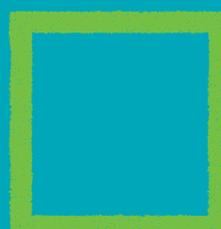
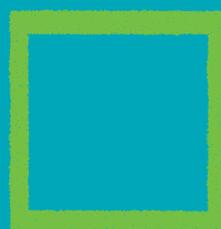


CHILDREN'S RIGHTS ALLIANCE

Uniting Voices For Children

report card 2016



IS GOVERNMENT KEEPING ITS
PROMISES TO CHILDREN?

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

22q11

Ag Eisteacht

Alcohol Action Ireland

Alliance Against Cutbacks in Education

Amnesty International Ireland

ASH Ireland

Assoc. for Criminal Justice Research and Development (ACJRD)

Association of Secondary Teachers Ireland (ASTI)

ATD Fourth World - Ireland Ltd

Atheist Ireland

Autism Network Ireland

Barnardos

Barretstown Camp

BeLonG To Youth Services

Bessborough Centre

Catholic Guides of Ireland

Childhood Development Initiative

Children in Hospital Ireland

COPE Galway

Cork Life Centre

Crosscare

Dental Health Foundation of Ireland

Department of Occupational Science and Occupational Therapy, UCC

Disability Federation of Ireland

DIT - School of Social Sciences & Legal Studies

Down Syndrome Ireland

Dublin Rape Crisis Centre

Dun Laoghaire Refugee Project

Early Childhood Ireland

Educate Together

EPIC

EQUATE

Extern Ireland

Focus Ireland

Foróige

Gaelscoileanna Teo

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 for Infant Mental Health

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

Kids' Own Publishing Partnership

Law Centre for Children and Young People

Lifestart National Office

Mental Health Reform

Mounttown Neighbourhood Youth and Family Project

MyMind

National Childhood Network

National Organisation for the Treatment of Abusers (NOTA)

National Parents Council Post Primary

National Parents Council Primary

National Youth Council of Ireland

One Family

One in Four

Parentline

Parentstop

Pavee Point

Peter McVerry Trust

Rape Crisis Network Ireland (RCNI)

Realt Beag

SAFE Ireland

Saoirse Housing Association

SAOL Beag Children's Centre

School of Education UCD

Scouting Ireland

Simon Communities of Ireland

Society of St. Vincent de Paul

Sonas Housing Association

Special Needs Parents Association

SpunOut.ie

St. Nicholas Montessori College

St. Nicholas Montessori Teacher's Association

St. Patrick's Mental Health Services

Start Strong

Step by Step Child & Family Project

Suas Educational Development

Sugradh

Teachers' Union of Ireland

Terenure Rugby Football Club

The Ark, A Cultural Centre for Children

The Gaurdian Childrens Project

The Prevention and Early Intervention Network

The UNESCO Child and Family Research Centre, NUI Galway

Treoir

UNICEF Ireland

Unmarried and Separated Families of Ireland

youngballymun

Youth Advocate Programme Ireland (YAP)

Youth Work Ireland

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- > Department of Social Protection
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- > Disability Federation of Ireland
- > Early Childhood Ireland
- > Educate Together
- > EPIC
- > EQUATE
- > Focus Ireland
- > GLEN – Gay and Lesbian Equality Network
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- > Irish National Teachers Organisation
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- > Jack & Jill Children's Foundation
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- > Migrant Rights Centre of Ireland
- > National Youth Council of Ireland
- > One Family

- > Pavee Point
- > St Patrick's Mental Health Services
- > Society of St. Vincent de Paul
- > Start Strong
- > Treoir
- > Teachers' Union of Ireland
- > youngballymun
- > Youth Work Ireland

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Finally, we extend our thanks to the members of the independent Assessment Panel who, by assessing the grades in each section and adding their considerable experience, validate this report. The grades allocated represent the collective views of the Panel rather than the views of any individual. The Assessment Panel comprises:

- > Professor Pat Dolan, UNESCO Chair in Children, Youth and Civic Engagement and Director, Child and Family Research Centre, National University of Ireland, Galway;
- > Dr Orla Doyle, Lecturer in Economics and Research, Fellow in the UCD Geary Institute for Public Policy;
- > Professor Nóirín Hayes, Visiting Professor, School of Education, Trinity College Dublin;
- > Professor 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, Dean of Law, University College Cork;
- > Judge Catherine McGuinness, former member of the Supreme Court of Ireland and Member of the Council of State;
- > Dr Liam Thornton, Lecturer in Law, School of Law, University College Dublin.

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Foreword

The Children's Rights Alliance *Report Card 2016* is the eighth in this series.

For the fourth year in a row, the Government is awarded an overall 'C' grade for its work from January to December 2015 on implementing commitments to children under the *Programme for Government 2011-2016*. As always, our independent panel of experts graded the Government's performance.

2015 was a landmark year. In April, the constitutional amendment on children became law. In May, the People of Ireland voted for another significant amendment to the Constitution providing marriage equality for same-sex couples. It has wide implications for LGBT children and young people, sending a strong signal that they are valued as equal members of society.

Progressive legislation was enacted in the Children and Family Relationships Act 2015 heralding much-needed, comprehensive family law reform providing legal protection for children in various family types. As a result, the 'Inequalities in Family Life' section was the strongest performer in *Report Card 2016* receiving an 'A' grade. The other high achiever was 'School Buildings' receiving an 'A-' grade; this section has consistently gained high grades under this Government.

Another highlight was the enactment of the Children First Act 2015, placing elements of the Children First guidelines on a statutory footing and removing the legal defence of reasonable chastisement, providing an effective ban on corporal punishment. Progress was made in youth justice through the transfer of responsibility for 17 years old boys on remand to the Children Detention Schools and the enactment of the Children (Amendment) Act 2015 to end the detention of children in adult prisons. This is reflected in a 'B' grade for the 'Ryan Report Implementation Plan' and a 'B+' for 'Children in Detention'.

Other areas doing quite well include 'Education', which has remained consistent under this Government. 'Child Literacy' gained a 'B+' and 'Early Childhood Care and Education' received an improved 'B-' as a result of investments promised in Budget 2016. In Health, the roll out of Free GP care to under-sixes and the commitment to extend this to under-twelves saw an improvement ('B-') in 'Primary Care'. Movement on legislation such as the Public Health Alcohol Bill 2015 and the enactment of the Public Health (Standardised Packaging of Tobacco) Act 2015 saw the grade in this area rise to a 'B'.

However, 2015 was a year when child poverty rates remained sky-high and the number of homeless children rose by 90 per cent. One in nine children lives in poverty and there are over 1,600 children living in emergency homeless accommodation. 'Child Poverty' was awarded a pitiful 'E-' and 'Child and Youth Homelessness' dropped to an 'F', reflecting the inability of the Government to take decisive action to address this crisis. The rights of 'Traveller and Roma Children' and 'Migrant Children' were failed yet again, receiving an 'E-' and a 'D-' respectively.

Once again, children found themselves unable to access their local primary schools because of their religion. Momentum on this issue fell sharply over the course of the Government and the grade for 'Patronage and Pluralism in Primary Education' dropped to a 'D'. As in previous years, 'Mental Health' continued to fare badly with a 'D', only slightly improved due to the publication of the Expert Group Review of the Mental Health Act 2001.

2016 is an election year and as I write, there is a window of opportunity for the incoming Government to draft a *Programme for Government* that makes ambitious commitments to change life for the children who most need it. The last administration placed emphasis on improving the infrastructure to support children's rights. The next Government must translate these positive developments and make a real impact on the lives of the most marginalised: the child living in one room of a B&B with their family for eighteen months; the child who has never had a play date because they live in direct provision; the child who is terrified of being put in an adult psychiatric unit; the child waiting months for counselling since they were abused; the Traveller child living in accommodation with no access to running water or sanitation.

All children should be cherished equally, and in a year that we celebrate 100 years since the 1916 Rising it has never been a more fitting time to uphold that statement. This can happen but only if the right commitments are made.

Tanya Ward
Chief Executive

Grading for Report Card 2016

OVERALL GRADE	C
Children's Constitutional Rights Children's Referendum Constitutional Convention	C+ B+ C-
Right to Education Early Childhood Care and Education Child Literacy Children with Special Educational Needs School Buildings Patronage and Pluralism in Primary Education	B- B- B+ C+ A- D
Right to Health Primary Care Children's Hospital Mental Health Alcohol, Smoking and Drugs	C+ B- C+ D B
Right to an Adequate Standard of Living Child Poverty Children and the Social Welfare System Area Based Approach to Tackling Child Poverty Child and Youth Homelessness	E+ E- D C+ F
Right to Protection from Abuse and Neglect Child and Family Agency Ryan Report Implementation Plan Children in Detention	B B B B+
Right to Equality and Non-discrimination Traveller and Roma Children Migrant Children Inequalities in Family Life	D+ E- D- A

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

Grading: Five Year Comparison

AREA	SECTIONS	2012	2013	2014	2015	2016
Children's Constitutional Rights	Children's Referendum Constitutional Convention	B N/A	A N/A	B N/A	B- B-	B+ C-
Right to Education	Early Childhood Care & Education Child Literacy Children with Special Educational Needs School Buildings Patronage and Pluralism in Primary Education	B B+ C B B	B- B+ D B B+	C+ A- C- B+ B+	D+ A C- A C+	B- B+ C+ A- D
Right to Health	Primary Care Children's Hospital Mental Health Alcohol, Smoking and Drugs	C- B C+ D	D D D- D	C C+ E D+	C C E C-	B- C+ D B
Right to an Adequate Standard of Living	Child Poverty Children and the Social Welfare System Area Based Approach to Tackling Poverty Child and Youth Homelessness	E C D D	F D C- C-	E- D C+ C+	F D+ C+ D+	E- D C+ F
Right to Protection from Abuse & Neglect	Child and Family Agency Ryan Report Implementation Plan Children in Detention	B C F	B- B- B+	B+ B- B+	B B- B-	B B B+
Right to Equality and Non-discrimination	Traveller and Roma Children Migrant Children Inequalities in Family Life	N/A N/A N/A	E E D	E F D+	E+ E+ B	E- D- A

Introduction

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

The Report Card is 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 organisations (NGOs) and academics. It scrutinises the Government's own commitments to children flowing from the *Programme for Government*.

This is the eighth edition of our annual Report Card series, launched in 2009. As we have reached the end of the five-year Fine Gael/Labour coalition Government, this is the final Report Card examining the commitments in the *Programme for Government 2011-2016*. Next year, we intend to continue the series examining the commitments of the next *Programme for Government*.

Each year, the Children's Rights Alliance evaluates Government's delivery on the promises it made to children and young people in six key areas: children's constitutional rights, the right to education, to health, to an adequate standard of living, to protection from abuse and neglect and the right to equality and non-discrimination. As in previous years, the research process for *Report Card 2016* was rigorous. It involved desk research, semi-structured interviews, analysis of legal judgments and of statistics and 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 was 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 from the trade union sector.

The Government is awarded an overall 'C' grade in *Report Card 2016*, reflecting a satisfactory attempt to date, though children remain wanting. In *Report Card 2012* – the first year of tracking the *Programme for Government 2011-2016* commitments – the Government was awarded a 'C+', the best overall grade in the Report Card series to date. In the intervening years, the Government has consistently

received an overall 'C' grade. Also consistent have been the areas of achievement and areas in which the Government has not performed as well. Aspects of the right to education have been strong throughout in particular 'Child Literacy' and 'School Buildings'. Also steady throughout have been the protection sections in particular 'Child and Family Agency' and 'Ryan Report Implementation Plan'. 'Children in Detention' has been one of the biggest success stories moving from an 'F' to a 'B+' over the course of the *Programme for Government*. 'Inequalities in Family Life' has also climbed from a low of a 'D' grade in 2013 to an 'A' grade in *Report Card 2016*.

Some sections have consistently received low grades over the past five years. Among them once again this year are the grades for 'Child Poverty' and 'Traveller and Roma Children', neither of which has ever moved above an 'E+' grade. An 'E' grade is defined as 'unacceptable, taking steps in the wrong direction, no positive impact on children'. Sections seeing the biggest decrease in the grade this year are 'Patronage and Pluralism in Primary Education' which dropped from a 'B+' in 2013 to a 'D' this year and 'Child and Youth Homelessness' has gone from a high of a 'C+' in 2014 to an 'F' in *Report Card 2016*.



1. CHILDREN'S CONSTITUTIONAL RIGHTS

Chapter Grade

C+

“

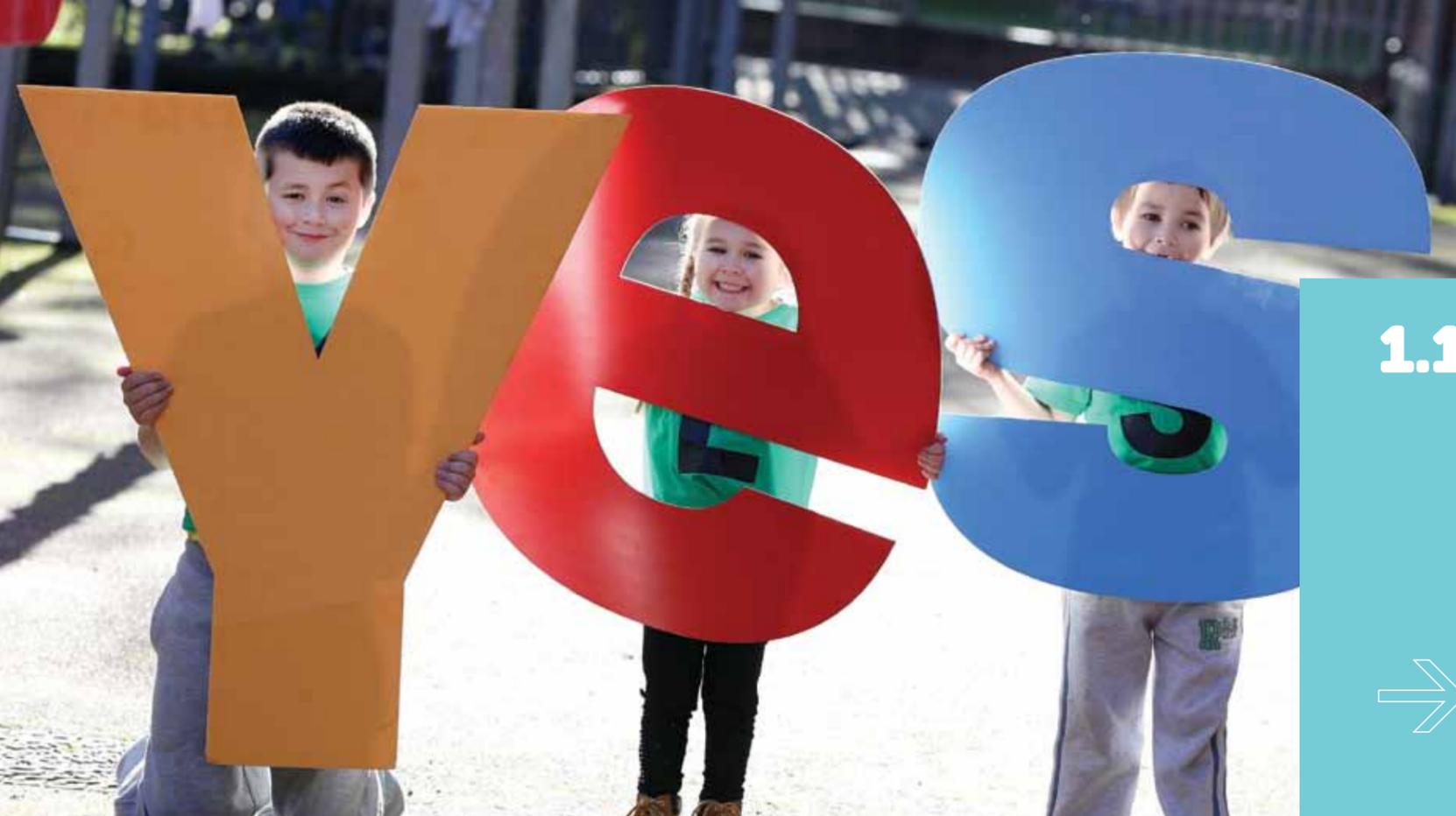
Disadvantage begets more disadvantages. Just think of one of the 1,600 homeless children. She is temporarily placed in a hotel miles away from school. Her mother has to spend what little she has on bus fares to school and poor quality food but can't afford the trip to the Speech and Language Therapist. The child misses her appointment and her speech continues to worsen so she falls behind in her schoolwork and the inequality gap grows. Protecting every child's right to housing, health, education and social security would be an important step towards protecting these children. And we could do this if we enshrine economic, social and cultural rights in the Irish Constitution.”

