Ombudsman for Children's Office, 'Statement by the Ombudsman for Children on agreement reached with Minister for Justice to investigate cases of children taken into State Care' [press release], 25 October 2013 <http://www.oco.ie/whats-new/media/press-releases/statement-by-the-ombudsman-for-children.html> [accessed 20 January 2014].

804 Department of Justice and Equality, 'Statement by the Minister for Justice, Equality and Defence, Mr. Alan Shatter, T.D. on the cases of the removal of two Roma children' [press release], 8 November 2013 <http://www.merrionstreet.ie/index.php/2013/11/statement-by-the-minister-for-justice-equality-and-defence-mr-alan-shatter-t-d-on-the-cases-of-the-removal-of-two-roma-children/> [accessed 20 January 2014].

Immediate Actions for 2014

Ensure that the Immigration, Residence and Protection (IRP) Bill is proofed against the UN Convention on the Rights of the Child

This was an immediate action of *Report Cards 2012* and *2013* and remains unaddressed. The IRP Bill will establish the legal framework relating to migrant children including separated children and those seeking asylum in Ireland. It is imperative that the Bill complies with best practice, as set out by the UN Committee on the Rights of the Child. A specific legal provision should be included in the Bill requiring decision-makers to set out in writing how the best interests of the child has been considered in their final determination on that child's immigration status or any other immigration-related decision which will have a negative impact on that child.

Specify commitments to migrant children in the forthcoming National Children and Young People's Policy Framework and associated implementation strategies

This was an immediate action of Report Cards 2012 and 2013 and remains unaddressed. There is no document outlining Government commitments on migrant children. The forthcoming National Children's and Young People's Policy Framework provides an opportunity to make ambitious commitments to protect and support the rights of migrant children, in particular those from particularly vulnerable groups, with associated actions, timeframes and accountability structures.

Address the ongoing concerns in relation to child protection and welfare for children living in direct provision system

Inter-departmental co-operation and transparency is needed on this issue. The Minister for Children and Youth Affairs should work with the Minister for Justice and Equality to review and update the existing child protection safeguards in the centres. The remit of HIQA should be extended to inspect the direct provision accommodation centres.

Ensure that the material and developmental needs of children in direct provision are adequately met to ensure that their living environment and conditions do not have a detrimental impact on their nutritional needs, educational performance or their overall health and well-being

To ensure that children in direct provision do not suffer from food poverty and maintain an adequate standard of living (Article 27), the direct provision allowance should be increased to an acceptable level and an assessment carried out of living conditions to determine whether the decisions made by management in centres are taken in the best interests of the child (Article 3).

Ensure that each separated child has an individualised care plan following consultation with the child and a thorough needs assessment

Separated children must be accommodated in the most appropriate setting for each individual child. The views and wishes of the child should be taken into account to ensure that he or she is afforded the care most suited to his or her needs. The child's ethnic, cultural, linguistic and religious background should also be taken into consideration.

Ratify the Second Optional Protocol to the UNCRC on the sale of children, child prostitution and child pornography

The Government must ratify the Second Optional Protocol as a matter of urgency to ensure greater protection of children, in particular for victims of trafficking.

6.3 Inequalities in Family Life

Grade D+

Government Commitment	Progress
We will modernise and reform outdated elements of family law.	Some
We will enact legislation to consolidate and reform the law on adoption.	Delayed
We will amend the Civil Partnership and Certain Rights and Obligations of Cohabiting Couples Act 2010 to address any anomalies or omissions, including those relating to children.	Some

What's happening?

The Children and Family Relationships Bill is expected to be enacted in 2014. Some remaining anomalies under the Civil Partnership and Certain Rights and Obligations of Cohabiting Couples Act 2010 have been addressed already and others will be addressed in future legislation.

