

Is Government
keeping its promises
to children?

REPORT

children's **constitutional rights** right to **education**

CARD

health an adequate standard of living **protection from**

2015

abuse and neglect **equality and non-discrimination**

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

Ag Eisteacht
 Alcohol Action Ireland
 Alliance Against Cutbacks in Education
 Amnesty International Ireland
 Arc Adoption
 The Ark, A Cultural Centre for Children
 ASH Ireland
 Assoc. for Criminal Justice Research and Development (ACJRD)
 Association of Secondary Teachers Ireland (ASTI)
 ATD Fourth World – Ireland Ltd
 Atheist Ireland
 Barnardos
 Barretstown Camp
 BeLonG To Youth Services
 Bessborough Centre
 Border Counties Childhood Network
 Carr's Child and Family Services
 Catholic Guides of Ireland
 Childhood Development Initiative
 Children in Hospital Ireland
 City of Dublin YMCA
 COPE Galway
 Cork Life Centre
 Crosscare
 Dental Health Foundation
 DIT – School of Social Sciences & Legal Studies
 Down Syndrome Ireland
 Dublin Rape Crisis Centre
 Dun Laoghaire Refugee Project
 Early Childhood Ireland
 Educate Together
 School of Education UCD
 EPIC
 Focus Ireland
 Forbairt Naíonraí Teoranta
 Foróige
 GLEN - Gay and Lesbian Equality Network
 Headstrong - The National Centre for Youth Mental Health
 Healthy Food for All
 Immigrant Council of Ireland
 Inclusion Ireland
 Independent Hospitals Association of Ireland
 Inspire Ireland
 Institute of Community Health Nursing
 Institute of Guidance Counsellors
 International Adoption Association
 Irish Association of Social Care Workers (IASCW)
 Irish Association of Social Workers
 Irish Association of Suicidology
 Irish Autism Action
 Irish Centre for Human Rights, NUI Galway
 Irish Congress of Trade Unions (ICTU)
 Irish Council for Civil Liberties (ICCL)
 Irish Foster Care Association
 Irish Girl Guides
 Irish Heart Foundation
 Irish National Teachers Organisation (INTO)
 Irish Penal Reform Trust
 Irish Premature Babies
 Irish Primary Principals Network
 Irish Refugee Council
 Irish Second Level Students' Union (ISSU)
 Irish Society for the Prevention of Cruelty to Children
 Irish Traveller Movement
 Irish Youth Foundation (IYF)
 Jack & Jill Children's Foundation
 Jesuit Centre for Faith and Justice
 Junglebox Childcare Centre F.D.Y.S.
 Kids' Own Publishing Partnership
 Law Centre for Children and Young People
 Lifestart National Office
 Marriage Equality – Civil Marriage for Gay and Lesbian People
 Mary Immaculate College
 Mental Health Reform
 Mounttown Neighbourhood Youth and Family Project
 MyMind
 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
 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
 Simon Communities of Ireland
 Society of St. Vincent de Paul
 Sonas Housing Association
 Special Needs Parents Association
 SpunOut.ie
 St. Nicholas Montessori Teachers Association
 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
 The Guardian Children's Project
 The Prevention and Early Intervention Network
 Treoir
 UNICEF Ireland
 Unmarried and Separated Families of Ireland
 youngballymun
 Youth Advocate Programme Ireland (YAP)
 Youth Work Ireland



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- Alliance against Cutbacks in Education
- Childhood Development Initiative
- Children in Hospital Ireland
- Early Childhood Ireland
- Educate Together
- EPIC
- Focus Ireland
- GLEN – Gay and Lesbian Equality Network
- Immigrant Council of Ireland
- Irish Heart Foundation
- Irish National Teachers Organisation
- Irish Penal Reform Trust
- Irish Refugee Council
- Irish Traveller Movement
- Law Centre for Children and Young People
- Marriage Equality
- Mental Health Reform
- National Parents Council of Ireland – Primary
- Pavee Point
- Prevention and Early Intervention Network
- Rape Crisis Network Ireland
- St. Patrick's University Hospital
- Society of St. Vincent de Paul
- Start Strong
- Treoir
- youngballymun

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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, Child and Family Research Centre, National University of Ireland, Galway;
- **Dr Orla Doyle**, Lecturer in UCD School of Economics and Research, Fellow in the UCD Geary Institute for Public Policy;
- **Professor Nóirín Hayes**, Visiting Professor, School of Education, Trinity College Dublin;
- **Áine Hyland**, Emeritus Professor of Education and former Vice-President of University College Cork;
- **David Joyce**, Equality Officer, Irish Congress of Trade Unions;
- **Professor Ursula Kilkelly**, Head of College of Business and Law, University College Cork;
- **Danny McCoy**, Director General, Ibec, represented by Siobhan Masterson, Head of Corporate Affairs;
- **Judge Catherine McGuinness**, former member of the Supreme Court of Ireland and Member of the Council of State.

FOREWORD



Tanya Ward
Chief Executive

The Children's Rights Alliance *Report Card 2015* is the seventh in this series. As in previous years, our panel of external assessors graded the Government's performance in 2014 in fulfilling their own stated commitments to children in the Programme for Government.

2014 was an incredibly significant year for children. The Government published *Better Outcomes Brighter Futures – The National Policy Framework for Children and Young People*, setting out an ambitious and innovative roadmap for children. But it was also a year when the cumulative effects of the recession on children really became apparent. Homelessness and poverty increased. With the numbers of children experiencing consistent poverty nearly doubling since 2008, we can only conclude that children are the real victims of this recession.

We also saw changes in the four ministries most affecting children, including three changes in the children and youth affairs portfolio. But the new Minister for Children and Youth Affairs, Dr. James Reilly, hit the ground running by ensuring Ireland ratified the Third Optional Protocol to the UN Convention on the Rights of the Child, enabling children to make complaints directly to the UN. Ireland's ratification of the Protocol, ahead of nearly every other European country, shows that we can be a leader for children at the highest levels.

The Government receives an overall 'C' grade in this year's Report Card – maintaining the same grade for the third year in a row. This grade demonstrates that once again, while there were very welcome achievements, some children were still left wanting. First, a look at the positive results. Education fared particularly well with two 'A' grades recognising the sustained investment in 'School Buildings' and the first significant improvement in 'Child Literacy' scores in thirty years. The Government also proved that it wasn't afraid to take bold steps for children, through enacting legislation on smoking in cars and publishing legislation on tobacco packaging. The Child and Family Agency also had a successful first year, and Budget 2015 provided some breathing space to families.

However, there were many disappointments in 2014. The Children's Referendum result is still frozen two years' on, and maladministration in relation to the medical card system meant many vulnerable children lost, and later, got back their medical cards. Equally disappointing was the fact that children with mental health needs continued to find themselves in adult psychiatric facilities unnecessarily. Other

reforms were characterised by delays. The children's hospital, the children's detention facility in Oberstown and the transfer of the patronage of schools all suffered.

At the same time, there was significant advancement in the justice portfolio with the publication of proposals for the Children and Family Relationships Bill. Marked by transparency and consultation, both the former Minister for Justice, Equality and Defence, Alan Shatter, and current Minister for Justice and Equality, Frances Fitzgerald, showed a real willingness to ensure that children experiencing inequalities in family life would finally be protected.

We also saw some action in 2014 to tackle the dreadful impact of direct provision on children. After 14 years of deteriorating conditions, the Minister for Justice and Equality, Frances Fitzgerald, and Minister of State, Aodhán Ó'Riordán, set up a Working Group to examine the direct provision and asylum process in late 2014. The Group's work has yet to make a meaningful impact for children but we can only hope that with such a high level of scrutiny, and the seal of the Justice Ministers, children in the asylum process will finally be treated with the respect and dignity they deserve.

The Government is in its last year and there are still some very important reforms to be completed. The rollout of free GP care for children under six, the construction of the children's hospital and the enactment of the Children First and Children and Family Relationships Bills will be important legacies.

But we mustn't forget children left on the margins. The child in poverty, the sick child that can't get a medical card or who is fearful in an adult psychiatric facility; the child at risk of abuse and crying out for help; the child trapped in emergency accommodation or in direct provision; and the Traveller or Roma child that falls through all the cracks – how will the Government respond in its last year to these children?

The Government's record will be under the international spotlight in January 2016 by the UN Committee on the Rights of the Child – in a year that Ireland celebrates 100 years since the 1916 Rising. We will be asking does Ireland cherish all the children of the nation equally, as we promised to do on the steps of the GPO when the Proclamation was read out by Irish revolutionaries. We will be asking and answering that question in 2016.

INTRODUCTION

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

This is the seventh edition of our annual *Report Card* series, launched in 2009. The *Report Card* is a tool for identifying serious issues for children and to scrutinise the Government's own commitments to children flowing from the Programme for Government. Each year, the Children's Rights Alliance – supported by an independent panel of experts – evaluates Government's delivery on the promises it made to children and young people in six key areas: the right to education, to health, to an adequate standard of living, to protection from abuse and neglect, to equality and non-discrimination and children's constitutional rights. Clear, measurable commitments, with a tangible impact on children's lives are selected and tracked annually through the *Report Card*.

The *Report Card* is an established accountability tool for the Children's Rights Alliance and our 100 plus members, as well as an important information resource for politicians, policy makers, service providers, non-governmental (NGOs) and academics. Since its launch, the *Report Card* series has drawn back the curtain on policy delivery and tracked not just the calibre of commitments made to children, but each step of their implementation. In doing so, it has played a role in de-mystifying the policy process and exposing the reasons for delay, inaction and policy u-turns. Using the *Report Card*'s lens helps capture successive Governments' delivery for children and can zoom in on areas where progress is slack.

Producing the *Report Card* is a year-round process, rooted in a comprehensive research process followed by impactful and convincing advocacy activities. As with previous years, the research process for *Report Card 2015* was robust – involving desk research, semi-structured interviews, statistical analysis, analysis of legal judgments, a wide consultation with member organisations and key stakeholders and engagement with departmental officials who verified data and responded to requests for information. The grading is carried out by a high-level independent panel, comprising some of Ireland's leading experts in children's rights, child law, education, early years, and also from the trade unions, business and economic sectors.

The Government is awarded an overall 'C' grade in *Report Card 2015*, reflecting a satisfactory attempt to date, though children remain wanting.

We have been tracking commitments made by Government in its Programme for Government 2011–2016, since its adoption by Fine Gael and the Labour Party in May 2011. In *Report Card 2012* – the first year of tracking the Programme for Government commitments – the Government was awarded a 'C+', the best overall grade in the *Report Card* series to date. In the four subsequent *Report Cards* – 2013, 2014 and 2015 – the Government has only achieved an overall 'C' grade. The Government has consistently performed well in aspects of the right to education and the right to protection from abuse and neglect. It is clear that ministerial leadership and a clear departmental focus has made the difference to deliver on specific commitments, notably in literacy, school buildings, Child and Family Agency, and Ryan Report Implementation Plan.

CLEAR, MEASURABLE COMMITMENTS, WITH A TANGIBLE IMPACT ON CHILDREN'S LIVES ARE SELECTED AND TRACKED ANNUALLY THROUGH THE REPORT CARD.

When looking across the individual grades, it is striking however that since *Report Card 2012*, the grades for 'Child Poverty', 'Traveller and Roma Children' and 'Migrant Children' has never moved above an 'E+' grade. An 'E' grade is defined as 'unacceptable, taking steps in the wrong direction, no positive impact on children'. In addition, a number of commitments are very close to fruition but a final push is needed to achieve an 'A' grade, including 'Children in Detention' and 'Inequalities in Family Life'.

A number of changes were made to this year's edition to improve its flow and readability. These include re-ordering sections within chapters 2 and 3; expanding the section on 'Travellers Children' to include Roma children; expanding the title of the section on 'Alcohol and Drugs' to include 'Smoking'; providing a stronger focus on children within homeless families in the section on 'Youth Homelessness' and renaming and moving this section to the chapter on the 'Right to an Adequate Standard of Living'.

Important issues continue to fall outside the remit of the annual *Report Card* series as it is limited to commitments made under the Programme for Government. In 2014, the Government made a number of important new commitments to children in *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020*. These included commitments to lift 70,000 children out of poverty by 2020; tackle food poverty and childhood obesity; provide supports to child victims; and reduce the potentially negative impact of court proceedings on children.

COMPARISON BETWEEN 2012/2013/2014/2015 GRADES

CHILDREN'S CONSTITUTIONAL RIGHTS	2012	2013	2014	2015
Children's Referendum	B	A	B	B-
Constitutional Convention	N/A	N/A	N/A	B-
RIGHT TO EDUCATION				
Early Childhood Care and Education	B	B-	C+	D+
Child Literacy	B+	B+	A-	A
Children with Special Educational Needs	C	D	C-	C-
School Buildings	B	B	B+	A
Patronage and Pluralism in Primary Education	B	B+	B+	C+
RIGHT TO HEALTH				
Primary Care	C-	D	C	C
Children's Hospital	B	D	C+	C
Mental Health	C+	D-	E	E
Alcohol, Smoking and Drugs	D	D	D+	C-
RIGHT TO AN ADEQUATE STANDARD OF LIVING				
Child Poverty	E	F	E-	F
Children and the Social Welfare System	C	D	D	D+
Area Based Approach to Tackling Child Poverty	D	C-	C+	C+
Child and Youth Homelessness	D	C-	C+	D+
RIGHT TO PROTECTION FROM ABUSE AND NEGLECT				
Child and Family Agency	B	B-	B+	B
Ryan Report Implementation Plan	C	B-	B-	B-
Children in Detention	F	B+	B+	B-
RIGHT TO EQUALITY AND NON-DISCRIMINATION				
Traveller and Roma Children	N/A	E	E	E+
Migrant Children	N/A	E	F	E+
Inequalities in Family Life	N/A	D	D+	B

GRADING FOR REPORT CARD 2015

Overall Grade:

C

Is Government keeping its promises to children?

CHILDREN'S CONSTITUTIONAL RIGHTS

B-

Children's Referendum	B-
Constitutional Convention	B-

Referendum result stalled due to legal challenge and delays in the Superior Courts.

RIGHT TO EDUCATION

B-

Early Childhood Care and Education	D+
Child Literacy	A
Children with Special Educational Needs	C-
School Buildings	A
Patronage and Pluralism in Primary Education	C+

Positive results in literacy and school buildings. A child rights approach needed in early years and special needs.

RIGHT TO HEALTH

D+

Primary Care	C
Children's Hospital	C
Mental Health	E
Alcohol, Smoking and Drugs	C-

Good progress on smoking but alcohol and mental health remain a concern.

RIGHT TO ADEQUATE STANDARD OF LIVING

D

Child Poverty	F
Children and the Social Welfare System	D+
Area Based Approach to Tackling Child Poverty	C+
Child and Youth Homelessness	D+

Child poverty statistics and housing crisis a serious concern. Target on poverty is welcome.

RIGHT TO PROTECTION FROM ABUSE AND NEGLECT

B-

Child and Family Agency	B
Ryan Report Implementation Plan	B-
Children in Detention	B-

Successful first year for Agency. Children still in adult prisons. Slow progress on child protection.

RIGHT TO EQUALITY AND NON-DISCRIMINATION

D+

Traveller and Roma Children	E+
Migrant Children	E+
Inequalities in Family Life	B

Progressive draft Child and Family Relationships Bill published. No improvement yet in the lives of migrants and Travellers / Roma.

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

SUMMARY OF IMMEDIATE ACTIONS



CHILDREN'S CONSTITUTIONAL RIGHTS

Children's Referendum

- Enact comprehensive legislation as required under the Constitutional Amendment.
- Ensure an appropriate plan is in place should the Amendment be struck down by the Supreme Court.
- Support the Committee for Judicial Studies to address the interpretation of the Amendment.
- Support the legal profession to undertake training on the implementation of children's rights and child-friendly justice.

Constitutional Convention

- Implement the recommendation of the Constitutional Convention to enhance protection of economic, social and cultural rights in the Constitution.
- Engage in a dialogue with the youth sector on the Convention's recommendation to lower the voting age.



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 and expand the Learner Fund.
- Ensure all children can access and participate in early years care and education.

Child Literacy

- Continue to rollout the National Literacy and Numeracy Strategy.
- Develop a long term strategy for addressing educational disadvantage.

Children with Special Educational Needs

- Roll out the new resource allocation model proposed by NCSE.
- Publish and begin action on a plan to fully implement the ESPEN Act 2004.
- Publish the review of the Visiting Teacher Service and implement its recommendations.



RIGHT TO EDUCATION

School Buildings

- Protect funding for the School Buildings Programme and ensure quality is maintained.
- Ensure the child's right to engage in play is part of the planning and design of school accommodation.
- Take appropriate measures on foot of the inventory of school accommodation and publish key findings.
- Maintain the Minor Works Grant Scheme and the Summer Works Scheme.

Patronage and Pluralism in Education

- Clarify how the divestment process will be progressed in 2015 and beyond.
- Publish the White Paper on Patronage and Pluralism in Primary Education.
- Recalibrate section 7 of the Equal Status Acts 2000–2012.
- Maintain the momentum to complete the curriculum on Education about Religion and Beliefs (ERB) and Ethics.



RIGHT TO HEALTH

Primary Care

- Commence the introduction of free GP care for children under six.
- Publish a rights-based National Healthcare Charter for Children.
- Ring-fence multi-annual funding for the delivery of Primary Care and reduce waiting times.

Children's Hospital

- Expedite the process of building the new National Children's Hospital.
- Extend the services of the hospital to all those under 18 years.
- Ensure the hospital design and operation are grounded in children's rights.

Mental Health

- Ensure all children have access to mental health services in a timely manner.
- Ensure all children receive age-appropriate mental health treatment.
- Put in place a legislative framework to fulfil the rights of children with mental health difficulties.

Alcohol, Smoking and Drugs

- Enact an ambitious Public Health (Alcohol) Bill as a matter of priority.
- Commence the Protection of Children's Health Act 2014 and enact legislation on tobacco packaging.



RIGHT TO AN ADEQUATE STANDARD OF LIVING

Child Poverty

- Publish an ambitious rights based implementation plan to achieve the Child Poverty Target.
- Ensure each government department carries out a social impact assessment in advance of budgetary decisions.

Children and the Social Welfare System

- Clarify the Government position in relation to reforming child income supports.

Area Based Approach to Tackling Poverty

- Proof the ABC projects against the UN Convention on the Rights of the Child.
- Introduce a robust evaluation process as a matter of urgency.

Child and Youth Homelessness

- Invest in appropriate accommodation for homeless families.
- Review rent supplement payments.
- Extend outreach supports available to homeless children.



RIGHT TO PROTECTION FROM ABUSE AND NEGLECT

Child and Family Agency

- Ensure the Child and Family Agency is adequately equipped to fulfil its statutory and human rights obligations to children.
- Expand the remit of the Child and Family Agency.
- Introduce a regulation to clarify how the best interests principle should be interpreted.

Ryan Report Implementation Plan

- Enact the Children First Bill, 2014 and provide funds to promote compliance.
- Commence the National Vetting Bureau Act 2012 as a matter of urgency.
- Ratify the Second Optional Protocol to the UNCRC.

Children Children in Detention

- Transfer all 17 years to the National Children Detention Facility as a matter of urgency
- Withdraw the reservation to the UN International Covenant on Civil and Political Rights.
- Carry out a review on the use of remand for children.
- Extend the provisions of the Aftercare Bill 2014 to children with experience of detention and track outcomes after detention.



RIGHT TO EQUALITY AND NON-DISCRIMINATION

Traveller and Roma Children

- Deliver on the Government commitment to grant recognition of Traveller Ethnicity.
- Introduce an ethnic identifier across health and care.
- Re-energise activities to support the participation of Traveller children in education.

Migrant Children

- Enact legislation to reform the Protection Process and on immigration issues and proofed it against the UN Convention on the Rights of the Child.
- Take steps to protect the rights of children living in direct provision and opt-in to the EU Recast Reception Conditions Directive.

Inequalities in Family Life

- Enact the Children and Family Relationships Bill ensuring that the provisions on best interests of the child, voice of the child and the right to identity are retained.
- Establish a Central Register for Statutory Declarations for Joint Guardianship.
- Establish a court welfare service to support the roll out of this legislation.

1. CHILDREN'S CONSTITUTIONAL RIGHTS

Chapter 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 19 of the UNCRC

"A positive decision of the Supreme Court in the Jordan case is eagerly awaited. Training of lawyers and decision-makers at all stages of administrative and legal proceedings will also help to redress the current imbalance and ensure a child-friendly justice system where the voices of children are heard and their rights are protected."

Catherine Cosgrave, Director/Managing Solicitor, Law Centre for Children & Young People



IN THE NEWS

WOMAN LOSES BID TO CHALLENGE REFERENDUM RESULT

The Irish Examiner 21 June 2014

A woman who campaigned against the Children's Referendum has lost on all grounds her High Court challenge to the constitutionality of laws governing bringing petitions disputing referendum results.

Joanna Jordan, of Glenageary Rd Upper, Dun Laoghaire, Dublin, previously secured leave to bring a petition aimed at overturning the 'yes' result in the November 2012 referendum, achieved by a majority of 58% to 42% based on a turnout of 33.49%. [...]

After her petition was rejected last year on grounds that she had failed to prove the information campaign materially affected the outcome, a further hearing was held to address her claims the relevant provisions of the 1994 Referendum Act were unconstitutional.

In that challenge, she argued the requirement for a petitioner disputing a referendum result to prove wrongful conduct such as to probably "materially affect" the result of the referendum was unconstitutional as it was impossible to prove. The onus should be on the Government to prove its campaign did not materially affect the result, she said.

Yesterday, Mr Justice McDermott said he did not accept it was impossible to prove material effects based on a balance of probabilities. Ms Jordan is appealing the rejection of her Supreme Court petition and a date for that appeal, and her appeal against yesterday's judgement, will be fixed later.

By Ann O'Loughlin

1.1 CHILDREN'S 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:

- 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 was appealed to the Supreme Court. The Supreme Court hearing took place in December 2014 and a decision is expected in 2015.

The Government held a referendum to strengthen children's rights in the Constitution on 10 November 2012. The People of Ireland voted 58 per cent to 42 per cent in favour of the Thirty-First Amendment. However, the amendment has not yet been signed into law due to a legal challenge by Joanna Jordan regarding the publication of a government funded booklet/website on the children's referendum. Parts of the booklet/website were found to be unconstitutional because they breached the McKenna principles¹ which prohibit the spending of public monies to espouse a particular perspective in a referendum.² Jordan relied upon this case

to argue that the Government booklet/website had a material effect on the referendum outcome and interfered with the democratic process. However, Jordan was unsuccessful in the High Court. On 18 October 2013, Mr Justice McDermott held that Jordan had not succeeded in proving on the balance of probabilities, the Government's booklet, website and advertising had a material effect on the outcome of the referendum. Jordan appealed to the Supreme Court on 24 October 2013 and was given a hearing in December 2014. The Supreme Court has yet to issue a final judgment on this case.

¹ *McKenna v An Taoiseach* (No. 2) [1995] 2 IR 10.

² *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.



COMMENT

Children's Constitutional Rights gets a 'B-' grade in *Report Card 2015*, a fall from last year's 'B' grade. This is due to the fact that the Children's Referendum result is still frozen two years' on.

Despite the fact that the Children's Referendum was held over two years ago, the judicial challenge to the Thirty-First Amendment Bill, and subsequent delays in the Superior Courts, has effectively stalled the referendum result. Should the Supreme Court find that the Children's Referendum result is unconstitutional, the Government must ensure that a contingency plan is put in place to hold the referendum again. However, it must be stated that there is nothing to stop the Government from introducing a whole range of legal rights and entitlements for children outside and above those flowing from the constitutional referendum. In fact, recent experience regarding the Child and Family Agency Act³, the Children First Bill⁴ and the heads of the Children and Family Relationships Bill⁵ demonstrate a greater willingness to translate children's rights into law.

DESPITE THE FACT THAT THE CHILDREN'S REFERENDUM WAS HELD OVER TWO YEARS AGO, THE JUDICIAL CHALLENGE [...] AND SUBSEQUENT DELAYS IN THE SUPERIOR COURTS, HAS EFFECTIVELY STALLED THE REFERENDUM RESULT.

If the Supreme Court strikes down Joanna Jordan's appeal, the new Article 42A, which was the subject of the Children's Referendum, will become part of the Constitution and is expected to open up the possibility of a new line of jurisprudence on children's rights from our Superior Courts. In particular, Article 42A(1) provides that: 'The State recognises and affirms the natural and imprescriptible rights of all children and shall, as far as practicable, by its laws protect and vindicate those rights'.⁶ It allows for the possibility of the Courts to identify new rights flowing from the Constitution for children. However, this may take time or not happen at all if those working in the courts are not supported to interpret and uphold children's rights.

The Committee for Judicial Studies has responsibility for the ongoing judicial studies for the Judiciary. The budget for Committee fell to €225,000 in 2014 from €500,000 in 2009.⁷ To date, the Committee for Judicial Studies has not developed any specific programme in relation to the 2012 Children's Referendum "but is always cognizant of this area when arranging conferences and seminars etc".⁸ Best practice in this field involves scenario-based training by experts and judicial peers and would be an important element of such learning if the Irish judiciary chose to undertake it.⁹ The Government provides sufficient funding to the Courts to enable judges to undergo judicial studies on child-friendly justice and on substantive children's rights principles. In addition, the Government and professional legal bodies need to examine more generally how the legal system can implement child-friendly justice at all levels within the courts.

³ Child and Family Agency Act 2013, No. 40 of 2013, section 9 on best interests and views of the child.

⁴ Children First Bill 2014, No 30 of 2014, section 6 on best interests of the child.

⁵ General Scheme of the Children and Family Relationships Bill 2014, section 32 on best interests of the child.

⁶ Thirty-First Amendment of the Constitution (Children) Bill 2012, No. 78 of 2012.

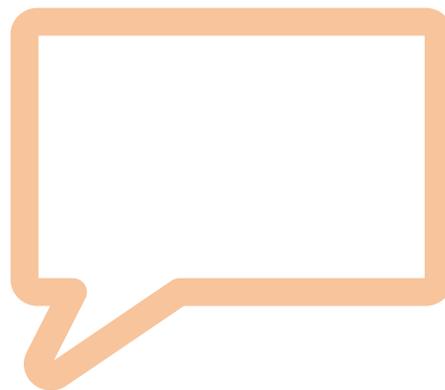
⁷ Communication received by the Children's Rights Alliance from the Courts Service on 2 February 2015.

⁸ Communication received by the Children's Rights Alliance from the Courts Service on 2 February 2015.

Since 2012, the Judicial Studies Committee has organised the following conferences/events for members of the Bench. November 2012: The Committee for Judicial Studies National Conference – A presentation was made to all members of the judiciary on 'The Children's Rights Amendment'; May 2013: 'Voice of Child in decisions affecting them': Mary O'Toole SC; 'What to expect from a good Social Work Report' Dr. Helen Buckley TCD; 'Rebalancing Community and Custodial Sanctions' Vivien Guerin, Probation Service; *Remand for Breach of Bail and other options & Reflections on the form of Orders possible in the Children Court*, Professor Ursula Kil Kelly, Oberstown Board Member; February 2014/ July 2014: Voice of the Child Training Seminar, Four Courts, Dublin 7; June 2014 – District Court Conference – Presentations and discussion forum on – 'Public Law Child Care Cases'; September 2014: Judicial Studies & Barnardo's seminar 'Understanding and Working with the Alienated Child' in the Four Courts, Dublin 7; October 2014: Judicial Studies seminar by the American child psychiatrist, Dr Kim Masters, in the Four Courts, Dublin 7 on DSMV and expert witness testimony and November 2014: Family Relationships Bill- impending change.

⁹ European Judicial Training Network, *Good Judicial Training Practices, Innovative Training Methodology, Best practices in the training of judges and prosecutors*, eg. *Small Teams – The Business of Judging and Real Case Study, Developed in Real Time though the use of Video Conferencing*, [online], April 2014, [accessed 13 February 2015].

To fully realise a commitment to children's rights, the Courts should be more child-sensitive to those children coming before it. The United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime define the term 'child-sensitive' as 'an approach that balances the child's right to protection and that takes into account the child's individual needs and views'.¹⁰ On 17 November 2010, the Committee of Ministers of the Council of Europe adopted new Guidelines on child-friendly justice, based on the fundamental principles of participation, best interests of the child, dignity, protection from discrimination and rule of law. More specifically, these Guidelines define child-friendly justice systems as 'justice systems which guarantee the respect and the effective implementation of all children's rights at the highest attainable level'.¹¹ In addition to implementing child-friendly justice, the training of lawyers and the provision of judicial studies for judges in implementing substantive children's rights will be very important.



THE PEOPLE OF IRELAND VOTED 58 PER CENT TO 42 PER CENT IN FAVOUR OF THE THIRTY-FIRST AMENDMENT.

¹⁰ UN Economic and Social Council, *Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*, ECOSOC Resolution 2005/20, Article 9(d).

¹¹ Council of Europe, *Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice*, (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies) – edited version 31 May 2011, Section II, (c).



CHILDREN'S REFERENDUM

Immediate Actions for 2015

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;¹² 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.

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.

Support the Committee for Judicial Studies to address the interpretation of the Amendment

The Minister for Justice and Equality should provide funding to the Committee for Judicial Studies 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 following international best practice in this field. There are many ways in which the Courts can be supported. For example, consideration should also be given to a multi-disciplinary panel of experts from various disciplines, such as social work and psychiatry, that would give a broader, holistic approach to the work of the judiciary, reflecting the various elements that can be involved in the settlement of family law disputes.¹³

Support the legal profession in undertaking training on the implementation of children's rights and child-friendly justice

The Government should provide funding to the legal professional bodies to provide ongoing education to trainee lawyers and qualified practitioners on the UN Convention on the Rights of the Child and children's rights under the Constitution and more generally in Irish law.

¹² 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).

¹³ See e.g. Nicholson CJ, 'Review of the Family Court' 64 *LMV Institute Journal* 628 (1990) at 628-629; and Alastair Nicholson, 'Setting the Scene: Australian Family Law and the Family Court— A Perspective From the Bench' 40 (3) *Family Court Review* 279 (2002).

1.2 CONSTITUTIONAL CONVENTION

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:

- 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: Slow



WHAT'S HAPPENING?

The Constitutional Convention recommended that economic, social and cultural rights be given enhanced protection in the Irish Constitution. The Government did not respond to the recommendation in 2014.

The Constitutional Convention began its work on 1 December 2012 and comprised 100 members – 66 citizens drawn from the electoral register, 29 Oireachtas members and four from the Northern Ireland Assembly. Under its terms of reference, the Convention was required to consider eight different questions, including whether the voting age should be reduced to 17 years. The Convention also had to the option to consider additional potential constitutional amendments. In December 2013, the Convention chose to consider economic, social and cultural rights. It subsequently recommended to the Government, by an overwhelming majority of 85 per cent, that economic, social and cultural (ESC) rights be given enhanced protection in the Constitution. It held its final session in February 2014. One year later, the Government has yet to formally respond to the recommendation.



COMMENT

The Constitutional Convention gets a 'B-' grade in this year's *Report Card*. This reflects that while the Constitutional Convention recommended that economic, social and cultural rights should be included in the Irish Constitution, the Government, in contravention of its own rules, has yet to directly respond to this recommendation. Separately, the Taoiseach has confirmed that following the Marriage Equality and Presidential referenda, no further referenda will be called in the lifetime of the current Government.¹⁴

The establishment of the Constitutional Convention was a positive development and important in engaging ordinary citizens in the

¹⁴ An Taoiseach, Enda Kenny TD, *Dáil Debates, Order of Business*, 14 January 2015. <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2015011400026?opendocument> [accessed 13 February 2015].

future of the Constitution. The fact that the Constitutional Convention made a decision to consider and recommend that economic and social rights be protected in the Constitution is also a welcome development. Economic and social rights are intrinsically linked to the enjoyment of fundamental human rights but are largely considered to be non-justiciable before the Irish Courts today. This means that these rights are considered to be guidelines only and are not enforceable by law and before the courts. This means that decisions made when implementing laws and policies affecting housing, social security and health for example, are not guaranteed 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 Economic, Social and Cultural Rights Initiative, led by Amnesty International, has called on the Government to accept the Constitutional Convention's recommendation and to provide clear timelines in relation to any measures adopted to bring it forward. This would involve holding a referendum on economic, social and cultural rights in due course.¹⁵ However, to date the Government has not directly responded to the Constitutional Convention's recommendation. Instead the Taoiseach has confirmed that two other referenda will happen in the life of the current Government.¹⁶ The Taoiseach also confirmed that the Government will not be holding a referendum to implement another recommendation made by the Constitutional Convention, in relation to lowering the voting age from 18 years to 16 years. The National Youth Council of Ireland (NYCI) has expressed disappointment at this move stating that up to 120,000 sixteen and seventeen year olds will be denied the right to vote in the General Election and other elections and referenda.¹⁷



CONSTITUTIONAL CONVENTION

Immediate Action for 2015

Accept and implement the recommendation of the Constitutional Convention to enhance protection of the on economic, social and cultural rights in the Constitution.

The Government should not delay any further in progressing the Convention's recommendation on economic, social and cultural rights. Given the importance of this category of rights to the lives of children, priority should be given to progressing this recommendation from the Convention.

Engage in a dialogue with the youth sector on the Convention's recommendation to lower the voting age

The Constitutional Convention recommended that the voting age should be lower from 18 to 16 years. The Government has indicated that it will not be holding a referendum on this issues. A dialogue is needed between Government and the youth sector in light of this decision.

¹⁵ ESC Rights Initiative, A call on the government to accept the recommendation of the constitutional convention on economic, social and cultural rights [online], 1 September 2014. <http://www.amnesty.ie/news/call-accept-recommendation-constitutional-convention-economic-social-and-cultural-rights> [accessed 13 February 2015].

¹⁶ S. Collins, 'Coalition abandons plan for poll on younger voting age', *The Irish Times*, 15 Jan 2015.

¹⁷ National Youth Council of Ireland, *No referendum on voting age: Youth Council expresses disappointment but says campaign will go on*, [press release], 15 Jan 2015.

2. RIGHT TO EDUCATION

Chapter 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.

"It is now a decade since the EPSEN Act was penned. That is 10 years of dust-gathering, 10 years of refusal by successive governments to give people with a disability their RIGHT to access appropriate supports... we can find €27 billion for Anglo and its bondholders but can't find the cash for disability rights – where is our sense of priority?"

Tomás Ó Dúlaing Chairperson, Alliance Against Cutback in Education



IN THE NEWS

MAYO'S FIRST EDUCATE TOGETHER SCHOOL OPENS, TAOISEACH ATTENDS LAUNCH

The Mayo News 2 September 2014

THE PLURALISM of the Educate Together ethos was highlighted by Taoiseach Enda Kenny at the opening yesterday of Mayo's first such school, at Newtownwhite, near Ballina.

This is the first Church of Ireland School in the country to be divested under a Government scheme which supports the transfer of schools from the patronage of the Catholic Church. [...]

"This is an important day in the education system. It's very important that our children, the next generation, be raised in an ethos that gives them a sense of values, principles, ethics, environment, of issues about human rights and humanity," said Mr. Kenny. [...]

Speaking at the Newtownwhite opening yesterday morning (Monday), Catherine Boland, the newly-appointed Principal, said: 'It is quite clear that Educate Together and Newtownwhite was an ideal marriage, as much of the Educate Together ethos already existed here in the inclusive environment of Newtownwhite. In the diverse society in which our children are now growing up the philosophy of 'learn together to live together' is a necessary one.' [...]

Educate Together's Chief Executive, Paul Rowe, said at yesterday's opening in Newtownwhite that: "This is a great day for parents in the Ballina area, who finally have the choice of an Educate Together national school."

By Áine Ryan



2.1 EARLY CHILDHOOD CARE AND EDUCATION

Grade

D+

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.

Progress: Some

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

Progress: Limited (also see Chapter 4.3)



WHAT'S HAPPENING?

The free pre-school year has been maintained. Some limited progress on the Early Years Quality Agenda. The National Early Years Strategy is yet to be published.

In the *National Policy Framework on Children and Young People 2014–2020*, published in April 2014, the Government reiterates its commitment to produce and implement a National Early Years Strategy for children up to age six.¹⁸ Two years on from the first Government commitment to produce a National Early Years Strategy, no draft has been published.¹⁹ In the *National Policy Framework*, the Government also commits to develop a plan to include children with disabilities in mainstream pre-school and early years settings; to strengthen the connection

between pre-school and infant primary school classes; and to provide continuous professional development to early years practitioners, teachers and educators.²⁰ During 2014, a fund in the region of €8 million in capital funding for early years was announced, which will be available in 2015.²¹

Free Pre-School Year: The free pre-school year, delivered over 38 weeks from September to June, continued to be available in 2014.²² Now in its fifth full year, 67,000 pre-school children (94 per cent of eligible children)

¹⁸ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014-2020*, Dublin; Department of Children and Youth Affairs, Commitment 2.19.

¹⁹ 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 13 January 2015].

²⁰ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014-2020*, Dublin; Department of Children and Youth Affairs p. 69-70.

²¹ Communications to the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 February 2015.

²² The free pre-school year 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 proceeding primary school.



availed of the free pre-school year in 2013/14 within 4,200 services.²³ The scheme cost €173.8 million in 2014 – representing 18 per cent of the Department of Children and Youth Affairs overall budget for that year.²⁴

In September 2014, the Minister for Children and Youth Affairs, Dr. James Reilly TD, stated that the introduction of a second free pre-school year would require considerable additional funding, broadly in line with the cost of the current one-year provision and that such additional funding was not available in 2014.²⁵ Minister Reilly commented that he hoped capitation rates for the free pre-school year could be increased 'as funding becomes available' to provide additional support.²⁶

Quality: In 2014, €4 million was made available to support the implementation of the Early Years Quality Agenda, which comprises a number of actions aimed at improving quality and enhancing regulation within the early years services.²⁷ Some progress was made in 2014, including the allocation of €3 million over a two year period to a 'Learner Fund' to assist existing childcare staff in realising new qualification requirements.²⁸ The publication of inspection reports online was continued: 2,530 inspection reports were published by December 2014.²⁹ By the end of 2014, 40 Early Years Inspectors (whole time equivalent Public Health Nurses) and three Principal Inspectors had been recruited by the Child and Family Agency. The target of 47 Early Years Inspectors set by the Agency's target

is expected to be met by June of 2015. At the end of September 2014, 987 services (36 per cent of all services) had received a first or annual inspection.³⁰ In October 2014, a research report commissioned by the Child and Family Agency on quality in early years services was published.³¹ It showed that compliance among service providers was high, with 74 per cent in compliance with the 2006 Pre-School Regulations.³²

The Early Years Quality Agenda further commits to the establishment of a registration system for all pre-school services, these regulations are expected to be published early in 2015.³³ In late 2014 the Better Start – National Early Years Quality Support Service was introduced³⁴ to create a single approach to quality across the sector through quality mentoring support in early years settings, with start up and operational funding until 2016.³⁵ Under Better Start, the Early Years Specialist Service recruited and trained 30 graduates in early childhood care and education by end 2014 to work with service providers to improve quality and guide the implementation of Solta and Aistear.

In September 2014, the Minister for Education and Skills, Jan O'Sullivan TD, announced the first major review of education and training programmes for the early years sector, including the extent to which such programmes are delivered efficiently and by appropriately qualified experts; the quality of work placements; and whether graduates are adequately prepared for workplaces challenges such as

²³ Communications to the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 February 2015.

²⁴ Ibid.

²⁵ Minister for Children and Youth Affairs James Reilly TD, Parliamentary Questions: Written Answers 23 September 2014 [35322/14].

²⁶ Minister for Children and Youth Affairs James Reilly TD, Parliamentary Questions: Written Answers 11 December 2014 [47515/14].

²⁷ Minister for Children and Youth Affairs James Reilly TD, Parliamentary Questions: Written Answers 17 July 2014 [32809/14] and Department of Children and Youth Affairs, 'Minister Fitzgerald commits to comprehensive pre-school quality agenda' [press-release], 7 June 2013, <http://www.dcy.gov.ie/view-doc.asp?DocID=2710> [accessed 30 August 2013]. Note there is no written policy document outlining the Agenda collectively.

²⁸ Department of Children and Youth Affairs, 'Minister Fitzgerald announces new 'Learner Fund' for childcare staff seeking qualifications' (press-release), 26 March 2014, <http://www.dcy.gov.ie/viewdoc.asp?DocID=3126> [accessed 23 January 2015].

²⁹ Department of Children and Youth Affairs, 'Minister Fitzgerald announces the publication of 2,530 pre-school inspection reports online' (press release), 11 February 2014, <http://www.dcy.gov.ie/viewdoc.asp?DocID=3094> [accessed 13 August 2014].

³⁰ Communications to the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 February 2015.

³¹ S. Hanafin (2014) *Report on the Quality of Pre-school Services: Analysis of pre-school inspection reports*. Dublin: Tusla, Child and Family Agency.

³² Ibid., p.12. The study was based on 3,007 inspection reports carried out over 17 months between 2012 and 2013.

³³ Communications to the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 February 2015.

³⁴ Minister for Children and Youth Affairs James Reilly TD, Parliamentary Questions: Written Answers 11 December 2014 [47515/14]. The Service entails joint working between the Department of Children and Youth Affairs, the Early Years Education Policy Unit of the Department of Education and Skills and Pobal.