Fergus Finlay, Chief Executive, Barnardos

Duty on States to Provide for the Rights of Children

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

Summary of Article 4 of the UN Convention on the Rights of the Child



1.1

Children's Referendum

GOVERNMENT COMMITMENT

The *Programme for Government 2011-2016* commits to establishing a process to ensure that the Constitution meets the challenges of the 21st century [...]. It also promises to give priority to specific constitutional amendments, including:

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



Progress: Some



IN THE NEWS

THE CHILDREN'S REFERENDUM WILL NOT HAVE TO BE HELD AGAIN

The Journal.ie, 24 April 2015

THE SUPREME COURT has ruled that the Children's Referendum should not be re-run. A High Court petition taken by Joanna Jordan from Dun Laoghaire to overturn the result of the 2012 referendum was previously rejected. It ruled the Government's conduct – specifically using State monies to publish an unbalanced information campaign – did not impact on the outcome of the referendum. Her appeal against this decision was unanimously dismissed by the seven-judge panel today. The judgement outlined how the significant voting margin (58% voted yes and 42% voted no) was a significant factor. "Applying the test to the circumstances of these appeals, the Court finds it has not been established that it is reasonably possible that the actions of the Minister materially affected the outcome of the referendum as a whole," the judges explain. The High Court will now

have to endorse the result of the referendum before the President can sign it into law. It is understood this could happen in the next seven days.

The Minister for Justice Frances Fitzgerald also welcomed today's decision. "It is important that citizens have the opportunity to bring concerns to our courts as happened in this case," she said in a statement. "This is a new era for how we as a society view our children. No longer seen and not heard, children are now recognised by our Constitution as individual rights holders deserving of protection by our laws irrespective of their family form." [...]

The Children's Rights Alliance said: "For many hundreds of children in long term foster care today's judgement opens the way for them to finally find a permanent and secure family through adoption by their foster parents." [...]

By Christina Finn

'Children's Referendum' receives a 'B+' in Report Card 2016. This is an increase on last year's 'B-' grade. This year's grade recognises that the amendment to strengthen children's constitutional rights was signed into law in April 2015. It also recognises that at District Court level, training on children's issues is now included in the induction training for new judges and a training needs-analysis has been undertaken.

This is the final year of the Report Card series under the *Programme for Government 2011-2016*. The Government committed to hold a referendum to amend the Constitution of Ireland to ensure that children's rights are strengthened, along the lines recommended by the All-Party Oireachtas Committee. In 2012, the People of Ireland voted 58 per cent to 42 per cent in favour of the Thirty-First Amendment to the Constitution. However, there was a delay of almost three and a half years before the

amendment was written into law. The delay was due to a legal challenge.¹ The Supreme Court dismissed the appeal on 24 April 2015,² and the Thirty-First Amendment to the Constitution Act 2012 was signed into law by the President of Ireland on 28 April 2015.³

The Supreme Court dismissed the appeal on 24 April 2015, and the Thirty-First Amendment to the Constitution Act 2012 was signed into law by the President of Ireland on 28 April 2015.

1 The challenge was taken by Joanna Jordan and related to the publication of a government funded booklet/website on the children's referendum. (*Jordan v Minister for Children and Youth Affairs & Others* [2013] IEHC 625). Parts of the booklet/website were found to be unconstitutional because they breached the McKenna principles (*McKenna v An Taoiseach (No. 2)* [1995] 2 IR 10) which prohibit the spending of public monies to espouse a particular perspective in a referendum (*McCrystal v Minister for Children and Youth Affairs, the Government of Ireland, Ireland and the Attorney General* [2012] IESC 53.) The Court also found that material contained a misstatement as to the effect of the referendum. 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's appeal was unsuccessful.

2 *Jordan v Minister for Children and Youth Affairs & Ors* [2015] IESC 33.

3 Department of Children and Youth Affairs, 'The Referendum Relating to Children' <http://www.dcy.gov.ie/viewdoc.asp?fn=/documents/Child_Welfare_Protection/ChildrensReferendum.htm> accessed 28 January 2016.

While the Government has met its commitment to hold the referendum, the amendment did not fully reflect the wording proposed by the Joint Committee on the Constitutional Amendment on Children which had all-party support, as promised in the *Programme for Government* commitment.⁴ The Joint Committee, established in 2009, was tasked with reviewing the Twenty-eighth Amendment of the Constitution Bill 2007, which set out proposed text for a constitutional amendment on children, and making recommendations as they deemed appropriate to the Oireachtas.⁵ The Committee published its final report in 2010 and set out detailed proposed wording that goes well beyond the 2007 wording.

In a number of key areas the Committee's wording was stronger than that of Article 42A. The Committee framed the right of a child to have their views heard as a direct constitutional right applying to administrative and judicial proceedings, while Article 42A only provides that the State must legislate for this right and is confined to judicial proceedings.⁶ The Committee specifically identifies the right of the child 'to such protection and care as is necessary for his or her safety and welfare' and 'to have his or her welfare regarded as a primary consideration', this is not included in Article 42A. The Committee included the clause that states that adoption law 'shall respect the child's right to continuity in its care and upbringing';⁷ this was not included under Article 42A.

In other areas Article 42A improves on the wording proposed by the Committee. The Oireachtas is obliged under Article 42A to enact legislation in the area of adoption reform,⁸ while the Committee's wording would have only enabled the Oireachtas to provide for such reform. Importantly Article 42A.2.1⁹ reshaped the Committee's proposal in relation to child protection to shift away from the failure of the parents and the reasons for that failure to instead focusing on the child and the impact of the parents' failure on their safety and welfare. It also includes a safeguard against over-intervention by the State by stating that any intervention take place only in 'exceptional circumstances'.

On balance, the Committee's proposed wording would have provided greater constitutional protections to a wider range of children's rights.

The UN Committee stresses the importance of clarifying the extent of the applicability of the UN Convention on the Rights of the Child in states where 'the Convention "has been given constitutional status" or has been incorporated into domestic law'.⁹ There has been some attempt to give effect to the constitutional amendment in practice. In April 2015, the Government gave effect in legislation to key provisions of the constitutional amendment (including those relating to the best interests and to a more limited extent to the views of the child) under the Children and Family Relationships Act 2015,¹⁰ an historic piece of legislation that makes long

There has been some attempt to give effect to the constitutional amendment in practice. In April 2015, the Government gave effect in legislation to key provisions of the constitutional amendment (including those relating to the best interests and to a more limited extent to the views of the child) under the Children and Family Relationships Act 2015.

overdue reforms to Irish family law. However, the relevant legislation to give effect to the provisions on adoption under Article 42A.2.2¹¹ and Article 42A.2.3¹² of the amendment has not been progressed so the law remains unaltered.¹¹

Supporting the Judiciary: Now that Article 42A is part of the Irish Constitution, it will be the role of the judiciary to interpret its provisions. The judiciary should be supported to upskill themselves on substantive children's rights issues under the amendment and on improving the process for children who are involved in the judicial system. This would mean that judges are better equipped to interpret cases in light of the constitutional amendment and children's access to justice would be enhanced.

The Committee for Judicial Studies has not yet developed any specific programme in relation to the constitutional amendment on children.¹² However, the President of the District Court has completed a needs-analysis on the training required by judges in light of the passage of the Children and Family

Relationships Act 2015 and has included training on children's issues in the induction training for new judges.¹³ With the support of the Committee, judges have attended a number of training seminars and events in specific areas including on the Children and Family Relationships Act 2015 and the EU Victims Directive.¹⁴ These initiatives are warmly welcomed and should be expanded to adopt best practice in the field which involves scenario-based training by experts and judicial peers.¹⁵

The Council of Europe *Guidelines on Child-Friendly Justice* provide an important blueprint for how professionals can enhance their daily practice in the courts to ensure that children's rights are protected when they engage with the judicial system.¹⁶ The Irish judicial system should be reformed to reflect the principles of the Guidelines and to ensure that practical measures are put in place to ensure that the experiences of children with the system is participatory,¹⁷ that the rule of law applies to children as it does to adults,¹⁸ that children are properly informed¹⁹ and that their best interests are a primary consideration in decisions affecting them.²⁰ Implementation of the guidelines is an important step towards ensuring that judges, lawyers and all professionals dealing with children in the courts are appropriately trained and equipped to respect their rights under the provisions of the Constitution or the legislation brought in to give it effect, such as the Children and Family Relationships Act 2015.

4 *The Programme for Government 2011-2016* commitment is not clear as to whether the intention is for the Constitution to be amended along the lines of the 2006 All-Party Oireachtas Committee on the Constitution with regard to the Family or the 2010 Joint Committee on the Constitutional Amendment on Children which had all-party support. Due to the fact that the 2010 report was published the year before the *Programme for Government* commitment was made and because it had all-party support, we understand the commitment to refer to the latter Committee's work which can be found here: Government of Ireland, *Committee on the Constitutional Amendment on Children, Third Report, Twenty-eighth Amendment of the Constitution Bill 2007, proposal for a constitutional amendment to strengthen children's rights, Final Report* (Government of Ireland 2010).

5 Government of Ireland *Joint Committee on the Constitutional Amendment on Children, Third Report, Twenty-eighth Amendment of the Constitution Bill 2007, proposal for a constitutional amendment to strengthen children's rights, Final Report* (Government of Ireland 2010) 2.

6 Article 42A.4.2⁹ applies only to proceedings 'brought by the State...for the purpose of preventing the safety and welfare of any child from being prejudicially affected' or 'concerning adoption, guardianship, or custody of, or access to, any child'.

7 The Committee noted that the objective of the phrase was to 'ensure that in any dispute between prospective adopters and natural parents, one of the central factors to be considered is the bond that may have built up between the child and prospective adopters, and the consequences for the child of the breaking of the bond'. This was omitted from Article 42A meaning that there is no obligation for legislation in this area to refer to the continuity of care of a child. Government of Ireland, *Joint Committee on the Constitutional Amendment on Children, Third Report, Twenty-eighth Amendment of the Constitution Bill 2007, proposal for a constitutional amendment to strengthen children's rights, Final Report* (Government of Ireland 2010) 84.

8 Article 42A.2.2⁹ of the Irish Constitution and Article 42(5) of the proposed wording of the Joint Committee on the Constitutional Amendment on Children. Articles 42A.3 of the Irish Constitution and Article 42(6) of the proposed wording of the Joint Committee on the Constitutional Amendment on Children. Government of Ireland, *Joint Committee on the Constitutional Amendment on Children, Third Report, Twenty-eighth Amendment of the Constitution Bill 2007, proposal for a constitutional amendment to strengthen children's rights, Final Report* (Government of Ireland 2010) 100-102.

9 UNCRC 'General Comment No. 5 on General Measures of Implementation of the Convention on the Rights of the Child (arts 4, 42 and 44, para 6)' (2003) UN Doc CRC/GC/2003/5 para 19.

10 The Children and Family Relationships Act 2015 is discussed in detail in section 6.3 of this report.

11 The Adoption (Amendment) Bill 2012 which was drafted to give effect to Articles 42A.2.2⁹ and 42A.3 has not been enacted.

12 The Committee for Judicial Studies has responsibility for the continuing education of the Judiciary. The budget for the Committee was increased by €25,000 to €250,000 in 2015, but remains far short of its 2009 budget of €500,000. Communications received by the Children's Rights Alliance from the Courts Service on 2 February 2015 and 10 December 2015.

13 Communication received by the Children's Rights Alliance from the Courts Service on 10 December 2015.

14 *ibid*. The EU Victims Directive is Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.

15 European Judicial Training Network, 'Good Judicial Training Practices, Innovative Training Methodology, Best practices in the training of judges and prosecutors, e.g. Small Teams – The Business of Judging and Real Case Study, Developed in Real Time through the use of Video Conferencing' <http://www.ejtn.eu/Documents/Methodologies_Resources/Best%20practices%20Lot%201%20EN/IT_33_England%20and%20Wales_EU_en.pdf> accessed 28 January 2016.

16 Council of Europe, *Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice* (Council of Europe, 2011).

17 *ibid* para III A.

18 *ibid* para III E.

19 *ibid* para III A.

20 *ibid* para III B.

Children's Referendum

Immediate Actions for 2016



ENACT LEGISLATION TO GIVE EFFECT, WHERE NECESSARY, TO THE OUTSTANDING PROVISIONS OF ARTICLE 42A OF THE IRISH CONSTITUTION. Now that the amendment has become law, the Government should enact legislation to give effect to provisions relating to adoption under subsections 2.2 and 3 of the amendment. Provisions in relation to hearing the views of children in childcare and family law proceedings need to be strengthened to ensure they are compliant with Article 42A.

CONDUCT AN AUDIT OF LAWS, PRACTICES AND POLICIES TO DETERMINE OUTSTANDING GAPS IN THE IMPLEMENTATION OF THE COUNCIL OF EUROPE GUIDELINES ON CHILD-FRIENDLY JUSTICE.

To identify gaps in compliance with the *Guidelines on Child-Friendly Justice* in ensuring that children's rights are protected in the justice system, an audit should be undertaken and areas of poor implementation addressed.

1.2

Constitutional Convention

GOVERNMENT COMMITMENT

The *Programme for Government 2011-2016* commits to establishing a Constitutional Convention to consider comprehensive reform with a brief to consider and report within twelve months on:

- > Possible reduction of the voting age.
- > Other relevant constitutional amendments that may be recommended by the Convention.



Progress: Complete

'Constitutional Convention' is awarded a 'C-' in Report Card 2016, a drop from the 'B-' grade awarded in 2015. While the Programme for Government 2011-2016 commitment has been achieved in this area, at the end of 2015, there was no clarity as to whether or how the work of the Constitutional Convention will be progressed with regard to potentially lowering the voting age and including greater protection of economic, social and cultural rights in the Constitution.

This is the final year of the Report Card series under the *Programme for Government 2011-2016*. The Government's objective in this area was to establish a Constitutional Convention, and prioritise the holding of a referendum to reduce the voting age and to address other relevant constitutional amendments that may be recommended by the Convention. The Government has made significant progress in meeting its commitment. It established a Constitutional Convention which examined the potential reduction of the voting age and other issues.²¹ Its establishment was important because it engaged ordinary citizens in the future of the Constitution.