Children and Family Relationships Bill: In November 2013, Minister for Justice and Equality Alan Shatter TD published a briefing note on the Children and Family Relationships Bill 2013.⁸⁰⁵ The Bill aims to update and clarify the law on parental rights and duties in the range of different family forms in Ireland, including step parent families, families headed by members of extended families, cohabiting couple headed families, and lesbian and gay headed families. The Bill also proposes to deal with parenting where children are born by means of assisted human reproduction and surrogacy. The proposed legislation will establish that the best interest of the child is the paramount consideration in decisions on custody, guardianship and access. It is intended to repeal the Guardianship of Infants Act 1964 and extend the class of persons who can apply for guardianship of the child to civil partners and step parents. In certain cases, it is proposed that unmarried fathers will automatically be awarded guardianship of their children, and access applications will be simplified for interested persons who are not parents of the child such as grandparents or step-parents.⁸⁰⁶

Civil Partnership and Cohabiting Couples: Prior to 2011, cohabiting couples in Ireland, whether opposite or same-sex, were not provided with a mechanism for legal recognition. In January 2011, when the Civil Partnership and Certain Rights and Obligations of Cohabiting Couples Act 2010 came into effect, it provided legal recognition through civil partnership for same-sex couples which included a wide range of marriage-like rights and obligations for civil partners. The Act also provided a limited redress scheme for same and opposite sex cohabitants when a relationship ends. The Act did not deal with issues relating to children of civil partners. Some of these anomalies for children of civil partners, relating to taxation, were addressed in legislation in July 2011.⁸⁰⁷ This means that children of civil partners are now treated the same and have the same rights as children of married couples in terms of taxation, capital gains tax relief and inheritance tax relief. The remaining omissions relate to custody, guardianship and access for children of civil partners, these issues are to be addressed in the forthcoming Children and Family Relationships Bill 2014.

⁸⁰⁵ Department of Justice and Equality (2013), Child and Family Relationships Bill Briefing Note (2013), <http://www.justice.ie/en/JELR/Children%20and%20Family%20Relationships%20Bill%202013%20141113.pdf/Files/Children%20and%20Family%20Relationships%20Bill%202013%20141113.pdf> [accessed 16 December 2013].

⁸⁰⁶ Ibid.

⁸⁰⁷ Finance (No 3) Act 2011.

Adoption: In September 2012, the General Scheme of the Adoption (Amendment) Bill 2012 was published.⁸⁰⁸ The Bill will give effect to the provisions of the Constitutional Amendment relating to the voluntary placement for the adoption of any child and the adoption of child in long term foster care irrespective of the marital status of the child's parents. Further, it will consolidate and reform the law on adoption.⁸⁰⁹ The Minister for Children and Youth Affairs Frances Fitzgerald TD has signalled that the legislation will be progressed as soon as the proceedings and processes relating to the Children's Referendum are concluded.⁸¹⁰ A review of the adoption legislation is being considered by the Minister which will inform future operational and legislative considerations regarding the Adoption Act 2010.⁸¹¹

Family Courts: The Courts and Civil Law (Miscellaneous Provisions) Act 2013 was signed into law in July 2013. The Act amends the *in camera rule*⁸¹² and allows the media to report on family law and childcare proceedings according to strict conditions. These reforms are designed to increase transparency in terms of public access to important information on the operation of family and child care proceedings in the courts. The Courts will retain the power to exclude representatives of the media or to restrict reporting in certain circumstances. In deciding to exclude or restrict reporting the Judge under Section 5(c) of the legislation will have regard to both the best interests of the child⁸¹³ and the views of the child where the court deems the child to be capable of giving his or her views.⁸¹⁴ The legislation prohibits the reporting of information likely to identify the parties to the proceedings or any children to whom the proceedings relate. Breaches of the prohibition will constitute a criminal offence and those found guilty of the offence may be liable to a fine up to a maximum limit of €50,000 and or a term of imprisonment up to three years.⁸¹⁵

Comment

This year Inequalities in Family Life receives a 'D+' grade in this year's report card, a slight increase from last year's 'D' grade as there has been little actual reform to date with no tangible results to improve the lives of children. The publication of the briefing note on the forthcoming Children and Family Relationships Bill is welcome but we could not carry out further in-depth analysis of the proposed legislation this year as the proposed Heads of Bill were only published in January 2014. We will instead focus on it in Report Card 2015 as the proposed legislation is due to be enacted before the end of 2014. However, the legislative steps taken to address the anomalies relating to maintenance payments for children in the Civil Partnership and Certain Rights and Obligations of Cohabiting Couples Act 2010 is a welcome development and for this reason we have increased the grade.