³⁵ M. Rogers, Department of Children and Youth Affairs, Department of Education and Skills, Pobal, *Better Start, National Early Years Quality Development*, November 2014. http://www.startstrong.ie/files/Margaret_Rogers_Better_start_Intro_Start_Strong_Dec_14.pdf. [accessed 26 January 2015].

social diversity.³⁶ The review will begin with a public consultation.³⁷

In December 2014, Minister O'Sullivan established an Early Years Education Advisory Group, comprising statutory and non-governmental representatives, to advise on education issues in the early years sector.³⁸

Budget 2015 provided €600,000 to the Department of Education and Skills for the recruitment of a dedicated team of Early Years Childhood Education Inspectors, who will be appointed early in 2015.³⁹ The new team will work with the early childhood sector to promote and enhance good educational practice and the quality of the free pre-school year. This initiative is being operated jointly by the departments of Education and Skills, and Children and Youth Affairs.

Affordability: In July 2014, Ireland received its first set of Country-Specific Recommendations from the European Commission, as part of the European Semester 2014. The Commission noted that access to and affordability of childcare is a 'significant barrier to parents finding employment and avoiding the risk of poverty' and recommended that Ireland improve access to more affordable and full-time childcare, particularly for low income families as a means of labour market activation and reducing the risk of poverty for children.⁴⁰

ARTICLE 18...PLACES AN OBLIGATION ON THE STATE TO GIVE 'APPROPRIATE ASSISTANCE TO PARENTS AND LEGAL GUARDIANS IN THE PERFORMANCE OF THEIR CHILD-REARING RESPONSIBILITIES.



COMMENT

Early Childhood Care and Education gets a 'D+' grade in *Report Card 2015*. This grade reflects the fact that despite the progress made in 2014, including continued funding for the free pre-school year and some steps on the implementation of the Early Years Quality Agenda, the overall approach in this area is not child-centred. The focus continues to be on compliance by service providers with efforts concentrated on the Free Pre-School Year rather than on the quality of care and daily experience of children in early years settings as a whole. The National Early Years Strategy is still not published; and *Siolta*, the National Quality Framework, and *Aistear*, the Early Childhood Curriculum Framework, are not fully rolled out across the country.

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) of the Convention.⁴² In addition, Ireland is under an obligation to provide assistance to parents, which includes 'institutions, facilities and services' for the care of children under Article 18(2) and 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.

³⁶ Department of Education and Skills, 'Minister O'Sullivan announces the first major review of education and training programmes for early years sector' (press-release), 9 September 2014, <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/PR14-09-04.html> [accessed 23 January 2015].

³⁷ Department of Education and Skills, 'Minister for Education and Skills, Jan O'Sullivan, T.D. at the launch of Education Matters Yearbook', (press-release), 9 December 2014, <http://www.education.ie/en/Press-Events/Speeches/2014-Speeches/SP14-12-09.html> [accessed 23 January 2015].

³⁸ Department of Education and Skills, 'Minister O'Sullivan announces new Early Years Education Advisory Group', (press-release), 3 December 2014, <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/PR2014-12-03.html> [accessed 23 January 2015].

³⁹ Department of Children and Youth Affairs, *Joint Statement on Education-Focussed Inspections of Early Years Settings, Department of Education and Skills and Department of Children and Youth Affairs*, October 2014, <http://www.dcy.gov.ie/viewdoc.asp?fn=/documents/childcare/20141117StatementonEducationFocussedEarlyYrs.html> [accessed 30 January 2015].

⁴⁰ Council of the European Union, *Council Recommendation of 8 July 2014 on the National Reform Programme 2014 of Ireland and delivering a Council opinion on the Stability Programme of Ireland, 2014 (2014/C 247/07)*, p. 5.

⁴¹ 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.

⁴² UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989).

⁴³ *Ibid.* Article 18, para. 3.



The ongoing delay in the publication of the National Early Years Strategy, announced in 2012, is regrettable. The Expert Advisory Group on the development of the Strategy published its report in September 2013.⁴⁴ The publication of the national strategy should be accompanied by an implementation plan and associated resource allocation. It should be set out in a children's rights framework with the child's best interests at its core. 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'.

The Government commitment in the *National Policy Framework for Children and Young People 2014–2020* to develop a high-level policy statement on Parenting and Family Support⁴⁵ should be progressed by the development of a National Parenting Action Plan to ensure that parents can adequately support their children's development, as recommended by the Expert Advisory Group.⁴⁶

Free Pre-School Year: It is disappointing that the timeframe for introducing a second free pre-school year has been pushed out. The Government has committed to introduce it 'within the lifetime' of the *National Policy Framework for Children and Young People 2014–2020* which runs to 2020, 'once the required quality standards are achieved and subject to resources becoming available'.⁴⁷ The emphasis on getting the quality right before expanding the scheme is in line with the Expert Advisory Group's recommendation.⁴⁸ The current scheme only covers the cost of staff for the time they spend directly with the children and does not allow for planning, team-building and support. In addition, while the Learner Fund is welcome, the Fund only

supports training providers, early years staff will have to access the training in their own time and at their own expense.

Quality: It is very positive that the *Report on the Quality of Pre-School Services* shows such a high level of compliance with quality regulations.⁴⁹ In addition to the existing Child and Family Agency Inspectorate, a second set of early years inspectors focused on the education element of early years services is currently being recruited by the Department of Education and Skills. The adoption of a dual approach is a retrograde step. A single inspectorate with the holistic remit would provide a clearer, less onerous inspection process for the services involved as well as constituting a more effective use of resources.

In June 2014, *RTÉ Prime Time* broadcast a follow up to its 2013 programme which exposed evidence of bad practice and mal-treatment of children in a number of services and led to the adoption of the Early Years Quality Agenda.⁵⁰ The 2014 programme found that few of the promised reforms had been implemented – the registration system, tougher sanctions for non-compliance with regulations; and the publication of new national standards. Indeed, the number of complaints made by parents had actually increased and fundamental weaknesses remain.⁵¹

The Early Years Quality Agenda sets down a minimum qualification level from September 2015 (FETAC level 5) for all staff working at pre-school services. However, there is no indication as to the implications of a failure to comply. By international standards this is a low level minimum qualification.⁵² At present, 87 per cent of staff in childcare settings hold the minimum qualification, representing a significant increase in recent years; with just

⁴⁴ Department of Children and Youth Affairs (2013) *Right from the Start, Report of the Expert Group on the Early Years Strategy*, Dublin: Government Publications.

⁴⁵ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014–2020*, Dublin; Department of Children and Youth Affairs, G2.

⁴⁶ Department of Children and Youth Affairs (2013) *Right from the Start, Report of the Expert Group on the Early Years Strategy*, Dublin: Government Publications.

⁴⁷ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014–2020*, Dublin; Department of Children and Youth Affairs, G8, p. 30.

⁴⁸ Department of Children and Youth Affairs (2013) *Right from the Start, Report of the Expert Group on the Early Years Strategy*, Dublin: Government Publications.

⁴⁹ S. Hanafin (2014) *Report on the Quality of Pre-school Services: Analysis of pre-school inspection reports*. Dublin: Tusla, Child and Family Agency, p. 12.

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 9 September 2014].

⁵¹ Start Strong E-Newsletter, *Update on the Pre-School Agenda*, 28 July 2014. <http://archive.constantcontact.com/fs106/1102968081024/archive/1118006467553.html> [accessed 10 February 2015].

⁵² Pobal (2013) *Annual Early Years Sector Survey*, p. 50 .



8.1 per cent having no qualification.⁵³ A higher capitation rate is payable to services where all pre-school leaders have a qualification at a minimum of FETAC level 6. Pobal's latest annual survey of the Early Years Sector (2013) indicates that the number of childcare staff holding a Level 6 qualification is in the region of 45 per cent. However, it is not possible to state whether all of these are operating as pre-school leaders.⁵⁴

The introduction in 2014 of the Better Start – National Early Years Quality Support Service is a positive development. However, with only 30 mentors for 4,200 services (approximately 140 services per mentor), it is not yet clear how wide the service will be able to reach, or which services will be prioritised for support.⁵⁵ To have a significant impact on quality nationwide, it is likely that further resources and staffing will be required.

Children with Special Needs: The number of children with special needs currently availing of pre-school services is not known.⁵⁶ However, Minister Reilly has stated that each year about 200 children with special needs avail of mechanisms to support their attendance in the free pre-school year: an exemption from the upper age limit for qualification where the child would benefit from starting at a later age or spreading their attendance over two years on a pro-rata basis.⁵⁷ Based on the Pobal Annual Early Years Survey, it is estimated that there are 6,392 children with disabilities across all services.⁵⁸ Tracking the numbers and progress of children with special needs availing of the free pre-school year would provide the Government with relevant data to develop policies and supports to better respond to their educational and other needs and fulfilling the right of every child to access education.

Childminders: It is estimated that nearly 50,000 young children are cared for by some 19,000 child-minders most of whom are exempt from regulation and operate without supervision or support.⁵⁹ A major concern with the Quality Agenda is that it focuses solely on centre-based services and so fails to address quality concerns and child protection risks and arising from the exemption of most child-minders from regulation and legislative proposals on vetting.

Affordability: A major European Commission report on early years published in 2014, found that 9.6 per cent of Ireland's population is under six years, compared to the EU average of 6.3 percent.⁶⁰ The cost of childcare for this age group to parents and guardians remained high in 2014.⁶¹ The Organisation of Economic Co-operation and Development (OECD) found Ireland's investment in early care and education to be well below the OECD average of 0.8 per cent, coming in at 0.5 per cent of GDP in 2014.⁶² The OECD average relates to spending on pre-school education only, whereas the Irish figure includes spending on four and five-year old children in primary schools. When adjusted, the percentage of GDP spent on pre-school education in Ireland amounts to less than 0.2 per cent.⁶³ The OECD recommends that the most effective way to make childcare more affordable is to invest directly in subsidised places resulting in lower or no fees for parents – as is currently the case in primary schooling for example. The provision of tax credits was considered to be less effective and did not help families in greatest need. In addition, subsidised places give governments more control in relation to outcomes than tax credits.⁶⁴

⁵³ Ibid., p. 51.

⁵⁴ Ibid., p. 52.

⁵⁵ Start Strong E-Newsletter, *Update on the Pre-School Agenda*, 28 July 2014. <http://archive.constantcontact.com/fs106/1102968081024/archive/1118006467553.html> [accessed 10 February 2015].

⁵⁶ Minister for Children and Youth Affairs James Reilly TD, Parliamentary Questions: Written Answers 17 July 2014 [32659/14].

⁵⁷ Ibid.

⁵⁸ Pobal, (2013) *Annual Early Years Sector Survey*, p. 32. 61 per cent of services responded to the survey and reported 3,899 children with disabilities. Extrapolating from this across all services would suggest that 6,392 children with disabilities attend across all services.

⁵⁹ Start Strong (2012) *Policy Brief – Child-minding: Regulation and recognition*, Dublin: Start Strong, http://www.startstrong.ie/files/Childminding_-_Regulation_and_Recognition.pdf [accessed 16 January 2015].

⁶⁰ European Commission/EACEA/Eurydice/Eurostat (2014) *Key Data on Early Childhood Education and Care in Europe. 2014 Edition*. Eurydice and Eurostat Report. Luxembourg: Publications Office of the European Union.

⁶¹ Start Strong (2014) *The Double Dividend*, Dublin: Start Strong.

⁶² OECD (2014), OECD Family Database, OECD, Paris, PF3.1.A. Public expenditure on childcare and early education services, per cent of GDP, 2011, www.oecd.org/social/family/database.htm [accessed 26 January 2015]. *Key Data on Early Childhood Education and Care in Europe. 2014 Edition*. Eurydice and Eurostat Report. Luxembourg: Publications Office of the European Union p. 80.

⁶³ Department of Children and Youth Affairs (2013) *Right from the Start, Report of the Expert Advisory Group on the Early Years Strategy*, Dublin: Department of Children and Youth Affairs, p. 7.

⁶⁴ OECD (2006) *Starting Strong II; Early Childhood Education and Care*, Paris: OECD, p.114.



EARLY CHILDHOOD CARE AND EDUCATION

Immediate Actions for 2015

Launch and commence the implementation of the National Early Years Strategy

A rights-based National Early Years Strategy should be published and accompanied by an adequately resourced implementation plan. A rights-based Strategy should be grounded in the UN Convention on the Rights of the Child, have the child's best interests at its core and include the views of the child. The Strategy should contain a clear and ambitious vision for early years policy and comprehensive measures to improve the quality of early years services. It should implement the recommendations made by the Expert Advisory Group on the National Early Years Strategy and respond to the EU Country-Specific Recommendation on the affordability of childcare. Further, it should include a plan to increase the level of public investment in this area to the OECD average of 0.8 per cent and should avoid the provision of tax credits which do not help families in the greatest need of childcare support.

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 all early years' services. To make necessary systemic improvements, baseline disaggregated data is required. This data should be gathered as part of an audit process in the National Early Years Strategy's first year, as recommended by the Expert Advisory Group on the National Early Years Strategy. An evaluation of the quality and impact of the pre-school year on children's outcomes should be a core element of this process.

Expand the Learner Fund to provide support to allow childcare workers to progress to FETAC levels 7 and 8

While the upskilling of childcare staff to Levels 5 and 6 of FETAC qualification is very positive, this remains a low level qualification by international standards. Staff should be supported to continue to progress their qualifications to the higher qualification levels.

Ensure all children can access and participate in early years care and education

To ensure equal access and participate in early years care and education for all children, track access to the Free Pre-School Year by children with special needs and children from minority groups and use this data to enhance the necessary supports, including pre-school special needs assistants and for training in inclusive practice.

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.

Progress: On track

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. This time includes incorporating structured literacy tuition into the teaching of other subjects.

Progress: On track



WHAT'S HAPPENING?

The *National Literacy and Numeracy Strategy* continues to be rolled out, with improvements exceeding the target set for 2020. Budget 2015 saw further investment in the implementation 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 2011,⁶⁵ sets out clear targets for children's literacy performance at primary and post-primary levels, with a view to substantially improving performance by 2020. Test results from 2014 showed that the 2020 targets, set in the Strategy, have

already been reached.⁶⁶ The interim review of the Strategy, scheduled for 2016, will be brought forward to 2015 to establish new targets, in particular for those pupils who are not doing as well as the general cohort.⁶⁷

The 2014 National Assessments carried out by the Educational Research Centre showed an improvement in literacy and numeracy

⁶⁵ 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.

⁶⁶ Education Research Centre, 'Improved Performance among Primary School Pupils in National Assessments of English Reading and Mathematics' [press release], 12 January 2015, http://www.erc.ie/documents/na-14perf_pressrelease.pdf [accessed 15 January 2015].

⁶⁷ Department of Education and Skills, 'Minister O'Sullivan welcomes publication of national assessments in primary schools' [press release] 12 January 2015, <http://www.education.ie/en/Press-Events/Press-Releases/2015-Press-Releases/PR2015-per-cent2001per-cent20-12.html> [accessed 15 January 2015].



skills, the first significant improvement since 1980 among second and sixth class pupils. The results also show a reduction in the proportion of low achieving pupils which suggests that the *Delivering Equality of Opportunity in Schools* (DEIS) Programme is yielding results.

In 2014, Ireland ranked tenth out of 39 countries in an international education report based partly on literacy.⁶⁸ The OECD Programme for International Student Assessment 2012 ranks Ireland fourth out of 34 OECD countries in literacy and 13th in mathematics.⁶⁹

The *Delivering Equality of Opportunity in Schools* (DEIS) Programme, introduced in 2006, aims to address the educational needs of children from marginalised communities through lower pupil-teacher ratios and a range of literacy and numeracy programmes.⁷⁰ All 849 DEIS schools have individual action plans in which literacy is one of the key themes.⁷¹ In May 2014, an evaluation report published by the Education Research Centre on DEIS post-primary schools showed that the overall performance on public examinations had improved since the programme's initiation and that literacy targets had largely been progressed.⁷² The evaluation follows on from positive results from a similar evaluation of DEIS primary schools published in December 2013, which evidenced 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.⁷³ At primary level, scores demonstrated a difference

between the level of disadvantage in urban and rural schools. Pupils in rural schools achieved better scores which may be a result of smaller school sizes mitigating the educational disadvantage of poverty.⁷⁴

It must be noted, however, that while improvements were recorded, the average scores in DEIS schools were still below average when compared to the general population at both primary and post primary DEIS schools.⁷⁵ On the back of these reports, the Economic and Social Research Institute was commissioned by the Department of Education and Skills to prepare a report on the Learning from DEIS which aims to draw together the main findings of the DEIS evaluations to date, and offer advice to inform future policy to address educational disadvantage.⁷⁶

Budget 2015 allocated an additional €6 million to that provided under Budget 2014, bringing the total annual budget of the Literacy and Numeracy Strategy to €13.8 million. In April 2014, the Government reiterated its commitment to the implementation of the Strategy in the *National Policy Framework for Children and Young People 2014–2020*.⁷⁷ In addition, to further support the implementation of the Strategy, a departmental circular on standardised testing and sharing of school reports on the transfer of a child from primary to post primary school was published in 2014.⁷⁸

TEST RESULTS FROM 2014 SHOWED THAT THE 2020 TARGETS, SET IN THE [2011 LITERACY AND NUMERACY] STRATEGY, HAVE ALREADY BEEN REACHED.

⁶⁸ Pearson, *The Learning Curve – Education and Skills for Life, 2014 League Table*, <http://thelearningcurve.pearson.com/2014-report-summary/> [accessed 8 January 2015].

⁶⁹ 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. 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.

⁷⁰ Department of Education and Skills, *DEIS - Delivering Equality of Opportunity in Schools*, <http://www.pdst.ie/DEISMainPage>, [accessed 10 February 2015].

⁷¹ Ibid.

⁷² Educational Research Centre (2014) *A report on the evaluation of DEIS at second level*, Dublin: Educational Research Centre, p. 24; Department of Education and Skills, 'Minister Quinn welcomes further positive research findings on DEIS schools at second level' [press release], 15 May 2014, <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/PR14-05-15.html> [accessed 8 January 2015].

⁷³ 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.

⁷⁴ S. Weir (2014) *Educational disadvantage in rural areas*, presentation available online at: <http://bit.ly/DEISevaluation>, pp.48-64 [accessed 28 July 2014].

⁷⁵ Ibid., Department of Education and Skills, 'Minister Quinn welcome further positive research findings on DEIS schools at second level' [press release], 15 May 2014 <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/PR14-05-15.html> [accessed 4 September 2014].

⁷⁶ Communication to the Children's Rights Alliance from the Department of Education and Skills, 9 February 2015.

⁷⁷ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014–2020*, Dublin; Department of Children and Youth Affairs, Commitment 2.5.

⁷⁸ Department of Education and Skills (2014) Circular 0045/2014, *Information in relation to Actions under the Literacy and Numeracy Strategy, Standardised Testing, Reporting and Other Matters, Academic Year 2013/14 and Subsequent Years*.



The Strategy requires all schools to engage in school self-evaluation (SSE) and to produce School Improvement Plans from 2012/2013, with specific targets for the promotion and improvement of literacy and numeracy.⁷⁹ While schools were not required to submit SSE reports to the Department of Education and Skills, they were required to provide a summary SSE report and School Improvement Plan to their own school community by the end of June 2014.⁸⁰

In addition to the School Self-Evaluation Guidelines published in 2012,⁸¹ further instructions on the process were provided in primary and post-primary SSE newsletters in 2014 as well as on the School Self-Evaluation website.⁸² All schools that requested advisory visits from Department of Education and Skills inspectors to introduce teachers to the SSE process have been visited by the end of 2014: in total visits took place in 3,121 primary and 667 post-primary schools.⁸³ To determine the level of engagement of schools in the SSE process, all schools were requested by the Inspectorate to complete an online survey by September 2014. The survey's findings are currently being analysed and are expected to detail the number of schools that they have completed their three-year School Improvement Plan by end of the last school year, 2013–2014,⁸⁴ which will be used to identify support needs in the further roll out of the SSE process. In October 2014, a seminar was held by the Inspectorate on SSE which provided an opportunity for teachers and principals to assist it and support

services to develop material and supports, as well as providing an opportunity for the sharing of SSE practices amongst schools.⁸⁵

Time spent on literacy in schools was not extended during 2014. A 2011 Departmental Circular continues to guide practice, it provides that all primary schools are required to spend 8.5 hours a week on literacy for full-day pupils and 6.5 hours for pupils with a shorter day.⁸⁶ This time allocation remains below the commitment in the *Programme for Government*, which committed that 10 hours per week in DEIS schools and 7.5 hours per week in non-DEIS schools would be spent on literacy.

In 2014, there were 27 primary and 11 post-primary literacy advisors (Irish and English language full time equivalent posts) and 10 primary and 3 post-primary numeracy advisors within the Professional Development Service for Teachers.⁸⁷

The *Literacy and Numeracy Strategy* provides that the duration of Initial Teacher Education (ITE) programmes should be extended and that the content of the programme should be reconceptualised. Reconfigured and extended post-graduate programmes for primary and post-primary teachers commenced at the start of the academic year 2014–2015.⁸⁸ In addition, the Teaching Council has now completed the review and accreditation process for all 59 reconceptualised ITE programmes, in accordance with *ITE: Criteria and Guidelines for Programme Providers*. This

⁷⁹ 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, p. 78. 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 7 January 2015].

⁸⁰ Department of Education and Skills (2014) *SSE Update: Primary Edition, Issue 3: April 2014*, <http://schoolself-evaluation.ie/primary/wp-content/uploads/2014/04/SSE-UPDATE-P-Issue-3-April-2014-1.pdf> [accessed 11 December 2014].

⁸¹ Department of Education and Skills Inspectorate (2012) *School Self-Examination, Guidelines for Primary Schools*, http://www.education.ie/en/Publications/Inspection-Reports-Publications/Evaluation-Reports-Guidelines/sse_guidelines_primary.pdf [accessed 11 December 2014]; Department of Education and Skills Inspectorate, *School Self-Examination, Guidelines for Primary Schools* (2012) http://www.education.ie/en/Publications/Inspection-Reports-Publications/Evaluation-Reports-Guidelines/sse_guidelines_post_primary.pdf [accessed 11 December 2014]. The aim of the Guidelines is to support on-going consultation with parents and provide for reporting to parents on progress in literacy and numeracy.

⁸² Department of Education and Skills (2014) *SSE Update: Primary Edition, Issue 3: April 2014*, <http://schoolself-evaluation.ie/primary/wp-content/uploads/2014/04/SSE-UPDATE-P-Issue-3-April-2014-1.pdf> [accessed 11 December 2014].

⁸³ Communication received by the Children's Rights Alliance from the Department of Education and Skills, 11 November 2014.

⁸⁴ Ibid.

⁸⁵ Department of Education and Skills, 'Minister Damien English Opens Inspectorate seminar on School Self-Evaluation' [press release], 14 October 2014 <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/PR14-10-14.html> [accessed 7 January 2015].

⁸⁶ Department of Education and Skills (2011) Circular 0056/2011, *Initial Steps in the Implementation of the Literacy and Numeracy Strategy*.

⁸⁷ Communication received by the Children's Rights Alliance from the Department of Education and Skills, 9 February 2015.

⁸⁸ Communication received by the Children's Rights Alliance from the Department of Education and Skills, 11 November 2014.

set of criteria includes Literacy and Numeracy as mandatory elements.⁸⁹ Training on the roll out of the Strategy was available to all schools in 2014 through a Literacy Link teacher.⁹⁰



School Books: In Budget 2014, the Department of Education and Skills allocated €15 million to the school books rental scheme over three years to support 531 primary schools to establish a book rental scheme.⁹¹ Schools which already operate book rental schemes complained that they were excluded from accessing this funding and in effect were being punished for having shown initiative and already setting up a book rental scheme. A balance of €8.3 million remained out of the €15 million allotted in Budget 2014 and in April 2014, the Department decided to distribute this balance among schools with existing rental schemes.⁹² In October 2014, Budget 2015 allocated €5 million in capital funding as the second tranche of the three year investment.⁹³ This investment is in addition to the annual book grant of €15 million paid to all schools on a per pupil basis.⁹⁴

Child Literacy receives an '**A**' grade in *Report Card 2015* in recognition of the first significant improvements in literacy and numeracy in primary schools in thirty years which reached the targets set for 2020.⁹⁵ In addition, the Department of Education and Skills continued to take steps to meet its targets under the *Literacy and Numeracy Strategy* and the Book Rental Scheme was extended to all 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 shall promote and encourage international cooperation in matters relating to education, in particular towards the elimination of illiteracy.⁹⁶ Article 29(1) outlines the 'individual and subjective' right to a specific quality of education.⁹⁷ The UN Special Rapporteur on Extreme Poverty and Human Rights commented that 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.⁹⁸

DEIS: It is important that the DEIS programme is maintained and monitored to ensure that children from disadvantaged areas have the same opportunities to progress in the educational system as other children given that only 12 per cent of children from DEIS schools go onto third level education.⁹⁹ The commissioning of research by the Economic and Social Research Institute to inform a renewed policy to tackle educational

⁸⁹ Communication received by the Children's Rights Alliance from the Department of Education and Skills, 9 February 2015. Reports outlining this process and the outcomes for each programme i.e. commendations, recommendations and stipulations, are available on www.teachingcouncil.ie.

⁹⁰ Communication received by the Children's Rights Alliance from the Department of Education and Skills on 11 November 2014.

⁹¹ Department of Education and Skills, 'Minister Quinn announces all primary schools to be offered funding from school book rental scheme capital fund', 17 April 2014 [press release], <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/PR14-04-17.html> [accessed 7 January 2015].

⁹² Ibid.

⁹³ Department of Education and Skills, Budget 2015, Main Estimate Features 14 October 2014, <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/Budget-Main-Features-2015.pdf> [accessed 15 December 2014].

⁹⁴ Department of Education and Skills, 'Minister Quinn announces all primary schools to be offered funding from school book rental scheme capital fund', 17 April 2014 [press release], <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/PR14-04-17.html> [accessed 7 January 2015].

⁹⁵ Education Research Centre, 'Improved Performance among Primary School Pupils in National Assessments of English Reading and Mathematics' [press release], 12 January 2015, http://www.erc.ie/documents/na-14perf_pressrelease.pdf [accessed 15 January 2015].

⁹⁶ UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989).

⁹⁷ UN Committee on the Rights of the Child (2001), *General Comment No.1: The aims of education*, CRC/GC/2001/1, paragraph 9.

⁹⁸ 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).

⁹⁹ J. Humphreys, 'Some 99 per cent of Dublin 6 students go on to third-level', *The Irish Times*, 20 August 2014.



disadvantage, including DEIS, is welcome.¹⁰⁰ This is particularly important given the dispersed nature of educational disadvantage,¹⁰¹ for example, in 2009 ESRI research found that 61 per cent of students from disadvantaged backgrounds did not attend DEIS schools.¹⁰² Literacy and numeracy is not just about disadvantage: children with special educational needs and those with speech and language difficulties often have specific literacy and numeracy needs that must be addressed.¹⁰³

While the School Self-Evaluation process is welcome, there is no obligation that the evaluation should relate to literacy or numeracy thus heavily diluting its potential impact in this area.¹⁰⁴

Despite the commitment in the *Programme for Government* to provide dedicated literacy mentors to the most disadvantaged schools, DEIS advisors¹⁰⁵ (formerly 'Cuiditheoirí') who were dedicated to DEIS schools have been replaced by literacy and numeracy advisors who are shared amongst the general population of schools. While DEIS schools are said to be prioritised in the provision of support,¹⁰⁶ there are just 38 literacy advisors and 13 numeracy advisors for the entire country to serve all schools. Support is provided through one Literacy Link Teacher in each school with in-school visits available on request from the Professional Development Service for Teachers (PDST).¹⁰⁷ A number of seminars and workshops were available to Principals and Link Teachers over the school year 2014–15 under the School Self Evaluation process

and in the Education Centres for example.¹⁰⁸ These trainings contribute to the 20 hour Continuing Professional Development (CPD) training required under the Strategy. There are concerns that the impact of the support is being lost without a whole-school holistic approach, without standardised and mandated structures or systems within the school for information and trainings to be shared with colleagues.

The Government decision to invest in supporting the Book Rental Scheme in all schools is to be warmly welcomed as such schemes make a significant contribution to helping reduce the cost of school books on families. In 2014, the average costs of school books remains steady year on year, ranging from €76 to €100 for primary school books.¹⁰⁹ The figure rose significantly to up to €300 for a first year pupil in secondary school.¹¹⁰

¹⁰⁰ Department of Education and Skills, 'Minister Quinn welcomes further positive research findings on DEIS schools at second level' [press release], 15 May 2014, <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/PR14-05-15.html> [accessed 8 January 2015], Communication to the Children's Rights Alliance from the Department of Education and Skills, 9 February 2015.

¹⁰¹ E. Smyth and S. McCoy (2009) *Investing in Education, Combating Educational Disadvantage*, Dublin: Economic and Social Research Institute.

¹⁰² 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).

¹⁰³ 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.

¹⁰⁴ Dáil Debate, Minister for Education and Skills Jan O'Sullivan T.D., 17 September 2014, 33687/14; Department of Education and Skills Inspectorate, *School Self-Evaluation, What is School Self-Evaluation?* <http://school-self-evaluation.ie/primary/index.php/what-school-self-evaluation> [accessed 8 January 2015].

¹⁰⁵ Department of Education and Skills, *DEIS - Delivering Equality of Opportunity in Schools*, <http://www.pdst.ie/DEISMainPage> [accessed 10 February 2015].

¹⁰⁶ Communication to the Children's Rights Alliance from the Department of Education and Skills, 9 February 2015.

¹⁰⁷ Ibid.

¹⁰⁸ Principals also receive training through their existing leadership programmes. Communication to the Children's Rights Alliance from the Department of Education and Skills, 9 February 2015.

¹⁰⁹ Barnardos (2014) *School Costs Survey Briefing*, Dublin: Barnardos, p.4.

¹¹⁰ Ibid.



CHILD LITERACY

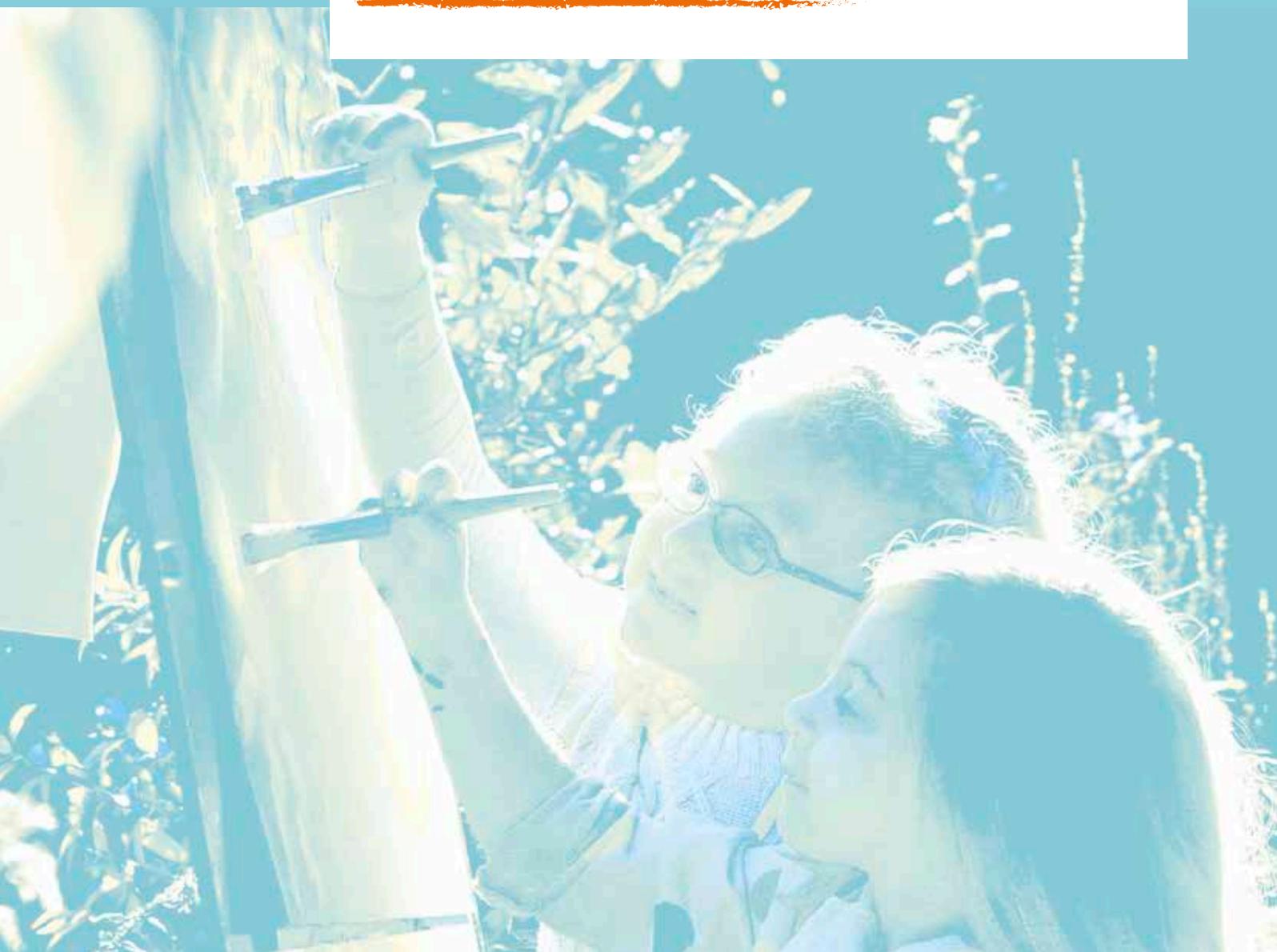
Immediate Actions for 2015

Continue rollout of the National Literacy and Numeracy Strategy

Build on the momentum and continue to invest in the successes being achieved on foot of the rollout of the *National Literacy and Numeracy Strategy*. The guidance issued to schools should be reviewed to increase the length of time spent on literacy and numeracy to 120 minutes as promised in the *Programme for Government*. In addition, comprehensive literacy planning for all classes throughout the school is needed as is tailored onsite demonstration and coaching to develop classroom practice. There is also a need to analyse the literacy outcome data trends to fully understand their implications.

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. 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



WHAT'S HAPPENING?

No progress was made on further implementation of the EPSEN Act 2004. The number of Special Needs Assistants was increased. The National Council for Special Education published a report on a proposed new model for allocating resource teachers to special education needs students.

Budget 2015 saw an increase in funding of Special Education Measures from €1.3 billion in Budget 2014 to €1.37 billion or 16 per cent of the Education Budget.

Commencement of the outstanding provisions of the Education for Persons with Special Educational Needs (EPSEN) Act 2004 and progress on the 2006 Implementation Plan for the Act remained on hold in 2014.¹¹¹ The Department of Education and Skills has received legal opinion that it is not possible to implement the outstanding individual sections of the Act independently of other sections.¹¹² In April 2014, the Government under the *National Policy Framework for Children and Young People 2014–2020* committed to prepare and implement a plan, guided by the National Council for Special Education (NCSE)

policy advice, 'on how aspects of EPSEN [...] can be implemented, including prioritising access to an individual education plan and implementing the recommendations of the NCSE Working Group on a new resource allocation model for schools.'¹¹³

Some progress was, however, made on non-statutory measures. In June 2014, the National Council for Special Education (NCSE) published the *Report on a Proposed New Model for Allocating Teacher Resources for Students with Special Educational Need*.¹¹⁴ The report recommends that a new allocation model be developed based on a school's educational profile, while providing a baseline allocation to every mainstream school to support inclusion.¹¹⁵ A data collection process is currently underway, by the Department

¹¹¹ 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.

¹¹² Communication received by the Children's Rights Alliance from the Department of Education and Skills, 11 November 2014.

¹¹³ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014–2020*, Dublin; Department of Children and Youth Affairs, p. 71.

¹¹⁴ The need for such a model was identified in National Council for Special Education (2013) *Supporting Children with Special Educational Needs in Schools: NCSE Policy Advice Paper No. 4*, Kildare: NCSE, p. 5.

¹¹⁵ Communication received by the Children's Rights Alliance from the Department of Education and Skills, 11 November 2014.



of Education and Skills, of information required to support the roll out of the new model.¹¹⁶ In light of the report's publication, the Department has initiated a consultation process.¹¹⁷

The 2013 NCSE report, *Supporting Children with Special Educational Needs in Schools*, recommended a review be undertaken of the Visiting Teacher Service which provides support for children who are deaf/hard of hearing and for children who are blind/visually impaired.¹¹⁸ This review was completed in 2014 and is currently being examined by the Department.¹¹⁹

The number of resource teaching posts was increased by 480 under Budget 2014. In Budget 2015, a further 480 resource teaching posts were announced which will bring the total to 6,705 by end of 2015, an increase of 21 per cent from 2013.¹²⁰ In 2014, some 42,250 students received resource teaching for low incidence special needs, not including students receiving supports under the General Allocation Model.¹²¹

Under Budget 2015, the existing cap for Special Needs Assistants (SNA) posts was increased by 365 to 11,330. This amounts to an additional 145 posts by the end of 2014 and an additional 220 posts in 2015, an increase of 7 per cent on 2013.¹²² In 2014, approximately 24,000 students had access to SNA support.

In April 2014, a new circular which 'clarifies and restates the purpose of the SNA scheme' was published by the Department of Education and Skills.¹²³ The Circular does not change the means by which the NCSE allocates SNAs, rather it provides clarification on the role of SNAs and Resource Teachers, the NCSE allocation process and the appeals mechanisms for allocations.

In September 2014, the NCSE launched a national initiative to provide information sessions to parents and guardians of children with special educational needs.¹²⁴ These information sessions were informed by frequently asked questions received by Special Educational Needs Organisers (SENOs) and a pilot programme involving almost 150 parents in Dublin, Carlow, Kilkenny, Mayo and Offaly. The sessions are complimented by the publication of eight new information leaflets explaining how the education system supports students with different types of disabilities.¹²⁵ The sessions, which commenced in October 2014, will be delivered by SENOs throughout the country. They are aimed at parents whose children will start school in September 2015 and will provide information on what educational services and supports are available in local areas and how to access them.¹²⁶

A DECADE
ON FROM THE
PASSING OF
THE EPSEN
ACT A NEW
DIALOGUE
ON THE
LEGISLATION
IS URGENTLY
NEEDED.

¹¹⁶ Ibid. Two consultations were held in October 2014 and a number of written submissions have been received.

¹¹⁷ Ibid.

¹¹⁸ National Council for Special Education (2013) *Supporting Children with Special Educational Needs in Schools: NCSE Policy Advice Paper No. 4*, Kildare: NCSE, p. 76.

¹¹⁹ Communication received by the Children's Rights Alliance from the Department of Education and Skills, 11 November 2014.

¹²⁰ Ibid.

¹²¹ The General Allocation Model is the permanent allocation of additional teaching support provided to primary schools to support pupils with mild general learning disabilities or high incidence disabilities. The Department does not have details of the numbers of students under the General Allocation Model, Communication received by the Children's Rights Alliance from the Department of Education and Skills, 11 November 2014.

¹²² Communication received by the Children's Rights Alliance from the Department of Education and Skills, 11 November 2014.

¹²³ Department of Education and Skills (2014) *Circular 0030/2014 Circular to the Management Authorities of Primary Schools, Special Schools, Secondary, Community and Comprehensive Schools and the Chief Executive Officers of the Educational Training Boards, The Special Needs Assistant (SNA) scheme to support teachers in meeting the care needs of some children with special educational needs, arising from a disability*, p.1.

¹²⁴ Department of Education and Skills (2014) 'Minister for Education and Skills welcomes NCSE's Information Initiative for Parents of Special Needs Children' [press release], 3 September 2014, <http://www.education.ie/en/The-Department/Announcements/03-September-2014-Minister-for-Education-and-Skills-welcomes-NCSEper-centE2per-cent80per-cent99S-Information-Initiative-for-Parents-of-Special-Needs-Children.html> [accessed 11 September 2014].

¹²⁵ National Council for Special Education (2014) *Children with Special Educational Needs: Information Booklets for Parents*.

¹²⁶ Department of Education and Skills (2014), 'Minister for Education and Skills welcomes NCSE'S Information Initiative for Parents of Special Needs Children' [press release], 3 September 2014, <http://www.education.ie/en/The-Department/Announcements/03-September-2014-Minister-for-Education-and-Skills-welcomes-NCSEper-centE2per-cent80per-cent99S-Information-Initiative-for-Parents-of-Special-Needs-Children.html> [accessed 11 September 2014].



COMMENT

Children with Special Educational Needs gets a 'C-' grade this year the same as last year's grade. There was an increase in the numbers of SNAs and Resource Teachers, the NCSE report on the new allocation model for teaching resources was published and the review of the Visiting Teacher Service was completed. However, the failure to implement the outstanding provisions of the EPSEN Act 2004 remains a cause for concern.

An estimated 25 per cent of children in Ireland have special educational needs.¹²⁷ Children with special educational needs can thrive in a mainstream education environment, once they are properly supported. Indeed their presence has been shown to have a positive impact on classmates and the school as a whole.¹²⁸ 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.¹²⁹ These exclusionary practices cannot be permitted in any publicly funded education system.¹³⁰

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.¹³¹ 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 achieving the fullest possible social integration and individual development.¹³²

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. To date, only certain sections of the Act have been commenced, primarily those concerned with the establishment of the National Council for Special Education.¹³³ If 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 existing statutory provisions. It is disappointing that the projected cost has been the determining factor in the failure to commence the legislation in full and so children with special needs have been left without a clear right to educational supports.

A decade on from the passing of the EPSEN Act a new dialogue on the legislation is urgently needed. The NCSE, believes that 'the EPSEN Act 2004 continues to offer the most effective route to assessment and educational planning for children with special educational needs'¹³⁴ and calls on the Minister for Education and Skills to implement the Act in full, as soon as resources become available. An audit of the legislation should be carried out to determine if elements should be updated or enhanced, removed or prioritised given the substantial passage of time since its enactment.