Voting Age: In line with its terms of reference, the Constitutional Convention considered eight different questions, including whether the voting age should be reduced. The Convention recommended that the voting age be reduced to 16 years. In the *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020*, the Government committed to holding a referendum on the voting age.²²

In January 2015, the Taoiseach confirmed that the Government would hold just two further referenda in its lifetime – on marriage equality and lowering the age for eligibility for presidential candidates.²³ This meant that a referendum to implement other recommendations made by the Constitutional Convention would not go ahead and resulted in the recommendation relating to lowering the voting age from 18 years to 16 years effectively being stalled.²⁴

21 The Convention met for over two years between December 2012 and February 2014. It comprised 100 members – 66 citizens drawn from the electoral register, 29 Oireachtas members and four members from the Northern Ireland Assembly.

22 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (Department of Children and Youth Affairs 2014), Commitment 5.4.

23 An Taoiseach, Enda Kenny TD, Dáil Debates, Order of Business, 14 January 2015.

24 Stephen Collins, 'Coalition abandons plan for poll on younger voting age' *The Irish Times* (Dublin, 15 January 2015).

The National Youth Council of Ireland 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 next General Election as a result.²⁵

Economic, Social and Cultural Rights: Article 4 of the UN Convention on the Rights of the Child provides that with regard to economic, social and cultural rights, the State should take 'all appropriate legislative, administrative, and other measures for the implementation of the rights' to the maximum extent of their available resources.²⁶ The UN Committee on the Rights of the Child believes that it should be possible to invoke those rights directly before the Courts and that domestic law should set out socio-economic and cultural entitlements in 'sufficient detail to enable remedies for non-compliance to be effective.'²⁷ In line with the International Covenant on Economic, Social and Cultural Rights, even States with inadequate resources must 'strive to ensure the widest possible enjoyment of the relevant rights in the prevailing circumstances.'²⁸

A number of socio-economic rights are provided for under the Constitution of Ireland such as education and property rights.²⁹ Other socio-economic rights are set out in a Directive of Social Policy under Article 45 of the Constitution. The Directive includes the right to work and safeguards the 'economic interests of the weaker sections of the community.' Article 45 explicitly provides that it is intended as guidance for the Oireachtas and should not be enforceable before the courts.

In December 2013, the Constitutional Convention chose to consider economic, social and cultural rights and recommended to the Government,

by an overwhelming majority of 85 per cent, that these rights be given enhanced protection in the Constitution.³⁰ 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), mirroring those set out in the UN International Covenant on Economic, Social and Cultural Rights. Establishing rights such as these at the constitutional level would mean that they have been enshrined in the fundamental law of the State and that all of our laws, policies and services would have to be in line with these provisions.

A Private Members Bill to insert the realisation of economic, social and cultural rights into the Constitution was introduced in December 2014.³¹ The Bill proposed that a referendum be held to ask the People of Ireland whether or not the State should be obliged in the Constitution to ensure that the economic, social and cultural rights would be protected, to the maximum extent of available resources, and to do so incrementally over time.³² If such provision was in the Constitution, children

In December 2013, the Constitutional Convention chose to consider economic, social and cultural rights and recommended to the Government, by an overwhelming majority of 85 per cent, that these rights be given enhanced protection in the Constitution.

and their families could invoke those rights before the courts in cases where their rights were not being upheld by the State. For example, homeless families with children could seek a remedy before the courts because their right to housing was not being fulfilled by the State.

The Bill was opposed and defeated by the government parties in May 2015, over fears that such an obligation would be a drain on the State's resources.³³ Concern was also expressed that if such rights were enforceable in the courts, the judiciary would, in effect, be interfering with the power of the Oireachtas to determine how State revenue is to be collected and spent.³⁴

The terms of reference of the Constitutional Convention state that the Government will respond to each recommendation of the Convention within four months.³⁵ On 14 January 2016, over two years after the recommendation was made, the Minister of State at the Department of the Taoiseach, Paul Kehoe TD, said that the Report of the Convention relating to economic, social and cultural rights will be referred to an Oireachtas committee for consideration.³⁶ The Economic, Social and Cultural Rights Initiative, a coalition of civil society organisations, has welcomed the move, calling for 'transparent, inclusive and timely consideration by the Oireachtas Committee' and that the process should have a clear outcome.³⁷

The terms of reference of the Constitutional Convention state that the Government will respond to each recommendation of the Convention within four months.³⁵ On 14 January 2016, over two years after the recommendation was made, the Minister of State at the Department of the Taoiseach, Paul Kehoe TD, said that the Report of the Convention relating to economic, social and cultural rights will be referred to an Oireachtas committee for consideration.

25 National Youth Council of Ireland, 'No referendum on voting age: Youth Council expresses disappointment but says campaign will go on' (15 January 2015) <<http://www.youth.ie/nyci/No-referendum-voting-age-Youth-Council-expresses-disappointment-says-campaign-will-go>> accessed 29 January 2016.

26 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 4.

27 UNCRC 'General Comment No. 5 on General Measures of Implementation of the Convention on the Rights of the Child (arts 4, 42 and 44, para 6)' (2003) UN Doc CRC/GC/2003/5 para 6, 25.

28 ibid para 8 and ICESCR, General Comment No. 3 on the Nature of States Parties Obligations (art 2 para 1) UN Doc HRI/GEN/1/Rev.6, para 11.

29 These can be found under Articles 42 and 43 of the Irish Constitution.

30 Convention on the Constitution, 'Convention on the Constitution chooses (i) Dáil Reform and (ii) Economic, Social and Cultural Rights for discussion at their final two meetings in February 2014' (17 December 2013) <<https://www.constitution.ie/AttachmentDownload.ashx?mid=922d30df-2067-e311-877e-005056a32ee4>> accessed 29 January 2016.

31 Thomas Pringle TD, Dáil Debates, Thirty-Fourth Amendment to the Constitution (Economic, Social and Cultural Rights) Bill 2014: First Stage [Private Members], 17 December 2014.

32 Thirty-Fourth Amendment to the Constitution (Economic, Social and Cultural Rights) Bill 2014. Under the Bill, a constitutional amendment would have read: 'The State shall progressively realise, subject to its maximum available resources and without discrimination, the rights contained in the International Covenant on Economic, Social and Cultural Rights. This duty shall be cognisable by the Courts.' The International Covenant on Economic, Social and Cultural Rights is a human rights treaty which sets out fifteen substantive rights including the rights to health and adequate standard of living. Covenant on Economic, Social and Cultural Rights, (3 January 1967) 933 UNTS 3 (CESCR).

33 Dáil Debates, Thirty-Fourth Amendment to the Constitution (Economic, Social and Cultural Rights) Bill 2014: Second Stage [Private Members], 19 May 2015.

34 ibid. Similar concerns were expressed by the Constitutional Review Group in their decision not to recommend the inclusion of such rights in the Constitution in 1996. The All-Party Oireachtas Committee on the Constitution, *Report of the Constitution Review Group* (Government Publications, 1996) 207-211.

35 The Convention on the Constitution, 'Terms of Reference' <<https://www.constitution.ie/Convention.aspx> accessed> 28 January 2016.

36 Minister of State for the Department of the Taoiseach, Paul Kehoe TD, Dáil Debates, Convention on the Constitution: Final Report: Statements, 14 January 2016.

37 The ESC Rights Initiative is a coalition of civil society organisations that support strengthened economic, social and cultural rights protection in the Irish Constitution. The ESC Rights Initiative successfully campaigned for the inclusion of economic, social and cultural rights as an agenda item of the Constitutional Convention. ESC Rights Initiative, 'The ESC Rights Initiative welcomes the Government's decision to refer the Report of the Constitutional Convention on Economic, Social and Cultural Rights to an Oireachtas Committee for further consideration' (15 January 2016) <<http://www.communitylawandmediation.ie/blog/esc-rights-initiative-issues-press-release-on-the-governments-decision-to-refer-the-report-of-the-constitutional-convention-on-economic-social-and-cultural-rights-to-an-oireachtas-committee-for-further-consideration.1090.html>> accessed 26 January 2016.

Constitutional Convention

Immediate Action for 2016



ENSURE THAT THE RECOMMENDATION OF THE CONSTITUTIONAL CONVENTION TO ENHANCE THE PROTECTION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN THE CONSTITUTION IS CONSIDERED BY AN OIREACTHAS COMMITTEE IN A TIMELY MANNER.

Consideration of the recommendation by an Oireachtas Committee should happen without delay in a transparent and consultative manner. The scope of the Committee's work should be clearly established in advance and any recommendation of the Committee should be acted upon in a timely manner.

2. RIGHT TO EDUCATION

Chapter Grade

B-

"The Budget 2016 announcements on the expansion of pre-school to all children under three and a new framework to support children with additional needs are to be welcomed. But childcare is still creaking at the seams as we play catch-up with the rest of Europe. If we want all children to have access to high quality childcare that is affordable and sustainable we really need the political will to continue to invest – at least €100 million additional funding each year."

Teresa Heeney, Chief Executive Officer, Early Childhood Ireland

Right to Education

Every child in Ireland has the right to access education and to be educated. The aim of the right to education goes beyond academic achievement to the development of the child's personality, talents and abilities to their fullest potential, and to providing them with the tools to live a full and responsible life within society.

Summary of Articles 28 and 29 of the UN Convention on the Rights of the Child



2.1

Early Childhood Care and Education

GOVERNMENT COMMITMENT

The *Programme for Government 2011-2016* 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: Good

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 4.2)

'Early Childhood Care and Education' receives a 'B-' in Report Card 2016, an increase on last year's 'D+' grade. The improvement in the grade is in recognition of the substantial childcare package announced in Budget 2016 and the launch of the inclusion model for children with disabilities.

This is the final year being analysed in the Report Card series under the *Programme for Government 2011-2016*. The Government committed to maintain the free pre-school year, to implement standards and review training options and to invest in a targeted early childhood education programme for disadvantaged children. The Government has successfully maintained the free pre-school year and has increased investment in early years services. Several important

commitments have been made on quality, a number of which have yet to come into effect.

All children have the right to education³⁸ including in their early years.³⁹ States must provide appropriate assistance to parents and guardians in child-rearing responsibilities⁴⁰ and should 'take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible'.⁴¹

During 2015, the Department of Children and Youth Affairs announced several new initiatives relating to early years services, which when implemented will address a number of the recommendations in last year's Report Card. In January 2015, an

38 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 28.

39 UNCRC 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 28.

40 ibid para 20.

41 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 18(2) and (3).



IN THE NEWS

PARENTS SAY TEACHERS NEED BETTER TRAINING ON PROVIDING FOR CHILDREN WITH AUTISM

The Kerryman, 23 May 2015

While many Irish universities that offer teaching courses provide training to teachers on autism care in the classroom, parents with autistic children in schools want to see a more comprehensive training programme. [...]

At present, trainee teachers receive a basic level of training on dealing with autistic children. However, many earlier graduates who are now teaching in primary and secondary schools around the country had little or no training on the matter when they were in college.

"It should be part of their programme," said Independent TD for South Kerry Tom Fleming. "The same goes for Special Needs Assistants (SNA) - they'd need a bit of upskilling at times as well. I know that they are specialised and very well

qualified in carrying out their duties, but then you need to bring in more specialised services - outside of the SNAs - where they're needed."

Last year's budget saw 365 SNAs being provided, along with 480 more resource teachers. Additionally, there were also over 130 new special classes set up for the 2014/2015 school year. These changes come as the Department of Education is spending €80 million in 2015 to provide more staff to the country's growing school-going population.

"There are a good few resources being put into the education side of it but it is only a starting point towards the upgrade of these services," said Deputy Fleming.

The number of diagnoses for autism in Ireland is increasing - it is currently estimated that 600 children a year are being born with ASD. This places an increased demand on the education system and to meet this demand, the number of SNAs in the county is set to rise to 11,330 in 2015. [...]

By Cillian Walsh

Following a series of consultations with stakeholders, the IDG's Report was published in July 2015 and set out a suite of options for Government.⁴³ Budget 2016 contained a major package of investment in early years with an increased investment of €85 million on childcare supports, bringing the total investment in 2016 to over €345 million.

Interdepartmental Group (IDG) was established to 'identify and assess policies and future options for increasing the affordability, quality and supply of early years and school-age care and education services in Ireland'.⁴² Following a series of consultations with stakeholders, the IDG's Report was published in July 2015 and set out a suite of options for Government.⁴³ Budget 2016 contained a major package of investment in early years with an increased investment of €85 million on childcare supports, bringing the total investment in 2016 to over €345 million.⁴⁴ Also welcome is the commitment to introduce paternity leave, which is the first official recognition of the role of fathers in the care of young children.⁴⁵

Early Childhood Care and Education (ECCE)

Programme: The ECCE programme is one of the State's main mechanisms to support children and families, providing a year's free pre-school. The

programme continued to be available in 2015.⁴⁶ Now in its sixth full year, 67,000 pre-school children (around 95 per cent of eligible children) availed of the free pre-school year in 2014/15 within 4,200 services.⁴⁷ The free pre-school programme cost €172 million in 2015.⁴⁸

The ECCE programme has been maintained since its introduction in 2010. Budget 2016 expanded the existing duration of the programme from a standard 38 weeks, allowing children to avail of the programme from age three until they start primary school.⁴⁹ On average, children will benefit from an additional 23 weeks of free pre-school depending on when the child's birthday falls and the age they start primary school. Enrolment will be extended from one to three points in the year – January, April and September. It is estimated that 127,000 children will benefit in a given year from the expanded free pre-school provision. The extension of the scheme is warmly welcomed as it will go some way to assisting families with childcare costs. The work of the Area Based Childhood Programme (discussed in Chapter 4.3) is also acknowledged as a means to meet the commitment to invest in targeted early childhood education programmes for disadvantaged children.

Subsidised Childcare: Parents in Ireland continue to pay some of the highest childcare costs in the Organisation for Economic Co-operation and Development (OECD) countries.⁵⁰ The OECD found Ireland's investment in early years to be well below the OECD average of 0.8 per cent, coming in at 0.5 per cent of GDP in 2014.⁵¹ This figure includes spending on four and five year olds in primary schools. When this figure is adjusted to exclude

primary school spending, the percentage of GDP spent on pre-school education amounts to less 0.2 per cent.⁵² According to the European Commission, 'Childcare programmes [in Ireland] generally fail to have a significant impact on increasing access to affordable and quality childcare, particularly for low-income families', which is a significant factor in the high level of child poverty.⁵³

In May 2015, the European Commission recommended that Ireland should increase the work-intensity of households and address the poverty risk of children through better access to affordable full-time childcare.⁵⁴ In response, Budget 2016 provided for a further 8,000 subsidised places through the Community Childcare Subvention (CCS) Programme to support low income families. Towards the end of 2015, an additional 5,000 places were released on the CCS Programme.⁵⁵ There had been criticism of the CCS Programme because it was only available in community based childcare providers, meaning that some low income families had no way to access the programme in their area.⁵⁶ The extra 8,000 places being made available in 2016 will be open to both community and private providers.