Family life is a fundamental part of Irish society. Parents and families are central to a child's life. The rights of parents and children are inextricably linked and, in most cases, a child's rights are vindicated by his or her parents. Irrespective of the legal relationship entered into by parents, children should not be discriminated against due to the status of that relationship. The UN Convention on the Rights of the Child provides that a child must not be discriminated against because of their parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

The UN Convention on the Rights of the Child recognises the central role played by parents in the lives of children. Under the UN Convention every child has the right to be cared for by his or her parents insofar as possible.⁸¹⁶ The term 'parent' is interpreted to mean genetic, birth and psychological parent, the latter referring to a person who is not biologically related to the child but cares for the child for significant periods of their childhood as they are 'intimately bound up in children's identity' and identity rights. They also have the right to contact their parents on a regular basis, to maintain personal relations and not to be separated from their parents against their will, unless it is contrary to the child's best interests or determined by a court.⁸¹⁷ Children have the right to know their parents and to have accurate information about their identity as well as the assistance and protection of the State where the child has

808 Department of Children and Youth Affairs, General Scheme of Adoption Amendment Bill 2012, <http://www.dcy.gov.ie/documents/publications/GeneralSchemeAdoptionBill19thSept12.pdf> [accessed 16 December 2013].

809 Minister for Children Frances Fitzgerald TD, Parliamentary Questions, Written Answers 9 July 2013 [33402/13].

810 Minister for Children Frances Fitzgerald TD, Parliamentary Questions Written Answers, 3 December 2013 [51585/13].

811 Minister for Children Frances Fitzgerald TD, Parliamentary Questions, Written Answers 19 September 2013 [38941/13] [38699/13].

812 The *in camera rule* allowed for a closed court in family law and child care proceedings.

813 Courts and Civil Law (Miscellaneous Provisions) Act 2013 s5(c)(i).

814 *Ibid.*, s5(c)(ii)(II).

815 *Ibid.*, s6(2)(ii).

816 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989), Article 7.

817 *Ibid.*, Article 9.

been denied an element of their identity.⁸¹⁸ The UN Convention recognises that both parents have a role in the child's life and focuses on the parental responsibilities involved in raising a child.⁸¹⁹ In 'all actions concerning children', including those that fall outside the direct scope of the Convention, the best interests of the child principle must apply.⁸²⁰

The structure of Irish family life has changed significantly in recent decades with 36.5% of registered births being outside of marriage in the first quarter of 2013.⁸²¹ These include situations where a child is born to a lone, unmarried parent; an unmarried couple who are living at the same address; blended families, for example where the parents who have become separated, divorced or widowed and formed a new relationship, the child lives with one parent and a new partner; a child living with grandparents or other family members; or a child living with their parent and non-biological civil-partnered parent.

The legal ability to formalise the relationship between a child and their *de facto* parent is critical to ensure security, fairness and clarity in the child's life and upbringing. The limitations placed in granting guardianship⁸²² means that, in families with a step-parent or civil partner, only the biological parent can be recognised as the guardian of the child and the other party will always be a stranger to the child in legal terms.⁸²³ This can make routine family practicalities very difficult, as the non-biological parent cannot consent to emergency medical treatment, vaccinations or school forms.

Children of unmarried families and civil partnerships face inequitable treatment when compared with children of married families in a number of respects, particularly when they are living with or parented by the partner of their biological parent. In addition under inheritance legislation a child is treated as a stranger to his or her non-biological parent and has no automatic right to inherit from their non-biological parent thus incurring significant Capital Acquisition Taxes (CAT) although children in a civil partnership are treated the same as children in a marriage for inheritance tax and CAT purposes. Where a relationship breaks down or is dissolved there is no recourse to seek maintenance or support for a child from the non-biological partner, even in a civil partnership. In contrast, if a married parent abandons his or her family, any person, such as another family member or carer, can seek maintenance for the dependent child from that parent.

The Law Reform Commission has recommended that guardianship (parental responsibility) be extended to civil partners and step-parents, though this would not apply to families where the biological parent cohabits with a partner but the relationship is not one of marriage or civil partnership.⁸²⁴ The Law Reform Commission has recommended that automatic joint guardianship of both the mother and father of any child be provided through legislation.⁸²⁵

“Children of unmarried families and civil partnerships face inequitable treatment when compared with children of married families in a number of respects, particularly when they are living with or parented by the partner of their biological parent.”

818 Ibid., Articles 7 and 8.

819 Ibid., Article 18.

820 Ibid., Article 3(1).

821 Central Statistics Office (2013) *Vital Statistics for First Quarter 2013*, Dublin: Central Statistics Office, p. 4.

822 Guardianship is 'the duty to maintain and properly care for a child and the right to make decisions about a child's religious and secular education, health requirements and general welfare.' Geoffrey Shannon, *Family Law Practitioner*, Dublin: Thomson Roundhall, 2003, at I-034.