¹²⁷ 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 per cent with girls at 21 per cent. National Council for Special Education (2011) *A Study on the Prevalence of Special Educational Needs: National Council for Special Education Research Report No.9*, Dublin: National Council for Special Education, p. 96.

¹²⁸ S. Griffin and M. Shevlin (2007) *Responding to Special Educational Needs: an Irish Perspective*, Dublin: Gill and MacMillan, p. 76.

¹²⁹ National Council for Special Education (2013) *Supporting Children with Special Educational Needs in Schools: NCSE Policy Advice Paper No. 4*, Trim: NCSE, p. 4.

¹³⁰ 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).

¹³¹ UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989), Article 29.

¹³² *Ibid.*, Article 23.

¹³³ The following sections of the Education for Persons with Special Education 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.

¹³⁴ National Council for Special Education (2013) *Supporting Children with Special Educational Needs in Schools: NCSE Policy Advice Paper No. 4*, Kildare: NCSE p. vii.



The *National Policy Framework for Children and Young People 2014–2020* commits to building on the cross-cutting arrangements in place between the Departments of Health; Education and Skills; Children and Youth Affairs to enhance collaboration across these three sectors on children's disability issues.¹³⁵ This is an important and welcome commitment given the concerns expressed by the NSCE about the lack of a joined-up approach across education and health services leading to duplication in assessment.¹³⁶ The *National Policy Framework* further commits to providing timely access to educational and therapeutic supports for children who are identified as having special needs.¹³⁷ The ongoing delays in accessing assessments and diagnoses for children with special educational needs result in later interventions in particular for those whose families cannot afford to pay for private assessments.¹³⁸

Exceptionally able or 'gifted' children may also have special educational needs, but they are not included in the 25 per cent figure; these children can become bored and frustrated in school and are often uncomfortable or self-conscious about their ability.¹³⁹ There is no national policy or standardised special educational provision to cater for this group of children in Irish schools.

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.¹⁴⁰ Children with special care needs arising from a disability, attending a mainstream school, can be allocated access to a Special Needs Assistant (SNA). SNAs provide care (rather than educational) support, such as assisting a child with eating or visiting the bathroom.¹⁴¹ 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.

While the increase in the number of SNAs and resource teaching posts is to be welcomed, anecdotal evidence suggests that parents and teachers are not seeing the benefits come back to the children most in need. There is still a large disparity between the number of posts and the numbers of children in need of support. The 7 per cent increase in posts does not meet the increase in the general population of children with the corollary increase in children with special educational needs. The number of SNAs should be determined by identified need. The new circular on the SNA scheme, while clarifying the ambit of the SNA scheme, is seen as a backwards step by some parents who fear that it will lead to children with special educational needs being filtered out of mainstream education and segregated from their peers.

The publication of the 2014 NCSE Report on the new allocation model for teaching resources for children with special educational needs is a welcome development. The report sets out a new model that aims to provide a more efficient, impactful and appropriate level of support to children with special educational needs and to eradicate bias and social disadvantage by moving away from allocation based on diagnosis. It aims to provide a more equitable model of allocating resources by eradicating some of the 'soft' barriers that schools often cite when it comes to accessing supports by special needs students. It is imperative that this report is not allowed to gather dust and that it is implemented in a timely and comprehensive manner to ensure that children in school today will experience its benefits.

¹³⁵ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014-2020*, Dublin; Department of Children and Youth Affairs, Commitment 2.18.

¹³⁶ National Council for Special Education (2013) *Supporting Children with Special Educational Needs in Schools: NCSE Policy Advice Paper No. 4*, Kildare: NCSE p. 48.

¹³⁷ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014-2020*, Dublin; Department of Children and Youth Affairs, Commitment 2.20, p. 70.

¹³⁸ National Council for Special Education (2013) *Supporting Children with Special Educational Needs in Schools: NCSE Policy Advice Paper No. 4*, Kildare: NCSE p. 11.

¹³⁹ National Council for Curriculum and Assessment (2007) *Exceptionally Able Students: Draft Guidelines for Teachers*, Dublin: NCCA.

¹⁴⁰ UN Committee on the Rights of the Child (2006) *General Comment No. 9: The rights of Children with Disabilities*, CRC/C/GC/9.

¹⁴¹ For full details see: Department of Education and Skills (2002), Circular SP. ED 07/02, *Applications for full-time or part-time Special Needs Assistant support to address the special care needs of children with disabilities*.



CHILDREN WITH SPECIAL EDUCATIONAL NEEDS

Immediate Actions for 2015

Roll out the new resource allocation model as proposed by the National Council for Special Education (NCSE)

An implementation plan for the introduction of the resource allocation model as proposed by the 2014 NCSE report should be developed and rolled out in 2015. The plan should be rights-based and take into account the findings of the Department of Education and Skills' data collection project and consultation process.

Publish and begin action on a plan to fully implement the EPSEN Act 2004

The 2013 NCSE policy advice is clear; the EPSEN Act 2004 continues to offer the most effective route to assessment and educational planning for children with special educational needs. It is unacceptable to have a policy vacuum in this vital area of children's rights. Progress should begin immediately on implementing the interim proposals outlined by the NCSE in its policy advice. A review and audit of Act may also be useful, given that it is now over a decade since its enactment and other policy measures have been introduced during this time period.

Publish the review of the Visiting Teacher Service and implement its recommendations

The review of the visiting teacher service, for children who are deaf/hard of hearing and for children who are blind/visually impaired, should be published and its recommendations implemented to ensure these children's right to receive the best possible education and develop opportunities.

2.4 SCHOOL BUILDINGS

Grade

A

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: Good



WHAT'S HAPPENING?

Work continues on the major capital investment programme to build new schools and replace rented prefabs. €28 million was allocated for a Minor Works Grant Scheme for primary schools and over €70 million for the Summer Works Scheme in 2014.

Budget 2015 provided €530 million in capital expenditure in the area of education, with €450 million to be spent on the Schools Building Programme.¹⁴² Under the *National Policy Framework for Children and Young People 2014–2020*, published in April 2014, the Government committed to ensuring 'quality learning environments for all' children through the school building programme.¹⁴³ In March 2012, a €2 billion five-year capital investment programme was launched by the then Minister for Education and Skills, Ruairi Quinn TD, involving over 275 new major

school projects.¹⁴⁴ In 2014, 42 large scale schools, comprising 15 large-scale school extensions and 27 new schools buildings were completed. Building has begun on over 50 schools. A 2015 School Building Programme was published in December 2014, with a follow-on plan to be published in 2015.¹⁴⁵

The building programme aims to provide 100,000 additional permanent school places, over 80,000 of which will be new school places with the remainder replacing temporary

¹⁴² Department of Education and Skills, *Budget 2015, Main Estimate Features*, 14 October 2014, <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/Budget-Main-Features-2015.pdf> [accessed 15 December 2014].

¹⁴³ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014–2020*, Dublin; Department of Children and Youth Affairs, Commitment 2.15. p. 70.

¹⁴⁴ 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].

¹⁴⁵ Communication received by the Children's Rights Alliance from the Department of Education and Skills, 10 February 2015.



or unsuitable accommodation.¹⁴⁶ Construction in 2015 will result in a total of 196 major school projects on site and the provision over 27,800 permanent school places.¹⁴⁷

Phase 1 of the Initiative was launched in 2012, with €42 million in funding to replace 458 prefab units with permanent accommodation at 167 primary schools and four post-primary schools. To date, 157 of these projects have been completed with eight currently in train. Phase 2 of the Initiative was announced in June 2013 to allow 46 schools to replace 119 mainstream classrooms and 37 resource rooms. Approval has been given to 42 primary schools with an allocation of €14 million and to four post primary schools with an allocation of €1.6 million. Nine projects are currently under construction with seven projects completed at a cost of €3.5 million to date. Total estimated costs are €15 million with a majority spend in 2015 of €12 million, as noted above.¹⁴⁸

Funding of €28 million was provided as part of a Minor Works Grant Scheme for the 2014/15 school year to assist primary schools in undertaking small scale repair works.¹⁴⁹ The Department has clarified that it continues to focus on major school projects 'to meet the demographic need' with the future of this grant in 2015/16 and beyond depending on available funding.¹⁵⁰ The Grant was extended

to primary schools with temporary recognition, in addition to those with permanent status, due to the increased demographic demand and enrolment projections. This means that every primary school in the country received the investment in 2014.¹⁵¹

The Summer Works Scheme 2014 saw over €70 million invested in two phases,¹⁵² the first (worth €36 million) to undertake gas, mechanical and electrical works,¹⁵³ and the second (worth €35 million) to repair toilets and roofs for both primary and post primary schools.¹⁵⁴ In total, 772 schools benefited from the scheme over the summer months.¹⁵⁵ The Scheme provides a mechanism for schools to make improvements over the summer months and was expected to benefit 101,000 pupils at 386 schools across the country.¹⁵⁶

The Department of Education and Skills had developed an online inventory of school accommodation, accessible through its Esinet portal. This online facility provides key data and statistics on existing school building nationwide at both primary and post-primary levels. Over 80 per cent of schools have completed or are in the process of completing the inventory.¹⁵⁷ In order to determine where new or additional new school accommodation is required across the country, the Department uses a Geographical Information System to

- ¹⁴⁶ Department of Education and Skills, 'Minister Quinn Announces €70 million for school improvements' [press release], 7 November 2013, <http://www.education.ie/en/Press-Events/Press-Releases/2013-Press-Releases/PR13-11-07.html> [accessed 10 February 2015]; Department of Education and Skills, 'Minister Quinn announced details of 275 major school buildings 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 7 January 2015].
- ¹⁴⁷ Department of Education and Skills, 'Minister Jan O'Sullivan announces 70 major school building projects as part of €2.2bn five year plan', 18 December 2014 [press release], <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/PR14-12-18.html> [accessed 7 January 2015].
- ¹⁴⁸ Communication received by the Children's Rights Alliance from the Department of Education and Skills, 10 February 2015.
- ¹⁴⁹ Department of Education and Skills, 'Minister for Education and Skills announces €28m Minor Works grant for National Schools' 28 November 2014, <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/PR14-11-25.html> [last accessed 16 December 2014].
- ¹⁵⁰ Ibid., Department of Education and Skills, Circular 0062/2013, *School Building Unit - Grant Scheme for Minor Works to National School Properties*, http://www.education.ie/en/Circulars-and-Forms/Active-Circulars/cl0062_2013.pdf [last accessed 16 December 2014].
- ¹⁵¹ Department of Education and Skills, 'Minor works grant to be paid to primary schools with temporary recognition' 22 December 2014, [press release] <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/PR2014-12-22.html> [last accessed 7 January 2015].
- ¹⁵² Department of Education and Skills, Circular 0059/2013, *Summer Works Scheme (SWS) 2014 – Scheme of Capital Grants for Small Scale Works*.
- ¹⁵³ Department of Education and Skills, 'Minister Quinn announces €36m for schools improvements' [press release], 20 March 2014, <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/PR14-03-20.html> [last accessed 16 December 2014].
- ¹⁵⁴ Department of Education and Skills, 'Minister Quinn announces that 386 schools will receive €35 million for vital schools improvements' [press release], 2 May 2014, <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/PR14-03-20.html> [last accessed 16 December 2014].
- ¹⁵⁵ Ibid.
- ¹⁵⁶ Department of Education and Skills, 'Minister Quinn announces that 386 schools will receive €35 million for vital schools improvements', [press release], 2 May 2014, <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/PR14-03-20.html> [last accessed 16 December 2014].
- ¹⁵⁷ Communication received by the Children's Rights Alliance from the Department of Education and Skills, 2 February 2015.



analyse demographic data. The system uses a range of data sources such as census data, school enrolment data, and child benefit data obtained from the Department of Social Protection. The school inventory data feeds into this process by assisting in an analysis of existing educational provision in an area. Between 2011 and 2016, approximately 46 new schools will have been established as a result of this process and numerous extensions to existing school accommodation.¹⁵⁸

IN 2014, 42 LARGE SCALE SCHOOLS, COMPRISING 15 LARGE-SCALE SCHOOL EXTENSIONS AND 27 NEW SCHOOLS BUILDINGS WERE COMPLETED.



COMMENT

School Buildings gets an 'A' grade in *Report Card 2015*, a rise from last year's B+ grade. This reflects the ongoing capital investment in school building announced in Budget 2015. The Government is to be praised for its sustained work on school accommodation, particularly in light of the 2006 recommendation by the UN Committee on the Rights of the Child 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.¹⁵⁹

The allocation of funding to the Summer Works Scheme and the Minor Works Grant Scheme for the 2014/15 school year is most welcome: both programmes were not proceeded with in 2012 in a round of budget cutbacks.¹⁶⁰

The inclusion of the commitment to providing 'quality learning environments for all' children in the new *National Policy Framework for Children and Young People 2014–2020* consolidates the Government's ongoing

commitment in this area up to 2020.¹⁶¹ Under the *National Policy Framework*, the Government also expressed its intention to continue, and explore the potential to expand its current practice of clustering schools to 'encourage greater connections between schools and community and State services, including sharing infrastructure'.¹⁶²

The ongoing works and commitment to improving school accommodation in 2014 is critical given the forecast increase in the number of school enrolments at primary and post-primary levels in the coming years. Having already seen a substantial rise in recent years, primary schools are expected to see an increase of over 26,500 by 2016. This will continue to rise to a peak of almost 575,000 pupils in 2018 before declining. At post-primary level, enrolments are expected to increase by slightly less than 13,500 by 2016 before hitting a record of over 400,000 by 2025.¹⁶³

¹⁵⁸ Communication received by the Children's Rights Alliance from the Department of Education and Skills, 2 February 2015.

¹⁵⁹ UN Committee on the Rights of the Child (2006), *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 59(b).

¹⁶⁰ Communication received by the Children's Rights Alliance from the Department of Education and Skills, 10 February 2015.

¹⁶¹ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014–2020*, Dublin; Department of Children and Youth Affairs, Commitment 2.15, p. 70.

¹⁶² Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014–2020*, Dublin; Department of Children and Youth Affairs p. 131

¹⁶³ Department of Education and Skills (2014), *Projections of Full Time Enrolment – Primary and Secondary Level, 2014–2032*, p. 4 <http://www.education.ie/en/Publications/Statistics/Statistical-Reports/Projections-of-full-time-enrolment-Primary-and-Second-Level-2014-2032.pdf> [last accessed 7 January 2015].



SCHOOL BUILDINGS

Immediate Actions for 2015

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 multi-annual programme should be maintained and protected. The 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.

Ensure that the child's right to engage in play and recreational activities is part of planning and design of school accommodation

Children have a right to play and leisure under Article 30 of the UN Convention on the Rights of the Child; the Convention also states that one aim of education is the development of respect for the natural environment. These should be factored into the planning and design of school buildings, exercise areas and other internal and external education accommodation.

Take appropriate measures on foot of the inventory of school accommodation and publish key findings

The inventory of school accommodation and related community assets is a valuable source of information, providing a national picture of identified deficiencies in school accommodation. The database should be kept open and maintained on a standardised and regular basis with new and updated entries. Findings from the inventory should be published to inform public debate and decision-making on investment in school buildings.

Ensure that the Minor Works Grant Scheme and the Summer Works Scheme are maintained

Investment in the Minor Works Grant Scheme and the re-introduction of the Summer Works Scheme are very welcome as a means of repairing and maintaining school accommodation and should be protected into the future.

2.5 PATRONAGE AND PLURALISM IN EDUCATION

Grade

C+

GOVERNMENT COMMITMENT

The Programme for Government 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.

Progress: 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.

Progress: Delayed



WHAT'S HAPPENING?

The White Paper on Patronage and Pluralism has not yet been published. A progress paper was published as a follow-up to the Forum on Patronage and Pluralism. The first tranche of schools were opened under the patronage divestment process.

In March 2014, the General Scheme of an Education (Admission to Schools) Bill 2013 was approved by Government and the Bill is part of the *Statement of Government Priorities 2014–2016* and is on the Government Legislation programme for the Spring/Summer session in 2015.¹⁶⁴ The Bill aims to provide the framework for greater confidence in the admissions criteria for schools.¹⁶⁵

The Forum on Patronage¹⁶⁶ and Pluralism in the Primary Sector¹⁶⁷ published its final report in 2012.¹⁶⁸ While the White Paper on the Forum's recommendations has not yet been published, the then Minister for Education and Skills, Ruairí Quinn TD did publish an update on the implementation of the Forum's recommendations in July 2014.¹⁶⁹ In April 2014, the Government committed to continuing

¹⁶⁴ Statement of Government Priorities 2014–2016, <http://www.merrionstreet.ie/en/wp-content/uploads/2014/07/Statement-of-Government-Priorities-Final-110714.pdf> [accessed 16 January 2015]; Kehoe P, TD, Government Chief Whip and Minister of State at the Department of the Taoiseach, Government Legislation Programme Spring/Summer Session 2015, 14 January 2015.

¹⁶⁵ Communication received by the Children's Rights Alliance from the Department of Education and Skills, 11 November 2014.

¹⁶⁶ 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.

¹⁶⁷ The Forum comprised Professor John Coolahan (Chair); Dr Caroline Hussey and Fionnuala Kilfeather.

¹⁶⁸ J. Coolahan, C. Hussey, F. Kilfeather (2012) *Report of the Forum's Advisory Group*, Dublin: The Forum on Patronage and Pluralism in the Primary Sector.

¹⁶⁹ Department of Education and Skills, 'Update on Forum on Patronage and Pluralism in Primary Sector published by Minister Quinn' [press release], 1 July 2014, <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/PR14-07-01.html> [accessed 10 September 2014].



its work 'to expand the provision of multi-denominational schools where parental demand exists' in the new *National Policy Framework for Children and Young People 2014–2020*.¹⁷⁰

The first group of schools under the patronage divestment process opened in September 2014. Four new primary schools opened under Educate Together¹⁷¹ patronage in Malahide/Portmarnock, Co. Dublin; Ballina, Co. Mayo; Trim, Co. Meath; and Tramore, Co. Waterford.¹⁷² The patronage of the school in Ballina was transferred from an existing Church of Ireland school. Work is ongoing with Catholic patron representatives to identify options for divestment in 2015 and beyond.¹⁷³ Between 2011 and 2016, 20 new multi-denominational primary schools will have been established or will be in the process of being established of which five will be all-Irish Gaelscoileanna under the patronage of An Foras Patrúntachta. Twenty-two new multi-denominational post-primary schools will open in the same period, between 2011 and 2016.

The National Council for Curriculum and Assessment (NCCA) continued to work on developing a curriculum for the Education about Religions and Beliefs (ERB) and Ethics programme for all primary schools. The NCCA has developed a Discussion Paper that will inform consultations¹⁷⁴ with patrons, education partners, practitioners, children and the general public which are expected to take place throughout 2015. A draft curriculum from Junior Infants to Second Class is expected by September 2016 and from Third to Sixth Class by September 2017.¹⁷⁵



COMMENT

Patronage and Pluralism in Primary Education gets a '**C+**' grade in *Report Card 2015* to reflect that while divestment began in 2014, it is progressing very slowly with no clear roadmap for how this is to be addressed. While the progress report on patronage and pluralism is welcome, the White Paper is still awaited.

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 [...]'.¹⁷⁶ 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)'.¹⁷⁷

THE FIRST GROUP OF SCHOOLS UNDER THE PATRONAGE DIVESTMENT PROCESS OPENED IN SEPTEMBER 2014. THE FIRST GROUP OF SCHOOLS UNDER THE PATRONAGE DIVESTMENT PROCESS OPENED IN SEPTEMBER 2014.

¹⁷⁰ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014-2020*, Dublin; Department of Children and Youth Affairs, Commitment 2.13, p. 70.

¹⁷¹ Educate Together is an independent NGO and management group that runs a network of schools across Ireland which guarantee equal of access to children regardless 'irrespective of their social, cultural or religious background'.

¹⁷² Communication received by the Children's Rights Alliance from the Department of Education and Skills, 11 November 2014.

¹⁷³ Communication received by the Children's Rights Alliance from the Department of Education and Skills, 11 November 2014.

¹⁷⁴ Department of Education and Skills (2014) *Forum on Patronage and Pluralism in the Primary Sector: Progress to Date and Future Directions*, Dublin: DES, p.15.

¹⁷⁵ Communication received by the Children's Rights Alliance from the National Council for Curriculum and Assessment, 10 February 2015.

¹⁷⁶ UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989).

¹⁷⁷ UN Committee on the Rights of the Child (2001), *General Comment No.1: The aims of education, CRC/GC/2001/1*.



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.¹⁷⁸ Similarly, in their *Concluding Observations* on Ireland in 2011, the UN 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 in a school because of their faith or belief.¹⁷⁹ In March 2012, the Government accepted a recommendation made during the Universal Periodic Review process requesting that efforts be accelerated to establish a national network of schools to guarantee equal access to children irrespective of their religious, cultural or social background.¹⁸⁰ In July 2014, the UN Human Rights Committee expressed its concern about the 'slow progress in increasing access to secular education' and recommended that the State 'ensure that there are diverse school types and curriculum options available throughout the State [...] to meet the needs of minority faith or non-faith children.'¹⁸¹ Moreover, the Committee went a step further and highlighted that while some provision was made for multi-denominational schools, there were no plans to introduce non-denominational schools for children and families who would choose a secular education.¹⁸²

Comprehensive reform of the 180 year-old primary education system to accommodate the diversity now present within Irish society is clearly needed given that 96 per cent of schools were found to have a religious patron, with 89.6 per cent under the patronage of the Catholic Church.¹⁸³ According to the Irish Human Rights Commission (now the Irish Human Rights and Equality Commission) found that 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.¹⁸⁴

In 2010, the Roman Catholic Church authorities, as lead patron, accepted the need for change and endorsed the principle of parental choice in education.¹⁸⁵ However, in 2014 while one school transitioned from the Church of Ireland to a multi-denominational patronage and two Catholic schools were merged to vacate a property for an Educate Together School,¹⁸⁶ no school transitioned from the Catholic Church to another patron. In July 2014, the Department noted that 'engagement with patrons has so far been positive and it is expected that further progress can be achieved for new schools in 2015 and onwards.'¹⁸⁷ However, the lack of progress suggests that the process has effectively stalled. The Department of Education and Skills should clarify its intentions in driving this process forward in terms of the pace of divestment and the nature of reform needed. Educate Together believes that a national network of 300 primary schools operating

¹⁷⁸ UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 61.

¹⁷⁹ UN Committee on the Rights of the Elimination of Racial Discrimination (2011), *Concluding Observations: Ireland*, CERD/C/IRL/CO/3-4, paragraph 26.

¹⁸⁰ 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].

¹⁸¹ UN Human Rights Committee, *Concluding Observations on the Fourth Periodic Report of Ireland*, CCPR/C/IRL/CO/4, 19 August 2014, para. 21.

¹⁸² See transcript of discussion on issue of religion in schools during Ireland's examination by the UN Human Rights Committee in July 2014 at: <http://bit.ly/AtheistIreland> [accessed 9 September 2014].

¹⁸³ 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/blobServlet/fpp_themes_for_written_submissions.pdf [accessed 12 December 2011].

¹⁸⁴ Irish Human Rights Commission (2011), *Religion and Education: A Human Rights Perspective*, Dublin: Irish Human Rights Commission.

¹⁸⁵ 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', *The 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].

¹⁸⁶ Communication received by the Children's Rights Alliance from the Department of Education and Skills, 11 November 2014.

¹⁸⁷ Department of Education and Skills, 'Update on Forum on Patronage and Pluralism in Primary Sector published by Minister Quinn' [press release], 1 July 2014, <http://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/PR14-07-01.html> [accessed 10 September 2014].



under the same human rights and equality standards is necessary to address the human rights deficit in this area of Irish education.¹⁸⁸

While the publication of the update on the implementation of the recommendations of the Forum on Patronage and Pluralism is welcome, we are still awaiting the production of the White Paper. Informed by consultations with parents in autumn 2013,¹⁸⁹ the update is an informational piece and outlines examples of where good practice on inclusivity exists. Rather than mandate measures to be taken by schools, it encourages school authorities to engage in consultation with stakeholders and to review their policies and practices on an ongoing basis to ensure that they remain suitable for the school population that they serve.¹⁹⁰

While the remit of the Forum on Patronage and Pluralism and the focus of divestment have been on primary schools to date, the Department of Education and Skills considers that the opportunity to address diversity at post-primary level is likely to arise organically to meet the demographic spike in demand currently being experienced at primary level.¹⁹¹ A national demographic study is currently ongoing by the Department to determine the need for additional school accommodation at post-primary level from 2015 onwards; any new schools will be subject to the new procedures for determining the patronage of schools.¹⁹²

The development of the curriculum by the National Council for Curriculum and Assessment (NCCA) in this area is the fulfilment of a recommendation of the Forum on Patronage and Pluralism¹⁹³ and of *Report Card 2014* and is a very positive initiative.

The Draft General Scheme of an Education (Admission to Schools) Bill will go some way towards increasing a level of transparency in the school admissions process for providing for a new regulatory framework for enrolment.¹⁹⁴ Under the General Scheme, while school admissions policies must not discriminate under the grounds set out under the Bill, they can continue to give preference to students of a particular religious denomination or can refuse to admit a student not from that denomination, provided the school can prove that this refusal is 'essential to maintain the ethos of the school', as provided for under Section 7 of the Equal Status Acts 2000–2012.¹⁹⁵ The Ombudsman for Children has advised that Section 7 should be amended to provide that 'no child should in general be given preferential access to publicly-funded education on the basis of their religion'.¹⁹⁶ An exception for denominational schools should be allowed where this would lead to a situation where the student body would 'no longer reflect the school's denominational character'.¹⁹⁷

¹⁸⁸ Communication received by the Children's Rights Alliance from Educate Together, 30 January 2015.

¹⁸⁹ *Ibid.*, 434 submissions were made.

¹⁹⁰ Forum on Patronage and Pluralism in the Primary Sector (2014) *Progress to Date and Future Directions*, July 2014, <http://www.education.ie/en/Press-Events/Conferences/Patronage-and-Pluralism-in-the-Primary-Sector/Progress-to-Date-and-Future-Directions-Forum-on-Patronage-and-Pluralism-in-the-Primary-Sector.pdf> [accessed 9 February 2015].

¹⁹¹ Communication received by the Children's Rights Alliance from the Department of Education and Skills, 11 November 2014.

¹⁹² *Ibid.*

¹⁹³ Department of Education and Skills (2012) *Forum on Patronage and Pluralism in the Primary Sector: Report of the Forum's Advisory Group*, Dublin: DES, p. 92.

¹⁹⁴ Draft General Scheme of an Education (Admission to Schools) Bill 2013, Head 3, Requirement that an admission policy states that the school will not discriminate in admission.

¹⁹⁵ Equal Status Act 2000-2012, section 7(3)(c).

¹⁹⁶ Ombudsman for Children (2013) *Advice of the Ombudsman for Children on the General Scheme of the Education (Admission to Schools) Bill 2013*, p. 8.

¹⁹⁷ *Ibid.*



PATRONAGE AND PLURALISM IN EDUCATION

Immediate Actions for 2015

Clarify how the divestment process will be progressed in 2015 and beyond.

Given the importance of the divestment to fulfil a child's fundamental right to access education and offer families seeking choice in the ethos of their child's education, it is imperative that the process is given new impetus in 2015. Review mechanisms of the divestment process to ensure they are the most appropriate and likely to yield results.

Publish the White Paper on Patronage and Pluralism in Primary Education.

It is important that the White Paper is published as promised as a follow on to the Update on Forum on Patronage and Pluralism in Primary Sector. This will constitute an important component of future government policy in an area that will require sustained political attention over the coming year.

Recalibrate Section 7 of the Equal Status Acts 2000–2012 to ensure that no child in general is given preferential access to publicly-funded education on the basis of their religion.

Section 7 of the Equal Status Acts 2000–2012 should be amended to reflect the recommendation of the Ombudsman for Children, to ensure that a child of minority or no religious beliefs is not discriminated against in admission to a publicly funded school. It should at the same time allow an exemption for a denominational school where the section would result in the student population of the school no longer being reflective of the school's ethos.

Maintain the momentum to complete the curriculum on Education about Religion and Beliefs (ERB) and Ethics as soon as possible

The work of the National Council for Curriculum and Assessment in developing an ERB curriculum for primary schools must be adequately supported to ensure its timely completion. Such a curriculum will ensure that children have right to receive education 'about religions', as opposed to faith formation.

3. RIGHT TO HEALTH

Chapter 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.

"Tobacco companies work hard to attract new smokers and the vast majority of these new recruits are children. Standardised tobacco packaging will make it illegal for tobacco companies to use colour, text and packet size to market cigarettes. To protect children from Big Tobacco's marketing tactics it is vitally important that the Government's Public Health (Standardised Packaging of Tobacco) Bill is enacted as soon as possible in 2015."

Chris Macey, Head of Advocacy, Irish Heart Foundation



IN THE NEWS

GALWAY MOTHER IN MEDICAL CARD LIMBO

The Galway Independent 4 June 2014

A Galway mother has spoken of her worry for her child's future as uncertainty persists over the allocation of discretionary medical cards to those who are disabled or have a serious medical need.

Corrib Park resident Christina Webster's seven-year-old daughter Ava has Down syndrome and her discretionary medical card, which had been under review, was due to expire on Saturday last. When Ms Webster heard that Junior Minister Alex White had announced the cessation of all reviews of discretionary medical cards, she called the HSE to enquire as to the status of Ava's medical card. She was told that Ava's card had been extended by a further month, but that the review would still take place.

"We're none the wiser, really," said Ms Webster. Ms Webster said that Ava's medical needs were "way above other children" and that she needed a special CPAP respiratory machine to help her breathe properly at night, which would be a serious financial burden on the family, were it not covered by a medical card. [...]

Ms Webster said the family was concerned at how they would manage to cope with Ava's medical needs without the help of a medical card. "We cannot take her off this machine, she has to be on it for her lifetime," she said. [...]

"When Ava was born, I automatically assumed, 'OK, it won't be too bad. Everything will be sorted for us, we won't have to be fighting for this, that and the other', but to be honest, since the day she was born, I have spent my time writing letters looking for this, looking for that. We don't get anything." [...]

By **Conor Harrington**



3.1 PRIMARY CARE

Grade

C

GOVERNMENT COMMITMENT

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.

Progress: Stalled



WHAT'S HAPPENING?

Healthcare reforms continue. A White Paper on Universal Healthcare was published. Legislation was passed to allow for the extension of free GP care to all children under six years, although the scheme is yet to commence. The medical card review was halted. Waiting lists for services persist.

Budget 2015 allocated €726 million for the provision of primary care services, similar to the 2014 allocation.¹⁹⁸

Primary Care Teams and Centres: At the end of 2013, 419 Primary Care Teams¹⁹⁹ at different levels of development were in operation across the country.²⁰⁰ This represents 86 per cent of the promised 485 teams. The teams comprise nearly 3,000 nursing, therapy and support staff providing services to almost four million people. As of December 2014, there were 85 Primary Care Centres in operation,²⁰¹ and 37 additional centres are due to be completed by late 2016 or first half of 2017.²⁰²

In October 2014, the Health Service Executive (HSE) published *Community Healthcare Organisations – Report and Recommendations of the Integrated Service Area Review Group*, which sets out how health services, outside of acute hospitals, will be organised and managed.²⁰³ The report recommends the establishment of nine Community Healthcare Organisations (CHOs) to replace the existing 17 Integrated Service Areas. Resources will be reorganised into 90 Primary Care Networks, each network will serve approximately 50,000 people and be headed up by an identified accountable individual. In addition, the enactment in July 2014 of the Health Identifiers Bill 2013 is to be welcomed, as it will provide for the introduction of a national system of unique Individual Health Identifiers (IHIs).

¹⁹⁸ Health Service Executive (2014) *National Service Plan for 2015*, p. 29.

¹⁹⁹ These teams hold multi-disciplinary clinical team meetings involving GPs and HSE staff.

²⁰⁰ Communication received by the Children's Rights Alliance from the Department of Health, 17 October 2014.

²⁰¹ Ibid.

²⁰² Ibid.

²⁰³ HSE, 'Community Healthcare Organisations – Report and Recommendations of the Integrated Service Area Review Group' <http://www.hse.ie/eng/services/publications/corporate/CHOReport.html> [accessed 24 November 2014]. Community healthcare services include primary care, social care, mental health and health and wellbeing.



Universal Healthcare: In April 2014, a White Paper on Universal Healthcare (UHI) was published which sets out Government's proposals for a universal, single-tier health service.²⁰⁴ A large scale consultation on the White Paper took place in May 2014 and an independent analysis has been submitted to the Minister for Health. In addition, a major costing exercise is currently underway to establish the cost to the individual/household and to the State of the introduction of UHI.²⁰⁵ It is expected that initial results will be available in April 2015,²⁰⁶ after which the Minister will revert to Government with a revised roadmap for delivering UHI.²⁰⁷ The target date for the introduction of UHI was originally 2019,²⁰⁸ however, upon taking up office the Minister for Health, Leo Varadkar, said this date was too ambitious and will not be reached.²⁰⁹

Free GP Care and Medical Cards: The 2014 *National Policy Framework for Children and Young People* reiterated the Government's commitment to introduce universal GP services,²¹⁰ first articulated in the 2012 *Future Health Framework*.²¹¹ In Budget 2014, the Government announced the first step towards universal free GP care,²¹² by allocating €37 million to meet the full year cost of free GP care to 420,000 children under the age of six years.²¹³ This measure will benefit an

additional quarter of a million children on top of those already covered by existing card holders,²¹⁴ meaning almost half the population will have free GP care at point of access.²¹⁵ In July 2014, legislation was passed to allow for the extension of free GP care for all children under six years of age.²¹⁶ However, the commencement of the scheme is subject to the conclusion of discussions with the Irish Medical Organisation²¹⁷ and the completion of a fee-setting process.²¹⁸

Medical Card Probity: A review of the eligibility of current medical card holders (medical card probity) was announced in Budget 2014. It was expected to result in €113 million in savings for the Department of Health but this has been revised down to €23 million.²¹⁹ From January to April 2014, approximately 97,000 cards were withdrawn of which 1,190 were discretionary medical cards, while 49,184 new cards were added in the same period of which 5,478 were discretionary cards.²²⁰

Criticism of the impact of the probity review²²¹ led to a Government decision in May 2014 to suspend the review.²²² Furthermore, in June 2014, the Government agreed to return medical and GP visit discretionary cards to an estimated 15,000 people due to the 'unintended consequences' of removing cards

- ²⁰⁴ Department of Health (2014) *The Path to Universal Healthcare: White Paper on Universal Health Insurance*, Dublin: Health Service Executive.
- ²⁰⁵ This involves the Department, the Economic and Social Research Institute (ESRI), the Health Insurance Authority and the HSE.
- ²⁰⁶ Minister for Health, Leo Varadkar TD, Parliamentary Questions: Written Answers, Universal Health Insurance White Paper 4 November 2014 [41778/14] 4 November 2014.
- ²⁰⁷ Communication received by the Children's Rights Alliance from the Department of Health, 5 February 2015
- ²⁰⁸ Minister for Communications, Energy and Natural Resources, Alex White TD, White Paper on Universal Health Insurance: Statements 17 April 2014.
- ²⁰⁹ S. Connolly, Universal health care timetable 'too ambitious', admits Health Minister, *Irish Examiner* [Online] 6 August 2014 <http://www.irishexaminer.com/ireland/universal-health-care-timetable-too-ambitious-admits-health-minister-278493.html> [accessed 24 November 2014].
- ²¹⁰ Department of Children and Youth Affairs (2014) *Better Outcomes Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* 2014-2020, Dublin: Department of Children and Youth Affairs.
- ²¹¹ Department of Health (2012) *Future health: a strategic framework for reform of the health service 2012 - 2015*, Dublin: Department of Health.
- ²¹² Minister for Public Expenditure and Reform, Mr. Brendan Howlin TD, *Address to Dáil Éireann on Expenditure Estimates 2014*, Tuesday 15th October 2013.
- ²¹³ Health Service Executive (2013) *National Service Plan 2014*, Dublin: Health Service Executive, p. 38. The funding will be available irrespective of when the scheme commences.
- ²¹⁴ Communication received by the Children's Right Alliance from the Department of Health, 27 January 2013.
- ²¹⁵ Communication received by the Children's Rights Alliance from the Department of Health, 6 December 2013.
- ²¹⁶ Health (General Practitioner Service) Act 2014.
- ²¹⁷ Irish Medical Organisation, 'GPs respond to delay on extension of free GP Visit Cards to under sixes' [press release], 19 June 2014.
- ²¹⁸ Communication received by the Children's Rights Alliance from the Department of Health 17 October 2014.
- ²¹⁹ Health Service Executive (2013) *National Service Plan 2013*, Dublin: Health Service Executive, p. 17.
- ²²⁰ Joint Oireachtas Committee of Public Accounts, Debate on Eligibility for Medical Cards, 12 June 2014, <http://bit.ly/MedicalCardsPAC> [accessed 22 July 2014].
- ²²¹ A petition to reinstate medical cards based on medical need received more than 60,000 signatures. The campaign website is available at: [timeline http://on.fb.me/1AHvUoO](http://on.fb.me/1AHvUoO) [accessed 24 November 2014].
- ²²² Department of Health, 'Suspension of Medical Card Reviews' [press release], 29 May 2014.



since July 2011 from people with chronic illnesses or with a disability.²²³

In June 2014, the Minister for Health, Dr. James Reilly TD, asked the HSE to establish an Expert Panel to examine eligibility for medical cards based on medical rather than financial need. Following a public consultation in the summer, the Expert Panel's report was published in November 2014. At the same time, the HSE also published the *Medical Card Process Review* which recommended a number of changes to the process of applying for medical cards.²²⁴ The expert panel report acknowledged that the eligibility criteria for a medical card, as well as other Primary Care Schemes and their application processes, have evolved over time in a fragmented manner and have become complex and poorly understood by patients, medical staff and administrators alike.²²⁵ Many submissions to the Expert Panel noted that the current system did not consider the true cost of chronic, long term illness.²²⁶

The Expert Panel concluded that it was not feasible, desirable, nor ethically justifiable to list medical conditions in priority order for medical card eligibility and concluded that a person's means should remain the main qualifier for a medical card.²²⁷ The Panel also recommended that the medical card system should be simplified and that non-medical benefits, such as lower rates of Universal Social Charge and reduced childcare rates, should be un-coupled from medical cards.²²⁸ Following on from the publication of the

Report of the Expert Group, in November 2014 the Minister for Health with the Minister for Primary Care and the HSE announced a ten point action plan to reform the medical card system.²²⁹ Under the reform plans, means will continue to be the main qualifying factor for a medical card. However, a number of changes were announced. These include an enhanced assessment process for discretionary cards which, among other things, will allow the HSE to take into account medical hardship and the burden of illness in assessing certain cases; mean those who are terminally ill will not have their medical card reviewed and those with discretionary medical cards will retain the cards until the scheme is improved.²³⁰ Under this Plan, a clinical advisory group is to be established by the HSE to develop guidelines on assessing applications involving significant medical conditions.²³¹ It is hoped the guidelines will ensure a fair system and reduce geographical variations in how discretionary medical cards are issued.²³²

National Healthcare Charter for Children: The HSE is 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.²³³ The Charter was expected in 2014 but has yet to be published.

THE EXPERT PANEL CONCLUDED THAT IT WAS NOT FEASIBLE, DESIRABLE, NOT ETHICALLY JUSTIFIABLE TO LIST MEDICAL CONDITIONS IN PRIORITY ORDER FOR MEDICAL CARD ELIGIBILITY...

²²³ Department of Health, 'Government approves method for the return of medical cards lost in discretionary review', [press release], 17 June 2014.

²²⁴ Prospectus & Deloitte, 'Medical Card Process Review' Dublin: Prospectus & Deloitte, 2014.

²²⁵ Health Service Executive, *Report of the Expert Panel on Medical Need for Medical Card Eligibility Dublin 2014*, p. 7.

²²⁶ *Ibid*, p. 5.

²²⁷ *Ibid*, p. 7.

²²⁸ *Ibid*, p. 8.

²²⁹ Department of Health, 'Lynch & Varadkar announce ten key actions for Medical Card System', 25 November 2014 (Press Release) <http://health.gov.ie/blog/press-release/lynch-varadkar-announce-ten-key-actions-for-medical-card-system/> [last accessed 25 November 2014]

²³⁰ *Ibid*.

²³¹ *Ibid*.

²³² *Ibid*.

²³³ The Charter will be 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 forthcoming National Policy on Children's Participation in Decision-Making.



COMMENT

Primary care gets a 'C' grade in *Report Card 2015* the same as in *Report Card 2014*. This grade reflects the speed at which the Government has worked to secure the introduction of free GP care for children under the age of six and acknowledges the untold stress and uncertainty caused by the removal of discretionary medical cards from families of children with high level health needs. The continued efforts to improve primary health care is also reflected in the unchanged grade.

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 care²³⁴ and through General Comment 15, the UN Committee on the Rights of the Child have stressed that primary care should include the provision of information, services and commodities as well as prevention of illness and injury.²³⁵ The child's right to health was further elaborated upon in the Irish context by the Special Rapporteur Report for Child Protection, Dr. Geoffrey Shannon in his 2014 Report.²³⁶ The UN Committee on the Rights of the Child in its *Concluding Observations* on Ireland in 2006 expressed concern 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'.²³⁷

Primary Care: Primary care is the most basic building block of a successful health service that responds to children's needs,²³⁸ its importance to health promotion and the prevention of illness is recognised in *Healthy Ireland*.²³⁹ 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's health and State finances. 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.²⁴⁰ The announcement of the intention to establish nine Community Healthcare Organisations (CHOs) and 90 Primary Care Networks are welcome as further steps to strengthen the emphasis within the health system on primary care.