Importantly, the package announced in the Budget also committed to the development of a single Affordable Childcare programme to replace

existing targeted subsidies and simplify the subsidy programme. The IDG Report proposed a number of options as to the design of a consolidated Affordable Childcare programme. Budget 2016 provided resources for a dedicated project team to undertake this design work, which is currently underway.⁵⁷

Children with Disabilities: The UN Committee on the Rights of the Child has stated that '[e]arly childhood education is of particular relevance for children with disabilities as often their disabilities and special needs are first recognized in these institutions'.⁵⁸ The Committee goes on to highlight the importance of early intervention in helping children achieve their full potential by increasing their opportunities to benefit from early childhood education which the Committee emphasises 'should be designed to respond to her or his individual needs'.⁵⁹

In response to concerns that children with disabilities were not always able to benefit from the ECCE programme on the same basis as their peers, and a commitment set out in the *National Policy Framework*,⁶⁰ an Inter-Departmental Group was established in June 2015 to examine this issue and reported in September 2015.⁶¹ Budget 2016 announced the introduction of a new model to support the inclusion of children with disabilities in free pre-school.⁶² The model, launched in November

42 Inter-Departmental Working Group, *Report of Inter-Departmental Working Group, Future Investment in Childcare in Ireland to identify and assess policies and future options for increasing the quality, accessibility (including supply) & affordability of early years and school-age care and education services in Ireland* (Department of Children and Youth Affairs 2015) 5.

43 *ibid.*

44 Department of Children and Youth Affairs, 'Q&A on Budget 2016 Child Care Measures' <<http://www.dcy.gov.ie/documents/childcare/20151103BudgetDayQandA.PDF>> accessed 29 January 2016.

45 Department of Social Protection, 'Budget Factsheet' <<https://www.welfare.ie/en/downloads/budfact16.pdf>> accessed 29 January 2016.

46 In 2015, the free pre-school year was available to all children between the ages of three years and two months and four years and seven months in September of the relevant year, entitling them to programme-based activities in the year preceding primary school.

47 Department of Children and Youth Affairs, 'Q&A on Budget 2016 Child Care Measures' <<http://www.dcy.gov.ie/documents/childcare/20151103BudgetDayQandA.PDF>> accessed 29 January 2016.

48 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 2 February 2016.

49 Provided that they are not older than five and a half by the end of the pre-school year. The expansion of the duration of the programme was recommended by the Expert Advisory Group on the Early Years Strategy and the Report of the Inter-Departmental Group.

50 OECD, 'How can we do better for our families? Issues, Outcomes, Policy Objects and Recommendations' (27 April 2011) <<http://www.oecd.org/social/family/47701128.pdf>> accessed 29 January 2016, 4. Depending on the income level and composition of a household, full-time childcare can account for over 40 per cent of household income. The high cost of childcare is acting as a barrier to employment and training for some parents, and preventing parents from exiting poverty.

51 OECD, OECD Family Database, (OECD 2014).

52 Start Strong, *The Double Dividend: Childcare that is affordable and high quality* (Start Strong 2014) 3.

53 European Commission, *Country Report Ireland 2015*, SWD (2015) 27 final. (European Commission 2015) 61.

54 European Commission, *Council Recommendation on the 2015 National Reform Programme of Ireland and delivering a Council opinion on the 2015 Stability Programme of Ireland* (European Commission 2015) 6. The European Commission issues Country Specific Recommendations (CSRs) to all European Union Member States (except those under a Troika programme). These recommendations are for a 12 to 18 month period. In May 2015, the Commission issued a new set of CSRs for Ireland. One of these CSRs is focused on children. The recommendation notes that low work intensity is particularly severe among single-parent households with children. This has contributed to the growing risk of poverty or social exclusion of children in Ireland and exacerbates the issue of the unequal labour market participation of women. Another chink in this chain is unaffordable childcare costs.

55 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2016.

56 Start Strong, 'Pre-Budget Submission 2016', <http://www.startstrong.ie/files/Start_Strong_Pre-Budget_Submission_2016.pdf> accessed 29 January 2016, 3.

57 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2016.

58 UNCRC 'General Comment No. 9 on the rights of children with disabilities' (2006) UN Doc CRC/C/GC/9 para 65.

59 *ibid.*

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

61 Report of the Inter-departmental Group, 'Supporting Access to the Early Childhood Care and Education (ECCE) Programme for Children with a Disability' <http://www.heia.ie/sites/default/files/idg_report_-_supporting_access_to_ecce_for_children_with_a_disability_final.pdf> accessed 29 January 2016, 5, 9.

62 The new model for children with special needs in early years settings provides support at seven different levels both targeted and universal. It includes the training of dedicated 'Inclusion Co-ordinators' in pre-schools; and a small capitation increase to support inclusive practice as well as capital grants for specialised equipment or minor building alterations for children with disabilities. The new model also includes information for parents and providers through a new website and information packs, an enhancing of Better Start Early Years Specialist Service to provide prompt access to advice and support for providers and therapeutic intervention and additional assistance where the other elements of the model are not sufficient to allow the full participation of children in a setting. Department of Children and Youth Affairs, 'Q&A on Budget 2016 Child Care Measures' <<http://www.dcy.gov.ie/documents/childcare/20151103BudgetDayQandA.PDF>> accessed 29 January 2016.

2015, is expected to cost €17 million in 2016 and €40 million per year from 2020.⁶³ The new model is a positive initiative that will further implementation of the UN Convention on the Rights of the Child by ensuring that children with disabilities can access early years education. The operation of the model should be reviewed in two years' time to document its success and identify any barriers to its implementation. Under the new model, 50 additional mentors will be recruited to provide specialist early years and inclusion advice and support.⁶⁴

In addition, a scoping exercise should be undertaken to explore other cohorts of children that may need additional support to promote their engagement in early years services. This may include Traveller and Roma children and children whose families speak English as a second language.

Quality of Childcare: Key mechanisms by which the quality of childcare can be improved include the roll-out of quality standards, inspections of early years settings and training of staff. In 2015, a European Commission report criticised the operation of some of these mechanisms in Ireland. It said that, '[t]he findings from various sources indicate that there is variable quality in terms of compliance with (minimum standard) pre-school regulations, qualification levels of staff, in particular in centre-based services, and shortcomings in pre-school curricula'.⁶⁵

An audit of childcare quality (as recommended in *Report Card 2015*) was announced in Budget 2016.

This is a welcome measure as it will identify gaps and build an evidence base on which to track the impact of investments in this area. Budget 2016 also provided for further roll-out of the Siolta Quality Assurance Programme.⁶⁶

The Early Years Quality Agenda comprises a number of actions aimed at improving quality and enhancing regulation within early years services.⁶⁷ There has been mixed progress on the implementation of the Agenda in 2015. New national standards, scheduled for introduction in 2014 have not yet been introduced. A full re-examination of the existing Child Care Regulations has been undertaken delaying the publication date. Tougher sanctions for non-compliance with regulations, also announced in 2013, have not yet materialised.⁶⁸ The establishment of a registration system for all pre-school services, announced in 2013 and legislated for in 2014, has yet to go live.⁶⁹ Another area that has not been progressed is the commitment in 2012 to produce a National Early Years Strategy.

In a welcome move, Better Start, the National Early Years Quality Development Service was formally launched in May 2015 which aims to promote quality in early years settings. A component of Better Start called the Early Years Specialist Service (EYSS) provides mentoring support to the services.⁷⁰

The Agenda provides that from September 2015, staff working in early years settings must have a minimum National Framework of Qualifications (NFQ) Level 5 qualification in early years care and education or an equivalent qualification.⁷¹ Further investment was

A pilot of the model of inspection started in December 2015 and 20 inspections were to have been undertaken by the end of 2015. The new Education-Focused Inspections are very welcome, as it is the first time that early years services are being inspected for their educational and developmental role.

announced in Budget 2016 to achieve this aim⁷² but the timeline of September 2015 has been postponed until the end of 2016 to give staff time to complete their qualification.⁷³ Given that the level of staff qualification has been shown to be an important contributing factor, as well as an indicator of quality provision,⁷⁴ it is important that this initiative be progressed without further delay.

There were two key developments with regard to the inspection of early years settings in 2015. First, in January 2015, the existing Inspectorate became

the National Early Years Inspectorate under Tusla, the Child and Family Agency.⁷⁵ Tusla expects that all services will have been inspected within the last three years by mid-2016.⁷⁶

Second, running in parallel to the work of the National Early Years Inspectorate, the delivery of the ECCE programme will now be inspected on a pilot basis by Early Years Education-Focused Inspectors.⁷⁷ A pilot of the model of inspection started in December 2015 and 20 inspections were to have been undertaken by the end of 2015.⁷⁸ The new Education-Focused Inspections are very welcome, as it is the first time that early years services are being inspected for their educational and developmental role. However, the Education-Focused Inspections are restricted to the Free Pre-School Year and do not examine education provided to children in earlier years. Concerns have also been raised about the fragmentation and lack of coordination between the two inspection regimes and about the risk of increasing bureaucracy for those working on the ground.⁷⁹ It is expected that the recently established Operations and Systems Alignment Group, chaired by the Department of Children and Youth Affairs, will address these concerns.⁸⁰

63 Department of Children and Youth Affairs, 'Children with disabilities attending free pre-school to benefit from major new supports scheme "Supporting Access to Early Childhood Care and Education (ECCE) Programme for Children with a Disability" – IDG Report published' (18 November 2015) <<http://www.dcy.gov.ie/viewdoc.asp?DocID=3655&CatID=11&mn=8&StartDate=1+January+2015>> accessed 29 January 2016.

64 While the new posts will be dedicated to inclusion work, it is intended that their input will positively impact on the quality of the service and in assisting all children to access the curriculum. Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2016.

65 European Commission, *Country Report Ireland 2015*, SWD (2015) 27 final. (European Commission 2015) 60.

66 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 14 October 2015.

67 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' (7 June 2013) <<http://www.dcy.gov.ie/viewdoc.asp?DocID=2710>> accessed 29 January 2016. Note there is no written policy document outlining the Agenda as a whole. The Agenda was introduced in response to an *RTE Prime Time* broadcast in 2013 which exposed evidence of bad practice and maltreatment of children in a number of services.

68 Child and Family Agency Act 2013, s 92.

69 *ibid.*

70 Department of Children and Youth Affairs, 'Minister Reilly launched "Better Start, the National Early Years Quality Development Service" initiative to promote and enhance quality of early years care and education' (14 May 2015) <<http://www.dcy.gov.ie/viewdoc.asp?DocID=3450>> accessed 29 January 2016. The other elements of Better Start include support provided by the 30 City/County Childcare Committees and 6 Voluntary Childcare organisations, as well as the Department of Education and Skills Early Years Inspectors.

71 Department of Children and Youth Affairs, 'Minister Fitzgerald announces new "Learner Fund" for childcare staff seeking qualifications', (26 March 2014) <<http://www.dcy.gov.ie/viewdoc.asp?DocID=3126>> accessed 29 January 2016.

72 Department of Children and Youth Affairs, 'Q&A on Budget 2016 Child Care Measures' <<http://www.dcy.gov.ie/documents/childcare/20151103BudgetDayQandA.PDF>> accessed 29 January 2016.

73 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2016.

74 Kathy Sylvia et al, 'The Effective Provision of Pre-school Education (EPPE) project: Findings from Pre-school to end of Key Stage 1' <<http://eppe.ioe.ac.uk/eppe/eppepdfs/RBTec1223sept0412.pdf>> accessed 29 January 2016.

75 Tusla, Child and Family Agency, 'Early Years Inspectorate Update' <<http://www.tusla.ie/services/preschool-services/early-years-inspectorate-update>> accessed 26 January 2016. The Inspectorate is currently focusing on three primary areas: Governance, Welfare and Safety. Additional funding of €1.1 million will be provided in 2016 for the new Inspectorate. It will have 17 additional staff including 8 new inspectors. This new National Early Years Inspectorate came on the back of the *Report on the Quality of Pre-School Services* published in 2014, which identified variable quality of services. It showed that a significant minority of services were not compliant with a large number of regulations. Sinéad Hanafin, *Report on the Quality of Pre-school Services: Analysis of pre-school inspection reports* (Tusla, Child and Family Agency 2014) 13-15.

76 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2016.

77 Department of Education and Skills, Early Years Education-focused Inspections in Early Years Settings Participating in the Early Childhood Care and Education (ECCE) Scheme Briefing Paper <<http://www.childcareonline.ie/index.php/18-eyei-consultation-briefing-paper-may-2015>> accessed 29 January 2016.

78 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 9 December 2015. Rather than formal sanctions, settings found to be exercising poor quality will receive practical advice and recommendations on improvements.

79 Teresa Heaney, 'Education inspections alone won't assure quality in pre-schools', *Independent.ie*, (Dublin, 18 November 2015).

80 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2016. The Operation and Systems Alignment Group is comprised of all compliance and inspection agencies of the Department of Education and Skills, Tusla, the Child and Family Agency, Pobal and the Better Start Early Years Specialist Service. It is charged with streamlining the compliance and inspection activities in early years settings to reduce the burden on service providers.

Early Childhood Care and Education

Immediate Actions for 2016



CONTINUE TO TAKE ACTION TO IMPROVE QUALITY IN EARLY CHILDHOOD CARE AND EDUCATION.

Measures in this area should include the regulation of childminders, increasing minimum qualification levels and the full roll-out of the national quality and curriculum frameworks for early years – Aistear and Siolta – and the Diversity and Equality Guidelines for Childcare Providers. Expand the Learner Fund to provide support to allow childcare workers to progress to NQF levels 6, 7 and 8. While the upskilling of childcare staff to NQF levels 5 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 on an incremental basis.

INTRODUCE A SINGLE AFFORDABLE CHILD CARE PROGRAMME.

Consolidate existing targeted childcare subsidies to develop a new single affordable programme, in line with the recommendations of the *Report of Inter-Departmental Working Group: Future Investment in Childcare in Ireland*.

LAUNCH AND COMMENCE THE IMPLEMENTATION OF THE NATIONAL EARLY YEARS STRATEGY.

A National Early Years Strategy should be published and accompanied by an adequately resourced implementation plan. The Strategy should map out how investment in early childhood care and education can be increased to reach at least the Organisation of Economic Co-Operation and Development (OECD) average of 0.8 per cent of Gross Domestic Product and link public investment to quality.

2.2

Child Literacy

GOVERNMENT COMMITMENT

The *Programme for Government 2011-2016* 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.



Progress: Done

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: Some

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.



Progress: Some

- > 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: Incomplete

'Child Literacy' has been awarded a 'B+' in Report Card 2016. This is a lower grade than the 'A' grade received last year. This is because the guidelines for time to be spent on literacy remain below the levels set out in the *Programme for Government 2011-2016*, and literacy mentors, while appointed as advisors to the general school population, were not dedicated to the most disadvantaged schools as promised.

This is the final year being analysed in the Report Card series under the *Programme for Government 2011-2016*. The Government committed to develop a National Literacy Strategy for children and young people; require schools to have a Literacy Action Plan; improve training in the teaching of literacy; and increase the time spent on literacy. 'Child literacy' has been one of the Government's strongest areas of performance for children under the *Programme*

for Government. The national strategy was published and implemented, and a number of its targets have been achieved ahead of time.⁸¹ Despite the economic recession, there have been ongoing, high levels of investment in this area since 2011 with the momentum maintained and built upon year after year. This has culminated in goals being achieved ahead of target and significant improvements in test scores for children.⁸²

In addition to their right to education, children have the right to a certain quality of education.⁸³ The UN Committee on the Rights of the Child has stated that literacy is part of the basic tools needed by children 'to pursue their options in life'.⁸⁴ The UN Special Rapporteur on Extreme Poverty and Human Rights commented that a lack of literacy can be a 'serious constraint' to accessing or exerting influence over public affairs and decision-making processes that affect people living in poverty.⁸⁵

National Strategy: *Literacy and Numeracy for Learning and Life: the National Strategy to Improve Literacy and Numeracy among Children and Young People 2011-2020* sets out clear targets for children's literacy performance at primary and post-primary levels, with a view to substantially improving performance by 2020.⁸⁶ The Government reiterated its commitment to the implementation of the Strategy in *Better Outcomes, Brighter Futures: The*

National Policy Framework for Children and Young People 2014-2020.⁸⁷ Test results published in January 2015 show the first significant improvements in literacy in primary schools in thirty years and that the 2020 targets, set in the Strategy, have already been achieved.⁸⁸ This is a very significant achievement.