823 Ombudsman for Children (2010) *Advice of the Ombudsman for Children on the Civil Partnerships Bill 2009*, Dublin: Ombudsman for Children's Office, p. 2.

824 Law Reform Commission (2010) *Report, Legal Aspects of Family Relationships*, Dublin: Law Reform Commission, p. 41.

825 Ibid., p. 18.

The proposed Children and Family Relationship Bill will allow for civil partners, step parents, those co-habiting with the biological or adoptive parent and those acting in loco parentis for a specified period of time to apply for guardianship of a child. It is also proposed that the Bill will provide a mechanism by which, in certain circumstances, an unmarried father of a child will automatically become a guardian. The Bill will also set out how parentage is to be assigned in cases of assisted reproduction and surrogacy. It is also proposed to recognise the role played by the extended family.⁸²⁶ The Bill as outlined in the briefing note would be the most comprehensive amendment to the law on children and family relationships in many years. It provides a unique opportunity to modernise the law in the area and provide legal recognition to the many different and diverse family relationships that exist in modern day Ireland. Given the complexity of modern family structures this Bill needs to be given careful consideration.

The Courts and Civil Law (Miscellaneous Provisions) Act 2013 is a welcome step in the modernisation of family law. The legislation strikes the necessary balance between respecting the rights of the child and his or her family to the protection of their privacy in family law and child care proceedings as provided in Article 16 of the UN Convention on the Rights of the Child, while at the same time ensuring transparency and clarity in the law.

Though the provisions outline that in making a decision to exclude representatives of the media, the judge shall have regard to certain issues such as best interests of the child and the voice of the child,⁸²⁷ the circumstances are vague and open to the discretion of judges. It is unclear whether this decision-making process will be directed by regulation, Court Rules or other published guidelines. The acknowledgement of the role of the voice of the child is welcome as it reflects a core children's right principle outlined in Article 12 of the UN Convention on the Rights of the Child.

826 Department of Justice and Equality, Child and Family Relationships Bill Briefing Note, <http://www.justice.ie/en/JELR/Children%20and%20Family%20Relationships%20Bill%202013%20141113.pdf/Files/Children%20and%20Family%20Relationships%20Bill%202013%20141113.pdf> [16 December 2013].

827 Courts and Civil Law (Miscellaneous Provisions) Act 2013 s5(c)(i).

Immediate Actions for 2014

Modernise the law on children and family relationships

The Children and Family Relationships Bill should be published and passed to reform the law on parentage, guardianship, custody and access. The Bill should ensure that children's rights can be vindicated by the people in their lives that fulfil the parenting role and that the best interests of the child forms the basis for decisions.

Review the adoption legislation and policies

A review should be carried out of the law and policy on adoption as proposed by the Minister for Children and Youth Affairs to ensure that the law in the area is robust and fit for purpose.

Summary of Immediate Actions

Children's Constitutional Rights

Children's Rights Referendum

- Enact comprehensive legislation as required under the Constitutional Amendment
- Support the Judicial Studies Institute to address the interpretation of the Amendment
- Ensure an appropriate plan is in place should the constitutional Amendment be struck down by the Supreme Court
- Ensure that in future consultations with citizens the views of children are heard and incorporated in a formal manner

Right to Education

Early Childhood Care and Education

- Launch and commence the implementation of the National Early Years Strategy
- Conduct a quality audit across all early years services to provide baseline data for the implementation of the National Early Years Strategy

Child Literacy

- Continue rollout of the National Literacy and Numeracy Strategy
- Develop a long term strategy for addressing educational disadvantage

Children with Special Educational Needs

- Publish and begin action on the plan to fully implement the EPSEN Act 2004, on foot of the NCSE policy advice
- Reform the support allocation model to bring an end to exclusionary practices

School Buildings

- Ensure that the promised funding for the remainder of the School Buildings Programme is protected and that quality is maintained

Patronage and Pluralism

- Commence divestment when appropriate and publish the White Paper on Patronage and Pluralism in Primary Education
- Commence the development of a programme on Education about Religion and Beliefs (ERB) and Ethics