Also welcome is the setting of targets within the HSE National Service Plan for 2015 for the reduction of waiting lists for referrals for physiotherapy, occupational therapy and orthodontics. The HSE also set a target to reduce the proportion of patients on the orthodontic treatment waiting list for longer than four years to less than 5 per cent²⁴¹ It is essential that these targets are met and that real action is taken to reduce the waiting times for children and young people. Inclusion Ireland published a report in September 2014 which highlighted extensive waiting lists for speech and language therapy and concluded that access to speech therapy services depends on a 'postcode lottery'.²⁴²

²³⁴ UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989), Article 24 (b).

²³⁵ 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., para 26.

²³⁶ Dr. G Shannon (2014) *Seventh Report of the Special Rapporteur on Child Protection*, 2014, p.42. <http://www.dcy.gov.ie/documents/publications/SeventhSpecialRapReport2014.pdf> [accessed 9 February 2015].

²³⁷ UN Committee on the Rights of the Child (2006), *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, para 45(b).

²³⁸ S. Greene (2011) 'Getting the First Steps Right', Presentation at the Department of Health and Children Consultation, Dublin: Trinity Research Centre.

²³⁹ Department of Health (2013) *Healthy Ireland: Framework for Improved Health and Wellbeing*, p. 21.

²⁴⁰ 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.

²⁴¹ Health Service Executive (2014) *National Service Plan for 2015*, p. 31.

²⁴² P. Conroy (2014) *The Case for Speech and Language Therapy. A working paper prepared for and by Inclusion Ireland*, Inclusion Ireland.



Free GP Care: The consultation on the White Paper on the Universal Health Insurance is to be welcomed. Also welcome is the passage of legislation to enable the introduction of free GP care for children under the age of six and the allocation of €37 million. This development will greatly benefit children's right to access healthcare and supports an early intervention and prevention approach to health, in line with General Comment No. 15 of the Committee on the Rights of the Child which calls for 'universal coverage of quality primary health services'.²⁴³ 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'.²⁴⁴ The UN General Assembly unanimously passed a draft resolution supporting universal healthcare in December 2012.²⁴⁵ It is hoped that discussions with the Irish Medical Organisation will be concluded promptly to allow the scheme to commence.

The draft contract for provision of the free GP service to children under the age of six indicated that parents will need to register their child with a GP to avail of the scheme.²⁴⁶ Consideration will need to be given as to how the scheme can be promoted among families who have weak links to the health services, for example Travellers, Roma and migrants. Consideration will also be needed to promote access to the scheme among those with literacy, including digital literacy, difficulties.²⁴⁷ To ensure access by such families the possibility of low threshold clinic should be explored to enable children to benefit from the scheme without needing to go through the registration process.

Medical Card Probity: The speed at which the Government has worked to secure the introduction of free GP care for children under six is to be commended. However, the removal of discretionary medical cards in the earlier part of 2014 from families of children with high level health needs is to be strongly condemned.²⁴⁸ Families with serious or terminally ill children and families of children with profound disabilities were left distraught, angry and frightened.²⁴⁹ Accessing medical cards was, and in some cases continues to be, a hugely stressful experience for many families.²⁵⁰

In light of this, the halting of the review of medical cards in May 2014 was a positive development, as was the work of the Expert Group on Medical Cards and the ten point plan announced in November 2014. Future decisions on medical card eligibility must be guided by the child's right to health under Article 24 of the UN Convention on the Rights of the Child and Article 2 under which no child should be discriminated against in accessing his or her rights.

National Healthcare Charter for Children: The delayed publication of final draft of the National Healthcare Charter for Children by the HSE is disappointing, especially given that a draft was published in 2012. Health policy in relation to children in Ireland is weak. It is essential that the Charter adopts a rights-based approach, including the child's right to participation and that decisions be made in the best interests of the child. The Ombudsman for Children's study on child-friendly healthcare states that this approach requires identifiable champions and advocates in order to succeed including healthcare professionals and children themselves.²⁵¹

- 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, para. 73.
- ²⁴⁴ World Health Organisation (2013) *The World Health Report 2013: Research for Universal Health Coverage*, Geneva: World Health Organisation, p. 11.
- ²⁴⁵ 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].
- ²⁴⁶ HSE Draft Agreement for the Provision of Free GP care to children under the age of six, January 2014 <http://www.hse.ie/eng/about/Who/gmscontracts/under6GPcontract/draftcontract.pdf> [accessed 6 January 2015]
- ²⁴⁷ The Children's Rights Alliance, *Submission to Department of Health on the Provision of a GP Service Without Fees for Children under Six Years* February 2014
- ²⁴⁸ C. Shanahan and F. O' Cionnaith, State 'stripping sick of medical cards to fund under-6 care', *The Irish Examiner*, 28 April 2014
- ²⁴⁹ For example, see <http://www.jackandjill.ie/tag/medical-cards/> and Our Children's Health http://www.ourchildrenshealth.ie/?page_id=191 [accessed 6 January 2015]
- ²⁵⁰ C. Bohan, It is only a matter of time before a stressed out parent is pushed over the edge, *The Journal.ie*, 9 May 2014, <http://www.thejournal.ie/nurses-jack-and-jill-foundation-medical-cards-1456270-May2014/> [accessed 10 February 2015]
- ²⁵¹ U. Kilkelly and E. Sweeney (2013) *Child Friendly Healthcare*, Dublin: Ombudsman for Children Office, p.16.



PRIMARY CARE

Immediate Actions for 2015

Commence the introduction of free GP care for children under six

Bring to a successful conclusion discussions with the Irish Medical Organisation and commence the Health (General Practitioner Service) Act 2014 to allow for the extension of free GP care for all children under six years of age. To ensure access by vulnerable children, designate organisations to support families to register their child for the new scheme and establish a number low threshold clinics to provide families with easy access to the scheme without needing to go through the registration process.

Publish a rights-based National Healthcare Charter for Children

Publish and promote the National Healthcare Charter for Children by the HSE. The Charter should be compliant with the UN Convention on the Rights of the Child and in particular should include the right of the child to participate in decision-making relating to them (Article 12), the right to be treated equally and to be free from discrimination (Article 2), the best interests of the child (Article 3).

Ring-fence multi-annual funding for the delivery of Primary Care and reduce waiting times

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. In addition, urgent action is needed to adequate staff vital primary care services to reduce waiting lists, in particular for speech and language therapy.

3.2 CHILDREN'S HOSPITAL

Grade

C

GOVERNMENT COMMITMENT

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

Progress: Limited

? WHAT'S HAPPENING?

A project brief has been developed for the National Children's Hospital and approved by the HSE. A project design team has been appointed and the Development Board aims to apply for planning in June 2015.

The new National Children's Hospital is intended to be a 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. *Better Outcomes Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* commits to implementing 'a new National Model of Paediatric Care and complete the building of the new National Children's Hospital.'²⁵²

An initial decision was made to build the children's hospital on the site of the Mater Hospital in Dublin but in February 2012 An Bord Pleanála refused planning permission for the project by reason of its height and scale. So the project had to start over again. Following this set back, in November 2012 the Government decided to co-locate the children's hospital with St James's Hospital in Dublin. In addition, satellite centres, which will share governance and staffing with the new children's hospital, will be built on the campuses of Tallaght and Connolly Hospitals.²⁵³

The development of the children's hospital is being overseen by two boards, established in August 2013 by the then Minister for Health, Dr. James Reilly TD: the Children's Hospital Group Board and the National Paediatric Hospital Development Board.

The Children's Hospital Group Board, chaired by Dr. Jim Browne, comprises ten board members and is the end-user and client for the building project.²⁵⁴ It will oversee the operational integration of the three hospitals in advance of the move to the new hospital – Our Lady's Children's Hospital Crumlin, Children's University Hospital Temple Street and the paediatric service at Tallaght Hospital.²⁵⁵ The Group Board will also play a key role in ensuring that the hospital is optimally designed and completed as quickly as possible. There is no update publicly available on the work of the Children's Hospital Group Board.²⁵⁶

The second Board in operation is the National Paediatric Hospital Development Board which is responsible for the design, planning, building and equipping of the new children's hospital,

²⁵² Commitment 1.5 in Department of Children and Youth Affairs (2014) *Better Outcomes Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* 2014–2020, Dublin: Department of Children and Youth Affairs, p. 57.

²⁵³ Minister for Health, Leo Varadkar TD, Parliamentary Questions: Written Answers, Children's Hospital, [31766/14] 16 July 2014.

²⁵⁴ 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].

²⁵⁵ It also deals with any matters relating to the operational transfer to the new hospital in due course, and to philanthropy.

²⁵⁶ In September 2013, Eilish Hardiman was appointed as the Chief Executive Officer of the Children's Hospital Group and will work with the Children's Hospital Group Board and the hospitals in delivering these priorities.



in other words the 'building board'. There is no update publicly available on the work of the Development Board. The Government has indicated its intention to bring forward a legislative amendment to 'provide for an amendment to the functions and membership of the National Paediatric Hospital Development Board'.²⁵⁷ However, as of end 2014, the Heads of the Bill have yet to be approved by Government and no date has been given for the publication of the National Paediatric Hospital Development Board (Amendment) Bill.

In July 2014, a Project Brief for the new children's hospital was approved by the HSE.²⁵⁸ It details that the hospital and its satellite centres will have 384 in-patient beds, 85 day-care beds, 111 outpatient consulting examination rooms. The new Hospital will treat children up until the eve of their sixteenth birthday, with children who are currently within the system being treated up until the eve of their eighteenth birthday.²⁵⁹ The transition to adult services will commence early and be completed by the 18th birthday unless in specific circumstances where clinical outcomes are better under paediatric services.²⁶⁰

The core hospital facilities will be supported by education, training and research facilities, hospital schools, play areas, 1,000 underground car parking spaces and a family accommodation facility.²⁶¹ In a positive step, the Project Brief sets out that the design should recognise 'the family's well-being as a major factor in the provision of care for the child or young person' and also 'the differing needs of children, young people, parents and families in widely diverse situations'.²⁶² It lists a number of areas for consideration including

children's everyday needs, parents' and families' needs for information and children's needs for socialisation.²⁶³

In July 2014, the Design Team for the hospital was appointed, nine months later than the initial planned date of October 2013. The Government aims to submit a planning application to An Bord Pleanála in June 2015.²⁶⁴ The date for the commencement of construction has been revised for a second time and is now expected to begin in January 2015.²⁶⁵ The overall project is scheduled for completion by late 2019.²⁶⁶ 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 €450 million Exchequer funding from the capital budget.²⁶⁷

In May 2013, the then Minister for Health, Dr. James Reilly TD, announced plans to move the National Maternity Hospital currently located at Holles Street, Dublin 2 to St. Vincent's University Hospital Campus, Dublin 4.²⁶⁸ This decision follows a recommendation made in the *Independent Review of Maternity and Gynaecology Services in the Greater Dublin Area Report* that Dublin's maternity hospital should be located alongside adult acute services.²⁶⁹ In addition the Government has committed to building another maternity hospital on the St James's Hospital campus,²⁷⁰ thus providing tri-located child, maternity and acute adult services. The Department of Health is currently developing a National Strategy for Maternity Services which will inform the delivery of the tri-located services on the St James's campus.²⁷¹

THE CURRENT COMPLETION DATE [FOR THE CHILDREN'S HOSPITAL] IS ESTIMATED TO BE MID-2019, 13 YEARS AFTER THE INITIAL RECOMMENDATION.

²⁵⁷ Government Chief Whip and Minister of State at the Department of the Taoiseach, Paul Kehoe, TD, *Government Legislation Programme Autumn Session 2014*, p. 15.

²⁵⁸ Department of Health, *Project Brief for the new children's hospital, summary*, <http://health.gov.ie/wp-content/uploads/2014/03/Project-Brief-for-the-New-Children-Summary-Document-for-Media-Release.docx> [accessed 17 October 2014].

²⁵⁹ *Ibid.*, p. 2.

²⁶⁰ *Ibid.*

²⁶¹ *Ibid.*, p. 4.

²⁶² *Ibid.*, p. 6.

²⁶³ *Ibid.*

²⁶⁴ Minister for Health, Leo Varadkar TD, Parliamentary Questions: Written Answers, Children's Hospital, [31766/14] 16 July 2014.

²⁶⁵ Information received from the National Paediatric Development Board 25 September 2014.

²⁶⁶ H. McGee, Children's hospital board confident of planning permission by late 2015, *Irish Times*, 2 December 2015 <http://www.irishtimes.com/news/politics/oireachtas/children-s-hospital-board-confident-of-planning-permission-by-late-2015-1.2023359> [last accessed 8 December 2014].

²⁶⁷ Minister for Health, Leo Varadkar TD, Parliamentary Questions: Written Answers, Children's Hospital, [39153/14] 14 October 2014.

²⁶⁸ 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].

²⁶⁹ KPMG (2008) *Independent Review of Maternity and Gynaecology Services in the Greater Dublin Area Report*, Dublin: KPMG.

²⁷⁰ Minister for Health, Leo Varadkar TD, Parliamentary Questions: Written Answers, National Children's Hospital [3024/15], 21 January 2015.

²⁷¹ Department of Health, *Project Brief for the new children's hospital summary*, <http://health.gov.ie/wp-content/uploads/2014/03/Project-Brief-for-the-New-Children-Summary-Document-for-Media-Release.docx> [last accessed 17 October 2014], p. 3.



COMMENT

Children's Hospital gets a 'C' grade in *Report Card 2014*, slightly down from last year's grade of a C+. This reflects the continued slow pace at which the Children's Hospital, now scheduled for completion in 2019, is progressing but acknowledges the many milestones achieved in 2014, including the appointment of a design team, the publication of the project brief and the progression made towards applying for planning permission.

A new, single national children's hospital was recommended in a 2006 report;²⁷² its location has been subject to debate and review. The change of site in 2012, following planning refusal for the Mater site, delayed the process by at least two-and-a-half years and incurred a cost of €35 million.²⁷³ The current completion date is estimated at mid-2019, 13 years after the initial recommendation.²⁷⁴ Meanwhile, the two main children's hospitals (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.²⁷⁵ 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.

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).²⁷⁶ 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.²⁷⁷ These rights are far from being realised in healthcare settings at present. The new national children's hospital needs to take a child-centred approach to all its design, operations, policies and practices.

Hospital Design and Experience: There was extensive consultation with children and families in the designing of the Mater site.²⁷⁸ It is welcome that children and young people are currently being consulted on the design of the new hospital at the St. James's Hospital site.²⁷⁹ It is important such consultations continue for the duration of project.

To be world-class, innovative and child-centred, all aspects of the hospital – from the basic design, to medical procedures and day-to-day practice and running of the hospital – should have the best interests of the child as its underpinning principle, and 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

²⁷² Mc Kinsey and Company (2006) *Children's Health First*, <http://www.google.ie/url?sa=t&rct=j&q=&es-rc=s&source=web&cd=1&ved=0CC0QFjAA&url=http://www.newchildrenshospital.ie/per cent2Findex.cfm/per cent2Fpageper cent2Fassociateddocumentsper cent3Ftwfldper cent3D141per cent26downloadper cent3Dtrue&ei=Khr1UPTpC8LhAezqYC4Bw&usq=AFQjCNF99N4n-jLz4h0qRayL5EHMGV1WEw&sig2=Rumt33iMOmWBIC-4vFMFZA&bv=bv.41018144,d.ZG4> [accessed 13 December 2011].

²⁷³ M. Wall, '€35 million lost in move of site of new children's hospital', *The Irish Times*, 24 October 2014, <http://www.irishtimes.com/news/health/35-million-lost-in-move-of-site-of-new-children-s-hospital-1.1974989> [accessed 8 December 2014].

²⁷⁴ F. McDonald, 'Massive project will not be completed before 2018' *The Irish Times*, 7 November 2012.

²⁷⁵ Department of Public Expenditure and Reform (2011) *Infrastructure and Capital Development 2012-2016: Medium Term Exchequer Framework*, Dublin: Stationery Office.

²⁷⁶ UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989).

²⁷⁷ UN Committee on the Rights of the Child (2003), *General comment No. 4: Adolescent Health, CRC/GC/2003/4*.

²⁷⁸ 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].

²⁷⁹ Communication received by the Children's Rights Alliance from the Children's Hospital Group on 27 January 2015.

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.

The delivery of services by the hospital must be underpinned by international best practice, which must include a government commitment to training and employing the required level of registered health professionals to deliver appropriate and high quality services.

Age Issues: The Project Brief has set out that the new hospital will '[t]reat children up to the age of the eve of their 16th birthday, with children currently within the system treated up to the eve of their 18th birthday'.²⁸⁰ This position mirrors current practice in children's hospitals in Ireland: a cut-off age of 16 years, with some flexibility for those already in the system. The 2013 *Review of Paediatric and Neonatology Services and Framework for Future Development* recommended the cut off age for Paediatric services be 16.²⁸¹ However, it is not clear from this document what rationale was used to come to this conclusion.

The Children's Rights Alliance has recommended that the hospital provide facilities and treatment for all children up to 18 years,²⁸² consistent with the definition of a child as a person under the age of 18 under the UN Convention on the Rights of the Child²⁸³ and key Irish statutes on children, such as the Child Care Act 1991 and the Children Act 2001. The European Charter for Children in Hospital also defines children as up to 18 years of age.²⁸⁴ It should be noted that child protection measures place specific obligations on staff working with all those

under 18 years and despite the age of medical consent being 16 years, the law is silent on the age at which a child can refuse medical treatment without parental consent.

In leading international children's hospitals, including Boston Children's Hospital, Great Ormond Street Children's Hospital, Toronto Children's Hospital and Children's Hospital of Philadelphia, adolescents are treated up to the age of 18–21 years. In these hospitals there are specialist adolescent consultants and services available. The new hospital provides an opportunity to address the well-documented gap in adolescent health services by setting the cut off at 18 years for the new hospital.²⁸⁵

The tri-location of the Children's Hospitals with the adult hospital and the new Maternity hospital is welcome. Concerns have been expressed as to the potential lack of space at the St James' site for both the Children's Hospital and the new Maternity Hospital.²⁸⁶ These concerns need to be addressed and planning work begun in parallel with the children's hospital to ensure a coherent and efficient use of available land and resources.



²⁸⁰ New Children's Hospital, *Summary project Brief for the new children's hospital*, <http://health.gov.ie/wp-content/uploads/2014/03/Project-Brief-for-the-New-Children-Summary-Document-for-Media-Release.docx.pdf> pg. 2 (last accessed 6 January 2015).

²⁸¹ HSE, Clinical Strategy and Programmes Directorate, HSE Royal College of Physicians of Ireland 'The Review of Paediatric and Neonatology Services and Framework for Future Development' <http://www.hse.ie/eng/about/Who/clinical/natclinprog/paediatricsandneonatologyprogramme/Workplan/review/framework.pdf> [last accessed 16 December 2014].

²⁸² Beyond this, some flexibility is required in the case of certain young people over 18 years, for example those with intellectual disabilities.

²⁸³ 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'.

²⁸⁴ See European Association for Children in Hospital <http://www.each-for-sick-children.org/>.

²⁸⁵ 'Adolescence' is defined by the World Health Organisation as a distinct developmental period in the age group 10–19 years. http://www.who.int/topics/adolescent_health/en/.

²⁸⁶ J. Sheehan, It's simple: three hospitals just will not fit on St James's site, *Irish Independent* (Online), 7 December 2014 <http://www.independent.ie/irish-news/health/its-simple-three-hospitals-just-will-not-fit-on-st-jamess-site-30804967.html> [last accessed 8 December 2014].



CHILDREN'S HOSPITAL

Immediate Actions for 2015

Expedite the process of building the new National Children's Hospital

This was an immediate action of Report Cards 2014, 2013 and 2012 and remains unaddressed. Work is progressing to planning stages at the St. James' Hospital site in Dublin. The completion of the hospital must remain a key political priority during 2015 to ensure that there are no further slippages in the timeline. A completion date any later than mid-2019 simply cannot be accepted.

Extend the services of the hospital to all those under 18 years

The hospital must be able to meet the health needs of adolescents of 16 and 17 years of age. The cut off age for new patients should be extended to the eve of the young person's 18th birthday, in line with the UN Convention on the Rights of the Child, key Irish statutes and the European Charter for Children in Hospital.

Ensure the hospital design and operation are grounded in children's rights

The design and ethos of the children's hospital must be child-centred and grounded in children's rights. Children's rights principles should set the process by which this should be achieved – core elements include listening to the views of children and their families, a high level of transparency and accountability in decision-making, and equality of access.

3.3 MENTAL HEALTH

Grade

E

GOVERNMENT COMMITMENT

The Programme for Government commits to ring-fencing €35 million annually from within the health budget to develop community mental health teams and services as outlined in *A Vision for Change*, to ensure early access to more appropriate services for adults and children and improved integration with primary care services.²⁸⁷

Progress: On track

Review the Mental Health Act 2001 in consultation with service users, carers and other stakeholders, informed by human rights standards.

Progress: Delayed

Endeavour to end the practice of placing children and adolescents in adult psychiatric wards.

Progress: Unsatisfactory

? WHAT'S HAPPENING?

Budget 2015 saw the restoration of the full €35 million of development funding promised for mental health. The number of children on waiting lists for appointments has increased. Children are still being admitted to adult units.²⁷⁰

Budget 2015 saw €35 million allocated to develop community mental health teams and services, as pledged under *A Vision for Change*. However, the Minister for State with responsibility for Mental Health, Kathleen Lynch TD, committed to making up the €15 million shortfall of Budget 2014 in Budget 2015, but this additional funding did not materialise.²⁸⁸

Published in April 2014, *Better Outcome Brighter Futures: the National Policy Framework for Children and Young People 2014–2020* reiterates the Government commitment to implement *A Vision for Change* as it relates to children and young people.²⁸⁹ The *National Policy Framework* makes a number of specific commitments, it places an emphasis on making mental health supports available in accessible, inclusive, youth friendly environments²⁹⁰ and

²⁸⁷ 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.'

²⁸⁸ Minister of State for Disability, Equality, Mental Health and Older People, Kathleen Lynch TD, Parliamentary Questions: Written Answers, Mental Health Services Funding [27253/14] 24 June 2014

²⁸⁹ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020*, Dublin; Department of Children and Youth Affairs.

²⁹⁰ Ibid., Commitment 1.13.



the huge importance of on early access and diagnosis for children and young people.²⁹¹

CAMHS: A Vision for Change recommended the establishment of 127 specialist Child and Adolescent Mental Health Services (CAMHS) teams.²⁹² However, there are currently only 62 CAMHS teams in operation.²⁹³ The HSE *National Service Plan for 2015* revised slightly the 2014 target by setting the target of under 72 per cent will be offered a first CAMHS appointment and under 72 per cent will be seen at first appointment within 12 weeks.²⁹⁴

CAMHS has been identified as a Key Service Improvement Project for the HSE and a key priority for 2015.²⁹⁵ The aim is to address inconsistencies across services, specifically in the areas of waiting times, referral to treatment times, scope of treatment options available, clarity of information available to families and the interface with other agencies both internal and external to the HSE. A steering group, chaired by Anne O'Connor, National Director of Mental Health, was established in 2014 and held its first meeting in November 2014. The group has met with the management teams of all four CAMHS in-patient units with a view to reviewing operational issues, including the eliminating of any barriers to full bed usage.²⁹⁶

An ongoing debate is whether CAMHS should be located within the HSE or within the Child and Family Agency. In November 2014, Minister Kathleen Lynch signalled that the CAMHS will remain in the HSE to ensure that there is a seamless mental health service. However, she also stated that this under review as the CAMHS service is not getting the results that would be hoped for given the resources being allocated to the service.²⁹⁷

Assessment, Consultation and Therapeutic Service (ACTS): In 2014 ACTS, was rolled out to children in Children Detention Schools, in addition to those in Special Care units.

Clinical services including addiction counselling, social work, social care and speech and language therapy are now available.²⁹⁸ This is a very welcome development.

Bullying and Well-Being: The National Educational Psychologist Service was assigned the responsibility of developing the national guidelines on mental health promotion and wellbeing for primary schools. As of October 2014 the guidelines were in the process of being finalised. The Department of Education and Skills continued to support anti-homophobic and anti-transphobic bullying initiatives in schools.

Review of the Mental Health Act 2001: The Expert Group established to review the Mental Health Act 2001 presented its final report to the Cabinet in November 2014. The report has not been made public yet. It is expected that the report will recommend changes in relation to the age of consent to mental health treatment for children and young people.²⁹⁹

Adolescent Mental Health Units: A Vision for Change recommended that four in-patient child and adolescent mental health units be provided nationally, with a total of 108 beds. Since then, a unit have been delivered in Galway, Cork³⁰⁰ and Fairview, Dublin.³⁰¹ In January 2014, construction work commenced on a new 24-bed unit, Linn Dara, on the grounds of Cherry Orchard Hospital, Dublin. This unit will replace the interim unit on the grounds of St Loman's Hospital, Palmerstown.³⁰² The HSE *Operational Plan for 2015* outlined as a priority its plan to ensure and sustain child and adolescent inpatient capacity as a full 66 bed capacity³⁰³ and the development of a plan for interim National Paediatric Hospital CAMHS inpatient Unit.³⁰⁴

²⁹¹ Ibid., p. 54.

²⁹² 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.

²⁹³ HSE (2014) *Mental Health Division Operational Plan* p. 76.

²⁹⁴ Health Service Executive (2014) *National Service Plan 2015*, Dublin: Health Service Executive.

²⁹⁵ Ibid, p. 49.

²⁹⁶ Minister of State for Disability, Equality, Mental Health and Older People, Kathleen Lynch TD, Parliamentary Questions: Written Answers, Mental Health Services Provision [35734/14] 30 September 2014.

²⁹⁷ Minister of State for Disability, Equality, Mental Health and Older People, Kathleen Lynch TD, Seanad Debates, Suicide and Mental Health Statements, 11 November 2014.

²⁹⁸ Information received from the Children's Mental Health Coalition October 2014.

²⁹⁹ C. O'Brien, 'Mental health law review proposes end to forced ECT', *The Irish Times* [online] 6 November 2014, <http://www.irishtimes.com/news/health/mental-health-law-review-proposes-end-to-forced-ect-1.1989670> [accessed 12 January 2015].

³⁰⁰ Merlin Park in Galway and Éist Linn in Cork were opened in December 2010, each with 20-bed capacity.

³⁰¹ Health Service Executive (2013) *National Service Plan 2014*, Dublin: Health Service Executive, p.49.

³⁰² Health Service Executive (2012) *Fourth Annual Child and Adolescent Mental Health Service Report 2011–2012*, Dublin: Health Service Executive, p. 48.

³⁰³ Health Service Executive (2014) *Mental Health Division Operational Plan 2014*, Dublin: Health service Executive, p. 28.

³⁰⁴ Health Service Executive (2014) *HSE Mental Health Division Operational Plan for 2015*, Dublin: Health Service Executive, p. 21.



Adolescent In-Patients Admissions: The HSE *National Service Plan for 2014* commits to a target that 95 per cent of admissions of children to Child and Adolescent Acute Inpatient Units will be to age appropriate units in 2014 (this figure excludes admissions to units independent of the HSE).³⁰⁵ The final figures for 2014 are not publicly available. The HSE's November 2014 Performance Assurance report states that by the end of November, there had been 263 children and adolescent admissions, of which 179 (68 per cent) were to age appropriate Acute Child and Adolescent Inpatient Units and 84 (32 per cent) to approved adult mental health inpatient units. The majority of admissions to approved adult mental health inpatient units are voluntary with parental consent, with a very small number under Section 25 of the Mental Health Act 2001. Approximately 85 per cent of admissions to approved adult mental health inpatient units are 16 and 17 years of age; a third are discharged within two days; and two thirds within one week.³⁰⁶ The HSE *National Service Plan for 2015* commits to implementing a detailed reporting and monitoring process to measure progress on eliminating admission to adult units for those under 16 years and reducing the admission of those under 17 years.³⁰⁷

32 PER CENT OF IN-PATIENT ADMISSIONS OF CHILDREN AND YOUNG PEOPLE FROM JANUARY TO NOVEMBER 2014 WERE TO ADULT UNITS.

Inspections carried out by the Mental Health Commission in 2014 highlighted issues with in-patient units around the country. The 2014 inspection of the Department of Psychiatry in Connolly Hospital, Dublin found that the centre had been obliged to admit acutely ill children on numerous occasions because no bed was available in a child and adolescent approved centre.³⁰⁸ It was found that the department was not a suitable environment for a child nor could it 'deliver optimal care and treatment'.³⁰⁹ In a similar situation in the Mental Health Unit of Cork University Hospital, one child resident had remained an in-patient in the ward for a number of weeks, despite the availability of a bed in the nearby Child and Adolescent in-patient unit in Cork. Staff of the adult unit had sought a bed in the regional child and adolescent mental health unit and were unaware of this vacancy.³¹⁰



COMMENT

Mental health gets an 'E' grade in *Report Card 2015* the same as in *Report Card 2014*. This reflects the continued inappropriate use of adult inpatient facilities for children and young people. However the identification of CAMHS as a key Service Improvement Project for the HSE and this is a key priority for 2015 is to be welcomed. Of grave concern are the waiting lists for children and young people to access the mental health services, leaving children without support and potentially in a vulnerable position.³¹¹

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.³¹² This General Comment must be reviewed and considered by the Department of Health and HSE in the future development of mental health services for children and adolescents.

In November 2012, the HSE issued *Access Protocols for 16 and 17 year olds to Mental Health Services* which set out that from January 2013, CAMHS will accept referrals of all new cases of children up to their 17th birthday, and from January 2014, or earlier where feasible, up to their 18th birthday.³¹³ In 2014, the HSE *Mental Health Division Operational Plan* and the *National Policy Framework for Children and Young People 2014–2020* reiterated this by committing that all 16 and 17 year olds requiring mental health assessment will be seen by CAMHS.³¹⁴ It is of the utmost importance that all children have equal access

³⁰⁵ Health Service Executive (2013) *National Service Plan 2014*, Dublin: Health Service Executive, Dublin: Health Service Executive, p.49.

³⁰⁶ Health Service Executive (2014) *Performance Assurance Report November 2014*, Dublin: Health Service Executive p.44.

³⁰⁷ Health Service Executive (2014) *HSE Mental Health Division Operational Plan for 2015*, Dublin: Health Service Executive p.21.

³⁰⁸ Mental Health Commission, *Inspector of Mental Health Services 2014 Reports*, 9 October 2014 http://www.mh-cirl.ie/Inspectorate_of_Mental_Health_Services/Summary_of_Inspection_Reports/ [accessed 13 January 2015].

³⁰⁹ Ibid., p. 4.

³¹⁰ Mental Health Commission, *Inspector of Mental Health Services 2014 Reports*, 30 October 2014 http://www.mh-cirl.ie/Inspectorate_of_Mental_Health_Services/Summary_of_Inspection_Reports/ [accessed 13 January 2015].

³¹¹ Health Service Executive (2014) December 2014 Performance Assurance Report, p. 11 <http://www.hse.ie/eng/services/publications/corporate/performanceassurancereports/d14par.pdf>.

³¹² UN Committee on the Rights of the Child (2003), *General Comment No. 4: Adolescent Health*, CRC/GC/2003/4.

³¹³ Minister of State for Disability, Equality, Mental Health and Older People, Kathleen Lynch TD, Parliamentary Questions: Written Answers, Mental Health Services [51940/12] 27 March 2012.

³¹⁴ Health Service Executive (2014) *HSE Mental Health Division Operational Plan for 2015*, Dublin: Health Service Executive, p.21. *National Policy Framework for Children and Young People 2014–2020*, Commitment 1.9.



to the vital service provided by CAMHS.

Adolescent In-Patients Admissions: 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 leave hospital and it is their parent or guardian who has the legal entitlement to provide consent on behalf of their child.³¹⁵ In addition, 'voluntary' patients do not have the same level of automatic protections and safeguards as those afforded to 'involuntary' patients.³¹⁶ 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.'³¹⁷ Legal reform is urgently needed.

In 2014, the HSE *Operational Plan for 2015* outlined as a priority its plan to ensure and sustain child and adolescent inpatient capacity as a full 66 bed capacity.³¹⁸ This is far below the 108 bed for children and adolescents recommended in *A Vision for Change*. 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.³¹⁹

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 their best interests.³²⁰ The placing of children in adult units may place children to situations which pose a risk to their physical and psychological wellbeing and thus contravenes the child's right to protection from abuse and neglect (Article 19).³²¹

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.³²² Despite this, 32 per cent of in-patient admissions of children and young people from January to November 2014 were to adult units. Given the continued placement of children in adult in-patient wards, it is clear that the non-legally binding Code has not been successful.³²³ At a policy level the HSE set as key priorities for 2015 the elimination of all under 16s and reductions in the numbers of under 17s to adult units.³²⁴ While this is welcome, the continued placement of children in adult units, as a consequence of the shortage of age-appropriate mental health facilities, remains a children's rights violation that requires urgent action to remedy for all those under 18 years.³²⁵ Measures to ensure compliance with best practice may require amending the Mental Health Act 2001 to prohibit the placement of a child under 18 years in an adult in-patient unit, save in exceptional circumstances where it would be in his or her best interests to do so.³²⁶

³¹⁵ 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*, Dublin: Health Service Executive, Part Two for further detail on children and consent.

³¹⁶ E. 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]; P. 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].

³¹⁷ Law Reform Commission (2011), *Children and the Law: Medical Treatment*, Dublin: Law Reform Commission, p. 114.

³¹⁸ Health Service Executive (2014) *Mental Health Division Operational Plan 2014*, Dublin: Health service Executive p.28.

³¹⁹ Twelve beds exist at St John of God's, Dublin and fourteen at St Patrick's University Hospital, Dublin.

³²⁰ UN Committee on the Rights of the Child (2003) *General Comment No. 4: Adolescent Health*, CRC/GC/2003/4.

³²¹ UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989).

³²² 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.

³²³ Health Service Executive (2013) *Health Service Data Management Report September 2013*, Dublin: Health Service Executive, p.76.

³²⁴ Health Service Executive (2014) *HSE Mental Health Division Operational Plan for 2015*, Dublin: Health Service Executive p.21.

³²⁵ Fiona Gartland, 'High Court may call head of mental health services to explain lack of bed for teenager', *The Irish Times*, 2 September 2014 <http://www.irishtimes.com/news/crime-and-law/courts/high-court-may-call-head-of-mental-health-services-to-explain-lack-of-bed-for-teenager-1.1914560> [accessed 11 February 2015].

³²⁶ See Children's Mental Health Coalition (2011) *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-Sub-DeptHealthReviewMentalHealthAct2001_071011.pdf [accessed 6 February 2014].



MENTAL HEALTH

Immediate Actions for 2015

Ensure all children under 18 years have access to mental health services and in a timely manner

The HSE's Access Protocols for 16 and 17 year olds to Mental Health Services must be complied with, and measures taken to reduce the waiting times for first appointments. Achieving this requires ongoing investment in the development of Child and Adolescent Community Mental Health teams.

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

The practice of inappropriately treating children in adult mental health facilities must be ended as a matter of urgency. To achieve this, the HSE needs to set a time-bound target, improve internal communications and crucially bring to fruition the promised in-patient beds.

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

Urgent action is needed to put in place a legal framework to protect and fulfil the child's rights in relation to mental health. The Mental Health Act 2001 should be amended to ensure its compliance with the UN Convention on the Rights of the Child. 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).

3.4 ALCOHOL, SMOKING AND DRUGS

Grade

C-

GOVERNMENT COMMITMENT

The Programme for Government commits 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: Stalled



WHAT'S HAPPENING?

Significant progress made on tackling smoking through the enactment of the legislation banning smoking in cars with children and the publication of the legislation on tobacco packaging. No visible progress on alcohol during 2014: the Heads of the Public Health (Alcohol) Bill is yet to be published.

Alcohol: In October 2013, the Government accepted the broad thrust and evidence base of the 2012 *Report of the Steering Group on a National Substance Misuse Strategy* and approved a package of measures to deal with alcohol misuse in foot of its recommendations.³²⁷ The First Annual Report on the National Substance Misuse Strategy – which will track progress on implementing the Steering Group Report's recommendations – is due to be published in 2015.³²⁸

As part of the Government's package of measures, it committed to the drafting of a Public Health (Alcohol) Bill to introduce minimum unit pricing for alcohol; regulation of advertising and marketing of alcohol; structural separation of alcohol from other

products in mixed trading outlets; health labelling of alcohol products; and regulation of sports sponsorship.³²⁹ It is reported that the Bill will also increase the powers of Environmental Officers to tackle underage drinking.³³⁰ A General Scheme of the Bill was due to be published in autumn 2014: this target was missed and the legislation is yet to be published.³³¹

To assist in developing a legislative basis for minimum unit pricing, a health impact assessment was commissioned in 2013 to study the impact of different minimum prices on a range of areas such as health, crime and likely economic impact, in conjunction with Northern Ireland. The assessment was due to be completed by the end of 2014 but is yet

³²⁷ Department of Health (2012) *Steering Group Report on a National Substance Misuse Strategy*, Dublin: Department of Health.

³²⁸ The performance indicators include annual per capita consumption of pure alcohol by people over the age of 15; the number of on-licences, specialist off-licences and mixed trading outlets in operation and the market share of the three types of operation, on a regional basis; the level of enforcement of the provisions of the intoxicating liquor legislation on a regional basis across the country; levels of alcohol related crime on a regional basis; levels of alcohol-related morbidity; and the number of alcohol-related deaths (directly and indirectly related to alcohol. Information received by the Children's Rights Alliance from the Department of Health, December 2014.

³²⁹ 'Ministers Fitzgerald, Reilly and White announce measures to deal with alcohol misuse' [press release], 24 October 2013, <http://www.merriestreet.ie/index.php/2013/10/ministers-fitzgerald-reilly-and-white-announce-measures-to-deal-with-alcohol-misuse> [accessed 10 December 2014].

³³⁰ C. Murphy 'Revealed: How the Government Plans to tackle Alcohol Abuse', *The Irish Independent*, 24 October 2013.

³³¹ Minister for Transport, Tourism and Sport Leo Varadkar TD, Parliamentary Questions: Written Answers, Substance Misuse [34900/14], 18 September 2014.



to be published.³³² This is despite the fact that the Northern Ireland assessment was completed in June 2014 and published.³³³

In October 2013, the Government decided to place the existing voluntary code that governs sports sponsorship on a statutory footing.³³⁴ In December 2013, an inter-departmental working group, chaired by the Department of An Taoiseach, was established to examine the regulation of sports sponsorship. The group was due to report back within twelve months but no report was published by end 2014.³³⁵

Smoking: National policy on smoking is guided by the 2013 report *Tobacco Free Ireland: Report of the Tobacco Policy Review Group*,³³⁶ the first policy document to be published under the *Healthy Ireland* framework. The HSE *National Service Plan for 2014* committed to produce an implementation plan for the recommendations contained in *Tobacco Free Ireland* during 2014.³³⁷ A draft plan has been drawn up, but is yet to be finalised.³³⁸

In December 2014, the Protection of Children's Health (Tobacco Smoke in Mechanically Propelled Vehicles) Bill 2014 was enacted.³³⁹ This legislation amends Section 47(1) of the Public Health (Tobacco) Act 2002 by extending the prohibition of smoking in workplaces to 'a mechanically propelled vehicle in which a person under the age of 18 is present' and making the driver of the vehicle responsible. The legislation was developed and introduced to the Oireachtas as a Private Members Bill in May 2012 by three Senators, Independent Senators John Crown and Jillian Van Turnhout and Fianna Fáil Senator, Mark Daly. It aims to protect children and denormalise smoking.³⁴⁰

In June 2014, Government approved the publication of the Public Health (Standardised Packaging of Tobacco) Bill 2014, which will introduce standardised packaging for tobacco products and will give effect in part to the revised European Tobacco Products Directive which entered into force in May 2014.³⁴¹ Under the Bill all forms of branding – trademarks, logos, colours and graphics – would be removed from tobacco products, except for the brand and variant name, which would be presented in a uniform typeface for all brands. All packs will have to be in a plain neutral colour, except for the mandatory health warnings. The objective is to make tobacco packs look less attractive to consumers and to make health warnings more prominent. By October 2014, the Bill had completed its passage through the Seanad, reached Second Stage in the Dáil and was referred to Select Committee.³⁴²

In another positive move, Budget 2015 saw an increase of 40 cents on a packet of cigarettes with pro-rata increases on other tobacco products. However, legislation has yet to be published to bring into effect the decision of Budget 2014 to introduce a one-off charge on retailers who wish to register to sell tobacco products, and the fee has yet to be agreed.³⁴³

³³² Minister for Transport, Tourism and Sport, Leo Varadkar TD, Parliamentary Questions: Written Answers, Alcohol Pricing [35105/14], 18 September 2014.

³³³ C. Angus, Y. Meng, A. Ally et al. (2014) *Model-based appraisal of minimum unit pricing for alcohol in Northern Ireland: An adaptation of the Sheffield Alcohol Policy Model version 3*, University of Sheffield.

³³⁴ 'Ministers Fitzgerald, Reilly and White announce measures to deal with alcohol misuse' [press release], 24 October 2013, <http://www.merrionstreet.ie/index.php/2013/10/ministers-fitzgerald-reilly-and-white-announce-measures-to-deal-with-alcohol-misuse> [accessed 10 February 2014].

³³⁵ Communication received by the Children's Rights Alliance from the Department of Health Alcohol Control Unit, 29 January 2013.