Due to the successful test results, the interim review of the Strategy, which was scheduled for 2016, was brought forward to 2015.⁸⁹ The review will provide an overview of both the successes of the Strategy to date and set out remaining challenges and priorities for the second half of the Strategy's lifespan.⁹⁰ A forum to discuss the interim review was held on 14 January 2016.⁹¹ During 2015, additional measures

Test results published in January 2015 show the first significant improvements in literacy in primary schools in thirty years and that the 2020 targets, set in the Strategy, have already been achieved.

- 81 Department of Education and Skills, *Circular Letter 27/2015 Information in Relation to Actions under the Literacy and Numeracy Strategy Standardised Testing, Reporting, Library Support and Other Matters*, (Department of Education 2015) 3.
- 82 For further details, see Department of Education and Skills, 'Literacy and Numeracy for Learning and Life, The National Strategy to Improve Literacy and Numeracy among Children and Young People 2011-2020, Summary Update on Implementation of Actions in the Strategy in 2014' (15 January 2015) <<https://www.education.ie/en/Schools-Colleges/Information/Literacy-and-Numeracy/Literacy-and-Numeracy-Summary-Update-January-2015-.pdf>> accessed 29 January 2016, 15, 18.
- 83 UNCRC 'General Comment No. 1 on The Aims of Education Article 29(1)' (2001) UN Doc CRC/GC/2001/1 para 9.
- 84 *ibid.*
- 85 United Nations Human Rights Council, *Report of the Special Rapporteur on Extreme Poverty and Human Rights*, (UN Human Rights Council 2013) UN Doc A/HRC/23/36, para 43.
- 86 Department of Education and Skills, *Literacy and Numeracy for Learning and Life: The National Strategy to improve Literacy and Numeracy among Children and Young People 2011-2020*, (Department of Education and Skills 2011).
- 87 Department of Children and Youth Affairs, *Better Outcomes, Brighter Future: The National Policy Framework for Children and Young People 2014-2020* (Department of Children and Youth Affairs 2014) Commitment 2.5.
- 88 Education Research Centre, 'Improved Performance among Primary School Pupils in National Assessments of English Reading and Mathematics' (12 January 2015) <http://www.erc.ie/documents/na14perf_pressrelease.pdf> accessed 29 January 2016. Department of Education and Skills, 'Minister O'Sullivan welcomes publication of national assessments in primary schools' (12 January 2015) <<http://www.education.ie/en/Press-Events/Press-Releases/2015-Press-Releases/>> accessed 29 January 2016. The 2014 National Assessments, carried out by the Educational Research Centre, showed an improvement in literacy and numeracy skills for the first time 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.
- 89 Department of Education and Skills, *Circular Letter 42/2015 Implementation of the National Literacy and Numeracy Strategy (2011-2020)* (Department of Education and Skills 2015).
- 90 *ibid.*
- 91 Department of Education and Skills, 'National Strategy to Improve Literacy and Numeracy – Interim Review' <<http://www.education.ie/en/Schools-Colleges/Information/Literacy-and-Numeracy/Interim-Review/Interim-Review.html>> accessed 29 January 2016.

were put in place to further the implementation of the Strategy; these were set out in Circulars 27 and 42 of 2015.⁹²

The test results also show that while literacy outcomes have improved for children in both the general population of schools and in Delivering Equality of Opportunity in Schools Programme (DEIS) schools,⁹³ the gap between the two remains, with DEIS pupils continuing to lag behind.⁹⁴ A 2015 report by the Economic and Social Research Institute highlighted a number of concerns with the DEIS Programme, including a persistently large proportion of very low achievers and 'continuing challenges' in numeracy in particular.⁹⁵ A process for a review of the DEIS programme commenced at the start of the academic year 2015/16.⁹⁶ The aim of the review is to assess the programme by examining existing evaluations and relevant policies and developments to inform future policy in the area. Further engagement with stakeholders is expected to take place in early 2016 through the DEIS Consultative Forum.⁹⁷

Children in DEIS schools are as entitled to an 'individual and subjective right to a specific quality of education which is likely to extend to a quality of literacy and numeracy skills'.⁹⁸ The gap in achievement of children in DEIS schools compared with non-DEIS schools shows the need for continued investment and leadership in the Literacy and Numeracy Strategy. The interim review of the Strategy should focus on measures to bridge this gap and should consider the outcome of the review of the DEIS programme in its deliberations.

Literacy Action Plan: The Strategy did not follow the *Programme for Government* commitment to require schools to have dedicated Literacy Action Plans.⁹⁹ A different approach was adopted, which requires all schools to engage in School Self-Evaluation (SSE) and to produce School Improvement Plans, with specific targets for the promotion and improvement of literacy and numeracy.¹⁰⁰ At the end of the academic year 2014/15, 95 per cent of primary schools and almost 80 per cent of post-primary schools had submitted a summary of their SSE report to their own school community.¹⁰¹ In addition,

- 92 These Circulars refer to welcome measures such as free library services being available to both primary and post-primary schools to build upon existing partnerships between libraries and schools. This will include resources that are consistent with the curriculum and the Strategy; support to strengthen young people's reading skills and class visits to the library. Department of Education and Skills, *Circular Letter 42/2015 Implementation of the National Literacy and Numeracy Strategy (2011-2020)* (Department of Education and Skills 2015) 2-3; Department of Education and Skills, *Circular Letter 27/2015 Information in Relation to Actions under the Literacy and Numeracy Strategy Standardised Testing, Reporting, Library Support and Other Matters*, (Department of Education and Skills 2015) 2-3.
- 93 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. For more information see: Department of Education and Skills, 'DEIS: Delivering Equality of Opportunity in Schools,' <<http://www.education.ie/en/Schools-Colleges/Services/DEIS-Delivering-Equality-of-Opportunity-in-Schools-/>> accessed 29 January 2016.
- 94 Emer Smyth, Selina McCoy and Gillian Kingston, *Learning from the evaluation of DEIS*, (Economic and Social Research Institute 2015) 82.
- 95 Emer Smyth, Selina McCoy and Gillian Kingston, *Learning from the evaluation of DEIS*, (Economic and Social Research Institute 2015).
- 96 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 9 December 2015. A consultation with education partners to inform the development of appropriate future measures and supports to combat educational disadvantage was announced by the Minister for Education and Skills in April 2015. Structures put in place to carry out the review include a Technical Working Group to examine the appropriate eligibility criteria to identify the level of need in schools and develop a new assessment framework for same. A DEIS Advisory Group is to review the School Support Programme and draw together a future framework of supports in schools as well as put forward recommendations for a new programme of tackling educational disadvantage. An Interdepartmental Working Group is to develop a framework for interdepartmental and inter-agency links to ensure greater cohesion on the issue and a Project Steering Group is overseeing the work.
- 97 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 27 January 2016.
- 98 UNCRC 'General Comment No. 1 on The Aims of Education Article 29(1)' (2001) UN Doc CRC/GC/2001/1 para 9.
- 99 In September 2014 (the most recent date for which information is available), 89 per cent of schools reported that they had a literacy plan and 71 per cent that they had a numeracy focus in their action plans. Communication received by the Children's Rights Alliance from the Department of Education and Skills, 4 November 2015.
- 100 Under the Strategy, schools were not required to have a Literacy Action Plan but were instead required to engage in a self-evaluation process and produce improvement plans. Department of Education and Skills, *Literacy and Numeracy for Learning and Life: The National Strategy to improve Literacy and Numeracy among Children and Young People 2011-2020* (Department of Education and Skills 2011) 40, 82, 84. See www.schoolself-evaluation.ie for more details. Department of Education and Skills, 'Minister Ruairi Quinn launches Guidelines on School Self-evaluation' (19 November 2012) <<http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR2012-11-19.html>> accessed 29 January 2016.
- 101 The School Improvement Plans are expected to be used to identify supports needed in the further roll-out of the SSE process. Communication received by the Children's Rights Alliance from the Department of Education and Skills, 9 December 2015.

95 per cent of primary schools and 61 per cent of post-primary schools had submitted their School Improvement Plans.¹⁰² The statistics indicate that schools demonstrated a high level of commitment to this process in 2015; this is to be commended.

Training: The *Programme for Government* commits to improving pre-service and in-service training in the teaching of literacy for all teachers. At the end of the *Programme for Government*, literacy has become a mandatory part of primary and post-primary Initial Teacher Education programmes¹⁰³ and the National Induction Programme for Teachers includes literacy and numeracy workshops.¹⁰⁴ Literacy Link teachers (who support schools in their implementation of the Strategy) were trained in over 60 per cent of post-primary and 40 per cent of primary schools in 2015. In a move to support principals as per the Government's commitment, a new Centre for School Leadership was established in April 2015¹⁰⁵ and literacy continued to be a module in each of the Professional Development Service for Teachers leadership programmes.¹⁰⁶ This is an opportunity to ensure that an emphasis remains on literacy and numeracy in the work of future school leaders.

Despite the commitment in the *Programme for Government* to provide dedicated literacy mentors to the most disadvantaged schools, DEIS advisors¹⁰⁷ (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. There were 38 full time literacy and numeracy advisors to serve all schools in 2015.¹⁰⁸ This means that the

Government's commitment in this area remains outstanding. Consideration should be given, as part of the ongoing review of the DEIS programme, as to whether dedicated DEIS literacy mentors would improve outcomes in those schools.

Time spent on literacy: A 2011 Departmental Circular continues to guide practice; it provides that all primary schools are required to spend 8.5 hours (102 mins per day) a week on literacy for full-day pupils and 6.5 hours (78 mins per day) for pupils with a shorter day.¹⁰⁹ 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.

Despite the commitment in the *Programme for Government* to provide dedicated literacy mentors to the most disadvantaged schools, DEIS advisors (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.

Child Literacy

Immediate Actions for 2016



DEVELOP A CLEAR DIRECTION FOR CONTINUING THE ONGOING IMPACT OF THE ROLL-OUT OF *LITERACY AND NUMERACY FOR LEARNING AND LIFE: THE NATIONAL STRATEGY TO IMPROVE LITERACY AND NUMERACY AMONG CHILDREN AND YOUNG PEOPLE 2011-2020* AND CLOSING THE GAP IN LITERACY OUTCOMES BETWEEN DISADVANTAGED CHILDREN AND THE GENERAL SCHOOL POPULATION.

Build on the momentum and continue to invest in the successes being achieved as a result of the Strategy by publishing and consulting on the interim review of the Strategy. The review of the DEIS programme should be considered as part of the review of the Strategy with particular focus on narrowing the gap in literacy outcomes for children experiencing educational disadvantage.

INCREASE TIME SPENT TEACHING LITERACY TO THE LEVEL SET OUT IN THE COMMITMENT IN THE *PROGRAMME FOR GOVERNMENT 2011-2016*.

The guidance issued to schools should be reviewed to increase the length of time spent on teaching literacy to 120 minutes per day (10 hours per week) in DEIS school and 90 minutes per day (7.5 hours per week) in non-DEIS schools as promised in the *Programme for Government*.

102 ibid.

103 ibid. The Teaching Council has now completed the first cycle of the review and accreditation process for all 59 reconceptualised ITE programmes, in accordance with *ITE: Criteria and Guidelines for Programme Providers*. This set of criteria includes Literacy and Numeracy as mandatory elements. Department of Education and Skills, 'Literacy and Numeracy for Learning and Life, The National Strategy to Improve Literacy and Numeracy among Children and Young People 2011-2020, Summary Update on Implementation of Actions in the Strategy in 2014' (15 January 2015) <<https://www.education.ie/en/Schools-Colleges/Information/Literacy-and-Numeracy/Literacy-and-Numeracy-Summary-Update-January-2015-.pdf>> accessed 29 January 2016, 4-5. Reports outlining this process and the outcomes for each programme i.e. commendations, recommendations and stipulations, are available on www.teachingcouncil.ie.

104 Department of Education and Skills, 'Literacy and Numeracy for Learning and Life, The National Strategy to Improve Literacy and Numeracy among Children and Young People 2011-2020, Summary Update on Implementation of Actions in the Strategy in 2014' (15 January 2015) <<https://www.education.ie/en/Schools-Colleges/Information/Literacy-and-Numeracy/Literacy-and-Numeracy-Summary-Update-January-2015-.pdf>> accessed 29 January 2016, 4-5.

105 The aim of the new centre is to coordinate and develop school leadership programmes and to provide support for new and future principals at both primary and post-primary level. Communication received by the Children's Rights Alliance from the Department of Education and Skills, 27 January 2016.

106 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 27 January 2016.

107 Department of Education and Skills, 'DEIS - Delivering Equality of Opportunity in Schools,' <<http://www.pdst.ie/DEISMainPage>> accessed 29 January 2016.

108 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 9 December 2015. Support is provided through a Literacy Link Teacher in each school with in-school visits available on request from the Professional Development Service for Teachers (PDST).

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

2.3

Children with Special Educational Needs

GOVERNMENT COMMITMENT

The *Programme for Government 2011-2016* 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: Some

'Children with Special Educational Needs' is awarded a 'C+' in Report Card 2016, a slight increase on last year's 'C-' grade. This is in acknowledgement of the launch of the Education Passport and the new Inclusion Support Service. While these initiatives are welcome, their impact for children with special educational needs on the ground remains to be seen. Key provisions of the Education for Persons with Special Educational Needs (EPSEN) Act 2004 remained unimplemented in 2015.

This is the final year being analysed in the Report Card series under the *Programme for Government 2011-2016*. The Government committed to publish a plan for the implementation of the Education for Persons with Special Educational Needs (EPSEN) Act 2004. While there have been important developments in policy initiatives, the most critical provisions of the EPSEN Act 2004 remain unimplemented. The Education Passport will alert schools to the additional learning supports that a

pupil had in primary school however whether the child will continue to receive these supports is likely to depend on the level of resources available in their new post-primary school. The new Inclusion Support Service, established to bring greater cohesion to special needs services for children, is welcome but it is unclear, as yet, if it will provide any enhanced services.