Right to Health

Primary Care

- Ring-fence multi-annual funding for the delivery of the promised Primary Care Teams
- Enact the primary legislation necessary for the introduction of free GP care for children aged five and under
- Clarify the Government's policy on the issuing of discretionary medical cards to children with chronic illness

Mental Health

- Reverse the €15 million reduction in development funding for mental health services
- Ensure all children under 18 years receive age-appropriate and timely mental health services and treatment
- Put in place a legislative framework to fulfil the rights of children and adolescents with mental health difficulties
- Develop a National Strategy to address the mental health needs of young people in care and detention
- Complete recruitment of a specialist therapeutic team for children in special care and detention

Alcohol and Drugs

- Urgently adopt a national strategy to tackle alcohol misuse and ensure it is coherent with the Interim National Drugs Strategy 2009-2016
- The working group set up to look at the regulation of sports sponsorship should revisit the proposal to introduce a legislative ban to protect children from alcohol marketing in line with the National Substance Misuse Strategy
- Sustain investment in non-alcohol and drug free spaces for young people
- Protect children from smoking

Children's Hospital

- Begin and expedite the process of building the new National Children's Hospital

Right to an Adequate Standard of Living

Child Poverty

- Each government department should carry out a social impact assessment in advance of budgetary decisions being finalised for Budget 2015 to protect children and families
- Introduce the promised child poverty target as a matter of urgency

Area Based Approach to Tackling Child Poverty

- Put in place adequate supports to allow the communities selected for the area-based childhood initiative to begin providing services as soon as possible in 2014
- Ensure communities and those participating in the ABC projects are involved in the oversight and evaluation of the projects
- Ensure that the different ABC projects are proofed against the UN Convention on the Rights of the Child
- Introduce a standardised evaluation process to the greatest extent possible

Children and the Social Welfare System

- Introduce a modified two-tier system of child income supports with specific additional in-work support for low-income working families

Right to Protection for Abuse and Neglect

Child and Family Agency

- Consult comprehensively on the performance framework and corporate plan which will underpin how the Agency operates on a day-to-day basis
- Ensure the agency does not carry over any budgetary deficits and is adequately resourced
- Introduce a regulation clarifying how the best interests of the child contained in Section 9 of the Child and Family Agency Act 2013 should be interpreted.

Ryan Report Implementation Plan

- Publish the final progress report of the *Ryan Report Implementation Plan* and clarify how the work of the Monitoring Group will be mainstreamed into the work of the Department of Children and Youth Affairs
- Publish the Children First Bill and enact it as a matter of priority
- Finalise the review of the National Vetting Bureau Act 2012 and commence it

Youth Homelessness

- Invest in appropriate accommodation for homeless families
- Ensure that appropriate emergency accommodation facilities are available for children and young people presenting as homeless
- The Child and Family Agency must ensure that there is interagency co-operation on the issue of youth homelessness particularly when a new strategy is not going to be put in place
- Introduce a statutory entitlement to aftercare support for all children leaving care and detention

Children in Detention

- Immediately withdraw the reservation to Article 10 (2b) of the International Covenant on Civil and Political Rights
- Ensure the legislative entitlement to aftercare for children extends to those leaving detention
- A review should be carried out on the use of remand for children and young people to ensure that it is used appropriately
- An individual case tracking system should be put in place to track the outcomes for young people who leave detention

Right to Equality and Non-Discrimination

Traveller Children

- Grant recognition of Traveller Ethnicity
- Include specific commitments to Traveller children in the forthcoming National Children and Young People's Policy Framework and its associated implementation strategies
- Introduce an ethnic identifier across health and care
- Re-energise activities in supporting the participation of Traveller children in education

Migrant Children

- Ensure that the Immigration, Residence and Protection (IRP) Bill is proofed against the UN Convention on the Rights of the Child
- Specify commitments to migrant children in the forthcoming National Children and Young People's Policy Framework and associated implementation strategies
- Address the ongoing concerns in relation to child protection and welfare for children living in direct provision system
- Ensure that the material and developmental needs of children in direct provision are adequately met
- Ensure that each separated child has an individualised care plan following consultation with the child and a thorough needs assessment
- Ratify the Second Optional Protocol to the UNCRC on the sale of children, child prostitution and child pornography

Inequalities in Family Life

- Modernise the law on children and family relationships
- Review the adoption legislation and policies

CHILDREN'S RIGHTS ALLIANCE

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