³³⁶ Department of Health (2013) *Tobacco Free Ireland: Report of the Tobacco Policy Review Group*, Dublin: Department of Health. It sets a target of 2025 to have a tobacco free Ireland or in other words to have a prevalence rate of smokers less than 5 per cent. The report contains two key themes protecting children and the de-normalisation of smoking, p. 42.

³³⁷ Health Service Executive (2013) *National Service Plan 2014*, Dublin: Health Service Executive.

³³⁸ Communication received by the Children's Rights Alliance from the HSE, October 2014.

³³⁹ An Taoiseach Enda Kenny TD, Dáil Debates, Order of Referral of the Protection of Children's Health (Tobacco Smoke in Mechanically Propelled Vehicles) Bill 2012 [Seanad] to the Select sub-Committee on Children and Youth Affairs: Motion, 11 November 2014.

³⁴⁰ Department of Health, *Tobacco Free Ireland*, p. 10.

³⁴¹ Council Directive 2014/40/EU of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products. Ireland has until May 2016 to transpose the Directive into national law.

³⁴² Public Health (Standardised Packaging of Tobacco) Bill 2014 [Seanad], <http://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/bills/2014/5414/document1.htm> [accessed 4 December 2014].

³⁴³ Communication received by the Children's Rights Alliance from the Department of Health, 28 January 2014.

In December 2014, the Government announced a public consultation seeking views on proposed legislation on the sale of tobacco products and non-medicinal nicotine delivery systems (NMNDS), including e-cigarettes.³⁴⁴ Also in December 2014, the Government declared a number of 'legal highs' to be controlled drugs under the Misuse of Drugs Acts.³⁴⁵ The substances have no legitimate use and were assessed at EU level to be dangerous and pose significant health risks to those who use them.

Drugs: From January 2014, a National Coordinating Committee for Drug and Alcohol Task Forces replaced the Drugs Advisory Group. The National Coordinating Committee will drive implementation of the National Drugs Strategy at local and regional level and 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.³⁴⁶ Four meetings of the task force were held in 2014. A subgroup has been established to examine the task force's remit in relation to alcohol.³⁴⁷



Alcohol, Smoking and Drugs gets a 'C-' grade in *Report Card 2015* an increase from the D+ awarded in *Report Card 2014*. This reflects the significant strides made in the area of tobacco control. However, the lack of a progressive alcohol policy means children's lives are being blighted by the alcohol misuse with their families, and the health of young people continues to be impacted by their own drinking.

Alcohol: Of Ireland's 4.59 million population, it is estimated that 1.34 million people drink harmfully and 176,999 are dependent drinkers.³⁴⁸ While acknowledging that work may be progressing within the Government departments, 2014 saw no tangible progress on addressing alcohol misuse. Budget 2015 did not contain any alcohol related measures. Three significant publications were due by end 2014, but none appeared – publication of the General Scheme of the Public Health (Alcohol) Bill; the health impact assessment; and the report of the interdepartmental groups on sports sponsorship. It is critical that progress is made in early 2015 to clarify Government policy on alcohol misuse and concrete actions taken.

IT IS CRITICAL THAT PROGRESS IS MADE IN EARLY 2015 TO CLARIFY GOVERNMENT POLICY ON ALCOHOL MISUSE AND CONCRETE ACTIONS TAKEN.

The steps taken by Government to date to develop a legislative basis for minimum unit pricing are to be warmly welcomed. Setting a minimum unit price for alcohol is recognised as one of the most effective methods of reducing alcohol related harm and was a key recommendation in the 2012 *Steering Group Report on the National Substance Misuse Strategy*.³⁴⁹ The Public Health (Alcohol) Bill is expected to regulate for both minimum unit pricing and the advertising of alcohol to children. The delay in the publication of

³⁴⁴ Department of Health, Public consultation on legislation in relation to the sale of tobacco products and non-medicinal nicotine delivery systems, including e-cigarettes, <http://health.gov.ie/blog/noticeboard/tobaccoconsultation2014/> [accessed 8 December 2014].

³⁴⁵ Department of Health, 'Government Declares Certain Substances To Be Controlled Drugs Under The Misuse Of Drugs Act', [press release], 16 December 2014, <http://health.gov.ie/blog/press-release/government-declares-certain-substances-to-be-controlled-drugs-under-the-misuse-of-drugs-act/> [accessed 11 February 2015].

³⁴⁶ Department of Health, *HSE National Coordinating Committee*, <http://health.gov.ie/healthy-ireland/national-drugs-strategy/national-coordinating-committee-on-drugs-and-alcohol-task-forces-ncc-datf> [accessed 4 December 2014].

³⁴⁷ Department of Health, *Minutes of Meeting of the National Coordinating Committee for Drug and Alcohol Task Forces*, 23 January 2014, <http://health.gov.ie/wp-content/uploads/2014/03/23rd-January-2014.pdf> [accessed 6 January 2015]; and Department of Health Minutes of Meeting of the National Coordinating Committee for Drug and Alcohol Task Forces 3 April 2014 <http://health.gov.ie/wp-content/uploads/2014/03/3rd-April-2014.pdf> [accessed 6 January 2015].

³⁴⁸ Health Research Board, *Irish Alcohol Diary 2013* Infographic http://www.hrb.ie/uploads/media/Alcohol_Consumption_in_Ireland_2013_full_infographic.jpg

³⁴⁹ Minimum Pricing - Alcohol Action Ireland, <http://alcoholireland.ie/campaigns/minimum-pricing/> [accessed 17 January 2014].

this legislation is of concern. Publication and enactment of a comprehensive and ambitious Bill needs to be progressed as a matter of urgency. Alcohol Action Ireland note that since the Bill was announced over one year ago more than 1,000 Irish people have died due to harmful use of alcohol.³⁵⁰

Two reports published in 2014 raise grave concerns about how the lives of children and young people in Ireland are negatively impacted by other people's alcohol misuse. In a 2014 report one in ten Irish parents/guardians reported that children had experienced at least one or more harms in the past 12 months as a result of someone else's drinking, including verbal abuse, being left in unsafe situations, witnessing serious violence in the home or physical abuse.³⁵¹ In addition, the 2014 report of the Child Law Reporting Project, found that alcohol abuse was the reason for an application to take a child into care in over 12.3 per cent of cases it documented.³⁵²

These findings highlight the close association between parental drinking and child neglect and abuse, and have serious implications for our child protection and welfare services. In his 2014 report, the Special Rapporteur on Child Protection, Dr. Geoffrey Shannon, called for drug, alcohol and mental health services to be actively integrated into the child protection system.³⁵³ The service delivery reform currently underway within the new Child and Family Agency provides an important opportunity to address the response to the risk factor of parental substance misuse.³⁵⁴

The phenomenon of binge drinking is evident in Irish childhoods.³⁵⁵ 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. Alcohol is a factor in half of all suicides in Ireland.³⁵⁶ The Irish Association of Suicidology lists substance abuse as a risk factor for youth suicide,³⁵⁷ and the UN Committee on the Rights of the Child has expressed concern about the link between substance abuse and Ireland's suicide rate.³⁵⁸

A 2014 Health Research Board report on alcohol consumption in Ireland during the course of 2013 found that almost two thirds of men and half of women started drinking alcohol before the age of 18 years.³⁵⁹ Similarly, a 2014 World Health Organisation report found that 39 per cent of all Irish people aged 15 years and over had engaged in binge drinking, or 'heavy episodic drinking', in the past 30 days.³⁶⁰ This puts Ireland just behind Austria (40.5 per cent) at the top of the 194 countries studied.³⁶¹

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.³⁶² The UN Committee on the Rights of the Child recommended that Ireland develop a strategy to raise awareness of the problem of children misusing alcohol and to prohibit the advertising of alcohol that targets children.³⁶³ Marketing shapes children's attitudes to alcohol from a very early age³⁶⁴ and leads them to start drinking

- ³⁵⁰ More than 1,000 Irish people have died due to harmful use of alcohol since the Government announced the Public Health (Alcohol) Bill - Alcohol Action Ireland, http://alcoholireland.ie/media_releases/more-than-1000-irish-people-have-died-due-to-harmful-use-of-alcohol-since-the-government-announced-the-public-health-alcohol-bill/ [accessed 29 October 2014].
- ³⁵¹ Ann Hope (2014) *Alcohol's harm to others in Ireland*, Dublin: Health Service Executive, p. 19 and 26.
- ³⁵² C. Coulter (2014) *Second Interim Report*, Child Care Law Reporting Project, Dublin, p. 4.
- ³⁵³ G. Shannon (2014) *Seventh Report of the Special Rapporteur on Child Protection*, http://opac.oireachtas.ie/AWDData/Library3/CYAdocId261114_153148.pdf [accessed 6 January 2015].
- ³⁵⁴ An assessment of HSE child care datasets indicate that the primary reason for 14 per cent of children being taken into state care was 'a family member abusing drugs/alcohol'. Department of Children and Youth Affairs, Statement by Minister Frances Fitzgerald: Early intervention and family support services, Wednesday 7th March, <http://www.dcy.gov.ie/viewdoc.asp?Docid=1820&CatID=12&mn=&StartDate=1+January+2012> [accessed 10 February 2014].
- ³⁵⁵ 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 (2012) *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].
- ³⁵⁶ National Office for Suicide Prevention (2013) *Annual Report 2012*, Dublin: National Office for Suicide Prevention.
- ³⁵⁷ The Irish Association of Suicidology, 'Risk Factors - Youth Suicide', http://www.ias.ie/index.php?option=com_content&view=article&id=38per%20cent3Arisk-factors-youth&catid=7&Itemid=18 [accessed 4 December 2012].
- ³⁵⁸ UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, para. 50.
- ³⁵⁹ J. Long & D. Mongan (2014) *Alcohol Consumption in Ireland 2013: Analysis of a National Alcohol Diary Survey*, Dublin: Health Research Board 2014, p. 11.
- ³⁶⁰ *Ibid.*, p. 16.
- ³⁶¹ World Health Organisation (2014) *Global status report on alcohol and health 2014*, Geneva: World Health Organisation.
- ³⁶² World Health Organization Regional Office for Europe. (2009) *Handbook for action to reduce alcohol-related harm*, <http://www.thehealthwell.info/node/68569>, p. 13. [Accessed: 22nd January 2015]
- ³⁶³ *Ibid.*, paragraph 49.
- ³⁶⁴ A. Hope (2009), *Get 'em Young: Mapping Young People's Exposure to Alcohol Marketing in Ireland*, Dublin: National Youth Council of Ireland.



at a younger age, and to drink more.³⁶⁵ Of concern is the increased nature of children's exposure to alcohol marketing, including through social media.

Smoking: The health implications of smoking are well documented and undisputed. There is evidence that sudden infant death syndrome is more common in infants who are exposed to second-hand smoke. Of concern is the fact that 12 per cent of children in Ireland report that they smoke.³⁶⁶ Research has shown that nicotine is a highly addictive substance and children can become addicted within weeks of experimenting with tobacco.³⁶⁷ Half of all smokers who start smoking as children die prematurely from a smoking related disease.³⁶⁸ Between €1 and €2 billion of the annual health budget is spent on treating tobacco relating disease.³⁶⁹

2014 was a very positive year with noteworthy successes in relation to smoking. The enactment of the Protection of Children's Health (Tobacco Smoke in Mechanically Propelled Vehicles) Bill 2014 in December 2014 was a significant achievement. Children are more susceptible to passive smoking, given that they breathe more rapidly and have a less developed immune system.³⁷⁰ According to the British Medical Association, the level of toxins from smoking in a car can be up to 11 times higher than in a smoky bar. Parents and others with responsibility for the welfare of children have an obligation to ensure that such exposure does not take place. The Bill furthers the implementation of Article 24 of the UN Convention on the Rights of the Child which recognises the child's right to the enjoyment of the highest attainable standard of health.

The publication of the Public Health (Standardised Packaging of Tobacco) Bill 2014 and its passage to-date through the Houses of the Oireachtas is to be warmly welcomed. It is hoped that the measures will deter young people from smoking. It is essential that this legislation is enacted as a matter of urgency. The increase on the price of tobacco products in Budget 2015 and the consultation on e-cigarettes are both welcome developments.

Drugs: Polydrug use is commonplace among young people and those who drink alcohol and use other drugs place themselves at greater risk.³⁷¹ In addition, there is a growing availability of illicit drugs online. The normalisation of drug use is seen within urban and rural society alike,³⁷² and is attributed to easier access to drugs and a wider range of substances on offer.³⁷³ 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 per cent increase in demand over this five-year period.³⁷⁴ The Citywide Campaign has highlighted the 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 were drug-related violence.³⁷⁵ 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). It is essential that age appropriate services are available, when young people need them, to support them to break an addiction.

- ³⁶⁵ 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*, Vol. 44: pp. 229-43.
- ³⁶⁶ C. Kelly, A. Gavin, M. Molcho and S. Nic Gabhainn (February 2012) *The Irish Health Behaviour in School-aged Children Study 2010* Galway: Health Promotion Research Centre, National University of Ireland.
- ³⁶⁷ Department of Health and Children (2013), *Tobacco Free Ireland*, Dublin: Department of Health and Children, p.53.
- ³⁶⁸ *Ibid.*, p.19.
- ³⁶⁹ Health Service Executive (2013) *National Service Plan 2014*, Dublin: Health Service Executive, p. 2.
- ³⁷⁰ Department of Children and Youth Affairs, 'Statement by Dr James Reilly TD, Minister for Children & Youth Affairs Protection of Children's Health (Tobacco Smoke in Mechanically Propelled Vehicles) Bill 2012 Report and Final Stages' [press release], 18 December 2014, <http://www.dcy.gov.ie/viewdoc.asp?DocID=3369> [accessed 22 January 2015].
- ³⁷¹ 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.
- ³⁷² M. van Hout (2009), *Youth alcohol and drug use in rural Ireland: parents' views*, *Rural and Remote Health*, 9: 1171.
- ³⁷³ 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].
- ³⁷⁴ K. Murphy et al (2013) Substance use in young persons in Ireland: a systematic review in *Addictive Behaviours* vol. 38 pp. 2392-2401.
- ³⁷⁵ C. 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]; *RTE News*, 'Gardaí to speak to child who saw father shot dead in Dublin' [online], 26 September 2012, <http://www.rte.ie/news/2012/0925/declan-oreilly-dublin.html> [accessed 3 January 2013].



ALCOHOL, SMOKING AND DRUGS

Immediate Actions for 2015

Enact an ambitious Public Health (Alcohol) Bill as a matter of priority

The Bill should include provisions to reduce children's access to alcohol; curb the widespread availability of cheap alcohol; restrict the promotion of alcohol; and raise awareness of the potential harmful effects of alcohol, including through introducing minimum pricing of alcohol, restricting marketing of alcohol. The Oireachtas should reconsider the introduction of a statutory ban on alcohol sponsorship of sports. The placement of the voluntary code that governs sports sponsorship on a statutory footing would be an ineffective and inadequate response. In addition, Section 9 of the Intoxicating Liquor Act 2008 should also be commenced to provide for the structural separation of alcohol from other goods in mixed retail outlets, such as supermarkets.

Commence the Protection of Children's Health Act 2014 and enact legislation on tobacco packaging

Develop the necessary regulations to enable the commencement of the Protection of Children's Health (Tobacco Smoke in Mechanically Propelled Vehicles) Act 2014 and ensure the provisions are incorporated into the operating systems of An Garda Síochána. Progress the enactment of the Public Health (Standardised Packaging of Tobacco) Bill 2014 as a matter of priority. This Bill will ensure that we are international leaders in tackling smoking and will send a clear message that smoking is dangerous to one's health.



4.

RIGHT TO AN ADEQUATE STANDARD OF LIVING

Chapter 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

"This homeless and housing crisis is affecting everyone - young people, families and children, older people, people with severe health problems, people battling drug and alcohol issues, people this state has failed from a young age. It is not only affecting people in our cities and towns but is also affecting people in rural areas. At the end of 2014 there were almost 3,000 people in emergency accommodation, including 880 children; 36 per cent of those were outside the capital."

Niamh Randall, Head of Policy and Communications, Simon Communities in Ireland



IN THE NEWS

FAMILIES FORCED TO GO HUNGRY

The Kerryman 22 November 2014

HUNDREDS of families in Tralee are so poverty stricken they can't afford to feed themselves once they've met their monthly bills.

Tralee's St Vincent De Paul branch says they are overwhelmed with desperate calls for help from local families that can't afford food, fuel or even clothes for their children. Hundreds of extra families have contacted the society for help in recent weeks as the Christmas season looms.

This week SVP in Tralee, with support from *The Kerryman*, launched a Christmas appeal calling for donations of food, fuel and money to help the town's neediest families. Many of those seeking help are from the so called new working poor. Families who have been battered by years of recession and austerity.

"We have hundreds of households looking for help. With Christmas coming and the weather getting much colder the last few weeks have been exceptionally busy," said Tralee SVP president Junior Locke.

"We have people who used to help us who are now coming to us looking for help because they can't afford a meal."



4.1 CHILD POVERTY

Grade

F

GOVERNMENT 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: No progress

? WHAT'S HAPPENING?

A national target to reduce child poverty was set by Government. The Child Benefit payment and School Meals budget were increased in Budget 2015, and the Christmas bonus was partially reinstatement.

Child poverty remains unacceptably high: the *EU Survey of Income and Living Conditions* (EU SILC), published in January 2015, shows that in 2013 11.7 per cent of children were living in consistent poverty while 17.9 per cent of children were at risk of poverty.³⁷⁶ The percentage of children living in consistent poverty jumped 5.4 per cent between 2008 and 2013, including a jump of 1.8 per cent between 2012 and 2013.³⁷⁷ Children living in lone parent households suffer the highest rates of consistent poverty and deprivation,³⁷⁸ and one in three children in Ireland is deprived of basic necessities.³⁷⁹

Budget 2015 did not introduce any further cuts to the rate of child or family income supports. The Child Benefit payment was increased by €5 per month to €135 per child. Also adjustments to the Universal Social Charge (USC) mean approximately 80,000

people with incomes below €12,012 will now be exempt from the charge.³⁸⁰ The School Meals budget was increased by €2 million to €39 million for 2015, and the Christmas Bonus was partially restored at 25 per cent, with a minimum payment of €20 for long-term social welfare recipients. However, the rate of the Back to School Clothing and Footwear Allowance (BSCFA) was maintained but was not restored to 2012 levels.

Under the *EU 2020 Strategy*, Ireland has committed to lift 200,000 people out of poverty by 2020.³⁸¹ In 2014, a new national child-specific social target was introduced in the *National Policy Framework for Children and Young People 2014–2020*.³⁸² The national child-specific social target commits 'to lift over 70,000 children out of consistent poverty by 2020, a reduction of at least two-thirds on the 2011 level.'³⁸³ This target includes

³⁷⁶ Central Statistics Office (2015) *EU Survey on Income and Living Conditions 2013*, <http://www.cso.ie/en/releasesandpublications/er/silc/surveyonincomeandlivingconditions2013/#.VMpOnV0kvOF> [accessed 29 January 2015]. 2013 is the latest year for which we have statistics.

³⁷⁷ Ibid.

³⁷⁸ Ibid.

³⁷⁹ Ibid.

³⁸⁰ Michael Noonan TD, Minister for Finance, *Budget 2015: Financial Statement of the Minister for Finance*, Michael Noonan TD, 14 October 2014 [online], <http://www.budget.gov.ie/Budgets/2015/FinancialStatement.aspx> [accessed 9 February 2015].

³⁸¹ 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. The Irish figure is based on the 2010 baseline rate of 6.3 per cent. The EU will be tracking the 'at risk of poverty' measure.

³⁸² Department of Children and Youth Affairs (2014) *Better Outcomes Brighter Futures: The National Policy Framework for Children and Young People 2014–2020*, Dublin: Department of Child and Youth Affairs.

³⁸³ Ibid. Commitment 4.2.



reducing the higher consistent poverty rate for households with children as compared to non-child households (8.8 per cent compared with 4.2 per cent) and for children as compared to adults (9.3 per cent compared with 6 per cent).³⁸⁴ The Department of Social Protection has already begun work on preparing an implementation plan on the child poverty target, in the context of the *National Policy Framework* and has identified the plan as one of its top priorities for 2015. The Department and will work with five partner departments to develop and implement a whole-of-government, multi-dimensional approach to tackling child poverty.³⁸⁵

The 2013 European Commission *Recommendation on investing in children: breaking the cycle of disadvantage* recognises that children are more susceptible to poverty than the overall population and sets out an action plan for addressing child poverty.³⁸⁶ Indeed, in Ireland children are 1.4 times more likely than adults to live in consistent poverty.³⁸⁷ In November 2014, the Department of Social Protection in conjunction with the European Commission held a national seminar with representatives from both government departments and the voluntary sector on how to implement the EU Recommendation in Ireland. The seminar aimed to increase understanding of structural challenges faced when addressing child poverty; raise awareness of EU policy instruments which might be used to confront them; emphasise the need for a multi-dimensional approach to tackling child poverty; and examine best practice in the Irish context.³⁸⁸

A KEY BARRIER TO GOOD NUTRITION IS THE COST OF FOOD, RESEARCH SHOWS CALORIES FROM HEALTHY FOODS [...] ARE UP TO TEN TIMES MORE EXPENSIVE THAN FROM FOODS HIGH IN FAT, SUGAR AND SALT.

The European Semester Framework was introduced to coordinate economic surveillance by the European Commission of EU Member States in 2011. The European Commission issues recommendations to each Member State for a 12 to 18 month period, called Country Specific Recommendations (CSRs). Ireland has been exempt from participating in the earlier monitoring cycles under this framework to avoid duplication with the bailout conditions set down by the Troika. Following our successful exit from the Troika, in July 2014 the European Commission issued Ireland with its first set of CSRs, including a recommendation on child poverty. It recommended that the Government take steps to:

*[t]ackle low work intensity of households and address the poverty risk of children through tapered withdrawal of benefits and supplementary payments upon return to employment. Facilitate female labour market participation by improving access to more affordable and full-time childcare, particularly for low income families.*³⁸⁹

³⁸⁴ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures: National Policy Framework for Children and Young People 2014–2020*, Dublin: Department of Children and Youth Affairs, p. 93.

³⁸⁵ Communication received by the Children's Rights Alliance from the Department of Social Protection, 5 February 2015.

³⁸⁶ European Commission (2013) *Recommendation on Investing in Children: breaking the cycle of disadvantage*, Brussels: European Commission, p.2.

³⁸⁷ Office for Social Inclusion (2014) *Social Inclusion Monitor 2012*, Dublin: Department of Social Protection, p. 15.

³⁸⁸ Communication received by the Children's Rights Alliance from the Department of Social Protection, 5 February 2015.

³⁸⁹ European Commission (2014) *Council recommendation on Ireland's 2014 national reform programme and delivering a Council opinion on Ireland's 2014 stability programme*, Brussels: European Commission, p. 7.



COMMENT

Child Poverty gets an 'F' grade in *Report Card 2015*, a fall from last year's 'E-' grade. This is due to the fact that although the Government introduced a small monthly increase in the Child Benefit payment for the first time in seven years, this gesture does not go far enough to reverse the impact that austerity budgets have already had on children living in poverty. The latest EU SILC statistics demonstrate that since the recession began in 2008, the number of children in Ireland forced into consistent poverty has nearly doubled.³⁹⁰

2014 saw families with children continue to struggle with rising rent prices, utility bills, personal debt, homelessness and food poverty. A 2014 UNICEF report found Irish families with children lost the equivalent of ten years of income progress, and Ireland ranked 37th of 41 OECD countries in their league table measuring relative changes in child poverty.³⁹¹ It is hoped that the upturn in the economy coupled with reductions in the unemployment rate and increases in job creation will be reflected in a lower child poverty figures over coming years.

The Government must also uphold its international obligations, including under Article 4 of the UN Convention on the Rights of the Child to ensure the implementation of children's economic, social and cultural rights to the fullest extent possible even when resources are limited.³⁹² The Special Rapporteur on Extreme Poverty and Human Rights has 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'.³⁹³ The UN Committee on the Rights of the Child,

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.³⁹⁴

Budget 2015: Budget 2015 was not poverty proofed. Each government department has a responsibility to carry out social impact assessments in relation to their own budgetary decisions. In a positive development, the *National Policy Framework for Children and Young People 2014–2020* commits to developing 'integrated Social Impact Assessments as a feature of policy development and policy impact analysis' with a focus on children across a number of government departments with the Department of Social Protection taking the lead.³⁹⁵ To date, only the Department of Social Protection has published an assessment of the impact of its budgetary measures and then only after final decisions have been made.³⁹⁶

The adjustment to the Universal Social Charge (USC) in Budget 2015 is very welcome, excluding those on the lowest incomes. Also welcome is the Government announcement in December 2014 that it will establish a Low Pay Commission to advise on the appropriate rate of the National Minimum Wage and look at the issue of zero-hour contracts which contribute to in-work poverty and poverty trap.³⁹⁷ Both international and domestic actors have called on the Government to introduce progressive tax reforms and widen the tax base.³⁹⁸ If Government is considering tax reforms, it should take steps to make the tax system more equitable with a focus on indirect taxation.

The increase to the Child Benefit payment – paid to approximately 615,000 families in respect of some 1.18 million children – is

³⁹⁰ Central Statistics Office (2015) *EU Survey on Income and Living Conditions 2013*, <http://www.cso.ie/en/releasesandpublications/er/silc/surveyonincomeandlivingconditions2013/#.VMpOnV0kvOF> [accessed 29 January 2015].

³⁹¹ UNICEF Office of Research (2014) *Children of the Recession: The impact of the economic crisis on child well-being in rich countries*, *Innocenti Report Card 12*, UNICEF Office of Research, Florence.

³⁹² 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* (arts. 4, 42 and 44, para. 6), CRC/GC/2003/5, para. 8.

³⁹³ Magdalena Sepúlveda Carmona (2012) *Final draft of the guiding principles on extreme poverty and human rights*, submitted by the Special Rapporteur on extreme poverty and human rights, United Nations Human Rights Council, A/HRC/21/39, p.8.

³⁹⁴ UN Committee on the Rights of the Child (2003) *General Comment No. 5*, paragraph 6.

³⁹⁵ These include the Department of Children and Youth Affairs, the Department of Health, the Department of Public Expenditure and Reform and the Department of Finance.

³⁹⁶ The Department of Social Protection has published social impact assessments of Budgets 2013, 2014 and 2015. These were published after the budget although much of the preparatory work was done in advance of the Budget.

³⁹⁷ Department of Jobs, Enterprise and Innovation, 'Minister Nash welcomes the continuing decrease in the Live Register figures', [press release], 3 December 2014, <http://www.enterprise.gov.ie/en/News/2014/December/Minister-Nash-welcomes-the-continuing-decreases-in-the-Live-Register-figures.html> [accessed 6 February 2015].

³⁹⁸ Centre for Economic and Social Rights (2012) *Mauled by the Celtic Tiger: Human rights in Ireland's economic meltdown*, Rights in Crisis Briefing Paper, Madrid: CESR, p. 14. Social Justice Ireland (2014) *National Social Monitor 2014*, Dublin: Social Justice Ireland, p. 14.

welcome.³⁹⁹ This payment is designed to assist parents with the cost of raising a child while also helping to alleviate child poverty and is a key mechanism through which the State can fulfil its duty to give 'appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities', under Article 18 of the UN Convention on the Rights of the Child.⁴⁰⁰ However, an ongoing concern is that certain children are excluded from availing of this crucial support as their parents do not meet certain qualifying criteria set out in social welfare legislation.⁴⁰¹ In some cases, children of migrant parents, including the children of all asylum seekers, are prevented from accessing the payment on the basis of their parent's immigration status which contravenes the non-discrimination principle in Article 2 of the UN Convention on the Rights of the Child.

The failure to reverse the cuts to the means-tested Back to School Clothing and Footwear Allowance in Budget 2015 is deeply disappointing. It means that the payment – received by 166,400 families⁴⁰² – of €100 for a child under 11 years, or €200 for a child 12 years or over, does not cover the average cost of clothing and shoes for school-going children. In 2014, the costs of a primary school child's clothing or uniform and shoes cost between €165 and €180 on average and €260 for secondary school pupils.⁴⁰³ Despite the high cost of some crested uniforms,⁴⁰⁴ the Minister for Education and Skills, Jan O'Sullivan TD, confirmed in 2014 that school uniform policy is a matter for each individual school and not the Department of Education and Skills.⁴⁰⁵

Poverty Targets: In 2012, the Government revised the *National Action Plan for Social (NAP) Inclusion 2007–2016* target aiming to reduce consistent poverty to four per cent by 2016 (interim target) and to two per cent or less by 2020, from the 2010 baseline rate of 6.2 per cent. The setting of a specific child poverty target in the 2014 *National Policy Framework for Children and Young People* was a very welcomed development. While the initial child poverty target was set at 70,000 based a percentage of children in poverty in 2011. The target will have to be readjusted to take account of the recent increases in child poverty. In 2012, 115,000 children lived in consistent poverty, 8,000 more children than the 2011 baseline on which the child poverty target was set, so the figure will have to be revised upwards to 78,000 children in order to meet the 2020 target.⁴⁰⁶ The target's implementation plan should be a 'multi-dimensional' integrated strategies to address 'child poverty and social exclusion', and adopt a rights-based approach, in line with the EU *Recommendation on Investing in Children* and should reference the European Charter of Fundamental Rights and the UN Convention on the Rights of the Child.⁴⁰⁷



- ³⁹⁹ Statistics supplied to the Children's Rights Alliance by the Department of Social Protection on 5 February 2015.
- ⁴⁰⁰ UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989).
- ⁴⁰¹ 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.
- ⁴⁰² Statistics supplied to the Children's Rights Alliance by the Department of Social Protection on 5 February 2015.
- ⁴⁰³ Barnardos (2014) *School Costs Survey Briefing*, Dublin: Barnardos, p.3.
- ⁴⁰⁴ Barnardos' 2014 *School Costs Survey* found that 76 per cent of surveyed parents with primary school going children and 97 per cent with secondary school going children had to buy school-specific, crested uniforms which were much more expensive.
- ⁴⁰⁵ Jan O'Sullivan TD, Minister for Education and Skills, Parliamentary Questions: Written Answers [38985/14], 14 October 2014.
- ⁴⁰⁶ Office for Social Inclusion (2014) *Social Inclusion Monitor 2012*, Dublin: Department of Social Protection, p.15.
- ⁴⁰⁷ European Commission (2013) *Recommendation on investing in children: breaking the cycle of disadvantage*, Brussels: European Commission, p.4.



Food Poverty: Food poverty continues to be an issue of concern, with the Organisation for Economic Cooperation and Development (OECD) reporting in 2014 that almost ten per cent of the Irish population did not have enough money for food.⁴⁰⁸ One in five children go to school or to bed hungry because there is not enough food in the home; one in six never have breakfast on weekdays.⁴⁰⁹ Teachers have reported an increase in the number of children they see coming to school hungry, estimating that pupils effectively lost six weeks of learning each year through hunger.⁴¹⁰

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.⁴¹¹ The commitment in the *National Policy Framework for Children and Young People 2014–2020* to address food poverty is warmly welcomed.⁴¹² A key barrier to good nutrition is the cost of food, research shows calories from healthy foods (fruit, vegetables, lean meats) are up to ten times more expensive than from foods high in fat, sugar and salt.⁴¹³ As a consequence, children living in low-income families are more likely to be overweight or obese due to reliance on cheaper food with higher calorie content and have less access to affordable and healthy food.⁴¹⁴ Differences in health in children from richer and poorer areas are obvious from as early as three years of age.⁴¹⁵

The School Meals Programme, funded through the Department of Social Protection, continues to be a positive way of ensuring regular and healthy food services for disadvantaged school children. In 2014, almost 207,000 children in 1,600 schools and local organisations benefitted from the programme.⁴¹⁶ The Government must take concrete action to ensure that people on low incomes can access and afford adequate and nutritious food, particularly lone parent households or larger families who are more likely to suffer food poverty.⁴¹⁷

- ⁴⁰⁸ Organisation for Economic Development and Co-operation (2014) *Society at a Glance 2014 Highlights: Ireland – The crisis and its aftermath*, Paris: OECD, p. 3.
- ⁴⁰⁹ C. Kelly, A. Gavin, M. Molcho et al. (2012) *The Irish Health Behaviours in School-aged Children (HBSC) Study 2010*, Dublin: Department of Health
- ⁴¹⁰ D. MacGuill, 'Teachers see a worrying rise in Irish children coming to school hungry', *The Journal*, 25 August 2014, <http://www.thejournal.ie/kids-going-to-school-hungry-ireland-1636952-Aug2014/> [accessed 19 December 2014].
- ⁴¹¹ UN Economic, Social and Cultural Committee (1999) *General Comment No. 12: The Right to Adequate Food* (Article 11), E/C.12/1999/5, paragraph 28.
- ⁴¹² Department of Children and Youth Affairs (2014) *Better Outcomes Brighter Futures*, p. 57.
- ⁴¹³ Food Safety Authority of Ireland (2011) *Scientific Recommendations for Healthy Eating in Ireland*. Dublin: FSAI.
- ⁴¹⁴ R. Layte and C. McCrory (2011) *Growing Up in Ireland – Overweight and Obesity among 9-year olds, Report 2*, Dublin: Department of Children and Youth Affairs, pp.32 and 40.
- ⁴¹⁵ J. Williams, A. Murray, C. McGrory et al. (2013) *Growing Up in Ireland – Development from birth to three years, Report 5*, Dublin: Department of Children and Youth Affairs.
- ⁴¹⁶ Kevin Humphries TD, Minister for State at Department of Social Protection with Special Responsibility for Activation, Dáil Debate, Topical Issue Debate, School Meals Programme, 19 November 2014.
- ⁴¹⁷ 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.



CHILD POVERTY

Immediate Actions for 2015

Publish an ambitious rights based implementation plan to achieve the Child Poverty Target

Develop and publish a Child Poverty Target Implementation Plan, with objectives, actions and agreed timelines for each department or agency with responsibility for delivery. The Plan should mirror closely the *EU Recommendation on investing in children* with a focus on access to adequate resources, access to affordable quality services, and the child's right to participate. It should also reflect the principles of the UN Convention the Rights of the Child, in particular Article 27 which provides for the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

Each government department should carry out a social impact assessment in advance of budgetary decisions being finalised for Budget 2016 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 completed 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 2016 should be poverty proofed and ensure that even in times of recession, human rights are respected.



4.2 CHILDREN AND THE SOCIAL WELFARE SYSTEM

Grade

D+

GOVERNMENT 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: Limited



WHAT'S HAPPENING?

Budget 2015 introduced a new Back to Work Family Dividend. The Advisory Group on Tax and Social Welfare has not yet completed its report on working age income supports.

An Advisory Group on Tax and Social Welfare – established by the Minister for Social Protection, Joan Burton TD, in June 2011 and chaired by Ita Mangan – has now concluded its work.⁴¹⁸ The Advisory Group's report on child and family incomes, published in February 2013,⁴¹⁹ recommended retaining a universal Child Benefit paid at a reduced rate coupled with the introduction of a 'second tier' child income support to replace Qualified Child Increases (QCI) and Family Income Support (FIS) for qualifying families. These recommendations have not as of yet been accepted or acted on by Government. It is understood that Government decision on how to proceed will be taken following publication of the Advisory Group on Tax and Social Welfare report on working-age income supports. The Advisory Group has completed its work on the report on working-age income supports and the report is now with the Minister for Social Protection, Joan Burton TD, for her consideration.⁴²⁰

The National Policy Framework for Children and Young People 2014–2020, published in April 2014, commits the Government to '[d]etermine the optimal design of child and family income supports to maximise their effectiveness and efficiency in reducing child poverty, while improving employment incentives.'⁴²¹

Budget 2015 saw the introduction of a new Back to Work Family Dividend. The Dividend is aimed at incentivising parents who are long-term unemployed to return to work without losing out financially. The Dividend will entitle a jobseeker or lone parent, who is returning to work, increasing their hours or becoming self-employed, to retain the Qualified Child Increase (QCI) (paid at a weekly rate of €29.80 per child) in full for the first year in employment and to retain half the payment (€14.90 per child) for the second year in employment. This amounts to an additional €2,324 per child over the two years, on top of any other any entitlement they may be receiving such as

⁴¹⁸ Communication received by the Children's Rights Alliance from the Department of Social Protection, 5 February 2015.

⁴¹⁹ 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].

⁴²⁰ Communication received by the Children's Rights Alliance from the Department of Social Protection, 5 February 2015.

⁴²¹ Department of Children and Youth Affairs (2014) *Better Outcomes Brighter Futures: The National Policy Framework for Children and Young People 2014–2020*. Dublin: Department of Child and Youth Affairs, p.93 (Commitment 4.3).

the Family Income Supplement Scheme (FIS). In 2014, more than 50,000 families were in receipt of FIS in respect of 111,600 children.⁴²²



COMMENT

Children and the Social Welfare System gets a **'D+' grade**, a rise from last year's 'D' grade. The rise is in recognition of the introduction of the Back to Work Family Dividend, a welcome step which will address a long-recognised welfare trap. The Dividend, aimed at incentivising parents who are long-term unemployed to return to work without losing out financially, will be introduced in April 2015. It will help parents to return to work after a long spell of unemployment by removing a significant financial disincentive, namely the loss of social welfare supports such as the Qualified Child Increase for child dependents and Family Income Supplement. However, this measure must be accompanied will not work in isolation. It must be accompanied by additional measures to address the lack of affordable childcare and after school supports which continue to act as a barrier for some parents, in particular lone parents.

IN 2014, MORE THAN 50,000 FAMILIES WERE IN RECEIPT OF FAMILY INCOME SUPPLEMENT IN RESPECT OF 111,600 CHILDREN.

The European Commission has noted the urgent need to address the high percentage of children living in jobless households but despite a specific Country Specific Recommendations (CSR) on this issue,⁴²³ the promised sub-target to reduce poverty levels in jobless households has not yet been set. Progress on reducing poverty among jobless households will have a significant impact on child poverty. The decrease in Live Register figures is, however, a positive sign of job creation and that more people are returning to work.⁴²⁴

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,⁴²⁵ 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 no matter how limited their economic circumstances, States must take steps to uphold the economic, social and cultural rights of children.⁴²⁶

The social welfare system continues to provide a vital safety net and is responsible for protecting many families from being pushed even deeper into poverty.⁴²⁷ A Department of Social Protection 2014 report demonstrated that social transfers were found to reduce the 'at-risk-of-poverty rate from 55 per cent to 16 per cent' in 2011.⁴²⁸ Of concern, however, is a finding from research by Trinity College Dublin and the Family Support Agency that 40 per cent 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.⁴²⁹ More must be done to ensure that the social welfare system alleviates poverty for those who need it most.

⁴²² Communication received by the Children's Rights Alliance from the Department of Social Protection, 5 February 2015.

⁴²³ European Commission (2014) *Council recommendation on Ireland's 2014 national reform programme and delivering a Council opinion on Ireland's 2014 stability programme*, Brussels: European Commission, p. 7.

⁴²⁴ Department of Jobs, Enterprise and Innovation, 'Minister Nash welcomes the continuing decrease in the Live Register figures', [press release], 3 December 2014, <http://www.enterprise.gov.ie/en/News/2014/December/Minister-Nash-welcomes-the-continuing-decreases-in-the-Live-Register-figures.html> [accessed 6 February 2015].

⁴²⁵ 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.

⁴²⁶ UN Committee on the Rights of the Child (2003) *General Comment No. 5*, paragraph 8.

⁴²⁷ 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 the Economic and Social Research Institute.

⁴²⁸ Department of Social Protection (2014) *Social impact assessment of the main welfare and tax measures for 2014*, Dublin: Department of Social Protection, p.2.

⁴²⁹ 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.



Towards an integrated child income support payment: In 2013, the Advisory Group on Tax and Social Welfare recommended the introduction of a two-tier system of child income supports. The first 'tier' provides a reduced Child Benefit paid to all families with children; the second 'tier' is a means tested top-up for families on very low incomes. The second 'tier' payment would replace Qualified Child Increases (QCI) and Family Income Support (FIS). The model proposed by the Advisory Group was problematic as it set the income threshold for means-testing of the second tier payment too low and because low paid working families suffered the greatest losses (through the loss of FIS).⁴³⁰

Nearly two years on from the publication of the Advisory Group on Tax and Social Welfare 2013 report on child income supports no progress has been made: a policy vacuum exists. It remains unclear if child income supports can be reformed in a manner that provides greater supports to low income families and is more responsive to individual families' needs. The initial upfront investment to establish an integrated system would be significant so it must be clear that reform would yield longer-term benefits including a reduction in child poverty.⁴³¹ It is hoped that the finalisation of the Advisory Group's report on working-age income supports will allow a decision to be made to either reform the payments or leave them as is and focus on other measures. Given the rising child poverty rates and the adoption of a child poverty target, there is an urgent need to clarify which measures are most effective to tackle child poverty and to begin to action them.



CHILDREN AND THE SOCIAL WELFARE SYSTEM

Immediate Actions for 2015

Clarify the Government position in relation to reforming child income supports

The Advisory Group on Tax and Social Welfare's report on working age income should be published as a matter of priority. The Minister for Social Protection should also publish her response to the report and the Group's earlier report on child income support and allow for a period of consultation. Clarity is needed on how the tax and social welfare measures can best be utilised to address child poverty. Clarity is also needed on Government policy in this area.

⁴³⁰ End Child Poverty Coalition (2013) *Position Paper on Reforming Child Income Supports*, <http://www.end-childpoverty.ie/publications/documents/ECPCPositionPaperReformingChildIncomeSupports.pdf> [accessed 11 February 2014].

⁴³¹ See for example, T. Callan, K. Coleman, B. Nolan et al (2006) *Child Poverty and Income Supports: Ireland in a Comparative Perspective* in Callan (ed.), *Budget Perspectives 2007*, Dublin: ESRI.