The right to education extends to all children regardless of their needs or ability.¹¹⁰ The aim of the right to education is to 'empower the child by developing his or her skills, learning and other capabilities, human dignity, self-esteem and self-confidence'.¹¹¹ It goes beyond formal school to embrace a wide range of life experiences and learning processes to enable children 'to develop their personalities, talents and abilities and to live a full and satisfying life within society'.¹¹² 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.¹¹³

Children should not face discrimination because of a disability.¹¹⁴ States must ensure, as a priority, that children with disabilities 'have equal opportunities to participate fully in education and community life, including by the removal of barriers that impede the realization of their rights'.¹¹⁵

Education for Persons with Special Educational Needs Act 2004:

The Education for Persons with Special Educational Needs (EPSEN) Act 2004 is the key statute governing the education of children with special needs. It provides for 'inclusive education'¹¹⁶, in line with the Salamanca Statement on Principles, Policy and Practice in Special Needs Education.¹¹⁷ However in 2008, due to the budgetary constraints, the Government deferred implementation of the Act.¹¹⁸ In June 2015, the UN Committee on Economic, Social and Cultural Rights recommended that the State step up its efforts to implement the EPSEN Act.¹¹⁹

The cost of the full implementation of the EPSEN Act was estimated in 2006 to be €235 million.¹²⁰ The Department of Education and Skills now believes the cost would be higher but it has not published an estimate.¹²¹ Under *Better Outcomes, Brighter Futures: The National Policy Framework for Children*

and *Young People 2014-2020*, the Government 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'.¹²² This plan has not yet been published. Over ten years after its enactment, key provisions of the legislation remain unimplemented and there is no clear policy on the entitlement of children with special educational needs to education.

Education Passport: The *Programme for Government* committed to move to a system where supports would follow 'a child from primary to second level and to achieve greater integration of special needs-related services.' The Education Passport, introduced in the academic year 2014/15, involves the transfer of a package of information materials in relation to each child from the child's primary school to their enrolled post-primary school.¹²³ From the academic year 2015/2016, a Special Educational Needs Summary Form was to be included in the Education Passport to support the sharing of information on children who have

- 114 ibid Art 2 and UNCRC 'General Comment No. 1 on The Aims of Education Article 29(1)' (2001) UN Doc CRC/GC/2001/1 para 10.
- 115 UNCRC 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 36 (d).
- 116 Education for Persons with Special Educational Needs Act 2004, s 2. This section, which has been commenced, provides that 'a child with special educational needs shall be educated in an inclusive environment with children who do not have such needs unless the nature or degree of those needs of the child is such that to do so would be inconsistent with— (a) the best interests of the child as determined in accordance with any assessment carried out under this Act, or (b) the effective provision of education for children with whom the child is to be educated'.
- 117 World Conference on Special Needs Education Access and Quality, *The Salamanca Statement and Framework for Action on Special Educational Needs*, (UNESCO 1994). The UN Committee on the Rights of the Child has stated that inclusive education should be the goal of educating children with disabilities. The manner and form of inclusion must be dictated by the individual educational needs of the child, since the education of some children with disabilities requires a kind of support which may not be readily available in the regular school system. UNCRC 'General Comment No. 9 on the rights of children with disabilities' (2006) UN Doc CRC/C/GC/9 para 66.
- 118 Communication received from the Department of Education and Skills further to a bilateral of the C&V Pillar on 4 November 2015.
- 119 CESCR, 'Concluding Observations on the third periodic report of Ireland' (2015) UN Doc E/C.12/IRL/CO/3 para 32.
- 120 Minister for Education and Skills, Ruairi Quinn TD, Dáil Debates, Special Educational Needs Services Provision, 28 May 2013 [2547/13].
- 121 Communications received by the Children's Rights Alliance from the Department of Education and Skills further to a bilateral of the C&V Pillar on 4 November 2015. 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.
- 122 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (Department of Children and Youth Affairs 2014) Commitment 2.21.
- 123 Department of Education and Skills, *Circular 27/2015 Information in Relation to Actions under the Literacy and Numeracy Strategy Standardised Testing, Reporting, Library Support and Other Matters* (Department of Education and Skills 2015). The Education Passport, developed by the National Council for Curriculum and Assessment (NCCA) contains three core documents:
- The standard 6th Class Report Card Template for completion by schools.
 - The My Profile sheet for completion by pupils in primary schools before being shared with parents or guardians.
 - The My Child's Profile sheet for completion by parents/guardians.
- Previously, post-primary principals had the responsibility to inform the principal of primary schools of the names of students whose enrolment had been confirmed in their post-primary school. Circular 25/2012.

110 UNCRC 'General Comment No. 9 on the rights of children with disabilities' (2006) UN Doc CRC/C/GC/9 para 62.

111 UNCRC 'General Comment No. 1 on The Aims of Education Article 29(1)' (2001) UN Doc CRC/GC/2001/1 para 2.

112 ibid.

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

been identified as having learning needs.¹²⁴ The aim of this document is to alert 'post-primary schools if additional support is needed to support learning.'¹²⁵ The Education Passport is a welcome information sharing initiative. Whether or not a child will receive the supports outlined in the Education Passport when he or she transfers to post-primary school is not clear. This is likely to depend on the level of resources available in their new school.

Integrating Special Needs Services: The *Programme for Government* committed to achieve greater integration of services for children with special educational needs. Existing advisory and intervention supports in schools for children with special educational needs are provided by a range of different organisations.¹²⁶ The NCSE recommended in 2013 that a new Inclusion Support Service be established under its remit 'to provide a coherent service to schools.'¹²⁷ The new service was announced in February 2015.¹²⁸ Its aim is to assist schools in supporting children with special educational needs through greater integration of special needs services.¹²⁹ Details have not yet emerged as to whether this service will merely centralise existing services under the NCSE or will include enhanced services for children.

New Model for Teaching Resource Allocation:

In September 2015, it was announced that a new model for the allocation of additional teaching resources to schools for pupils with special educational needs¹³⁰ is to be piloted in 47 schools (28 primary and 19 post-primary schools) during the 2015/16 school year.¹³¹ A review of the pilot will be carried out with a view to taking on board any learnings and introducing the model as soon as possible.¹³² A new model was recommended by the NCSE to replace the existing model which risks 'children being diagnosed [as] having a special education need for resource allocation purposes rather than for health reasons'.¹³³ Under the new model, schools will be given a greater degree of autonomy in the allocation of resources based on a child's learning needs rather than on the basis of a disability diagnosis.¹³⁴

Supports for Children with Special Educational Needs:

The UN Committee on the Rights of the Child has provided that children with disabilities have the right to assistance, appropriate to their condition.¹³⁵ Assistance provided should be designed to ensure that the child has effective access to education and receives that education in a manner conducive to the child achieving 'the

The UN Committee on the Rights of the Child has provided that children with disabilities have the right to assistance, appropriate to their condition. Assistance provided should be 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, including his or her cultural and spiritual development'.

fullest possible social integration and individual development, including his or her cultural and spiritual development'.¹³⁶ The Committee has also stated that training programmes for professionals working with and for children with disabilities must include targeted and focused education on the rights of children with disabilities.¹³⁷ This could be applied not only to Special Needs Assistants and Resource Teachers but also to educators, policymakers and health workers.

Funding for special education provision in 2016 will amount to some €1.5 billion, which is equivalent to 17.6 per cent of the gross current allocation for education and training.¹³⁸ The Government has committed to ensuring that every child who needs a Special Needs Assistant (SNA) will have access to one.¹³⁹ In 2015, there were 11,940 SNA posts available to schools.¹⁴⁰ In the academic year 2014/15 there was 11,157 allocated Resource Teaching posts.¹⁴¹ The increase in supports is very welcome and it is hoped that this will improve access to mainstream schools for children with special educational needs.¹⁴²

During 2015, three positive announcements were made by the Department of Education and Skills – an additional interim allocation of Resource Teachers for children with Down's Syndrome,¹⁴³ an additional 610 SNAs from September 2015 to meet a 'significant increase' in assessed need,¹⁴⁴ and a review of the SNA Scheme,¹⁴⁵ which is expected to report by the end of February 2016.¹⁴⁶

124 National Council for Special Education, 'Education Passport, FAQs for Primary Schools' <http://www.ncca.ie/en/Curriculum_and_Assessment/Early_Childhood_and_Primary_Education/Primary-Education/Assessment/Report_Card_Templates/Transfer/Faqs-for-primary-schools.html> accessed 29 January 2016.
 125 *ibid.*
 126 National Council for Special Education, *Delivering for Students with Special Educational Needs, A better and more equitable way. Report on a Proposed New Model for Allocating Teacher Resources for Students with Special Educational Need* (NCSE 2014) 50.
 127 *ibid.* 78.
 128 Department of Education and Skills, 'Minister for Education and Skills announces the development of a new Inclusion Support Service within the National Council for Special Education' (10 February 2015) <<http://www.education.ie/en/Press-Events/Press-Releases/2015-Press-Releases/PR2015-02-10.html#sthash.kl283S4r.dpuf>> accessed 29 January 2016.
 129 *ibid.* This service will include the Special Education Support Service (SESS), the National Behaviour Support Service (NBSS) and the Visiting Teacher Service for children who are deaf/hard of hearing and for children who are blind/visually impaired (VTSVHI) which were managed by the Department of Education and Skills until this new Service came into operation. This change is consistent with recommendations of NCSE reports and with the review of the VTSVHI, which can be found here: http://www.education.ie/en/Publications/Education-Reports/pub_ed_review_VTHVI_service_ireland.pdf
 130 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 Needs*. 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. National Council for Special Education, *Delivering for Students with Special Educational Needs, A better and more equitable way. Report on a Proposed New Model for Allocating Teacher Resources for Students with Special Educational Need* (NCSE 2014).
 131 Department of Education and Skills, 'Pilot project to support the development of a new model for the allocation of additional teaching resources to schools for pupils with special educational needs' (15 September 2015) <<http://www.education.ie/en/Press-Events/Press-Releases/2015-Press-Releases/PR15-09-15.html>> accessed 29 January 2016. The model was due to be launched in 2015 but this was not possible due to outstanding concerns among the school sector, and parental and disability representative organisations.
 132 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 27 January 2016.
 133 Department of Education and Skills, 'Pilot project to support the development of a new model for allocating additional teaching resources to schools for pupils with special educational needs' (15 September 2015) <<http://www.education.ie/en/Press-Events/Press-Releases/2015-Press-Releases/PR15-09-15.html#sthash.FIJFqsKY.KEXB6Cu6>> accessed 29 January 2016.
 134 The need for such a model was identified in National Council for Special Education, *Supporting Children with Special Educational Needs in Schools: NCSE Policy Advice Paper No. 4* (NCSE 2013) 50.
 135 UNCRC 'General Comment No. 9 on the rights of children with disabilities' (2006) UN Doc CRC/C/GC/9 para 12.

136 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 23. Para 2, 3.
 137 UNCRC 'General Comment No. 9 on the rights of children with disabilities' (2006) UN Doc CRC/C/GC/9 para 27.
 138 Department of Education and Skills, 'Department of Education and Skills - Main Estimates Features' <<https://www.education.ie/en/Publications/Estimates/2016-Budget-Main-Features.pdf>> accessed 29 January 2016.
 139 Department of Education and Skills, 'Minister O'Sullivan announces significant additional SNA posts from September 2015' (7 July 2015) <<http://www.education.ie/en/Press-Events/Press-Releases/2015-Press-Releases/PR2015-07-07.html>> accessed 29 January 2016.
 140 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 28 January 2016.
 141 6,203 Resource Teachers were allocated by the NCSE in 2015, an increase of approximately 15 per cent on 2011 and 4,217 were allocated under the General Allocation Model. Communication received by the Children's Rights Alliance from the Department of Education and Skills, 9 December 2015.
 142 Disability Federation of Ireland, 'Budget 2016 once again fails to deliver for people with a disability', <<http://www.disability-federation.ie/index.php?uniqueID=11094>> accessed 29 January 2016.
 143 Department of Education and Skills, 'Minister O'Sullivan announces allocation of resource teacher supports to children with Down Syndrome (24 March 2015) <<https://www.education.ie/en/Press-Events/Press-Releases/2015-Press-Releases/PR2015-03-24.html>> accessed 29 January 2016.
 144 Department of Education and Skills, 'Minister O'Sullivan announces significant additional SNA posts from September 2015' <<http://www.education.ie/en/Press-Events/Press-Releases/2015-Press-Releases/PR2015-07-07.html>> accessed 29 January 2016.
 145 *ibid.*
 146 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 28 January 2016.

Children with Special Educational Needs

Immediate Actions for 2016



CONDUCT AN AUDIT OF LAWS, JUDICIAL AND ADMINISTRATIVE PRACTICES AND POLICIES, SERVICES AND SUPPORTS FOR CHILDREN WITH SPECIAL EDUCATIONAL NEEDS.

Clarity is needed on the rights of children with special educational needs to education, what supports they are entitled to and what remedies exist if their rights are breached. An audit of the laws, practices and policies is needed. This must take into account provisions of the Education for Persons with Special Educational Needs (EPSEN) Act 2004 that have not been commenced and relevant policies and initiatives developed since 2004. It should assess the effectiveness of the current spend on disability supports in education. Once complete, the Government should publish a roadmap to meet the right of children with special educational needs to education.

HOLD A PUBLIC CONSULTATION ON THE PILOT REPORT OF THE NEW RESOURCE ALLOCATION MODEL.

On completion of the pilot report of the new resource allocation model, a public consultation should be held to ensure there is public support for the new model. A key measure of success of the new model should be that it improves equitable access to resources.

MONITOR THE ROLL-OUT OF THE EDUCATION PASSPORT INITIATIVE.

The roll-out of the Education Passport initiative should be closely monitored to ensure that it is transferring the most pertinent information about a child with special educational needs, that the child's privacy rights are being respected, and that there are no gaps with certain children being 'lost' in the system.

2.4

School Buildings

GOVERNMENT COMMITMENT

The *Programme for Government 2011-2016* 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:



Progress: Very Good

- > 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.



Progress: Good

- > 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

'School Buildings' is awarded an 'A-' in Report Card 2016, a slight drop from the 'A' grade awarded in 2015. The high grade is in acknowledgement of continued work in 2015 on the existing major capital investment programme to build new schools and the new programme announced to run from 2016 to 2021 as well as funding for the Minor Works Grant and Summer Works Schemes in 2016 and 2017. It is lower than last year's grade because while some progress was made in reducing the inefficient rental of prefabs in 2015, more work is required to further reduce government spending in this area.

This is the final year being analysed in the Report Card series under the *Programme for Government 2011-2016* in which a commitment was made to

prioritise school building projects in a revised national plan; to progressively phase-out the inefficient renting of school prefabs; and to overhaul the central database of school accommodation. Progress has been made on each of these commitments. Steps have been taken to address the rental costs associated with prefabs though spending in this area remains high. The majority of schools have completed the school inventory and the school building programme is one of the most positive achievements under the *Programme for Government*. Over the past five years, 189 schools have been completed providing over 48,400 permanent school places with over 115 projects ongoing.

The inclusion of the commitment to provide 'quality learning environments for all' in *Better Outcomes*,

Brighter Futures: The National Policy Framework for Children and Young People 2014-2020 consolidates the Government's ongoing commitment in this area up to 2020.¹⁴⁷ Under the *National Policy Framework*, the Government also expressed its intention to continue to expand its current practice of clustering schools to 'encourage greater connections between schools and community and State services, including sharing infrastructure'.¹⁴⁸

Budget 2016 provided €433 million for the Schools Building Programme.¹⁴⁹ In 2015, as part of the five-year €2 billion capital investment programme,¹⁵⁰ 50 large scale projects were completed,¹⁵¹ including 33 new schools and large scale extensions at primary school level and 17 new schools and large extensions at post-primary level. In addition, a further 42 new projects were commenced during 2015.¹⁵²

The Department of Education and Skills predicts an ongoing increase in the number of pupils at primary level in parts of the country until at least 2019.¹⁵³ To address this, in November 2015 the Minister for Education and Skills, Jan O'Sullivan TD, announced a new capital investment programme of €2.8 billion to run from 2016 to 2021 to provide an additional 62,000 permanent school places.¹⁵⁴ This is the Government's second five-year school building investment programme, following on from its first programme in 2011, bringing the total investment to almost €5 billion. This sustained and significant investment in ensuring and improving the quality of the learning environment for children is to be warmly welcomed. The new programme will provide 310 major school projects comprising extension and refurbishment at 156 primary schools, 124 post-

primary schools and 30 special schools and the building of 14 new schools in areas with a strong demographic demand.