4.3

AREA BASED APPROACH TO TACKLING CHILD POVERTY

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: Slow



WHAT'S HAPPENING?

10 out of 13 sites within the Area-Based Childhood (ABC) Programme are now in contract and work is underway on an evaluation methodology.

Nearly €30 million has been committed for the Area-Based Childhood (ABC) Programme over a three year period, with Government funding of €14.85m being matched by The Atlantic Philanthropies. The ABC programme aims to improve outcomes for children, young people and their families in some of the most disadvantaged areas of the country using targeted additional investment in evidence-based early interventions.

In April 2014, the Government reiterated its commitment to implement the ABC programme in the *National Policy Framework for Children and Young People 2014–2020* as a way of addressing 'the impact of child poverty and improve child outcomes', and also commits to 'mainstream the learning from the programme to services throughout the country'.⁴³²

The initiative was initially announced in Budget 2013, which committed that €2.5 million would be provided by the Department of Social Protection to the Department of Children and Youth Affairs for the establishment of an Area Based Approach to Child Poverty Initiative. While the programme was initially clearly aligned to reducing child poverty, references to 'poverty' have since been dropped from its title which is now the Area-Based Childhood (ABC) Programme.

The ABC programme is a joint initiative of the Department of Children and Youth Affairs and the Department of an Tánaiste. Pobal and the Centre for Effective Services (CES) are tasked with managing implementation. An inter-departmental project team has been established to provide cross-departmental oversight and advice on the programme.⁴³³ Following

⁴³² Department of Children and Youth Affairs (2014) *Better Outcomes Brighter Futures: The National Policy Framework for Children and Young People 2014–2020*, Dublin: Department of Child and Youth Affairs, p.93 (Commitment 4.1). G13

⁴³³ The group comprises the Department of Children and Youth Affairs, Atlantic Philanthropies, Office of an Tánaiste, Departments of: Taoiseach, Social Protection, Public Expenditure and Reform, Education and Skills, Environment, Community and Local Government and Health; the Child and Family Agency, the Centre for Effective Services and Pobal.



a public call for proposals in April 2013, the Department of Children and Youth Affairs selected 13 successful sites,⁴³⁴ exceeding the Government's commitment to fund up to ten sites.⁴³⁵

By end January 2015, ten of the 13 sites had signed contracts and become operational.⁴³⁶ Three of the ten areas have not yet signed contracts but all are due to be in contract by end March 2015.⁴³⁷ The majority of the sites approved for design stage at the end of 2013 required further development and supports before they could be placed under contract. This included carrying out further consultation before choosing the type of intervention to use, while others had to develop the service model, finalise the consortium of members or verify costs.

During most of 2014, the ten new areas were in a service design phase, a pre-development fund was made available to support this work and a series of workshops were held throughout 2014, run by the Centre for Effective Services to share learning from other initiatives. During this phase each of the ten sites developed a logic model summarising the service's design; the vision, objectives and outcomes to be achieved; an implementation plan; and a revised budget. In addition, extensive community consultation took place to ensure that the service design for each site met identified needs within the community. In addition, each of the ten new sites appointed a 'Lead Agency' and formed a 'Consortium', comprises statutory and voluntary stakeholders and service providers key to the effective implementation.⁴³⁸

Most sites are operating multiple programmes, with a key focus on the early years, parenting and literacy. It is understood that only a minority of the new sites have adopted programmes from the PEIP. In response to learning from PEIP, the ABC programme is placing a strong emphasis on more integrated working within communities and embedding evidence-informed approaches into mainstream service provision, including the development of early identification processes and referral pathways.⁴³⁹

In 2014, an expert advisory group of national and international experts on children's research was established to provide 'impartial and independent guidance and support in the planning, implementation and evaluation of the Area Based Childhood Programme.'⁴⁴⁰ An evaluation approach for the ABC programme has been agreed with a budget of 1.6 million. It will be a standardised approach across the 13 areas and employ a shared measurement framework, detailing common measures to be collected across all ABC sites on core indicators and outcomes. Analyses of outcomes data will be conducted for each ABC site, in addition to aggregated analyses of the overall outcomes achieved by the ABC Programme. An ABC Evaluation Group was established comprising representatives from each of the 13 sites to assist in identifying evaluation issues and potential solutions.⁴⁴¹

NEARLY €30 MILLION HAS BEEN COMMITTED FOR THE AREA-BASED CHILDHOOD (ABC) PROGRAMME OVER A THREE YEAR PERIOD.

⁴³⁴ The successful sites included the three existing projects funded under the Prevention and Early Intervention Programme (PEIP): the Childhood Development Initiative in Tallaght West; Preparing for Life in the north-side Dublin communities of Darndale, Belcamp, Bonnybrook, Darndale, Glin, Kilmore West and Moatview; and youngballymun in Ballymun. The 10 new sites selected are: Ballyfermot/Dublin 10; Bray; Clondalkin (Archways); Dublin Docklands; Finglas (Barnardos-led project); Grangegorman/North West Inner City; Knocknaheeny in Cork; Limerick; Louth (Drogheda and Dundalk); and Midlands (implementation of Good Behaviour Game).

⁴³⁵ 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].

⁴³⁶ Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 February 2015.

⁴³⁷ Ibid.

⁴³⁸ Ibid.

⁴³⁹ Ibid.

⁴⁴⁰ Centre for Effective Services and Pobal, *The Area-Based Childhood Programme 2013–2016* [Presentation] <https://www.pobal.ie/Publications/Documents/Finalpercent20AMpercent20Introductorypercent20Sessionpercent2030percent20Janpercent2014percent20v6.pdf>. The advisory group comprises Dr Frances Ruane, Director of the ESRI (Chair), Dr Mark Dynarski, President of Pemberton Research, United States; Professor Marjorie Smith, Professor of the Psychology of the Family, University College London; and Dr Claire Finn, Head of Research, Department of Children and Youth Affairs.

⁴⁴¹ Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 February 2015.



COMMENT

An Area Based Approach to Tackling Child Poverty gets a 'C+' grade, the same as last year. This grade recognises the progress made during 2014 to support the projects in service design planning and development work and to bring the majority of sites into contract and operational. Anecdotal evidence suggests though that some communities found delays in the earlier part of the year frustrating. It is also disappointing that the evaluation process was not progressed at an earlier point in this project, as now the evaluations will commence after most of the programmes have begun providing services hindering the gathering of baseline data.

The Government's stated intention is that the ABC programme will build on and learn from Prevention and Early Intervention Programme (PEIP), which began service design and delivery in 2007 and were run in three Dublin sites with a budget of €36 million.⁴⁴² The aim of the PEIP was to 'prevent children from succumbing to the risks associated with disadvantage as well as providing them with the resilience to overcome those risks', similar to the ABC programme.⁴⁴³

The three PEIP sites took a multi-pronged approach, focusing on a range of issues, including improving literacy; improving mental and physical health; increasing school readiness; and supporting quality improvements in early years' care and education. In the PEIP sites, a standardised model was not applied across the three projects and the evaluations were not designed to enable comparison. Each of the programmes targeted a range of different outcomes, used different mechanisms to achieve these outcomes, and were implemented with different communities and populations: the approach was adapted according to local needs and contexts. A significant investment was made in carrying out independent evaluations of the effectiveness of the models of practice used. Each of the three PEIP projects published a series of evaluations and data on their programmes

and has developed extensive implementation expertise. The cost of such evaluation is prohibitive on a larger scale so the aim was to identify develop evidence based models of practice which would lead to improved child outcomes and could be applied in other disadvantaged communities.

In October 2014, the Centre for Effective Services published *The Ten Years of Learning Report* which summarises the overarching learning from the outcome reports and briefing papers in the Prevention and Early Intervention Initiative (PEII) Capturing the Learning Series.⁴⁴⁴ The PEII involved 52 Prevention and Early Intervention services and programmes funded throughout Ireland over a ten year period with an investment of €127 million from The Atlantic Philanthropies, Government and other organisations (including the three PEIP projects). The report contains seven key areas for change and 13 recommendations. One overarching lesson from this report is the positive results achieved through consultation and needs analyses.⁴⁴⁵ These steps helped to inform and tailor the work programmes for the local context as well as ensuring stakeholder and community buy-in making them essential elements to be incorporated into the ABC Programme. *The Ten Years of Learning Report* is a valuable contribution to help shape the debate on why early intervention and prevention is a good investment and the principles necessary for a successful project. However, it again does not identify which models of practice achieved the best outcomes for children, nor does it comment on the quality and rigour of the various evaluation approaches applied.

It is disappointing that the evaluation framework for the ABC Programme was not finalised during the programme planning stage as the sites are operational but base line data requirements are unknown and so cannot be collected. It is unclear if the evaluation framework will be able to support individual programme to build up their evidence base and if the project's timeframe will allow adequate time to capture the evaluation of outcomes for children.

⁴⁴² Funding was provided by the Department of Children and Youth Affairs and The Atlantic Philanthropies.

⁴⁴³ Department of Children and Youth Affairs, 'Prevention and Early Intervention Programme for Children (Dormant Accounts Funded)', <http://www.dcy.a.gov.ie/viewdoc.asp?fn=percent2Fdocumentspercent2Fpolicypercent2Fprevproject.htm&mn=chid&nID=3> [accessed 8 December 2011].

⁴⁴⁴ S. Rochford, N. Doherty and S. Owens (2014) *Prevention and Early Intervention in Children and Young People's Services: Ten years of Learning*, Dublin: Centre for Effective Services,

⁴⁴⁵ Ibid., p.20.



It would be of great value if the final evaluation of the ABC programme could identify which were the most successful programmes run in terms of their impact on outcomes for children and why; and to explore the return on investment through a cost benefit analysis. This exercise would greatly contribute to future policy and budgetary decisions and provide a roadmap for how to decide how limited Exchequer funding should best be spent on children's services.

The ABC projects are a hugely positive development for the 13 selected sites, which will hopefully contribute to improving outcomes for children growing up in those communities. However, a programme-led approach alone is not sufficient, it must be part of a broader suite of ambitious Government measures to tackle child poverty and inequalities which affect nearly one in eight children in communities throughout the country. Measures are needed to address food poverty, the cost of schooling, parental unemployment, household debt and access to affordable housing and health coupled with a whole community approach with multi layered interventions in disadvantaged communities.



AREA BASED APPROACH TO TACKLING CHILD POVERTY

Immediate Actions for 2015

Ensure that the ABC projects are proofed against the UN Convention on the Rights of the Child

Children's rights principles must underpin the ethos of the ABC projects and be incorporated into their vision and methods of working. In particular, each project must consider the best interests of the child, how they will hear the views of children when making decisions which will impact on them and how they will ensure equal treatment, and how they will support the child's life, survival and development.

Introduce a robust evaluation process as a matter of urgency

The finalisation and commencement of a robust evaluation framework must be prioritised to ensure the learnings can be captured from the ABC programme. Children and young people's voices must also be heard when evaluating how the project is working. The evaluation should maximise the potential to build on existing data, such as from the PEIP's and the *Growing Up in Ireland Survey*.

4.4

CHILD AND YOUTH HOMELESSNESS

Grade

D+

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 Homeless Strategy, including a specific focus on youth homelessness, and taking into account the current demands on housing and health services with a view to assessing how to best provide additional services.

Progress: Mixed



WHAT'S HAPPENING?

Homelessness among families with children reached crisis level. Budget 2015 set out a range of new housing measures. A protocol on care leavers and housing was finalised, and the Heads of an Aftercare Bill were published.

In Budget 2015, the Government set out a series of new measures to address the current housing crisis. It pledged €2.2 billion to increase the social housing stock over the next three years. Budget 2015 provided €798 million for a range of housing initiatives – an increase of €232 million (40 per cent) on the 2014 allocation. In May 2014, the Government launched its *Implementation Plan on the State's Response to Homelessness May 2014 to December 2016*.⁴⁴⁶

Jonathan Corrie, a homeless man died on 1 December 2014, while sleeping rough on the front steps of a house on Molesworth Street less than 50 metres from Leinster House. A special Forum on Homelessness was held a few days later and was shortly followed by the launch of the Government's 20-point Action Plan to tackle emergency and short term homelessness, with a budget of €20 million 'plus'. Action was swift: 260 additional

emergency beds were made available for people sleeping rough in Dublin by Christmas and a Nite Café was opened in January 2015 for those who do not wish to be accommodated in emergency accommodation.⁴⁴⁷

Homelessness among Families with Children: In relation to families, the 20-point Action Plan contains a commitment to put in place 'A Stay in your Home campaign' to raise awareness of tenants' rights and ensure that families and others at risk of losing their tenancies will be assisted to stay in their homes. In addition, the Child and Family Agency and Dublin City Council will coordinate operations to ensure that services are fully responsive to protection and welfare needs that might arise for families in emergency accommodation.⁴⁴⁸

⁴⁴⁶ Department of Environment, Community and Local Government (2014) *Implementation Plan on the State's Response to Homelessness May 2014 to December 2016*, Dublin: Department of Environment, Community and Local Government.

⁴⁴⁷ *Department of Environment, Community and Local Government Ministers Kelly & Coffey announce 20 actions on Homelessness* [press release], 09 December 2014, <http://www.environ.ie/en/Development/Housing/Housing/News/MainBody,39778,en.htm> [accessed 9 February 2014].

⁴⁴⁸ O. Kelly, 'Dublin Council to Acquire Nama Hotel for Homeless Families' *The Irish Times* (Online) 9th July 2014, <http://www.irishtimes.com/news/social-affairs/dublin-council-to-acquire-nama-hotel-for-homeless-families-1.1859843> [accessed 9 February 2015].



A new Housing Assistance Payment (HAP) is currently being introduced for people who have a long-term housing need and who qualify for social housing support. It will be administered by housing authorities and will eventually replace long-term Rent Supplement. The aim of HAP is that it will be a more integrated system of housing supports, allowing all social housing supports to be accessed through one body – their local authority – and allowing recipients to take up full-time employment and still keep their housing support.⁴⁴⁹

Homeless Children: Since 1 January 2014, the legal duty to provide accommodation and care to homeless children (without their families) has transferred from the HSE to the new Child and Family Agency, Tusla. The *National Policy Framework for Children and Young People 2014–2020*, published in April 2014, committed to 'provide an integrated and comprehensive service response to children under 18 presenting as out of home (as for all children in care) in keeping with the findings and recommendations of the Review of the Implementation of the Youth Homelessness Strategy.'⁴⁵⁰

Aftercare: In a welcome development in February 2014, the then Minister for Children and Youth Affairs Minister, Frances Fitzgerald TD, published the Heads and General Scheme of the Aftercare Bill which will amend the Child Care Act 1991 to provide for a statutory right to the preparation of an aftercare plan.⁴⁵¹ The

Bill places a statutory duty on the Child and Family Agency to prepare an aftercare plan for each eligible child and sets the grounds for eligibility based on the length of time a child has been in care. In July 2014, following a review of the legislation, the Joint Committee on Health and Children recommended that consideration be given to 'broadening the eligibility criteria to include young persons accessing accommodation pursuant to section 5 of the Child Care Act 1991', who are not in care.⁴⁵²

In October 2014, the Department for the Environment, Community and Local Government finalised a Protocol on Young People Leaving State Care, which aims to ensure that the necessary measures are in place to prevent homelessness for young people leaving State care.⁴⁵³ The protocol outlines the practical steps involved in assessing a young person leaving State care and managing that person's accommodation and support needs. It commits Housing authorities to consider the needs of care leavers when developing Homelessness Action Plans.

ON AVERAGE OVER 40 FAMILIES BECAME HOMELESS EACH MONTH IN 2014; UP FROM 20 FAMILIES PER MONTH IN 2013.

⁴⁴⁹ Department of Environment, Community and Local Government <http://www.environ.ie/en/Development/Housing/Housing/SocialHousingSupport/HousingAssistancePayment/>

⁴⁵⁰ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014–2020*, Dublin: DCYA, Commitment 3.16.

⁴⁵¹ *Department of Children and Youth Affairs Cabinet approves Heads of Bill of Aftercare Bill 2014* [press release], 25th February 2014, <http://www.dcy.gov.ie/viewdoc.asp?DocID=3104> [accessed 9 February 2015].

⁴⁵² Joint Committee on Health and Children, Report on General Scheme of the Aftercare Bill 2014, <http://www.oireachtas.ie/parliament/media/committees/healthandchildren/health2014/Aftercare-Report.pdf> [accessed 09 February 2015] p. 12.

⁴⁵³ Department for the Environment, Community and Local Government (2014) *Circular Housing 46/201428 Protocol on Young People Leaving State Care*, <http://www.environ.ie/en/Publications/Developmentand-Housing/Housing/FileDownload,39388,en.pdf> [accessed 09 February 2015].



COMMENT

Homelessness gets a 'D+' grade in *Report Card 2015* a fall from last year's C+ reflecting the alarming rise in families with children becoming homeless in 2014. The grade also reflects positive developments in relation to the publication of the Heads of the Aftercare Bill 2014 and finalisation of the Protocol on Young People Leaving State Care. Unfortunately neither of these vindicate a child's right to accommodation as they do not provide an entitlement to accommodation.

A child who is homeless is extremely vulnerable and the State is obliged under the UN Convention on the Rights of the Child to provide special protection to any child 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 an 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 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.'⁴⁵⁴

Homelessness among Families with Children: While acknowledging the significant budget allocation for housing we note that there is neither a national policy on the needs of children within homeless families nor a national target specific to reducing homelessness among families with children. There is also concern that in the current crisis emergency accommodation will be provided to families that falls below accepted minimum standards.

The rate of families with children becoming homeless⁴⁵⁵ jumped dramatically in 2014 to an unacceptable level.⁴⁵⁶ The photo of a mother and her three children who were forced to sleep in their car for a week put a human face on the crisis. Between 22 and 28 December 2014 there were 407 families with 880 children in homeless accommodation across the country.⁴⁵⁷ On average over 40 families became homeless each month in 2014: up from 20 families per month in 2013. With such high numbers of families presenting, it is becoming increasingly difficult for the State to provide quality emergency accommodation for them. The increase in homeless numbers is set against a backdrop of over 96,000 households⁴⁵⁸ on the social housing list, with people waiting anything up to 10 years.

The drivers behind the increasing number of homeless families include low levels of rent supplements in an era of rapidly increasing rent prices, increased demand for rental accommodation, landlords refusing to accept rent allowance, growing social housing waiting lists and personal indebtedness.⁴⁵⁹ Domestic violence can also be a cause of homelessness for some very vulnerable families.⁴⁶⁰

Living for an extended period of time in emergency accommodation places a huge strain on normal family home life. Such accommodation often means whole families living in one room with no kitchen facilities. Long term hotel living is costly, unsustainable and not conducive to childhood development. There is little space for children to do homework or to play, violating Articles 6 (development) and Article 31 (play) of UN Convention on the Rights of the Child.⁴⁶¹ 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. Another concern is that the child's school may be disrupted or that they witness violence or drug use within the accommodation centres.

⁴⁵⁴ Committee on Economic, Social and Cultural Rights (CESCR) *General Comment No.4: The right to adequate housing* (Art.11 (1)):13 December 1991.

⁴⁵⁵ RTE, 'Over 450 families made homelessness in Dublin last year', RTE News [Online], 29 January 2015, <http://www.rte.ie/news/2015/0129/676543-homeless/> [accessed 09 February 2015].

⁴⁵⁶ P. Duncan, 'Family Home Lost Every Day, says Focus', *The Irish Times* [Online], 5 August 2014. <http://www.irishtimes.com/news/social-affairs/family-home-lost-every-day-says-focus-1.1888185> [accessed 09 February 2015].

⁴⁵⁷ Department of the Environment, Community and Local Government (2014) *Breakdown of homeless persons in emergency accommodation*, <http://www.environ.ie/en/Publications/DevelopmentandHousing/Housing/FileDownload,40111,en.xls> [accessed 11 February 2015].

⁴⁵⁸ K. Holland, 'Homeless Crisis in Need of Action', *The Irish Times* [Online], 26 April 2014, <http://www.irishtimes.com/news/social-affairs/homeless-crisis-in-need-of-urgent-action-1.1774572>. [accessed 09 February 2015].

⁴⁵⁹ Ibid.

⁴⁶⁰ S. Pollak, 'Domestic violence leaving up to 700 women and children homeless every day', *The Irish Times*, 10 June 2014. See also http://www.sonashousing.ie/wp-content/uploads/safe_home_report.pdf

⁴⁶¹ UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989).



Such accommodation is it also not cost effective for the State. In 2013, the State paid over €30 million on emergency accommodation.⁴⁶² While emergency accommodation is of course a necessity, there is a need for increased expenditure to deal with the homeless crisis at the present time. Preventative measures and more sustainable options must be invested in parallel. The provision of social housing and measures in relation to support with rents and mortgages must remain a Government priority throughout 2015.

As a preventative measure, the Government must review the levels of rent supplement in the context of rising rent prices every 12 months rather than 18 months, in line with private rent reviews. For families who are already homeless, often for long periods of time, the Social Impact Investment project had delivered results by using a combination of private sector investment and non-governmental support to help these families move onto independent living. The 2014 *National Policy Framework for Children and Young People 2014–2020* re-iterated Government commitment to this project and called for consideration of 'its application nationally'.⁴⁶³

Homeless children: Much progress has been made in the area of youth homelessness over the past number of years, including on the availability of data.⁴⁶⁴ On foot of the 2013 review of the *Youth Homelessness Strategy*, the policy response to youth homeless is now integrated into the child protection and welfare service, rather than set out in a standalone strategy.⁴⁶⁵

The Crisis Intervention Service (CIS) operates in Dublin, Wicklow and Kildare providing an out of hours emergency social work service to any child in a crisis situation, these include those in crisis requiring emergency accommodation, those identified by the Garda National Immigration Bureau as a separated child (seeking asylum) and those for whom there is an immediate protection or welfare concern. Between January and October 2014, 567 children were referred to the CIS, of which 147 were placed in emergency

accommodation.⁴⁶⁶ In the rest of the country, an Out of Hours Service (OHS) provides a service for children who are at immediate and serious risk of harm, or who are abandoned requiring an emergency placement out of hours further to the intervention of An Garda Síochána under Section 12 of the Child Care Act 1991.⁴⁶⁷ Between January and October 2014, 270 referrals were made to the OHS, of which 156 were provided with accommodation over 359 nights.⁴⁶⁸

Some children access homeless service as a route of out an abusive family home and into care, or as a result of a care placement breakdown. For example, of 173 children who accessed Crisis Intervention Service emergency accommodation, 76 returned home and 75 were placed in residential or foster care (including relative foster care), five were placed in supported lodgings, two were placed in semi-independent living, six stayed with friends, three were placed in Secure Care and one was referred to adult services.⁴⁶⁹

Best practice is to reunite children who present as homeless with a family member or where necessary take them into care. Even a few weeks of couch surfing, sleeping rough or accessing emergency accommodation can place a child at extreme risk of abuse, criminal behaviour and substances misuse. Given the vulnerability of these children and the destabilising impact of homeless, the number of children under Section 5 of the Child Care Act 1991 – which places a duty on the Child and Family Agency to accommodate a homeless child must be tracked carefully.

The Nightlight Project (based in Lefroy House) is the primary centre providing accommodation for children between the ages of 12 to 17 years, for whom fostering or supported lodgings placements are not appropriate. While Nightlights' opening hours have increased recently, there are still noticeable gaps in the provision of supports for the children, particularly during weekends. On a positive note, the use of Garda Stations to access emergency accommodation has been reduced and is now only used when necessary for safety management.

⁴⁶² Former Minister for Housing and Planning, Jan O'Sullivan TD, Parliamentary Questions: Written Answers [30364/14], 9th July 2014 <https://www.kildarestreet.com/wrans/?id=2014-07-09a.842&s=per cent22emergency+accommodationper cent22+speakerper cent3A233#g844.r> [accessed 09 February 2015].

⁴⁶³ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020*, Dublin: DCYA, Commitment 4.7.

⁴⁶⁴ Department of Children and Youth Affairs (2013) *Every Child a Home: A review of the implementation of the youth homelessness strategy*, Dublin: DCYA, p.44.

⁴⁶⁵ Department for Health and Children (2001) *Youth Homelessness Strategy*, Dublin: Stationary Office.

⁴⁶⁶ TUSLA, Quarterly 3 National Performance Activity Report, [http://www.tusla.ie/uploads/content/National_Performance_Activity_Report_Quarter_3_2014_Final_\(2\).pdf](http://www.tusla.ie/uploads/content/National_Performance_Activity_Report_Quarter_3_2014_Final_(2).pdf) [accessed 09 February 2015] p.23.

⁴⁶⁷ Ibid, p. 24.

⁴⁶⁸ Ibid.

⁴⁶⁹ Crisis Intervention Service, 2014 Powerpoint presentation, supplied by the Department of Children and Youth Affairs, February 2014.

Aftercare: On 30 September 2014, 1,698 young adults between 18 and 23 years were receiving an aftercare service.⁴⁷⁰ There are a small cohort of care leavers, often those who have had multiple care placements, that find accessing housing particularly difficult. In June 2014, Focus Ireland reported that out of 140 young people accessing their three aftercare support services, 22 were using homeless services and 21 were staying in insecure accommodation.⁴⁷¹

The publication of the Aftercare Bill 2014 is an important improvement on the existing legislative provisions. The Bill should be strengthened to provide an additional eligibility ground, one which is based on the assessed needs of a child who has either been in care or who has been known to the Agency during the past five years.⁴⁷²



CHILD AND YOUTH HOMELESSNESS

Immediate Actions for 2015

Invest in appropriate accommodation for homeless families

The Government must prioritise the delivery of its Budget 2015 commitment on housing. It must also provide flexible and creative approaches to ensure homeless families are provided with family-friendly emergency accommodation with 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. Families must also be supported to move on to stable accommodation, through for example an expansion of the Social Impact Investment project.

Review of rent supplement payments

The current rates paid to recipients do not match rise in rent prices. To address this problem the Government must bring the rent supplement review in line with private rent prices reviews which take place every 12 months by landlords, instead of every 18 months.

Extend outreach supports available to homeless children

A small number of children access emergency accommodation over an extended period of time. They often have ongoing and complex care needs. A health service, including medical, sexual health, mental health and psychiatric supports, should be available to these children on an outreach basis.

⁴⁷⁰ TUSLA, Quarterly 3 National Performance Activity Report, [http://www.tusla.ie/uploads/content/National_Performance_Activity_Report_Quarter_3_2014_Final_\(2\).pdf](http://www.tusla.ie/uploads/content/National_Performance_Activity_Report_Quarter_3_2014_Final_(2).pdf) [accessed 09 February 2015] p.14.

⁴⁷¹ K. Holland 'Homeless crisis among young people leaving State care growing' The Irish Times (Online) 23 June 2014 <http://www.irishtimes.com/news/social-affairs/homeless-crisis-among-young-people-leaving-state-care-growing-1.1874994> [accessed 14 January 2015].

⁴⁷² Children's Rights Alliance (2014) *Submission to the Joint Committee on Health and Children on the General Scheme and Heads of Aftercare Bill 2014* [online]. http://www.childrensrights.ie/sites/default/files/submissions_reports/files/Children%27s%20Rights%20Alliance%20Submission%20on%20the%20Heads%20of%20Aftercare%20Bill%202014.pdf

5. RIGHT TO PROTECTION FROM ABUSE AND NEGLECT

Chapter 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

"While we welcome that there has been legislative developments in recent years we are hugely disappointed that the Children First Bill hasn't lived up to expectations. In particular the lack of sanctions for those who do not report knowledge of child abuse sends a message that the Irish Government are not serious about protecting Children in Ireland."

Caroline O'Sullivan, Interim CEO, ISPC



IN THE NEWS

NEW CHILD PROTECTION AGENCY TO BE OFFICIALLY LAUNCHED TODAY

TheJournal.ie 30 January 2014

The Child and Family Agency will take over from the HSE in relation to child welfare.

THE TÁSÓISEACH ENDA Kenny is today launching the new Child and Family Agency, which will bring child services into one centralised regime.

The agency will take over child protection from the Health Service Executive (HSE). Previously three separate agencies, the HSE, the Family Support Agency and the National Education Welfare Board were over the area of child welfare. [...]

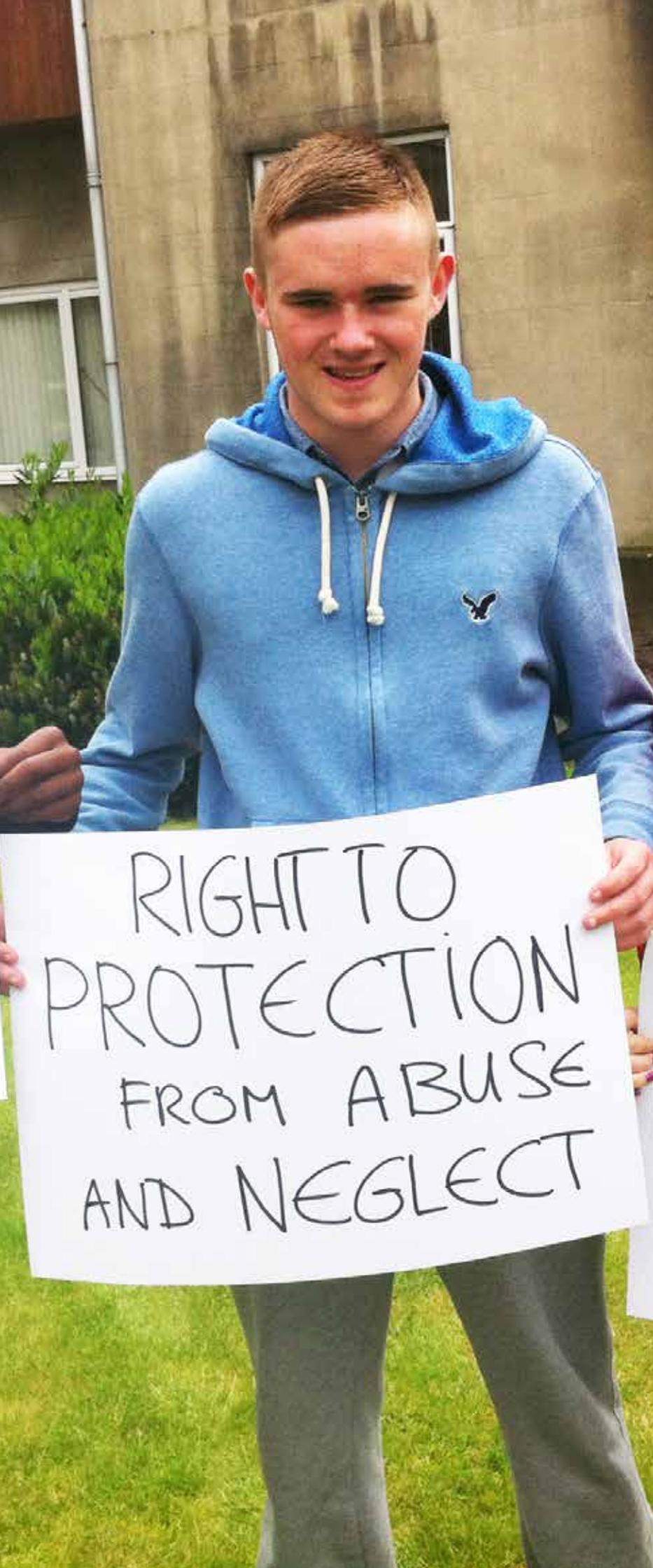
The Child and Family Agency will bring together over 4,000 staff and will have a budget of €609 million.

The national network will include 106 family resource centres on the ground in communities across the state.

Speaking ahead of the launch today, the Minister for Children and Youth Affairs Frances Fitzgerald said: "I consider the new Child and Family Agency as the most effective response possible to our country's repeated and tragic failings in child protection, as shown in the evidence of successive enquiries and reviews over many years". [...]

Speaking on *RTE's Morning Ireland*, Senator and children's rights activist Jillian van Turnhout said it was a great day, but said the job of the agency now was to ensure it gets all the resources it needs and that all agencies cooperate with each other. [...]

By [Christina Finn](#)



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: Good



WHAT'S HAPPENING?

The Child and Family Agency was formally established on 1 January 2014. Budget 2015 provided an additional €34 million for the Agency.

The Child and Family Agency Bill 2013 was enacted on 1 January 2014 bringing the Child and Family Agency into existence. The establishment of the Agency was a key *Programme for Government* commitment. The Agency brings together the following bodies and services: Health Service Executive's Children and Family Services,⁴⁷³ 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.⁴⁷⁴

The Child and Family Agency was officially launched on 30 January by An Taoiseach, Enda Kenny TD, and the then Minister for Children and Youth Affairs, Frances Fitzgerald TD, in Dublin Castle. At the launch, the Agency published its initial statement of purpose, entitled *Ireland's Child and Family Agency: Towards a Shared Purpose* for consultation on the priorities and key objectives to be included

in its first Corporate Plan.⁴⁷⁵ Also in January 2014, the Agency published its Business Plan for 2014 which identifies 16 priority areas with 59 individual output measures to be monitored throughout the year.⁴⁷⁶

The Child and Family Agency Act 2013 sets out a four step structured dialogue between the Minister for Children and Youth Affairs and the Agency on the development of Agency's Corporate Plan. This process was completed in 2014 and involved the publication by the Minister for Children and Youth Affairs of a Performance Framework for the Child and Family Agency;⁴⁷⁷ an annual performance statement with specific policy guidance, direction, prioritisation and resource parameters in respect of each year for the preparation of the Agency's Annual Business Plan; and approval by the Minister of the Agency's three year Corporate Plan, which is due to be published in February 2015.

⁴⁷³ These services comprise child welfare and protection services; foster and residential care and aftercare; and adoption services.

⁴⁷⁴ The HSE will retain responsibility for Sexual Assault Treatment Units which are located in acute hospitals and other medical services.

⁴⁷⁵ TUSLA (2014) *Ireland's Child and Family Agency: Towards a Shared Purpose*, http://www.tusla.ie/uploads/content/tusla_towards_a_shared_purpose.pdf [accessed 4 February 2014].

⁴⁷⁶ TUSLA (2014) *Business Plan*, http://www.tusla.ie/uploads/content/Business_Plan_2014_-_FINAL_VERSION__3_.pdf [access 4 February 2015]. This was prepared in line with Section 46 of the Child and Family Agency Act 2013.

⁴⁷⁷ TUSLA (2014) *Performance Framework for the Child and Family Agency*, http://www.tusla.ie/uploads/content/Performance_Framework.pdf [accessed 4 February 2015].



Budget: In April 2014, the Government committed in the *National Policy Framework for Children and Young People 2014–2020* to adequately resource the Child and Family Agency so that it can 'implement the change agenda effectively and to deliver better outcomes for children and young people'.⁴⁷⁸ The Agency was allocated a budget of €609 million for 2014.⁴⁷⁹ Budget 2015 provided an additional allocation of €34 million – a 5.6% increase over the 2014 budget – bringing the Agency's budget allocation to €643 million for 2015, including a funding transfer of €2.5 million from the Department of Environment and Local Government in respect of domestic violence refuges and services.⁴⁸⁰ Over €12 million in capital funding was allocated in Budget 2015 (an increase of €5.6 million on 2014) to meet the cost of the roll-out of the National Child Care Information System.

Workforce: The Agency is preparing a workforce development strategy for publication by end of second quarter 2015. This will ensure strategic and operational workforce development plans and processes are established as key activities in the Agency focusing on improving resource deployment, structured professional and career development, recruitment, retention and turnover of key staff and staff motivation.

DSGBV: Since January 2014, the Agency has assumed responsibility for Domestic, Sexual and Gender Based Violence (DSGBV) services.⁴⁸¹ It is currently conducting a review of the delivery of these services. In November 2014, Tusla hosted a learning event for stakeholders in the DSGBV sector to consider the results of the first ever mapping exercise of DSGBV services nationally.

Child Protection and Welfare: In December 2014, the Agency published a comprehensive *Alternative Care Practice Handbook*.⁴⁸² A Participation Strategy for the Agency on how children and young people can participate in decision-making within the work of the

Agency has been developed, but is not yet public. A child version of the Strategy is in development.

There were 1,403 (whole-time equivalent) social workers employed by the Agency at the end of November 2014 and an additional 193 are being recruited to meet existing vacancies.⁴⁸³ Up to end November 2014, 155 social workers were recruited and had commenced work, while 102 social workers left employment, including those who retired or took maternity leave.⁴⁸⁴ A pilot Maternity Leave Cover scheme has been introduced to address priority gaps in service resulting from maternity leave through temporary contracts.

Of the 6,454 children in care at the end of October 2014, 93% were in a foster care placement (29% of whom were in relative foster care).⁴⁸⁵ All children in care must have an allocated social worker. At the end of October 2014, there were 6,454 children in care of which 93% had an allocated social worker,⁴⁸⁶ meaning 472 children did not have an allocated social worker. Of the 17 administrative areas, six areas had a rate of 100%. However, the Dublin South West/Kildare West Wicklow area had a rate of only 78%.⁴⁸⁷

In relation to children in care having a written care plan, Tusla set a target for 2014 of 90% compliance for 2014. This target was reached for October 2014 (5,781/6,454).⁴⁸⁸ However, this means 673 children in care are still without a written care plan. Of the 17 administrative areas, 12 has reached or exceeded the 90% target. However, of concern was that in Cavan/Monaghan only 48% and in Dublin South Central 59% of children had a written care plan.⁴⁸⁹ In the area of foster care, there were 449 relative foster carers awaiting approval by the Foster Care Panel at the end of Quarter 3 2014, 83% of these had a child placed with them for longer than 12 weeks and only 67% have an allocated social worker for the foster carer/s (often referred to as a link worker).

⁴⁷⁸ Department of Children and Young People, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020*, p. 40, Commitment G45.

⁴⁷⁹ The budget of the HSE Children and Family Services (approximately €534 million) was transferred to the new Agency, along with the budgets of the National Educational Welfare Board (NEWB) and the Family Support Agency (FSA).

⁴⁸⁰ The Child and Family Agency's budget line forms part of the Vote of the Department of Children and Youth Affairs.

⁴⁸¹ See <http://www.tusla.ie/about>

⁴⁸² TUSLA (2014) *Alternative Care Practice Handbook*, Dublin: TUSLA

⁴⁸³ Dr. James Reilly TD, Minister for Children and Youth Affairs, Parliamentary Questions: Other Questions, Child and Family Agency Staff [2204/15], 20 January 2015

⁴⁸⁴ Ibid.

⁴⁸⁵ TUSLA, *Monthly National Performance Activity Report October 2014*, p.4, <http://www.tusla.ie/data-figures> [accessed 4 February 2015].

⁴⁸⁶ Ibid., p.10.

⁴⁸⁷ Ibid.

⁴⁸⁸ Ibid. p.12.

⁴⁸⁹ Ibid.

On a positive note, the statistics for children in care and remaining in education are encouraging – 98% of children in care between the ages of six and 16 years and 92% of those aged 17 years of age were in full time education and the (school age).⁴⁹⁰

At the end of the third quarter 2014, there were 27,937 cases recorded as 'open' to social work team across the country, an increase of 664 on the previous month.⁴⁹¹ Of the 'open' cases, 29% or 8,161 cases were awaiting allocation and of those 2,829 were considered high priority.⁴⁹² During 2014, 32,788 referrals were received by social work services.⁴⁹³ The majority of referrals (57%) relate to a child welfare concern and the remainder to child abuse concerns. At the end of quarter three 2014, there were 1,393 children listed as active on the Child Protection Notification System (CPNS).



Child and Family Agency gets a 'B' in *Report Card 2015*, a slight fall from last year's 'B+' grade. This year's grade reflects the success of establishing a new statutory agency for children and families and the public sector, policy and service delivery reform undertaken by the Child and Family Agency in its first year of operation. But the grade is also cognisant that delays exist in responding to child protection referrals and failings persist in our child care system.

The establishment of the Child and Family Agency has the potential to change how the State interacts with some of the most vulnerable families and children in need of support. A major challenge exists to shift the focus and resources of the Agency away from crisis intervention to prevention and earlier intervention measures, including family support.

Children's Rights: The UN Committee on the Rights of the Child has emphasised that child protection must begin with proactive prevention.⁴⁹⁴ 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).⁴⁹⁵ 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,⁴⁹⁶ and not to be separated from their parents unless it is in their best interests.⁴⁹⁷

THE CURRENT BACKLOG OF 8,161 CHILD PROTECTION CASES WHICH HAVE NOT BEEN ALLOCATED A SOCIAL WORKER INCLUDING 2,829 DEEMED 'HIGH PRIORITY' IS UNACCEPTABLE AND MUST BE ADDRESSED AS A MATTER OF URGENCY

⁴⁹⁰ TUSLA, *Quarter 3 2014 National Performance Activity Report*, p.10 [http://www.tusla.ie/uploads/content/National_Performance_Activity_Report_Quarter_3_2014_Final_\(2\).pdf](http://www.tusla.ie/uploads/content/National_Performance_Activity_Report_Quarter_3_2014_Final_(2).pdf) [accessed 4 February 2015].

⁴⁹¹ TUSLA, *Monthly National Performance Activity Report October 2014*, p.14, <http://www.tusla.ie/data-figures> [accessed 4 February 2015].

⁴⁹² Ibid.

⁴⁹³ Communication received by the Children's Rights Alliance from the Child and Family Agency, 9 February 2014.

⁴⁹⁴ UN Committee on the Rights of the Child (2011) *General Comment No.13: The right of the child to freedom from all forms of violence*, CRC/C/GC/13, 1.3. (e) and (g); and also Recommendation 37(c) of the Committee on the Rights of the Child (2006) Concluding Observations of the United Nations on Ireland.

⁴⁹⁵ 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).

⁴⁹⁶ 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.

⁴⁹⁷ UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989), Art. 9.



Section 9(1) of the Child and Family Act 2014 obliges the Agency to 'have regard for the best interests of the child' when carrying out its functions. The legislation does not explicitly state how Agency workers should interpret this principle and no regulation was issued on it during 2014. Sections 9(3) and 9(4) of the Act places an obligation on the Agency to consult and listen to children in the planning and functioning of the Agency and in its work with individual children and families. The implementation of the Agency's Participation Strategy is a key opportunity to operationalise these provisions. The Agency's strategy should be in line with the national participation strategy currently being developed.

One of the underlying drivers for the establishment of the Agency was to join up child protection and family support services and early intervention and preventative work with children and families. It is not yet clear how the Agency will achieve the aim set out under Section 8 of the Act to ensure the 'effective functioning of families', including delivery of 'preventative family support services'.

Budget: During 2014, Gordon Jeyes, the Agency's Chief Executive publicly stated that the Agency required additional funding of €45 million 'just to stand still'.⁴⁹⁸ The additional €34 million allocated to the Agency in Budget 2015 is warmly welcomed. However, even with this additional funding concerns remains that the Agency will be unable to meet its statutory obligations given the combination of growing demand for its services and demographic pressures. The Agency may be forced to run over budget or make cuts to key services that are not in the best interests of children and will prove to be a false economy.

Interagency Linkages: A key challenge for the Agency is to ensure effective interagency working with relevant services outside of the Agency. A weakness in this area can often lead to a child being failed. Despite a recommendation from the Task Force on the Child and Family Support Agency,⁴⁹⁹ a decision was made not to include the Public Health Nurses (PHNs) service and the Child and Adolescent

Mental Health Services (CAMHS) in the initial phase of the Agency.⁵⁰⁰ The Government should review the composition of the Agency during 2015.

Child Protection: Success will be measured by whether the Agency can address waiting lists, deliver high-quality services and improve the experience and outcomes for children and families using its services. The current backlog of 8,161 child protection cases which have not been allocated a social worker including 2,829 deemed 'high priority' is unacceptable and must be addressed as a matter of urgency.⁵⁰¹

The Review of Adequacy for HSE Children and Family Services 2012 report, published in 2014, details that 40,187 referrals were received by the HSE Children and Family Services in 2012.⁵⁰² The referrals relate to both child abuse and child welfare. About half the referrals are referred for an initial assessment following a preliminary inquiry. Each referrals does not relate to a new case as there may be multiple referrals made in respect of the same child; the child may already be under assessment; or the referral may not be appropriate for Tusla. In less than 2% of the 19,044 child abuse related referrals, the child was listed on the Child Protection Notification System or a child protection conference was called. Further analysis is needed to unpack this data. For example, is there a quality assurance system in place to monitor whether the threshold is applied consistently across the country and between different socio-economic and ethnic groups? What are the outcomes for children identified as at risk or in need? Did they receive a timely and appropriate intervention?

⁴⁹⁸ S. Wayman, 'Child protection chief on walking the talk', *The Irish Times* [Online], 30 December 2014, <http://www.irishtimes.com/life-and-style/health-family/parenting/child-protection-chief-on-walking-the-talk-1.2040970> [accessed 4 February 2015].

⁴⁹⁹ Department of Children and Youth Affairs (2012) *Report of the Task Force on the Child and Family Support Agency*, Dublin: Government Publications.

⁵⁰⁰ Frances Fitzgerald TD, Minister for Children and Youth Affairs, Seanad Éireann Debate, Child and Family Bill 2013: Second Stage, 27 November 2013.

⁵⁰¹ TUSLA, *Monthly National Performance Activity Report October 2014*, <http://www.tusla.ie/data-figures> [accessed 14th August 2014], p.12.

⁵⁰² TUSLA (2012) *Review of Adequacy for the HSE Children and Family Services*, Dublin: TUSLA.



CHILD AND FAMILY AGENCY

Immediate Actions for 2015

Ensure the Child and Family Agency is adequately equipped to fulfil its statutory and human rights obligations to children

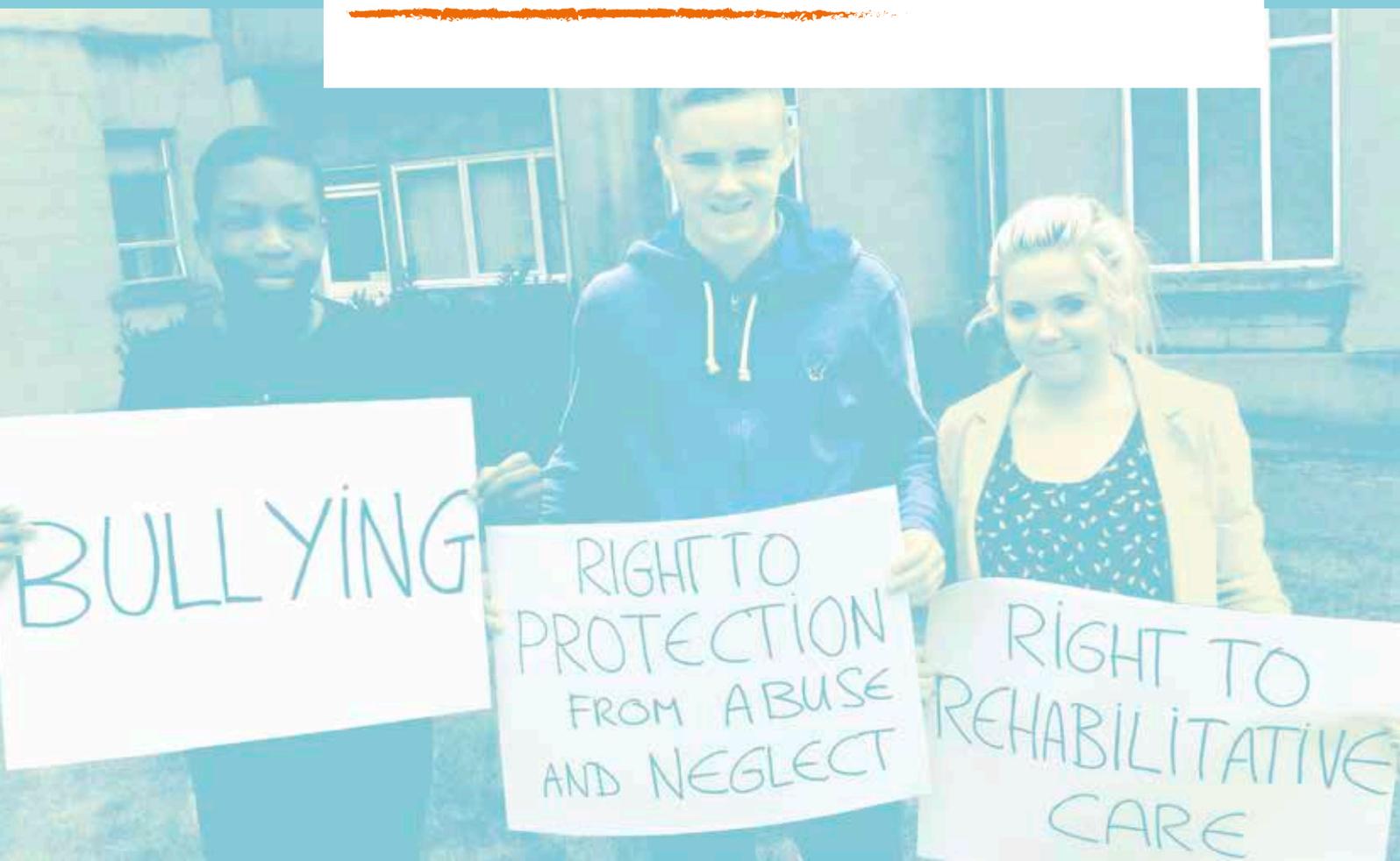
Adequate resourcing of the Child and Family Agency is paramount to ensure it can comply with its statutory obligations and fulfil its own legislative remit. Under Article 19 of the UN Convention on the Rights of the Child, Ireland has an obligation to ensure children are protected from all forms of harm and abuse. The Agency's child protection processes must be equipped to respond to children at risk in a timely and effective manner and to uphold the rights of children in care.

Expand the remit of the Child and Family Agency

In line with the recommendation of the Task Force on the Child and Family Support Agency, the Public Health Nurses (PHNs) service and the Child and Adolescent Mental Health Services (CAMHS) should be brought into the Agency to provide a link to a universal service (PHN) and a core support service for children (CAMHS).

Introduce a regulation to clarify how the best interests principle should be interpreted

The Minister for Children and Youth Affairs should provide clarity on Section 9 of the Child and Family Agency Act 2013 by issuing a regulation setting out how Agency staff should implement the best interest principle 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 Children First Bill, 2014 was published in April 2014. The National Vetting Bureau (Children and Vulnerable Persons) Act 2012 is yet to be commenced.

The *Ryan Report Implementation Plan*, published in July 2009 to respond to the recommendations contained in the Ryan Report, identified key weaknesses in the child protection system and provided a roadmap for reform.⁵⁰³ The fourth and final Progress Report was due to be published by end of 2013. The Monitoring Group, chaired by the Minister for Children and Youth Affairs, which oversees the development of the report held its final meeting in November 2014, but the report has yet to be laid before the Oireachtas.

Work is under way in the Department of Children and Youth Affairs to prepare a monitoring framework for all significant child care reports, which will replace the work of the Ryan Report Implementation Group, whose term has now come to an end.⁵⁰⁴ This work includes promoting the application of the CLEAR protocol when devising inquiry recommendations to minimise prescriptive

recommendations and focus more on key learning points which may be disseminated within and across organisations.⁵⁰⁵ In addition, a number of issues raised in the Ryan Report Implementation Plan have been embedded in the Child and Family Agency's performance activity reporting and in the *National Policy Framework for Children and Young People 2014–2020*.⁵⁰⁶

During 2014 a number of significant reports relevant to the recommendations of the Ryan Report Implementation Plan were published including: the seventh annual report of the Special Rapporteur on Child Protection;⁵⁰⁷ HIQA inspections and four reports by the Child Death National Review Panel. One of the Panel's reports reviewed the case of a young man who died aged 19 years, it found there was an inadequate response to evidence he had been abused and neglected as a child. His needs were never properly assessed

⁵⁰³ 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.

⁵⁰⁴ Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 31 January 2014.

⁵⁰⁵ Dr. H. Buckley and Dr. C. O'Nolan (2013) *An examination of recommendations from inquiries into events into families and their interactions with State services, and their impact on policy and practice*, Department of Children and Youth Affairs and Irish Research Council <http://dcya.gov.ie/documents/publications/FamilyInquiries2013.pdf>

⁵⁰⁶ Department of Children and Young People, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020*, Outcome 3.

⁵⁰⁷ Department of Children and Youth Affairs (2014) *Seventh Report of the Special Rapporteur on Child Protection: A Report Submitted to the Oireachtas*, Dr Geoffrey Shannon, <http://www.dcy.gov.ie/documents/publications/SeventhSpecialRapReport2014.pdf> [accessed 15 January 2015].



throughout his life and his placements were not matched to his needs.⁵⁰⁸

The 2014 HIQA reports continue to highlight good practice but also areas for improvement. For example, a HIQA report on foster care services in Carlow, Kilkenny, South Tipperary noted that as of March 2014, 45 children – the majority with complex needs – were waiting on psychology and mental health services, some were waiting for up to one year.⁵⁰⁹ Another HIQA report found that 15 children placed on the Child Protection Notification System had no allocated social worker and these children were not visited by social workers with the regularity required for children with this level of need and risk.

In November 2014, a new Criminal Law (Sexual Offences) Bill 2014 was published, which proposes reforms to better protect children from sexual exploitation; child pornography and online grooming. It addressed many recommendations made by Dr. Geoffrey Shannon, the Special Rapporteur on Child Protection in his annual reports.⁵¹⁰

Children First: The Children First Bill was published in April 2014 by the then Minister for Children and Youth Affairs, Frances Fitzgerald TD, two years after she published the Heads and General Scheme of the legislation.⁵¹¹

In line with recommendations of the *Ryan Report Implementation Plan*,⁵¹² the Children First Bill 2014, puts aspects of the *Children First: National Guidance for the Protection and Welfare of Children (2011)*⁵¹³ on a statutory footing and will ensure the Guidance is uniformly and consistently implemented across the country. This is a significant new piece of child protection legislation and a key component of the suite of legislation promised on foot of the Ryan Report.

The Bill is subject to amendments as it progresses through the Houses of the Oireachtas, as initiated it sets out that specified individuals have a legal duty to report child protection concerns, above a defined thresh-

old, to the Child and Family Agency. Mandated individuals are listed in Schedule 2 of the Bill and include doctors, nurses, social care and social workers, teachers, foster carers, managers of domestic violence shelters, homeless hostels and asylum seeker accommodation, child protection officers of religious, sporting, recreational, cultural, and educational organisations and specified pre-school and youth workers.⁵¹⁴ Under Section 11(1&2), mandated individuals are required to report if he or she 'knows, believes or has reasonable grounds to suspect' or where a child has disclosed to him or her that a child has been harmed, is being harmed, or is at risk of being harmed. Section 11(3) addresses the duty to report in relation to concerns regarding children engaged in sexual activity. In addition, provisions are put in place to avoid the duplication of reports by mandated individuals. An authorised person, or persons, within the Child and Family Agency will acknowledge in writing all reports made.

Under Section 6 of the Bill, the Children and Family Agency shall, in performing its function under the Act, regard the best interests of the child as the paramount consideration. Under Section 13, mandated individuals have a legal duty, if requested, to assist the Child and Family Agency in the child protection assessments. This novel provision also provides that the Agency may share information about the child who is the subject of a mandated report with the mandated individual who is assisting them. Organisations providing relevant services to children have a legal duty to carry out a risk assessment and prepare an organisational-specific Child Safeguarding Statement. The existing Children First Inter-departmental Group is to be put on a statutory footing under Part 4 to promote compliance and implementation by Government Departments of the Children First Guidance.

THE DELAY IN COMMENCING THE NATIONAL VETTING BUREAU (CHILDREN AND VULNERABLE PERSONS) ACT 2012 – A KEY PILLAR IN OUR CHILD PROTECTION SYSTEM – IS DEEPLY DISAPPOINTING.

⁵⁰⁸ HIQA (2014) *National Review Panel Review in respect of a young person who died while in the care of the HSE: Luke*, Dublin: HIQA.

⁵⁰⁹ HIQA, *Inspection (ID 683) of the HSE Children Fostering Care Services in the Carlow Kilkenny South Tipperary Service Area 25 May to 30 May 2014*, <http://www.hiqa.ie/social-care/find-a-centre/childrens-foster-care> [accessed 9 February 2015].

⁵¹⁰ For a copy of the reports of the Special Rapporteur on Child Protection see http://www.dcy.gov.ie/viewdoc.asp?fn=/documents/Child_Welfare_Protection/SpecialRapporteurChildProtection.htm

⁵¹¹ http://www.dcy.gov.ie/viewdoc.asp?fn=%2Fdocuments%2FChildren_First%2FChildrenFirstLegislation.htm&mn=chiu&nID=1

⁵¹² 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.

⁵¹³ 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.

⁵¹⁴ See Children First, Bill 2014, http://www.dcy.gov.ie/viewdoc.asp?fn=%2Fdocuments%2FChildren_First%2FChildrenFirstLegislation.htm&mn=chiu&nID=1

Vetting: Two years on from its enactment in December 2012, the National Vetting Bureau (Children and Vulnerable Persons) Act is yet to be commenced. 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. Elements of the Act relating to the disclosure of convictions require amendment following recent Court judgments before it can be commenced.⁵¹⁵

Children First: The publication of the Children First Bill 2014 is positive and long awaited development. Its implementation has the potential to change the culture of child protection in Ireland, ensuring that abuse is tackled head-on and not hidden away. The need for such reform is well documented.⁵¹⁹ The pace of progressing the legislation through the Houses of the Oireachtas is, however, disappointing. It is critical that the Bill progresses quickly and is enacted to ensure consistency of practice throughout the country, and reduce the risk of child protection cases not being referred to the relevant authorities.



COMMENT

The *Ryan Report Implementation Plan* gets a 'B-' grade in *Report Card 2015*, the same grade as last year. The lack of movement reflects mixed progress. The publication of the Children First Bill 2014 was a positive step forward, but the ongoing delay in the commencement of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 is a cause of concern.

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 to 36).⁵¹⁶ 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.⁵¹⁷ 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.⁵¹⁸ Nine years on, neither statutes are have been commenced.

While warmly welcoming the publication of the Bill, advocates have recommended that the Bill be strengthened by providing sanctions for those who fail to make referrals and that clarity be provided in relation to retrospective allegations.⁵²⁰

To promote compliance with the Bill, an investment in education, training and support for stakeholders, including parents will be needed. A key challenge will be to ensure the effective roll out of the legislation across Government Departments and statutory agencies. Based on international experience, it is anticipated that the numbers of referrals will initially rise and then level out. Hence, measures must be put in place to ensure the availability of sufficient social workers to assess referrals and respond to them in an effective and timely manner.

Vetting: The delay in commencing the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 – a key pillar in our child protection system – is deeply disappointing.⁵²¹ The lack of legislation on soft information vetting leaves a gaping hole

⁵¹⁵ UK Court of Appeal (T and others v Chief Constable of Greater Manchester, 2013).

⁵¹⁶ 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).

⁵¹⁷ 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.

⁵¹⁸ UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, para. 37.

⁵¹⁹ 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; 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.

⁵²⁰ *Children's Rights Alliance Saving Childhood Group welcomes the publication of the Children's First Bill 2014 and highlights areas of concern* [press release], 14 April 2014, <http://www.childrensrights.ie/resources/saving-childhood-group-welcomes> [accessed 9 February 2015].

⁵²¹ For a discussion on vetting legislation see Department of Children and Youth Affairs (2007) *Report of the Special Rapporteur on Child Protection: A Report Submitted to the Oireachtas*, Dr Geoffrey Shannon, http://www.dcy.gov.ie/documents/child_welfare_protection/Report_of_Special_Rapporteur_on_Child_Protection_Geoffrey_Shannon.PDF



in our child protection system and means Ireland is operating outside of best practice internationally. It is not clear if the review of the 2012 Act has been concluded and what amendments, if any, are proposed. It is not clear if the review will also allow for a re-examination of the scope of the Bill to address omissions, such as the exclusion of child minders.

Child Victims: Ireland continues to be 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.⁵²² Irish law is broadly in compliance with the Second Optional Protocol except for the legal requirement to introduce victims' legislation for children. In addition, Ireland has yet to ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, known as the Lanzarote Convention.⁵²³ Ratification of these two important international agreements should be prioritised.



RYAN REPORT IMPLEMENTATION PLAN

Immediate Actions for 2015

Enact the Children First Bill, 2014 and provide funds to promote compliance

It is critical that the Children First Bill, 2014 is enacted as soon as possible to vindicate the child's right to protection from abuse under Article 19 UN Convention on the Rights of the Child. Investment in education, training and support and adequate social work services will be needed to support compliance with the Children First Bill. The effective roll out of this legislation is a key plank in our child protection system, it must be afforded priority by Government in terms of the legislative agenda and budgetary decisions.

Commence the National Vetting Bureau Act 2012 as a matter of urgency

Conclude the review and commence the legislation as a matter of urgency. Provide support and training to relevant organisations and professionals to enable them to comply fully with their statutory duties under the National Vetting Bureau Act 2012.

Ratify the Second Optional Protocol to the UNCRC and the Lanzarote Convention

The Government must ratify the Second Optional Protocol to the UNCRC on the sale of children, child prostitution and child pornography and the Lanzarote Convention on sexual exploitation and abuse as a matter of urgency to ensure greater protection of children, in particular for victims of abuse and trafficking.

⁵²² Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography A/RES/54/263 of 25 May 2000, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx>

⁵²³ http://www.coe.int/t/dghl/standardsetting/children/default_en.asp

5.3 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: Slow



WHAT'S HAPPENING?

Phase 1 of the construction work on the new National Detention Facility is complete although the facility is not yet operational. Children continue to be detained in adult prisons, including those on remand in St. Patrick's Institution.

The Government's 2012 commitment to end the practice of detaining children in adult prisons is getting close to being achieved through making provision for all 16 and 17 year olds to be detained in the new, integrated, National Children Detention Facility at the Oberstown campus, Co. Dublin.⁵²⁴ The Government reiterated its commitment in the *National Policy Framework for Children and Young People 2014–2020*, published in April 2014.⁵²⁵

Much progress has been made to date. Since July 2012, all 16 year olds have been detained in the Oberstown campus. In December 2013, all 17 year olds serving a custodial sentence were transferred from St Patrick's Institution to a dedicated unit in Wheatfield Place of Detention until the completion of the new facility in Oberstown. There were 13 boys

serving a sentence in Wheatfield as of 7 January 2015.⁵²⁶ However, for legal reasons Wheatfield is unable to detain children who are on remand (i.e. un-convicted) so they must remain in St. Patrick's Institution.⁵²⁷ As of 20 January 2015, there were six 17 year olds detained in St Patrick's Institution,⁵²⁸ this number had dropped to four by 30 January 2015.⁵²⁹

In September 2014, Judge Michael Reilly, the Inspector of Prisons expressed grave concern about the continued detention of a small number of boys in St Patrick's Institution describing it as 'at times, tantamount to holding them in isolation and it is certainly inhumane.'⁵³⁰ Despite a Government commitment to close St. Patrick's Institution completely, following a previous damning report by the Inspector of Prisons in 2012, the prison remains open and continues to detain children.⁵³¹

⁵²⁴ Department of Children and Youth Affairs Minister Fitzgerald to End Detention of 16 and 17 Year Olds in St. Patrick's Institution [press statement], 02 April 2012, <http://www.dcy.gov.ie/viewdoc.asp?DocID=1842> [accessed 10 February 2015].

⁵²⁵ Department of Children and Young People, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020*, Dublin: DCYA p. 40. Commitment 3.21.

⁵²⁶ C. Mc Cormack, '16 boys currently being held in adult prisons', *The Irish Independent* [Online], 11 January 2015 <http://www.independent.ie/irish-news/16-boys-currently-being-held-in-adult-prisons-30898003.html> [accessed 10 February 2015].

⁵²⁷ 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.

⁵²⁸ C. Mc Cormack, '16 boys currently being held in adult prisons', *The Irish Independent* [Online], 11 January 2015 <http://www.independent.ie/irish-news/16-boys-currently-being-held-in-adult-prisons-30898003.html> [accessed 10 February 2015].

⁵²⁹ Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 February 2015.

⁵³⁰ Judge M. Reilly (2014) *Overview of Mountjoy Prison Campus with particular emphasis on the Separation Unit*, Tipperary: Office of the Inspector of Prisons.

⁵³¹ Inspector of Prisons (2012) *Annual Report*, Tipperary: Inspector of Prisons, p. 23.



Also in September 2014, the General Scheme of the Children (Amendment) Bill 2014 was approved by Government,⁵³² the Bill is due to be published during the Spring/Summer 2015 Oireachtas Session.⁵³³ Under the new legislation, the three existing Children Detention Schools – Oberstown Boys, Trinity House and Oberstown Girls – will be amalgamated into a single National Children Detention Facility under one Director.⁵³⁴ The Bill will address a court ruling which found that children are entitled to the same remission as adult detainees,⁵³⁵ and also remove legislative references which provide for the detention of children in adult institutions.

The new national facility will encompass the three existing schools and six new residential units. The first three of the new units were formally handed over to the Oberstown campus on 27 November 2014:⁵³⁶ these units will prioritise the transfer of responsibility for 17 year old boys from adult prison facilities. The fourth and fifth units were handed over on 16 January 2015. The final unit is expected to be handed over by July 2015.⁵³⁷ Testing, fit-out and staff training are ongoing. To facilitate staff training and orientation, the first five units are to be occupied with existing staff and children by end quarter one of 2015. The transfer of responsibility for all 17 year old males to the Oberstown campus is due to be completed by end quarter two of 2015, this will be contingent on the completion of staff recruitment and the enactment of the Children (Amendment) Bill 2014.⁵³⁸

Budget: Budget 2015 provided the final instalment of a €56.4 million investment over three years in the national facility.⁵³⁹ An additional €19 million was allocated to complete the national facility and a further €1.8 million to cover the costs of additional staff and costs associated with the new, larger facility.

Workforce: A recruitment programme was approved by Government to staff the new facility. By end 2014, 40 of the 67 approved new posts had commenced employment, this cohort included 22 residential social care workers who have completed six weeks induction training.⁵⁴⁰ An additional recruitment phase for residential social care workers is planned for early February 2015 and it is hoped that staff will commence work at the end of April/early May 2015.

Children Detention Schools: A total of 38 boys – and no girls – were detained in the three Schools as of 7 January 2015.⁵⁴¹ In 2014, a total of 168 boys and eight girls were remanded or committed to the schools,⁵⁴² down slightly on the 179 boys and 12 girls held in 2013.⁵⁴³

Therapeutic Services: The Assessment, Consultation and Therapy Service (ACTS) provides specialised clinical services to children with high risk behaviours associated with complex clinical needs. ACTS now provides on-site (in-reach) services to children detention schools, 136 children were referred to it for treatment in 2014 and there is no waiting list for accessing therapeutic services.⁵⁴⁴ Mental health screening is available to all children within 24 hours of their arrival in detention,

⁵³² Draft General Scheme of Children (Amendment) Bill 2014: <http://www.dcy.gov.ie/viewdoc.asp?fn=/documents/youthjustice/20140915DraftGenSchemeChildAmendBill2014.pdf>

⁵³³ Paul Kehoe TD (2015) Government Legislation Programme Spring/Summer Session 2015, http://taoiseach.ie/eng/Taoiseach_and_Government/Government_Legislation_Programme/Government_Legislative_Programme_Spring_Summer_2015.pdf [accessed 10 February 2015].

⁵³⁴ The schools currently operate under the same board of management but not under a single director.

⁵³⁵ C. Bohan, 'Seven young offenders released as judge rules kids should get remission too', *The Journal* [Online], 10 December 2014, <http://www.thejournal.ie/remission-young-offenders-oberstown-1216359-Dec2013/> [accessed 10 February 2015].

⁵³⁶ Minister for Children and Youth Affairs James Reilly TD, Parliamentary Question: Written Answers 20 January 2015 [2185/15].

⁵³⁷ Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 February 2015.

⁵³⁸ Ibid.

⁵³⁹ Department of Finance, Budget 2014: Expenditure Allocation 2014-2016 <http://budget.gov.ie/Budgets/2014/Documents/Partpercent201per cent20-per cent20Expenditureper cent20Allocationsper cent202014per cent20-per cent202016.pdf> [last accessed 10 January 2014].

⁵⁴⁰ Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 February 2015. An additional individual is due to commence work by end February 2015.

⁵⁴¹ C. McCormack, '16 boys currently being held in adult prisons', *The Irish Times* [Online], 11 January 2015, <http://www.independent.ie/irish-news/16-boys-currently-being-held-in-adult-prisons-30898003.html> [access 11 February 2015].

⁵⁴² Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 February 2015.

⁵⁴³ C. McCormack, '16 boys currently being held in adult prisons', *The Irish Times* [Online], 11 January 2015, <http://www.independent.ie/irish-news/16-boys-currently-being-held-in-adult-prisons-30898003.html> [access 11 February 2015].

⁵⁴⁴ It also provides services to special care units, and a community service to support children when they transition out of secure settings.

to assess if they require a referral to the clinical team for treatment.⁵⁴⁵

In February 2014, the Irish Youth Justice Service published *Tackling Youth Crime: Youth Justice Action Plan 2014-2018*.⁵⁴⁶ The Action Plan aims to improve the effectiveness and efficiency of interventions in addressing the behaviour and needs of children who get into trouble with the law.



COMMENT

Children in Detention receives a '**B-**' grade in *Report Card 2015*, a fall from last year's grade of B+. This grade recognises the significant work achieved in 2014 in terms of completing the construction work on the first three units and commencement of 40 new staff members. However, the fact remains that children continue to be detained in adult prisons and legislation to underpin the national facility is not yet enacted.

Children on Remand in St. Patrick's: The decision to close St Patrick's Institution was warmly welcomed and long overdue. The detention of children in an adult prison that operates a penal regime has been criticised as a glaring human rights violation by a number of domestic and international bodies⁵⁴⁷ as it is in direct contravention of Article 37 of the UN Convention on the Rights of the Child (torture and deprivation of liberty).⁵⁴⁸ 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.⁵⁴⁹

It is unacceptable that children on remand continue to be detained in St. Patrick's. The Inspector of Prison's recent comments that the detention of 17 year olds now amounts to de facto solitary confinement are extremely concerning and must be acted upon by putting in place an alternative until the new facility is operational.

Sentenced Children at Wheatfield: 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 temporary, short-term measure', as articulated by Emily Logan, then Ombudsman for Children.⁵⁵⁰ Although the Visiting Committee's 2013 annual report, published in 2014, praises Wheatfield for its provision of a segregated area for these young offenders away from the general prison population,⁵⁵¹ it is important that there are no further delays in the transfer of these children to the Oberstown campus.

Physical Environment at Oberstown: The expansion and investment in the Oberstown campus provides a unique opportunity to build a world class facility with a child-centred, education-focused regime, rooted in a children's rights framework.⁵⁵² The campus was designed and has operated to date as a group of children detention schools, where children receive care, therapeutic supports and education. However, recent physical changes to the campus, including the erection of a large perimeter fence raise concerns that the model is moving away from its child-centred focus to a more a security-focussed facility. The UN Convention on the Rights of the Child is clear that States must 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: administration of juvenile justice).

Reservation: In 1989, 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'.⁵⁵³ Given the positive measures underway we urge the Government to withdraw this reservation. The Department of Children and Youth Affairs has indicated that

⁵⁴⁵ Information received by the Children's Rights Alliance from the Child and Family Agency 6 February 2015.

⁵⁴⁶ Irish Youth Justice Service (2014) *Tackling Youth Crime: Youth Justice Action Plan 2014-2018*.

⁵⁴⁷ For further detail see Children's Rights Alliance (2013) Report Card 2013, Dublin: Children's Rights Alliance, pp. 77-78.

⁵⁴⁸ UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989).

⁵⁴⁹ C. O'Keeffe, '30per cent of St Pat's inmates on protection and locked up for over 20 hours a day', *Irish Examiner*, 28 September 2012.

⁵⁵⁰ 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> [last accessed 13 January 2013].

⁵⁵¹ Visiting Committee on Wheatfield Prison, Annual Report 2013, <http://www.justice.ie/en/JELR/Pages/PB14000213> [accessed 11 February 2015].

⁵⁵² Ombudsman for Children's Office (2011) *Young People in St. Patrick's Institution: A report by the Ombudsman for Children's Office*, Dublin: Ombudsman for Children's Office. See also D. Keenan et al (2011) *A Rights-based Approach to Monitoring Children and Young People's Wellbeing*, National University of Ireland and University of Ulster: Galway.

⁵⁵³ UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999. A reservation is a caveat to a State's acceptance of a treaty.



it will consider withdrawal of this reservation following the transfer of all 17 year olds to the Oberstown campus.⁵⁵⁴

Use of Remand: As of 30 January 2015, there were 13 children remanded in custody (nine in Oberstown and four in St. Patrick's Institution).⁵⁵⁵ A total of 96 children were remanded in custody to the Children Detention Schools in 2013 and of these 26 subsequently received an order to be detained in the Children Detention Schools.⁵⁵⁶ Two issues of concern arise given the negative effect of inappropriate remand on children.⁵⁵⁷ Firstly, children 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).

Secondly, only 27 per cent of those detained on remand were subsequently sentenced to detention on conviction. The question arises as to whether this breaches Section 96 of the Children Act which states that detention (including detention on remand) should only be used as a measure of last resort. In addition, Ireland, unlike other jurisdictions, lacks an outer time limit for the application of remand. Concern also exists about the use of the remand of children in custody on welfare grounds contrary to Section 88 of the Children Act 2001 (as amended) which stipulates that the Court shall not remand a child in custody solely on the basis of care or protection concerns.⁵⁵⁸

Children (Amendment) Bill 2014: The Children (Amendment) Bill 2014 is a welcome and necessary development to support the establishment of the national facility and should be progressed as a matter of urgency to ensure the transfer of all 17 years olds to the Oberstown campus. However, the Bill contains one retrograde step. Head 8 of the Scheme proposes to change from 12 months to two years the frequency of inspections of the Children Detention Schools.⁵⁵⁹ Given the vulnerability of children who are deprived of their liberty it is imperative that there is an annual inspection of the national facility.

Aftercare Bill: In February 2014, the Government approved the General Scheme and Heads of the Aftercare Bill 2014, which places a statutory duty on the Child and Family Agency to prepare an aftercare plan for each eligible child.⁵⁶⁰ Head 1 sets out the grounds for eligibility based on the length of time a child has been in care, it does not include children in detention.⁵⁶¹ In July 2014, following a review of the legislation, the Joint Committee on Health and Children recommended that consideration be given to 'broadening the eligibility criteria to include young persons who have been in the care system but who subsequently end their childhood in detention centres.'⁵⁶²

For some children there is clearly cross over between care and detention. Five of the 38 children (13 per cent) in the Children Detention Schools as of 30 January 2015 had been in the care of the Child and Family Agency prior to their detention, and 22 of the 38 children (58 per cent) had a social worker assigned by the Child and Family Agency.⁵⁶³

⁵⁵⁴ Information received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 15 January 2014.

⁵⁵⁵ Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 February 2015.

⁵⁵⁶ Minister for Children and Youth Affairs James Reilly TD, Parliamentary Questions: Written Answers 20 January 2015 [2192/15].

⁵⁵⁷ S. Freeman (2007) 'The Life and Times of Young People on Remand: Recommendations for Future Policy in Ireland', in K. Lalor et al. (eds.) *Young People and Crime: Research, Policy and Practice Conference Proceedings*. Dublin: Centre for Social and Educational Research, pp. 110-120.

⁵⁵⁸ See Ombudsman for Children's Office (2013) *A Meta-Analysis of Repeat Root Cause Issues Regarding the Provision of Services for Children in Care*, http://www.oco.ie/assets/files/publications/complaints_and_investigations/OCmetaanalysisofservicesforchildrenincare.pdf [accessed 11 February 2015].

⁵⁵⁹ Section 186 Children Act 2001 (as amended by the Criminal Justice Act 2006) requires that inspections of children detention schools take place at least annually.

⁵⁶⁰ *Department of Children and Youth Affairs Cabinet approves Heads of Bill of Aftercare Bill 2014 – Minister Fitzgerald* [Press Release] 25 February 2015, <http://www.dcy.gov.ie/viewdoc.asp?DocID=3104> [accessed 11 February 2015].

⁵⁶¹ Children's Rights Alliance (2014) *Submission to the Joint Committee on Health and Children on the General Scheme and Heads of Aftercare Bill 2014* [online]. http://www.childrensrights.ie/sites/default/files/submissions_reports/files/Children%27s%20Rights%20Alliance%20Submission%20on%20the%20Heads%20of%20Aftercare%20Bill%202014.pdf

⁵⁶² Joint Committee on Health and Children, Report on General Scheme of the Aftercare Bill 2014 <http://www.oireachtas.ie/parliament/media/committees/healthandchildren/health2014/Aftercare-Report.pdf>, [accessed 11 February 2015] p. 12.

⁵⁶³ Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 6 February 2015, and see *Ibid.*, p. 28.



CHILDREN IN DETENTION

Immediate Actions for 2015

Transfer all 17 year olds to the National Children Detention Facility as a matter of urgency

Responsibility for all 17 year olds must be transferred to the National Children Detention Facility as a matter of urgency. The new facility must embed children's rights principles into its operation and regime, including ensuring the child's right to education and protection from abuse and bullying are respected.

Withdraw the reservation to Article 10 (2b) of the International Covenant on Civil and Political Rights

Given the positive measures taken in relation to the end of the detention of children in adult prisons, the Government should withdraw its reservation to Article 10 (2b) of the International Covenant on Civil and Political Rights without delay.

Carry out a review on the use of remand for children

The use of remand must be reviewed to ensure it is being used appropriately, including that children are not held on remand for welfare concerns; held for longer than necessary; and that their case comes before the court within a reasonable period of time. Measures must be put in place to ensure children on remand are detained separately from children who have been convicted and are serving a sentence.

Extend the provisions of the Aftercare Bill 2014 to children with experience of detention and track outcomes after detention

A significant proportion of children leaving detention have previously been in care or were known to the Child and Family Agency. Some have ongoing and complex care needs and may find themselves estranged from his or her family. The provisions of the Aftercare Bill 2014 should be extended to include those who have an experience of detention and assessed needs. In addition, an individual case tracking system should be put in place to track the outcomes for children after they leave detention.

6. RIGHT TO EQUALITY AND NON- DISCRIMINATION

Chapter Grade

D+

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 long-awaited Children & Family Relationships Bill will bring us a giant step closer to equality for all children and the diverse families they live in. Children need to have legal relationships with the adults who raise and love them whether they are their biological parents, step-parents, grand-parents or lesbian/gay parents because this ensures children's safety and stability. Our responsibility is to make laws and services that meet the actual reality of children's lives."

Karen Kiernan, Chief Executive, One Family



IN THE NEWS

FOOD RULES AT DIRECT PROVISION CENTRES SLAMMED AS 'DEGRADING'

TheJournal.ie 30 January 2014

Direct Provision centres deny people the right to prepare food for themselves and their children. Ann Murphy looks at an issue faced every day by asylum seekers in Ireland.

For food writer and Bridgestone Guide publisher John McKenna, food is not just something you eat.

Instead, it stands for something much more — it is part of who you are and the ability to cook a meal for your family is a basic human right. He has written strongly in recent weeks about cooking being a basic human right, on a blog by the UK-based Sustainable Food Trust. And in May, he launched a report by the Cork-based Irish Immigrant Support Centre, NASC, examining the issues which residents of direct provision centres have with food in the centres. [...]

He added: "These people are already in very difficult circumstances and the one thing that could give them comfort is to cook and share their own food, and cook for their own families. That right is being deprived from them and is very degrading." [...]

... He said that even though their allowance of €19.10 a weekly is "miserly", they would put it to good use in buying food they would enjoy cooking themselves, if they were granted access to the kitchens in the country's 34 direct provision centres. Such a measure would make their lives more tolerable, he believes. [...]

By Ann Murphy



6.1 TRAVELLER AND ROMA 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: Limited



WHAT'S HAPPENING?

In November, the Minister of State for Equality, New Communities and Culture pledged that Traveller ethnic minority status would be a reality within six months. An ethnic identifier was introduced in primary schools. In July 2014, a Special Inquiry into the removal of two Roma children from their families was published.

In the *National Policy Framework for Children and Young People 2014–2020*, published in April 2014, the Government committed to reduce discrimination and intolerance of all types experienced by marginalised groups including Traveller and Roma children, and to improve their educational and health outcomes.⁵⁶⁴ The Government reiterated its commitment to implement and monitor the *National Traveller Roma Integration Strategy*.⁵⁶⁵

Ethnic Minority Status: In April 2014, the Joint Oireachtas Committee on Justice, Defence and Equality recommended that the Government recognise the ethnicity of the Travelling Community, and commence a 'time limited dialogue with the Traveller representative groups about the new legislation or amendments to existing legislation [...] required.'⁵⁶⁶

In November 2014, the Minister of State for Equality, New Communities and Culture, Aodhán Ó Riordáin TD, committed that the State would grant ethnic minority status to Travellers within six months.⁵⁶⁷ The Department of Justice and Equality is engaged in consultations on the implications of granting ethnicity to Travellers, including with their counterparts in the UK and Northern Ireland where Irish Travellers have been granted ethnic status.⁵⁶⁸

⁵⁶⁴ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020*, Dublin; Department of Children and Youth Affairs Commitments 1.4, 2.22, 4.9 and 5.6.p. 139, 140.

⁵⁶⁵ Ibid., Commitment, 4.9

⁵⁶⁶ Houses of the Oireachtas, Joint Committee on Justice, Equality and Defence (2014) *Report on the Recognition of Traveller Ethnicity*, April 2014, 31/JDAE/013, p.7.

⁵⁶⁷ Kitty Holland, *Traveller ethnicity will be reality in six months, says Ó Riordáin*, The Irish Times, 19 November 2014.

⁵⁶⁸ Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 4 November 2014.

Ethnic Identifier: Work continued in 2014 on the Primary Online Database, which will replace the Annual Census of Primary Schools. The new database will collect data on children's ethnic and cultural background, and is expected to be fully operational for the 2015/2016 academic year.⁵⁶⁹ The ethnic identifier will help track the progress of minority and ethnic groups, identifying learning outcomes and informing the development and implementation of future policies and activities.⁵⁷⁰

The 2014 Assessment of Ireland's *National Traveller Roma Integration Strategy* by the European Commission raises concerns in relation to the content of the document, lack of targets, lack of detail in some areas and funding mechanisms.⁵⁷¹ A new National Traveller and Roma Integration Strategy Steering Group will be published in 2015,⁵⁷² as part of the *EU Framework for National Roma Strategies up to 2020*.⁵⁷³ The steering group for the new Strategy will comprise an amalgamation of the National Traveller Monitoring and Advisory Committee (NTMAC) and the High Level Group on Traveller issues (HLG).⁵⁷⁴

In 2014, the Department of Justice and Equality developed a National Strategic Framework aimed at supporting the Traveller Inter-Agency Groups (TIG) to implement local strategies in consultation with Local County Development Committees.⁵⁷⁵

Roma: In July 2014, the Minister for Justice and Equality, Frances Fitzgerald TD, published the findings of the Special Inquiry carried out by then Ombudsman for Children, Emily Logan, into the removal of two Roma children from their families in 2013.⁵⁷⁶ The report found that in December 2013, two Roma children were wrongfully removed from their families under the Child Care Act 1991. Ms. Logan recommended an independent audit of Gardai special powers, the development of a Protocol and training in cultural competence for all Gardai.⁵⁷⁷

Following the report's publication, Minister Fitzgerald apologised for any distress caused to the children and their families.⁵⁷⁸ The Minister committed to the full implementation of the report's recommendations and established an implementation group, which was due to present a report by end 2014. The Department of Justice and Equality has commissioned Pavee Point Traveller and Roma Centre to conduct the first national needs assessment of Roma in Ireland.⁵⁷⁹

IN NOVEMBER 2014, MINISTER OF STATE FOR EQUALITY, NEW COMMUNITIES AND CULTURE, AODHÁN Ó' RÍORDÁN TD, COMMITTED THAT THE STATE WOULD GRANT ETHNIC MINORITY STATUS TO TRAVELLERS WITHIN SIX MONTHS.