This second significant tranche of investment in school buildings allows us an opportunity to reflect on the quality of the first phase and ensure that the design and planning of new schools is forward-looking and protects the rights of children. For example, new schools should be equipped with kitchen facilities to ensure that schools have capacity to engage with the School Meals Programme or other future food initiatives. This would further the State's obligations under the UN Convention on the Rights of the Child to provide material assistance and support programmes (to parents), particularly with regards to nutrition¹⁵⁵ and 'to combat disease and malnutrition... through the provision of adequate nutritious foods...'.¹⁵⁶ The new school buildings programme is also an opportunity to ensure that the child's right to play and recreational activities are factored into the planning and design of school buildings, exercise areas and other internal and external education accommodation.¹⁵⁷

While some progress has been made to reduce the inefficient rental of prefabs, more work is needed in this area. The second School Building Programme pledges to fulfil the Government's commitment to 'eliminate the need for any school to use pre-fabs as a long-term accommodation solution'.¹⁵⁸ This commitment goes beyond the *Programme for Government* which committed to phase-out the inefficient renting of school pre-fabs.

In a very welcome move, Budget 2016 saw an investment in the Minor Works Grant Scheme and the re-introduction of the Summer Works Scheme. Under the Budget, €28.5 million was allocated for the Minor Works Grant scheme for primary schools in the academic year 2015/16 to improve the physical infrastructure of schools and the purchase of furniture and equipment for IT and physical education.

While this announcement is welcome and is linked to the previous commitment, the Government failed to reach its original commitment on pre-fabs. Under the Department of Education and Skills Prefab Replacement Initiatives in 2012 and 2013, approval was given to 217 schools (209 primary and 8 post-primary schools) to place 614 prefab units with permanent accommodation.¹⁵⁹ Of these, 180 have been completed with 9 currently on site. There were no new initiatives in 2014 or 2015 and €18 million was allocated for rented accommodation in 2015, a reduction of just €8.5 million on the 2011 spend.¹⁶⁰

Minor Works and Summer Works Grants: In a very welcome move, Budget 2016 saw an investment in the Minor Works Grant Scheme and the Summer Works Scheme. Under the Budget, €28.5 million was allocated for the Minor Works Grant Scheme for primary schools in the academic year 2015/16 to improve the physical infrastructure of schools and the purchase of furniture and equipment for IT and physical education.¹⁶¹ In addition, €80 million was provided for a two-year round of Summer Works Scheme in 2016 and 2017,¹⁶² to allow schools to carry out small and medium-scale building works, such as roof and window upgrades.¹⁶³

Inventory of School Accommodation: The Inventory of School Accommodation will be developed on an incremental basis.¹⁶⁴ Information generated is being linked to data on national demographic trends through a Geographical Information System (GIS).¹⁶⁵ Together, this material will make up an inventory of key data and statistics on the existing school building stock countrywide and is enabling the Department to calculate existing capacity and identify where additional accommodation is required.¹⁶⁶ The GIS was central to identifying the demographic demand which led to the development of the 50 major school projects completed in 2015.¹⁶⁷ The majority of schools, 85 per cent, have completed or are in the process of completing the inventory.¹⁶⁸

147 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (Department of Children and Youth Affairs 2014) Commitment 2.15.

148 *ibid* 131.

149 Department of Education and Skills, 'Department of Education and Skills - Main Estimates Features' <<https://www.education.ie/en/Publications/Estimates/2016-Budget-Main-Features.pdf>> accessed 29 January 2016.

150 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' (12 March 2012) <<http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR12-03-12.html>> accessed 29 January 2016.

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

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

153 Department of Education and Skills, 'Minister O'Sullivan announces seven new primary schools to be established in the next two years' (5 February 2015) <<http://www.education.ie/en/Press-Events/Press-Releases/2015-Press-Releases/PR15-02-05.html>> 29 January 2016.

154 Department of Education and Skills, '310 Major school building projects announced by Minister O' Sullivan' (17 November 2015) <<http://www.education.ie/en/Press-Events/Press-Releases/2015-Press-Releases/PR15-11-17.html>> accessed 29 January 2016.

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

156 *ibid* Art 24.

157 *ibid* Art 31.

158 Department of Education and Skills, '310 Major school building projects announced by Minister O' Sullivan' (17 November 2015) <<http://www.education.ie/en/Press-Events/Press-Releases/2015-Press-Releases/PR15-11-17.html>> accessed 29 January 2016.

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

160 €26.5 million was spent on rental accommodation in 2011. Communication received by the Children's Rights Alliance from the Department of Education and Skills, 28 January 2016.

161 Department of Education and Skills, 'O'Sullivan confirms additional funding of over €108 million to schools for Minor Works grand and multi-annual Summer Works Scheme' (5 November 2015) <<http://www.education.ie/en/Press-Events/Press-Releases/2015-Press-Releases/PR15-11-05.html>> accessed 29 January 2016.

162 *ibid*. €40 million in 2016 and another €40 million in 2017.

163 The Summer Works Scheme allows schools to carry out works that will improve and upgrade existing school buildings during the summer months or at other times that avoid disrupting the operation of schools.

164 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 29 January 2016.

165 A GIS is designed to capture, store, manipulate, analyse, manage, and present all types of geographically referenced data. It is the merging of cartography, statistical analysis, and database technology.

166 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 29 January 2016.

167 *ibid*.

168 *ibid* 9 December 2015.

School Buildings

Immediate Actions for 2016



ENSURE CHILDREN'S RIGHTS ARE MET IN THE ROLL OUT OF THE SECOND GOVERNMENT SCHOOLS BUILDING PROGRAMME.

The roll out of the second Schools Building Programme should factor into the design and planning of new schools the building of facilities such as adequate play and recreational spaces, and cooking and eating areas in order to meet the State's children's rights obligations.

ENSURE THAT FUNDING CONTINUES TO BE ALLOCATED FOR THE REPLACEMENT OF PRE-FABS AND PERMANENT ACCOMMODATION.

Continue to invest in the replacement of pre-fabs with permanent accommodation by ensuring that the *Programme for Government* commitment to phase-out the inefficient renting of pre-fabs is achieved.

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.

2.5

Patronage and Pluralism in Primary Education

GOVERNMENT COMMITMENT

The *Programme for Government 2011-2016* 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: Complete

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: Incomplete

'Patronage and Pluralism in Primary Education' is awarded a 'D' in Report Card 2016, a drop from the 'C+' it received last year. While acknowledging that a small number of new multi-denominational schools were opened in 2015 and a consultation on the Education in Religions and Beliefs (ERB) and Ethics was commenced, the divestment process has stalled with no clear vision or mechanism as to how it is to be progressed.

This is the final year being analysed in the Report Card series under the *Programme for Government 2011-2016*. It committed to establish a Forum on Patronage¹⁶⁹ and Pluralism in the Primary Sector and draw its recommendations into a White Paper aimed at ensuring the education system can provide a sufficiently diverse number of schools, catering for all religions and none. Significant progress was made in the early years including the establishment of the Forum on Patronage and Pluralism in the Primary Sector in 2011, publication of their report a year later¹⁷⁰ and publication of an update on the

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

170 John Coolahan, Caroline Hussey, Fionnuala Kilfeather, *Report of the Forum's Advisory Group* (Dublin 2012). The Forum on Patronage and Pluralism in the Primary Sector. The Forum on Patronage and Pluralism in the Primary Sector was established in March 2011 and published its final report in 2012 with three key relevant recommendations. The first related to the divesting of patronage, which would take place in a phased process; the second drew attention to the issues affecting 'stand-alone' schools (where there is no other choice of school nearby). The final key recommendation focused on how schools can be more inclusive and respect the constitutional rights of all children.

implementation of the Forum's recommendations in 2014.¹⁷¹ However, the White Paper on the Forum's recommendations was not delivered and the education system is still struggling to accommodate children of different or no faiths.

In April 2014, under *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020*, the Government committed to continuing 'to expand the provision of multi-denominational schools where parental demand exists.'¹⁷²

Every child has a right to education 'on the basis of equal opportunity'¹⁷³ and the right to respect for their freedom of thought, conscience and religion.¹⁷⁴ Children have the right to be free from discrimination of any kind, irrespective of, amongst other things, the child's or their parent's or guardian's religion and the State is obliged to 'take all appropriate measures' to ensure this right is respected.¹⁷⁵ In 2006, the UN Committee on the Rights of the Child called on the State to encourage the establishment of non-denominational or multidominational schools.¹⁷⁶

In the academic year 2014/15, 95 per cent of the existing 3,138 primary schools in Ireland had a religious patron and 88.7 per cent were under the patronage of the Catholic Church.¹⁷⁷ Census 2011 showed an increase in the number of people identifying as of 'No Religion' between 2006 and 2011, as well as an increase in the number of people of religions other than the Catholic faith.¹⁷⁸ The denominational structure of the education

system has led to difficulties for families who wish for their child to be educated in a multi- or non-denominational environment. These families may find themselves unable to do so due to a lack of options in their geographical area, other than a denominational publicly funded school.¹⁷⁹

Divestment: In the lifetime of this Government, there has been some progress in providing greater choice in the school system. Parental surveys on demand for alternative forms of education carried out in 2012 and 2013 found that there was a clear demand in 28 localities.¹⁸⁰ To date, eight new multi-denominational primary schools have been opened under the divestment process, three such schools opened in 2015.¹⁸¹ This means that there are 20 localities across the country still waiting for alternative forms of education. Only two of the eight new multi-denominational schools opened in buildings transferred from religious institutions.¹⁸² Three new post-primary schools also opened under the process in 2015.¹⁸³ In areas of population growth, the process for establishing new schools

Children have the right to be free from discrimination of any kind, irrespective of, amongst other things, the child's or their parent's or guardian's religion and the State is obliged to 'take all appropriate measures' to ensure this right is respected.

takes account of parental preferences.¹⁸⁴ While these are positive developments, given the virtual monopoly of denominational education, these new schools are just a fragment of what is needed to ensure that children and families are protected from discrimination at primary level and are provided with equal opportunity in accessing education.

Negotiations on divestment of primary school properties between the Catholic Church and the then Department of Education and Science began in 2008. However, the divestment process has been very slow. In 2014, the Department of Education and Skills acknowledged that divesting had not proceeded at the pace originally envisaged.¹⁸⁵ In November 2015, the Archbishop of Dublin, Diarmuid Martin, commented that elements within the Catholic Church are 'dragging their feet' on the issue of progressing the divestment process.¹⁸⁶

School Admissions: A recent survey has found that one in five of those surveyed were aware of someone who has baptised their child to get them a place in a local school and 77 per cent did not think a school should have the right to refuse admission to a child who has a different religion to that of the school's patron.¹⁸⁷ The Equal Status Acts 2000-2012, which prohibit discrimination including on religious grounds, provide an exemption that allows schools of a particular religious ethos to give preference to students of that religious denomination, or refuse admission to students of other or no religion in order to preserve the school's ethos.¹⁸⁸ The fact that the law permits religious discrimination in school

admissions has been heavily criticised by the UN Committee on the Rights of the Child,¹⁸⁹ the UN Committee on Economic, Social and Cultural Rights,¹⁹⁰ the Irish Human Rights and Equality Commission¹⁹¹ and the Ombudsman for Children.¹⁹² The publication of the Education (Admission to Schools) Bill 2015 in April 2015 was a missed opportunity to remedy this issue.¹⁹³

In November 2015, the Minister for Education and Skills, Ms. Jan O'Sullivan TD, proposed that primary schools should be obliged to admit pupils based on their proximity to a school rather than their religious denomination, in cases where schools are oversubscribed.¹⁹⁴ To ensure that families who wish their children to have a denominational education have access to a school in line with their own faith, the Minister said that a balance would have to be struck to allow minority faith schools to continue to serve a dispersed population.¹⁹⁵ These pledges would go some way towards addressing the discrimination faced by some children in school admissions but it remains to be seen if and how these pledges will be operationalised.

Curriculum: The UN Committee on the Rights of the Child has stated that while a child's right to education is a matter of access, it is also about content.¹⁹⁶ A child's right to freedom of thought, conscience and religion is protected under Article 42.2.1° of the Constitution of Ireland. The Constitution also allows for parents or guardians to provide direction on how this right is exercised. It does not provide any qualification to take account of the child's evolving

171 Department of Education and Skills, 'Update on Forum on Patronage and Pluralism in Primary Sector; Progress to Date and Future Directions,' (1 July 2014) <<https://www.education.ie/en/Press-Events/Press-Releases/2014-Press-Releases/PR14-07-01.html>> accessed 29 January 2016.
172 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (Department of Children and Youth Affairs 2014) Commitment 2.13.
173 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989) Article 28(1).
174 ibid Article 14(1).
175 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989) Article 2.
176 UNCRC 'Concluding Observations Ireland,' (29 September 2006) UN Doc CRC/C/IRL/CO/2 para 61.
177 Minister for Education and Skills, Jan O'Sullivan TD, Dáil Debates, School Patronage, 1 April 2015 [13449/15].
178 Central Statistics Office, 'Census 2006, Actual Change and Percentage Change in Population 2002 and 2006 by Religion, Statistical Indicator and Year,' <<http://www.cso.ie/px/pxeirestat/Statire/SelectVarVal/saveselections.asp>> accessed 12 May 2015; Central Statistics Office, 'Population Usually Resident and Present in the State by Religion and Nationality, 2011,' <<http://www.cso.ie/en/statistics/population/populationclassifiedbyreligionandnationality2011/>> accessed 12 May 2015.
179 John Coolahan, Caroline Hassey, Fionnuala Kilfeather 'Report of the Forum's Advisory Group,' <<https://www.education.ie/en/Press-Events/Events/Patronage-and-Pluralism-in-the-Primary-Sector/The-Forum-on-Patronage-and-Pluralism-in-the-Primary-Sector-Report-of-the-Forums-Advisory-Group.pdf>> accessed 29 January 2016, 1-3.
180 Department of Education and Skills, 'Report on the Surveys Regarding Parental Preferences on Primary School Patronage,' <<http://www.education.ie/en/Publications/Policy-Reports/Report-on-the-surveys-regarding-parental-preferences-on-primary-school-patronage.pdf>> accessed 29 January 2016.
181 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 9 December 2015.
182 Department of Education and Skills, 'Minister O'Sullivan announces four new multi-denominational schools to open following patronage divesting surveys' (13 February 2015) <<http://www.education.ie/en/Press-Events/Press-Releases/2015-Press-Releases/PR15-02-13.html#sthash.BnmSrs72.dpuf>> accessed 29 January 2016.
183 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 9 December 2015.