⁵⁶⁹ Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 4 November 2014.

⁵⁷⁰ Ibid.

⁵⁷¹ European Commission, Directorate-General for Justice, *Report on the implementation of the EU framework for National Roma Integration Strategies*, Brussels: 2014 p.31

⁵⁷² Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 6 February 2015.

⁵⁷³ In 2011, the European Union invited member states to adopt national Strategies aimed at improving economic and social situation of Roma by 2020 under the National Roma Integration Strategies, Common European Framework. European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 5 April 2011 – An EU Framework for National Roma Integration Strategies up to 2020* [COM(2011) 173].

⁵⁷⁴ Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 6 February 2015.

⁵⁷⁵ Ibid.

⁵⁷⁶ E. Logan (2014) *Garda Síochána Act 2005 (Section 42) (Special Inquiries relating to Garda Síochána) Order 2013: Report of Ms Emily Logan*, Dublin: Department of Justice and Equality.

⁵⁷⁷ Ibid., paras. 4.3, 4.4, 4.6.

⁵⁷⁸ Department of Justice and Equality, 'Minister Fitzgerald publishes report on removal of two Roma children' [press release], 1 July 2014, <http://www.justice.ie/en/JELR/Pages/PR14000179> [accessed 16 January 2015].

⁵⁷⁹ Pavee Point, Roma Needs Assessment in Ireland, <http://www.paveepoint.ie/roma-needs-assessment-in-ireland/> [accessed 6 February 2015].



COMMENT

The section on 'Traveller and Roma Children' gets an 'E+' grade in *Report Card 2015*, a rise from last year's 'E' grade. The increased grade is in recognition of the Government's commitment to recognise the ethnic minority status to Travellers in 2015 and the inclusion of a universal ethnic identifier in the Primary Online Database.

Outcomes for Traveller children are almost universally worse than their settled peers. According to Census 2011, there are 14,913 Traveller children in Ireland.⁵⁸⁰ Travellers have a very young population with 42 per cent of Travellers under the age of 15.⁵⁸¹ 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. 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.⁵⁸² In June 2014, the Seanad Public Consultation Committee expressed its concern that 'Travellers in Irish society suffer high levels of racism and discrimination, including indirect discrimination'.⁵⁸³

In its 2014 review of Ireland's compliance with the UN International Covenant on Civil and Political Rights, the UN Human Rights Committee regretted the lack of progress for Travellers since the Committee's 2008 review and expressed its own concern with regard to the failure to grant ethnicity, accommodation and equality.⁵⁸⁴ The Committee recommended

that Ireland should 'adopt an effective policy and action plan, developed in consultation with Traveller and Roma communities, to redress situations of inequality'.⁵⁸⁵ These sentiments echo the recommendations of the UN Committee on the Elimination of Racial Discrimination in 2011.⁵⁸⁶

Ethnic Minority Status: The pledge by Minister Ó Riordáin that Traveller ethnicity would be 'a reality' within six months is very welcome. In 2014, the Joint Oireachtas Committee on Justice, Defence and Equality joined an array of national, European and international bodies and agencies in calling on the Government to grant ethnic minority status to the Traveller community including: the Equality Authority; the Human Rights Commission; the National Consultative Committee on Racism and Interculturalism; the UN Human Rights Committee; the Council of Europe Commissioner for Human Rights; the UN Committee on the Rights of the Child; the UN Committee on the Elimination of Racial Discrimination; the Advisory Committee on the Implementation of the Council of Europe Framework Convention for the Protection of National Minorities (FCNM).⁵⁸⁷

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.

⁵⁸⁰ 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 26 January 2015].

⁵⁸¹ Pavee Point Travellers' Centre (2010), *Profile of the Traveller Family For Family Resource Centres* (2010), Dublin: Pavee Point.

⁵⁸² UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, para.s 45, 58, 59, 78, 79.

⁵⁸³ Houses of the Oireachtas, Seanad Éireann, Seanad Public Consultation Committee, (2014) *Report on Ireland's Compliance with the International Covenant on Civil and Political Rights with Observations and Recommendations to the United Nations Human Rights Committee and to the Irish Government*, June 2014, para. 19.

⁵⁸⁴ UN Human Rights Committee (2014), *Concluding Observations on Ireland*, 19 August 2014, CCPR/C/IRL/CO/4, para. 23.

⁵⁸⁵ Ibid.

⁵⁸⁶ UN Committee on the Elimination of Racial Discrimination (2011) *Concluding Observations: Ireland*, CERD/C/IRL/C/3-4, para. 13.

⁵⁸⁷ 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: We give a cautious welcome to the inclusion of a universal ethnic identifier within the new Primary Online Database, although concerns remain about the length of time that data is to be retained.⁵⁸⁸ *Report Cards 2013 and 2014* highlighted that the lack of disaggregated data on Traveller children hinders authorities' understanding of how Traveller children are progressing within education, health and child protection systems and the planning for better outcomes. The UN Committee on the Rights of the Child has also called for States to employ data-collection mechanisms that can study the situation of specific groups, including ethnic and/or indigenous minorities.⁵⁸⁹ The universal nature of the identifier, by which every family is asked to identify the group to which they belong, is an important development, ensuring that minorities will not be singled out when categorising ethnicity.⁵⁹⁰ Currently at second level, only Traveller students are asked to identify their ethnicity.



Education: Article 28 of the UN Convention on the Rights of the Child 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.

2011 Census found that 55 per cent of Traveller pupils have left school by the age of 15, on average 4.7 years earlier than the general population.⁵⁹¹ The percentage of Travellers with no formal education in 2011 was 17.7 per cent, compared with 1.4 per cent in the general population.⁵⁹² 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.⁵⁹³

A 2011 evaluation of the DEIS programme found that the educational attainment of Travellers remains significantly lower than that of their settled peers in both reading and mathematics.⁵⁹⁴ 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. While Budget 2015 saw increases in other areas of educational support,⁵⁹⁵ it included no additional supports for Traveller children. Resources are provided based on 'identified individual educational need' to all children with no specific provision for Traveller children or others based on cultural or ethnic background.⁵⁹⁶

⁵⁸⁸ Proposals for the Primary Online Database provide for the retention of a child's personal data from the time they enter school until they turn thirty years of age. Department of Education and Skills (2014) Circular 0017/2014, *Fair Processing Notice to explain how some of the personal data of pupils in primary and special schools will be recorded on the proposed Primary Online Database (POD) and how this data will be processed by the Department of Education and Skills, in compliance with the Data Protection Act 1988 and the Data Protection (Amendment) Act 2003*, p. 5.

⁵⁸⁹ UN Committee on the Rights of the Child (2003) *General Comment No.4: Adolescent Health*, CRC/GC/2003/4.

⁵⁹⁰ Irish Traveller Movement, *Ethnic Identifier in Primary School*, <http://www.paveepoint.ie/ethnic-identifier-in-primary-school/> [accessed 29 January 2015].

⁵⁹¹ 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 2014].

⁵⁹² *Ibid.*, p. 32.

⁵⁹³ 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.

⁵⁹⁴ S. Weir, P. Archer, A. O'Flaherty, L. Gileece (2011) *A Report on the First Phase of the Evaluation of DEIS*, Dublin: Education Research Centre, p. 45.

⁵⁹⁵ See Section 2.1 of this report for more information

⁵⁹⁶ Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 4 November 2014.



Roma: It is estimated that there are between 3,000 and 5,000 Roma living in Ireland.⁵⁹⁷ The UN Human Rights Committee, in July 2014, expressed concern at the lack of data on the Roma community living in Ireland.⁵⁹⁸ The UN Committee on the Rights of the Child in its 2006 Concluding Observations on Ireland called on the Government to prevent the marginalisation and social exclusion of Roma children.⁵⁹⁹ Emily Logan's Special Inquiry into the removal of two Roma children from their respective families was a wake-up call. The decisions to remove the children took place in a chaotic situation where everyone thought that they were acting to protect the children. Ultimately Emily Logan found that the Gardai had acted disproportionately and breached the constitutional rights of the families.⁶⁰⁰ Of particular concern is the finding that the children's ethnicity featured in the decision-making. The Child and Family Agency needs to respond by developing a robust equality policy and appointing a senior designated social inclusion manager. The cases highlighted the need for concrete action to tackle discrimination against Roma children and their families.

On International Roma Day in April 2014, Pavee Point launched three reports on the Roma in Ireland, focusing on education; maternal health; and child protection considerations. They explore how Roma children face many barriers in trying to access education including 'poverty, racism, discrimination, poor housing and health conditions' while 'a lack of access to employment and social protection' also causes financial difficulties.⁶⁰¹ These barriers further marginalise Roma children and perpetuate a cycle of social exclusion. The fear of engagement with authorities can lead to mothers disengaging from the Public Health Nurse Service which results in children remaining unvaccinated.⁶⁰² In order to fulfil the Government's commitments to combat the exclusion of Roma children and improve outcomes for this cohort, health and education frontline workers must be adequately trained and properly resourced to build a relationship of trust with these vulnerable families.

⁵⁹⁷ Official sources estimate 3,000 in the National Roma Integration Strategy but civil society organisations such as Pavee Point believe the number is closer to 5,000. The Government does not have figures on the number of Roma in Ireland – Communication to the Children's Rights Alliance from the Department of Justice and Equality, 4 November 2014.

⁵⁹⁸ UN Human Rights Committee (2014) *Concluding Observations under the International Covenant on Civil and Political Rights: Ireland*, Geneva: Office of the High Commissioner for Human Rights, para. 23.

⁵⁹⁹ UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2.

⁶⁰⁰ E. Logan (2014) *Garda Síochána Act 2005 (Section 42) (Special Inquiries relating to Garda Síochána) Order 2013: Report of Ms Emily Logan*, Dublin: Department of Justice and Equality.

⁶⁰¹ L. Pohjola (2014) *Roma and Education*, Dublin: Pavee Point, p.5.

⁶⁰² L. Pohjola (2014) *Challenging Barriers and Misconceptions: Roma Maternal Health in Ireland*, Dublin: Pavee Point, p.23.



TRAVELLER AND ROMA CHILDREN

Immediate Actions for 2015

Deliver on the Government commitment to grant recognition of Traveller Ethnicity in 2015

Swift action is needed to fulfil the commitment of the Minister of State for Equality, New Communities and Culture that the State will recognise Traveller ethnicity by May 2015.

Introduce an ethnic identifier across health and care

The welcome introduction of an ethnic identifier by the Department of Education and Skills should be replicated across the health and care sectors. The collection of disaggregated data is a central to enabling the Government to track outcomes for minorities and to measure the efficacy of Traveller and Roma related initiatives that have been or will be introduced.

Re-energise activities to support the participation of Traveller children in education

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*.⁶⁰³ This assessment should then feed into the development of an updated Implementation Plan for the Report and Recommendations for a Traveller Education Strategy.

⁶⁰³ Department of Education and Skills (2010) *Intercultural Education Strategy 2010-2015*, Dublin: Department of Education and Skills.

6.2 MIGRANT CHILDREN

Grade

E+

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.

Statement of Government Priorities 2014–2016 contains a number of commitments in the area of asylum: While ensuring continued rigorous control of our borders and immigration procedures, we will treat asylum seekers with the humanity and respect they deserve. We are committed to addressing the current system of Direct Provision for asylum seekers to make it more respectful to the applicant and less costly to the taxpayer. We will legislate to reduce the length of time the applicant spends in the system through the establishment of a single applications procedure, to be introduced by way of a Protection Bill. Work on an Immigration and Residence Bill will also continue. The Government will also establish an independent Working Group to report to Government on improvements with the protection process, including Direct Provision and supports for asylum seekers.

Progress: Limited



WHAT'S HAPPENING?

In July 2014, the UN Human Rights Committee criticised the direct provision system. In October 2014, the Department of Justice and Equality established a Working Group to review the Protection Process.

In April 2014, the *National Policy Framework for Children and Young People 2014–2020* recognised migrant children as a vulnerable group and made specific commitments to address their needs.⁶⁰⁴ It committed to introduce and enact legislation to 'address in a comprehensive way the interaction of migrant children with the immigration system and should provide for a speedier and more efficient protection determination system that

will shorten the time families and in particular children spend in the Direct Provision system.'⁶⁰⁵ It also committed to '[p]romote the child protection and welfare of all children in the asylum system.'⁶⁰⁶

In July 2014, the UN Human Rights Committee raised concerns over the prolonged length of time residents spend in the direct provision system⁶⁰⁷ highlighting that the centres are 'not

⁶⁰⁴ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020*, Dublin: Department of Child and Youth Affairs. See Commitments 1.4, 2.22, 3.7 and 5.6.

⁶⁰⁵ Ibid. Commitment 3.7.

⁶⁰⁶ Ibid. Commitment 4.8.

⁶⁰⁷ 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.

AT THE END OF JUNE 2014, OF THE 4,324 ASYLUM SEEKERS IN STATE DIRECT PROVISION ACCOMMODATION, OVER ONE THIRD, OR 1,527, WERE CHILDREN.

conducive to family life' and recommended that residents should spend as short a time as possible in the centres.⁶⁰⁸ In July 2014, in its *Statement of Government Priorities 2014-2016*, the Government outlined its plans to address the direct provision system⁶⁰⁹ and the newly appointed Minister of State for Equality, New Communities and Culture, Aodhán Ó Riordáin TD, voiced strong concerns about the system.⁶¹⁰ These developments took place against a backdrop of increased media attention on the system⁶¹¹ and a series of nationwide protests by direct provision residents.⁶¹² In his 2014 report, the Special Rapporteur on Child Protection, Dr. Geoffrey Shannon, again raised concerns about children living in direct provision and called for an immediate review of the system and research on its impact on 'the specific vulnerability of children accommodated in this system'.⁶¹³ Dr. Shannon recommended that in particular the consequences for the best interest principle should be considered.⁶¹⁴

In October 2014, the Minister for Justice and Equality and the Minister for Equality, New Communities and Culture established a Working Group, chaired by former High Court Judge, Dr Bryan McMahon, to review the protection process and make recommendations on how to improve the standard of living in the direct provision system.⁶¹⁵ The Group is expected to

report its recommendations by Easter 2015.⁶¹⁶ The Government has said that the protection elements of the former Immigration, Residence and Protection Bill would be fast-tracked and that an International Protection Bill will be enacted in 2015.⁶¹⁷ In November 2014, the High Court handed down a judgment in which it found that overall the direct provision system did not breach the right of residents to family life. However, the Judge did find that certain House Rules did interfere with residents' constitutionally protected right to a home and Article 8 (right to private and family life) of the European Convention on Human Rights (ECHR).⁶¹⁸ The Judge also found that the internal complaints procedure for direct provision residents was 'deficient' and not sufficiently independent as the Reception and Integration Agency (RIA), who authored the House Rules, was the final arbiter on complaints.⁶¹⁹

Education: In the school year 2013/2014, migrant children made up 11 per cent of the primary school population and 12 per cent of post-primary pupils.⁶²⁰ Published in 2014, *The Annual Monitoring Report on Integration 2013*, found that it has become difficult to monitor the English as an Additional Language Support (EAL) programme as it no longer has a distinct funding stream. Instead the EAL programme is aligned with other types of learning

⁶⁰⁸ UN Human Rights Committee (2014) *Concluding Observations under the International Covenant on Civil and Political Rights: Ireland*, Geneva: Office of the High Commissioner for Human Rights, para. 19.

⁶⁰⁹ 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.

⁶¹⁰ Speech by Aodhán Ó Riordáin TD, Private Members Business: Counter Motion on Direct Provision, 30 September 2013 [online] <http://www.justice.ie/en/JELR/Pages/SP14000260> [accessed 4 February 2015].

⁶¹¹ Carl O'Brien, 'Lives in Limbo' series, *The Irish Times* [online], 8-12 August 2014, <http://www.irishtimes.com/news/lives-in-limbo> [accessed 4 February 2015].

⁶¹² Eoin English, 'Asylum seekers' protest extends to fifth centre' *The Irish Examiner* [online], 19 September 2014, <http://www.irishexaminer.com/ireland/asylum-seekers-protest-extends-to-fifth-centre-287553.html> [accessed 3 February 2015].

⁶¹³ Department of Children and Youth Affairs (2014) *Seventh Report of the Special Rapporteur on Child Protection: A Report Submitted to the Oireachtas*, Dr Geoffrey Shannon, <http://www.dcy.gov.ie/documents/publications/SeventhSpecialRapReport2014.pdf> [accessed 15 January 2015].

⁶¹⁴ Ibid.

⁶¹⁵ Department of Justice and Equality, 'Ministers Fitzgerald and Ó Riordáin announce composition of Working Group to examine improvements to the Protection process and the Direct Provision system' [press release], 13 October 2014, <http://www.justice.ie/en/JELR/Pages/PR14000280> [accessed 19 January 2015].

⁶¹⁶ Department of Justice and Equality, 'Ministers Fitzgerald and Ó Riordáin announce composition of Working Group to examine improvements to the Protection process and the Direct Provision system' [press release], 13 October 2014, <http://www.justice.ie/en/JELR/Pages/PR14000280> [accessed 19 January 2015].

⁶¹⁷ Government of Ireland (2014) *Statement of Government Priorities 2014-2016*, <http://www.merrionstreet.ie/en/wp-content/uploads/2014/07/statement-of-government-priorities-final-110714.pdf>, [accessed 16 January 2015].

⁶¹⁸ *C.A. and T.A (a minor) v Minister for Justice and Equality, Minister for Social Protection, the Attorney General and Ireland. Judgment not published at time Report Card went to print.*

⁶¹⁹ Ibid.

⁶²⁰ Communication received by the Children's Rights Alliance from the Department of Education and Skills, 11 November 2014.

supports.⁶²¹ The Department of Education and Skills provides additional learning support hours based on the number of mainstream teaching posts in primary schools; and in post-primary schools the allocation is based on the number of pupils.⁶²² In the 2013/14 academic year, some permanent EAL posts were made available to primary schools with a high concentration of pupils requiring language support and, while these will be retained, additional permanent posts will not be allocated for the 2014/15 year.⁶²³ The Government in the *National Policy Framework for Children and Young People 2014–2020* has committed to 'strengthen social inclusion measures and re-invigorate efforts to improve educational outcomes' for migrant children and young people.⁶²⁴



COMMENT

The section on 'Migrant Children' gets a **'E+'** grade in Report Card 2015, an increase from the 'F' grade last year. The rise in the grade reflects the establishment of the Working Group on the Protection Process, and the recognition of migrant children as a cohort in need of specific action and social inclusion supports in the *National Policy Framework for Children and Young People 2014–2020*.

The UN Convention on the Rights of the Child protects every child, regardless of nationality or immigration status. Article 2 of the UN Convention on the Rights of the Child 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.⁶²⁵ The UN

Committee on the Rights of the Child has affirmed that the enjoyment of rights stipulated in the Convention 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.⁶²⁶ In Census 2011, 93,716 foreign national children were recorded as living in Ireland.⁶²⁷ In addition, there are many naturalized Irish citizens that belong to various minority ethnic groups.

The proposed International Protection Bill will be a key legal development that will affect the rights of children and their families who are seeking protection in Ireland. An Immigration and Residence Bill will, however, be required to consolidate and update existing immigration law and ensure that other migrant children are protected, including children at risk of trafficking and undocumented children. It is critical that both pieces of legislation be proofed against Ireland's obligations under the UN Convention on the Rights of the Child. The principles of the Convention 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).

All proposed legislation should pay special attention to vulnerable migrant groups of children, particularly separated children, children of asylum seekers and children at risk of trafficking. These principles must also apply in relation to reception conditions and living standards for applicants awaiting a decision on their claim. In this context, Ireland should sign up to the Recast EU Reception Conditions Directive: it has currently opted out of this Directive.⁶²⁸ Article 23 of that Directive requires signatories to ensure that the best interests of the child are a primary consideration in decision-making and States

⁶²¹ F. McGinnity, E. Quinn, G. Kingston and P. O'Connell (2014) *Annual Monitoring Report on Integration 2013*, Dublin: ESRI & the Integration Centre, p.34. It has been combined with the General Allocation Model for special needs education.

⁶²² Communication received by the Children's Rights Alliance by the Department of Education and Skills, 11 November 2014.

⁶²³ Ibid.

⁶²⁴ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020*, Dublin: Department of Child and Youth Affairs. Commitment 2.22.

⁶²⁵ UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989).

⁶²⁶ UN Committee on the Rights of the Child, General Comments No.6, CRC/GC/2005/6.

⁶²⁷ 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.

⁶²⁸ *Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast)* <http://eurex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0096:0116:EN:PDF>



must 'ensure a standard of living adequate for the minor's physical, mental, spiritual, moral and social development'.⁶²⁹

Children in the Asylum System: At the end of June 2014, of the 4,324 asylum seekers in State direct provision accommodation, over one third, or 1,527, were children.⁶³⁰ The average length of stay in direct provision is four years but 16 per cent of residents have been living in the system for more than eight years.⁶³¹ This means that some children have spent their whole lives living in a centre.

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.⁶³² The Reception and Integration Agency (RIA) – a Department of Justice and Equality body responsible for overseeing the direct provision system – updated its child protection policy in October 2014 which is informed by *Children First Guidelines* and the *Child Protection and Welfare Practice Handbook*.⁶³³

In her 2013 annual report, then Ombudsman for Children Emily Logan, indicated that she had received complaints about child protection issues in direct provision.⁶³⁴ An audit of child protection as well as child welfare concerns should be carried out given that direct provision centres are not covered by any national standards, such as those for children in residential care, nor are they inspected by an independent inspection regime, such as the Health Information Quality Authority (HIQA). 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 High Court held in *C.A. and T.A. (a minor) v Minister for Justice and Equality, Minister for Social Protection, the Attorney General and Ireland*, that a resident's bedroom was his or her home and thus, unannounced inspections and a requirement to sign in on a daily basis constituted a disproportionate interference with the constitutional protection afforded to the home.⁶³⁵ The Court also found that the ban on guests visiting a resident's room was unreasonable and that the complaints procedure lacked independence. On foot of this judgment, the Reception and Integration Agency is required to develop a complaints procedure which is sufficiently independent. The model used by both the HSE and the Child and Family Agency could be adapted by RIA for its own use. This process allows for local resolution of complaints with an independent review by the Ombudsman (or Ombudsman for Children where appropriate) only if the matter has not been resolved. The proposed revision of the complaints process offers an opportunity to formally recognise the Office of the Ombudsman for Children as a legitimate avenue of redress for children and young people. While the Department of Justice and Equality 'has not accepted that the OCO can address these as cases within the statutory complaints-handling framework of the Ombudsman for Children Act', the OCO has made it clear that while it cannot consider complaints about the asylum determination process, it does have a role in addressing complaints relating to reception conditions.⁶³⁶

The Court, in the *C.A. and T.A.* case did not rule on whether the UN Convention on the Rights of the Child was applicable in this case pending a decision in another case due before the High Court.⁶³⁷ In the subsequent *Dos Santos* case relating to the deportation of a family to Brazil, the Court held that the Minister for Justice and Equality, when making a deportation order, was not bound to consider the 'best interests of the child' under Article 3 of the UN Convention on the Rights of the Child as the Convention did not form part of Irish domestic law.⁶³⁸ Instead, the Judge found that consideration by the Minister of the 'welfare of the child' under Section 3 of the Immigration Act 1999 was sufficient.⁶³⁹

⁶²⁹ Ibid.

⁶³⁰ Reception and Integration Agency, 'Monthly Statistics Report – June 2014', <http://www.ria.gov.ie/en/RIA/RIAJuneper cent28A4per cent292014.pdf/Files/RIAJuneper cent28A4per cent292014.pdf> [accessed 14 January 2015].

⁶³¹ Ibid.

⁶³² Irish Refugee Council (2012) *State sanctioned child poverty and exclusion*, Dublin: Irish Refugee Council.

⁶³³ Reception and Integration Agency (2014) *Child Protection and Welfare Policy and Practice Document for Reception and Integration Agency (RIA) and Centres under contract to RIA*, Dublin: Department of Justice and Equality.

⁶³⁴ Ombudsman for Children's Office (2014) *Annual Report 2013*, Dublin: OCO, p.38.

⁶³⁵ Article 40.5 of the Constitution states that 'The dwelling of every citizen is inviolable and shall not be forcibly entered save in accordance with law'.

⁶³⁶ Ombudsman for Children's Office (2014) *Annual Report 2013*, Dublin: OCO, p.38.

⁶³⁷ *Dos Santos & Ors v Minister for Justice* [2014] IEHC 559.

⁶³⁸ Ibid., paras. 47 and 59.

⁶³⁹ Ibid., para. 47.

The Working Group on the Protection Process has been asked to consider the former judgement and address the issues identified by the Court. While the Working Group has been charged with making evidence-based recommendations to improve the standard of living in the current system, the Government has imposed a requirement that any suggestions should be cost-neutral or incur a saving for the Exchequer.⁶⁴⁰ This may pose a challenge to achieving real and substantial change. Although discussions are taking place at a policy level to address the issue of inadequate conditions in direct provision and the need to reduce the amount of time spent in the system, without substantive changes to the way in which asylum applications are processed, any changes to the system will be superficial and limited in scope.

The involvement of the Children's Rights Alliance on the group suggests the Government's intent to ensure that children's rights are properly considered in its deliberations. There are a number of key areas where the lives of children living in direct provision could be significantly improved. These include the provision of self-catering accommodation to allow for a more family-friendly environment; an increase in the Direct Provision Allowance for children; and access to the Child Benefit payment to assist parents in meeting the high costs of raising a child and to help prevent further social exclusion and isolation of children who live in direct provision.



MIGRANT CHILDREN

Immediate Actions for 2015

Enact legislation to reform the Protection Process and on immigration issues as a matter of urgency and proofed it against the UN Convention on the Rights of the Child

Report Cards 2012, 2013 and 2014 all called for immigration and protection legislation to be proofed against the UN Convention 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 have 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. Specialist training should be held with all staff and specialist staff should be employed to work directly with children.

Take steps to protect the rights of children living in direct provision and opt-in to the EU Recast Reception Conditions Directive

To ensure that children in direct provision maintain an adequate standard of living and their developmental needs are met, self-catering accommodation should be provided for families. In addition, the child component of the direct provision allowance should be increased to at least the equivalent of the Qualified Child Increase, and the parents of children in direct provision should have access to Child Benefit. Opting-in to the Recast Reception Conditions Directive would ensure that the best interests of the child principle is at the forefront of decisions made about accommodating asylum and protection applicants. An audit of child protection and child welfare referrals should be carried out to ensure that there is sufficient oversight in that in relation to children living in direct provision.

⁶⁴⁰ Department of Justice and Equality (2014) *Working Group to report to Government on improvements to the protection process, including Direct Provision and supports to asylum seekers: Terms of Reference*, <http://www.justice.ie/en/JELR/Pages/WP14000337> [accessed 30 January 2015].

6.3 INEQUALITIES IN FAMILY LIFE

Grade

B

GOVERNMENT COMMITMENT

We will modernise and reform outdated elements of family law.

Progress: Good

We will enact legislation to consolidate and reform the law on adoption.

Progress: Slow

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.

Progress: Good



WHAT'S HAPPENING?

The Heads of the Children and Family Relationships Bill were published in January 2014 and revised Heads issued in September.

The Government committed under The *National Policy Framework for Children and Young People 2014–2020*, published in April 2014, to '[r]eform aspects of family law, including the law on guardianship, to create a legal structure to underpin diverse parenting situations and provide legal clarity on parental rights and duties in diverse family forms.'⁶⁴¹ It also committed to 'clarify the law in relation to a child and young person's right to know his or her identity; where the child is adopted or born through the use of Assisted Reproductive Technologies, and to 'put in place mechanisms to collect and retain information necessary to enable a child to exercise their right to identity and to facilitate regular family access for children in care.'⁶⁴²

Family Law Reform: In January 2014, the General Scheme of the Children and Family Relationships Bill was published by the then Minister for Justice and Equality, Alan Shatter TD.⁶⁴³ The legislation 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 and families headed by cohabiting couples, gay or lesbian couples or by other extended family members. Speaking at a high level seminar on the initial Scheme, Dr. Geoffrey Shannon, Special Rapporteur on Child Protection, noted that the Bill 'represents the most significant change in family law in a generation and attempts to reflect the social reality of contemporary family life in Ireland'.⁶⁴⁴

⁶⁴¹ Department of Children and Youth Affairs (2014) *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020*, Dublin: Department of Child and Youth Affairs, p.82.

⁶⁴² Ibid., p.104.

⁶⁴³ General Scheme of a Children And Family Relationships Bill 2014 (January 2014) <http://www.justice.ie/en/JELR/General%20Scheme%20of%20a%20Children%20and%20Family%20Relationships%20Bill.pdf/Files/General%20Scheme%20of%20a%20Children%20and%20Family%20Relationships%20Bill.pdf>

⁶⁴⁴ Dr. G. Shannon, 'The Children and Family Relationships Bill 2014 – A Children's Rights Perspective', 10 April 2014, Dublin: Children's Rights Alliance, http://childrensrights.ie/sites/default/files/submissions_reports/files/GShannon-ChildrenFamilyRelationshipsBill2014ChildrenRightsPerspective0414.pdf [accessed 11 February 2014].

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 Oireachtas Committee on Justice, Defence and Equality reviewed the initial Scheme, carried out a public consultation and issued a report in May 2014.⁶⁴⁵ On foot of this consultation process, a number of changes were made to the initial Scheme and a revised Scheme was published in September 2014.⁶⁴⁶ Most welcome was the inclusion in the revised Scheme of a provision to ensure that a child born through assisted human reproduction has the right to know his or her genetic identity. This will be achieved through a prohibition on anonymous donation of genetic material and the establishment of a national donor-conceived person register. Further consultation was undertaken on the revised Scheme and the Bill is expected to be published in mid-February 2015.

In light of a pending Supreme Court decision, provisions relating to children born through surrogacy were not included in the revised Scheme.⁶⁴⁷ Legislation addressing the issue of surrogacy will instead be developed by the Department of Health at a later date.⁶⁴⁸

The revised Scheme is subject to change when published as a Bill and to further change on foot of amendments as the Bill progresses through the Houses of the Oireachtas. The revised Scheme provides that the best interest of the child will be the paramount consideration in decisions on custody, guardianship and access. It proposes repealing the Guardianship of Infants Act 1964 and extending the class of persons who can apply for guardianship of a child to civil partners, cohabitants, step-parents and others acting in *loco parentis*. In certain cases, it proposes 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.⁶⁴⁹ It will also set out

how parentage is to be assigned in cases of assisted reproduction and provide for the views of the child to be heard in decision-making, through the use of 'an expert to make known the views of the child'.

In another positive legislative development in 2014 was the enactment of the Civil Registration (Amendment) Bill 2014 in December. This legislation requires unmarried parents to register the name of the child's father on a child's birth certificate. This will help ensure the child's right to know their parent's identity is respected.

Civil Partnership and Cohabiting Couples: The Civil Partnership and Certain Rights and Obligations of Cohabiting Couples Act 2010, since coming into effect, provides legal recognition through civil partnership for same-sex couples including a wide range of marriage-like rights and obligations for civil partners. The Finance (No. 3) Act 2011 addressed some anomalies for children of civil partners, relating to taxation, so 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. In December 2014, the Government announced that it will hold a Marriage Equality referendum in 2015,⁶⁵⁰ which will ask the People of Ireland if they wish to insert the phrase 'Marriage may be contracted in accordance with law by two persons without distinction as to their sex' into the Constitution.⁶⁵¹

Family Courts: In 2014, the then Minister for Justice and Equality, Alan Shatter TD, indicated that a referendum may not be necessary to reform the family courts system and that this could be done through legislation.⁶⁵² The Department of Justice and Equality intended to publish legislation by end 2014 but this has now been delayed and is expected in 2015.⁶⁵³

⁶⁴⁵ Joint Committee on Justice, Defence and Equality (2014) *Report on hearings in relation to the Scheme of the Children and Family Relationships Bill*. 31/JDAE/015 Houses of the Oireachtas.

⁶⁴⁶ General Scheme of a Children And Family Relationships Bill 2014 (September 2014) <http://www.justice.ie/en/JELR/General%20Scheme%20of%20the%20Children%20and%20Family%20Relationships%20Bill.pdf/Files/General%20Scheme%20of%20the%20Children%20and%20Family%20Relationships%20Bill.pdf>

⁶⁴⁷ *M.R. and D.R. (suing by their father and next friend O.R.) & ors -v- An t-Ard-Chláráitheoir & ors* [2014] IESC 60.

⁶⁴⁸ Department of Justice and Equality, 'Minister Fitzgerald publishes General Scheme of Children and Family Relationships Bill', [press release], <http://www.justice.ie/en/JELR/Pages/PR14000257> [accessed 12 January 2015].

⁶⁴⁹ Department of Justice and Equality, *Children and Family Relationships 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> [accessed 11 February 2015].

⁶⁵⁰ Department of Justice and Equality, 'Minister Fitzgerald welcomes Government approval for Marriage Equality referendum in May 2015', [press release], 16 December 2014, http://merrionstreet.ie/en/News-Room/Releases/Minister_Fitzgerald_welcomes_Government_approval_for_Marriage_Equality_Referendum_in_May.html [accessed 30 January 2015].

⁶⁵¹ Department of Justice and Equality, 'Government announces wording for Marriage Equality referendum' [press release], 21 January 2015, <http://www.justice.ie/en/JELR/Pages/PR15000009>.

⁶⁵² Address by Minister for Justice, Equality and Defence, Alan Shatter TD, to the Family Law Association of Ireland, 8 February 2014, <http://www.merrionstreet.ie/en/News-Room/Speeches/address-by-the-minister-for-justice-equality-and-defence-alan-shatter-td-to-the-family-lawyers-association-of-ireland.html> [accessed 13 January 2015].

⁶⁵³ C. Finn, 'Referendum on establishing Family Court 'not necessary'', *The Journal*, 15 September 2014, <http://www.thejournal.ie/no-referendum-family-law-court-1628262-Sep2014/> [accessed 13 January 2015].



COMMENT

This year 'Inequalities in Family Life' receives a **'B'** grade, a significant rise from last year's 'D+' grade. The improved grade reflects the publication of the initial and revised Scheme of the Children and Family Relationships Bill. It acknowledges that both the former Minister for Justice, Equality and Defence, Alan Shatter TD, and current Minister for Justice and Equality, Frances Fitzgerald TD, engaged in an open consultation process and demonstrated a real willingness to take on board suggestions for improving the Bill.

Of particular note is that following calls from the Children's Rights Alliance, our members and the Ombudsman for Children, the revised Scheme was amended to include provisions on the child's right to identity.⁶⁵⁴ This is a very significant positive development as it brings Irish law in this area into line with Articles 7 and 8 of the UN Convention on the Rights of the Child, which state that every child has a right to know his or her parents and have access to information concerning their genetic identity (which may be accessed when the child reaches 18 years of age). The inclusion of the provisions on the child's identity required liaison between the Department of Justice and Equality and the Department of Health, which development these provisions. The requirement – under the Civil Registration (Amendment) Bill 2014 – for unmarried parents to register the names of both parents on a child's birth certificate is also a welcome step to uphold the child's right to identity.

The UN Convention on the Rights of the Child recognises the central role played by parents in the lives of children. Under the Convention every child has the right to be cared for by his or her parents insofar as possible.⁶⁵⁵ The term 'parent' is interpreted to mean genetic, birth and psychological or social parent (referring

to someone who is not-biologically related to the child but cares for the child for significant periods of their childhood). Children also have the right to contact with both their parents on a regular basis, to maintain personal relations and not to be separated from their parents against their will, unless the separation is in the child's best interests.⁶⁵⁶ 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 been denied an element of their identity.⁶⁵⁷ 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.⁶⁵⁸ 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.⁶⁵⁹

The structure of Irish family life has changed significantly in recent decades with 36.1 per cent of registered births being outside of marriage in the second quarter of 2014.⁶⁶⁰ 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. According to the latest figures available, almost 352,000 children lived with a lone parent,⁶⁶¹ 104,665 children lived with co-habiting, unmarried parents⁶⁶² and there were 230 same-sex couples with children.⁶⁶³

Many children have no legal relationship with the person who provides them with day-to-day parental care. The legal ability to formalise the relationship between a child and their *de facto*

⁶⁵⁴ Children's Rights Alliance (2014) *Initial Submission on the Children and Family Relationships Bill 2014 to the Joint Oireachtas Committee on Justice, Defence and Equality* [online]. http://www.childrensrights.ie/sites/default/files/submissions_reports/files/SubmissionChildFamilyRelationshipsBill280214.pdf [accessed 11 February 2015].

⁶⁵⁵ UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989), Article 7.

⁶⁵⁶ *Ibid.*, Article 9.

⁶⁵⁷ *Ibid.*, Articles 7 and 8.

⁶⁵⁸ *Ibid.*, Article 18.

⁶⁵⁹ *Ibid.*, Article 3(1).

⁶⁶⁰ Central Statistics Office (2014) *Vital Statistics for Second Quarter 2014*, Dublin: Central Statistics Office, http://www.cso.ie/en/releasesandpublications/ep/p-vs/vitalstatisticssecondquarter2014/#.VLP8_10kvOE [accessed 12 January 2015].

⁶⁶¹ Central Statistics Office (2014) *Vital Statistics – 2013 Yearly Summary*, Dublin: Stationery Office, p.39.

⁶⁶² *Ibid.*

⁶⁶³ Central Statistics Office (2012) *This is Ireland Highlights from Census 2011, Part 1*, Dublin, Stationery Office, p.27.



parent is critical to ensure security, fairness and clarity in the child's life and upbringing. The limitations placed in granting guardianship⁶⁶⁴ 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.⁶⁶⁵ This can make routine family practicalities very difficult, as the non-biological parent cannot consent to emergency medical treatment, vaccinations or school forms. It can also have a devastating impact in the context of family break up.

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 Children and Family Relationships Bill will 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 and enacted at the earliest opportunity.

The revised Scheme also provides for two key children's rights principles, namely the best interests principle as well as the voice of the child. However, under the proposals the court will only hear from the child at the judge's discretion so there is no automatic right for the child's voice to be heard. In addition, it is not clear what mechanisms will be put in place to ensure that the child's views are properly heard and considered. The UN Committee has been clear in relation to Article 12 of the UN Convention on the Rights of the

Child that the way in which the child's views are represented 'should be determined by the child (or by the appropriate authority as necessary) according to her or his particular situation' requiring consultation with children in how best to present their views to ensure that they are 'transmitted correctly' to the judge.⁶⁶⁶

To support the roll out of the legislation a court welfare service is needed. This service would provide an appropriate mechanism to carry out assessments of the child's welfare and best interests, ascertain his or her views, while also carrying out family risk assessments. It would help to support the judiciary make informed decisions in accordance with the proposed legislation and with the State's children's rights obligations.

The requirement under the Civil Registration (Amendment) Act 2014 for unmarried parents to register the names of both parents on a child's birth certificate is also a welcome step to uphold the identity rights of children. However, the lack of a Central Register for Statutory Declarations for Joint Guardianship continues to cause problems for some unmarried fathers who have not retained a copy of the declaration and are unable to prove that they are a joint guardian. The statutory declaration is the only non-judicial mechanism to enable an unmarried father to gain guardianship rights – the safe keeping of these documents should be fully supported by the State.

⁶⁶⁴ 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.

⁶⁶⁵ Ombudsman for Children (2010) *Advice of the Ombudsman for Children on the Civil Partnerships Bill 2009*, Dublin: Ombudsman for Children's Office, p. 2.

⁶⁶⁶ UN Committee on the Rights of the Child (2009) General Comment No. 12: The right of the child to be heard, CRC/C/GC/12, para. 36.



INEQUALITIES IN FAMILY LIFE

Immediate Actions for 2015

Enact the Children and Family Relationships Bill ensuring that the provisions on best interests of the child, voice of the child and the right to identity are retained

The Children and Family Relationships Bill should be enacted 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. The Bill must ensure that mechanisms are put in place to allow the child to have his or her voice heard directly in decisions and that the child's right to identity to protected.

Establish a Central Register for Statutory Declarations for Joint Guardianship

The Scheme does not provide a facility for the establishment of a Central Register for Statutory Declarations for Joint Guardianship as recommended by the Law Reform Commission in 2010.⁶⁶⁷ The statutory declaration is the only non-judicial mechanism to enable an unmarried father to gain guardianship rights – the safe keeping of these documents should be fully supported by the State.

Establish a court welfare service to support the roll out of this legislation

A court welfare service is needed to provide an appropriate mechanism to carry out assessments of the child's welfare and best interests, ascertain his or her views, while also carrying out family risk assessments. This service would help to support the judiciary make informed decisions in accordance with the proposed legislation and with the State's children's rights obligations.

⁶⁶⁷ See http://www.lawreform.ie/_fileupload/Reports/r101Family%281%29.pdf, p.47.

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