184 Ibid 27 January 2016.
185 Department of Education and Skills, 'Update on Forum on Patronage and Pluralism in Primary Sector; Progress to Date and Future Directions,' (1 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 29 January 2016, 14.
186 Aoife Carr 'Church "dragging its feet" over divestment process – Martin,' *The Irish Times* (Dublin, 9 November 2015).
187 Equate, 'News' <<http://www.equateireland.ie/#!news/c6v5>> accessed 29 January 2016.
188 Equal Status Acts 2000-2012, s 7(3)(c).
189 UNCRC 'Concluding Observations Ireland,' (29 September 2006) UN Doc CRC/C/IRL/CO/2, para 61.
190 The UN Committee on Economic, Social and Cultural Rights recommended that the State increase the number of nondenominational schools at the primary and post-primary education levels. CESCR, 'Concluding Observations on the third periodic report of Ireland' (19 June 2015) UN Doc E/C.12/IRL/CO/3 para 31.
191 Irish Human Rights and Equality Commission, *Observations on the Education (Admission to Schools) Bill 2015*, (Irish Human Rights and Equality Commission 2015) 18.
192 Ombudsman for Children, *Advice of the Ombudsman for Children on the General Scheme of the Education (Admission to Schools) Bill 2015* (Ombudsman for Children 2013) 19.
193 The Explanatory Memorandum of the Education (Admission to Schools) Bill 2015 states that the Bill aims to make school enrolment more fair and the admissions procedures more transparent. While the Bill provides positives steps in this area such as requiring schools to publish their admissions criteria, section 61(2)(b) of the Bill proposes that where section 7(3)(c) of the Equal Status Act 2000 applies, denominational schools will not be considered to discriminate where their admissions statements allow for the admission of students of the school's denomination or refuses the admission of students who are not of the school's denomination and in the case of such refusal where it is proved that it is essential to maintain the ethos of the school.
194 Carl O'Brien, 'Schools should accept pupils on proximity – O'Sullivan' *The Irish Times* (Dublin 9 November 2015).
195 ibid.
196 UNCRC 'General Comment No. 1 on The Aims of Education Article 29(1)' (2001) UN Doc CRC/GC/2001/1 para 3.

Schools face practical difficulties as they must provide alternative supervision for the child in place of religious education without any alternative subject-matter being taught.

capacities and so is inconsistent with Article 14 of the UN Convention on the Rights of the Child, which obliges States to 'respect the right of the child to freedom of thought, conscience and religion' and the rights and duties of the parents or guardians, 'to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child'. Article 44.2.4° of the Constitution allows parents or guardians to opt a child out of religious instruction classes at schools receiving public money.¹⁹⁷ Enshrining this principle in legislation, Section 30 of the Education Act 1998 provides that a student shall not be required to attend instruction in any subject which is contrary to the conscience of his or her parent.¹⁹⁸

Despite this legal framework, the right of a child to opt out of religious instruction is not being upheld. Opt-out measures tend to be *ad hoc* in nature and inconsistently applied across schools.¹⁹⁹ Schools face practical difficulties as they must provide alternative supervision for the child in place of religious

education without any alternative subject-matter being taught.²⁰⁰

The provision of an opt-out is also undermined by the fact that religion is not just taught at specified times: it is integrated into and permeates the whole curriculum and ethos of the school. Section 15(2) (b) of the Education Act 1998 obliges schools to uphold the religious ethos of the patron often resulting in religious practices being integrated into all aspects of the school day. The National School Rule underpinning the privilege of religious instruction in the school curriculum was repealed in January 2016.²⁰¹ There is also a need to reform the Education Act 1998 to set out how schools should accommodate the opt-out of children of minority or no religions from religious instruction throughout the school day.

In March 2015, the Catholic Schools Partnership produced a resource on sharing good practice on the inclusion of all pupils.²⁰² While this is a welcome development, it is not fully compliant with children's rights. For example, the options offered on how principals could handle 'opt-outs' from religious education classes include that the child stays in the classroom during the class.²⁰³ The Forum on Patronage and Pluralism had identified an option that religious education classes could be administered at the end of the school day to facilitate families in opting out.²⁰⁴ This option needs to be given consideration.

Education about Religions and Beliefs (ERB) and Ethics: The UN Committee on the Rights of the Child has stated that education should be directed to a 'wide range of values' and that the aims of education include the development of respect for the child's own cultural identity, language and values.²⁰⁵ The Committee further states 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'.²⁰⁶

In November 2015, in line with a recommendation of the Forum on Patronage and Pluralism,²⁰⁷ the National Council for Curriculum and Assessment launched a consultation on the development of a curriculum in Education about Religions and Beliefs (ERB) and Ethics.²⁰⁸ The finalised curriculum should be forward-looking and be grounded in the child's right to be free from discrimination and their right to freedom of thought, conscience and religion.

The UN Committee on the Rights of the Child has stated that education should be directed to a 'wide range of values' and that the aims of education include the development of respect for the child's own cultural identity, language and values. The Committee further states 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'.

197 Constitution of Ireland Article 44.2.4°.

198 Education Act 1998, s 30(2)(e).

199 A. Mawhinney 'Freedom of Religion in the Irish Primary School System: A Failure to Protect Human Rights?' [2015] Legal Studies, Vol 27, No. 3, 390-393; Department of Education and Skills, 'Update on Forum on Patronage and Pluralism in Primary Sector; Progress to Date and Future Directions,' (1 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 29 January 2016, 23.

200 The Forum on Patronage and Pluralism in the Primary Sector 'Report of the Forum's Advisory Group', <<https://www.education.ie/en/Press-Events/Conferences/Patronage-and-Pluralism-in-the-Primary-Sector/The-Forum-on-Patronage-and-Pluralism-in-the-Primary-Sector-Report-of-the-Forums-Advisory-Group.pdf>> accessed 29 January 2016, 83-84.

201 The measure was announced in December 2015. Labour, 'School rule that gives priority to religious instruction to be scrapped' (8 December 2015) <<https://www.labour.ie/news/2015/12/08/school-rule-that-gives-priority-to-religious-instr/>> accessed 29 January 2016. It was completed in January 2016. Department of Education and Skills, 'Address by Jan O'Sullivan Minister for Education & Skills to IPPN Annual Conference' (28 January 2016) <<https://www.education.ie/en/Press-Events/Speeches/2016-Speeches/SP2016-01-28.html>> accessed 29 January 2016; Labour, 'School rule that gives priority to religious instruction to be scrapped' (8 December 2015) <<https://www.labour.ie/news/2015/12/08/school-rule-that-gives-priority-to-religious-instr/>> accessed 29 January 2016.

202 Catholic Schools Partnership, *Catholic Primary Schools in a Changing Ireland – Sharing Good Practices on the Inclusion of All Pupils*, (Catholic Schools Partnership 2015). The report has been criticised by the Irish National Teachers' Organisation and the chair of the Forum on Patronage and Pluralism in Primary Education, Professor John Coolahan expressed his disappointment. He noted that while the report was a 'step in the right direction, it is limited' and that he would like to have seen more concrete examples of good practice in Catholic schools. Katherine Donnelly, 'Teachers' union says Church proposals for religious inclusion "disappointing"', *The Irish Independent* (Dublin, 13 March 2015); Katherine Donnelly, 'Catholic Church guidelines on religious inclusion in schools "disappointing"', *The Irish Independent* (Dublin 12 March 2015).

203 Catholic Schools Partnership, *Catholic Primary Schools in a Changing Ireland – Sharing Good Practices on the Inclusion of All Pupils*, (Catholic Schools Partnership 2015) 26.

204 The Forum on Patronage and Pluralism in the Primary Sector, 'Report of the Forum's Advisory Group', <<https://www.education.ie/en/Press-Events/Conferences/Patronage-and-Pluralism-in-the-Primary-Sector/The-Forum-on-Patronage-and-Pluralism-in-the-Primary-Sector-Report-of-the-Forums-Advisory-Group.pdf>> accessed 29 January 2016, 84.

205 UNCRC 'General Comment No. 1 on The Aims of Education Article 29(1)' (2001) UN Doc CRC/GC/2001/1 para 4.

206 *ibid* para 19.

207 The Forum on Patronage and Pluralism in the Primary Sector 'Report of the Forum's Advisory Group', <<https://www.education.ie/en/Press-Events/Conferences/Patronage-and-Pluralism-in-the-Primary-Sector/The-Forum-on-Patronage-and-Pluralism-in-the-Primary-Sector-Report-of-the-Forums-Advisory-Group.pdf>> accessed 29 January 2016, 111.

208 National Council for Curriculum and Assessment, 'Education about Religions and Beliefs (ERB) and Ethics in the Primary School: Consultation Paper' <http://www.ncca.ie/en/Curriculum_and_Assessment/Early_Childhood_and_Primary_Education/Primary-Education/Primary_Developments/ERB-and-E/Developments/Consultation/Consultation-ERBE.pdf> accessed 29 January 2016.

Patronage and Pluralism in Primary Education

Immediate Actions for 2016



CREATE A NATIONAL NETWORK OF SCHOOLS THAT GUARANTEE EQUALITY OF ACCESS TO CHILDREN IRRESPECTIVE OF THEIR RELIGIOUS OR NON-RELIGIOUS BELIEF.

Develop a five-year national plan on access to multi-denominational education and the divestment process, specifying how progress will be made in the 20 remaining areas which have shown clear parental demand for alternative forms of education but where this has not progressed.

AMEND THE EXEMPTION UNDER SECTION 7(3)(C) OF THE EQUAL STATUS ACTS 2000-2012.

Section 7(3)(c), which allows schools of a particular religious ethos to give preference to students of that religious denomination, or refuse admission to students of other or no religion to preserve the school's ethos, should be amended to ensure that no child is discriminated against in accessing publicly-funded education on the basis of their religion.

DEVELOP COMMUNITY DIVERSITY GUIDELINES FOR SCHOOLS INCLUDING PRACTICAL SOLUTIONS FOR OPTING OUT OF FAITH FORMATION CLASSES.

The Department of Education and Skills should develop statutory Community Diversity Guidelines for Schools setting out on how to create a pluralistic environment for children of all faiths and none, in line with the recommendation of the report of the Forum on Patronage and Pluralism in the Primary Sector. The Guidelines should provide practical and child-friendly options to facilitate children to opt-out of faith formation classes including the scheduling of faith formation classes at the start or end of the school-day.

INTRODUCE THE CURRICULUM ON EDUCATION ABOUT RELIGIONS AND BELIEFS (ERB) AND ETHICS.

Following the ongoing consultation, the curriculum on Education about Religions and Beliefs (ERB) and Ethics should be drafted reflecting the recommendations of the Forum for Patronage and Pluralism in the Primary Sector as well as the rights of the child.

3. RIGHT TO HEALTH

Chapter Grade

C+

" 10 years after the publication of Ireland's mental health policy *A Vision for Change* it is very concerning that children referred to mental health services are having to wait for care. Childhood is a key life stage in which the foundation for future mental health and wellbeing is laid. It is important that a range of mental health supports are available to children, wherever they are in the country, so that they can receive appropriate help promptly."

Shari McDaid, Director, Mental Health Reform

Right to Health

Every child has the right to enjoy the highest possible standard of health, to access health and other related services and to facilities for the treatment of illness and rehabilitation of health. Children with disabilities have the right to a full and decent life within the community, and to special care.

Summary of Article 24 of the UN Convention on the Rights of the Child



3.1

Primary Care**GOVERNMENT COMMITMENT**

The *Programme for Government 2011-2016* commits to introducing Universal Primary Care and removing fees for General Practitioner (GP) care within this Government's term of office.

**Progress: Steady**

> The legislative basis for Universal Primary Care will be established under a Universal Primary Care Act.

**Progress: Not Complete**

> Universal Primary Care will be introduced in phases so that additional doctors, nurses and other primary care professionals can be recruited.

**Progress: Steady****IN THE NEWS****FREE GP CARE FOR CHILDREN UNDER 6**

The Clare Herald, 9 April 2015

Thousands of Clare children aged under 6 are to benefit from free GP care from this summer following an agreement reached between the Department of Health, the HSE and the Irish Medical Organisation (IMO).

The news has been welcomed by Fine Gael Senator for Clare, Tony Mulcahy who said that over 10 thousand children in Clare are eligible for free GP care under the new family friendly measure being introduced by the Government.

"This will have a huge impact on thousands of families across Clare, who will no longer have to stump up €50 every time a child has to see the doctor," he said.

"This is another important step towards universal healthcare and follows the recent agreement on free GP care for over-70s. Both will make a real difference to the lives of the youngest and oldest in our society and delivers on the Government's promise of enhancing primary care," added Senator Mulcahy. [...]

By *Newsdesk*

'Primary Care' receives a 'B-' grade in Report Card 2016, an increase on the 'C' grade awarded in Report Card 2015. This grade reflects the continued introduction on a phased basis of Universal Primary Care with the introduction of free General Practitioner (GP) care for children under the age of six and the commitment to extend the scheme to all children under the age of 12 in 2016. Children and those over 70 are the only groups to have benefited from free GP Care.

This is the final year being analysed in the Report Card series under the *Programme for Government 2011-2016*, while significant steps have been taken to remove fees for GP care for children, it is clear that the Government has not fulfilled its commitment to

introduce a legislative basis for Universal Primary Care. Universal Primary Care is defined as the establishment of a primary care system which is free at the point of use, comprising multi-disciplinary teams in dedicated centres, and with a greater focus on prevention of illness and the care of chronic conditions.²⁰⁹ The Government commitment to introduce Universal Primary Care is a positive step towards vindicating the right of a child to the highest attainable standard of health and healthcare.²¹⁰ As a child's first point of contact with the health system, a well-resourced, responsive and effective primary care service has the potential to prevent the development of conditions that may later require more intensive treatment or hospitalisation, at greater cost to the child and the State. Article 24 of the UN Convention

209 Department of Health, 'Reforming Primary Care' <<http://health.gov.ie/future-health/reforming-primary-care-2/>> accessed 12 January 2016.

210 The right of the child to health is set out in Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 24; International Covenant on Economic, Social and Cultural Rights (16 December 1966) 993 UNTS 3 (ICESCR) Art 12.

on the Rights of the Child places particular emphasis on the development of primary health care²¹¹ and through General Comment 15, the UN Committee on the Rights of the Child has stressed that primary care should include the provision of information and services, as well as the prevention of illness and injury.²¹²

Ireland has the only health system in the European Union that does not offer universal coverage of primary care.²¹³ Instead, it operates a two-tier system which has resulted in long waiting lists to access public healthcare services.²¹⁴ Ireland spends 8.1 per cent of its Gross Domestic Product (GDP) on health.²¹⁵ Despite the Government commitment to introduce Universal Primary Care,²¹⁶ less than 25 per cent of the Health Service Executive's overall budget is allocated to these services.²¹⁷

The introduction of a supplementary budget for health has become standard practice over the past number of years. However, under European Union Fiscal Rules introduced in January 2015²¹⁸ it will no longer be possible to have a supplementary budget to address an overspend in any department. Any overspend in health can only be dealt with by 'savings' from elsewhere, such as cutting back on services or raising more money, for example through increased taxation.²¹⁹ There are concerns that the existing level of service may struggle to be maintained towards the end of 2016 within the current Budget allocation.²²⁰

Free GP Care for Children: In *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020*, the Government reiterated its commitment to introduce universal free GP services,²²¹ first articulated in the 2012 *Future Health Framework*.²²² In 2013, the Government announced the first step towards universal free GP care,²²³ by allocating €37 million to meet the full year cost of free GP care to 420,000 children under the age of six years.²²⁴ Following the enactment of the Health (General Practitioner Service) Act 2014 and the successful negotiations of a GP contract, the scheme for children under six years began in June 2015 and within three weeks 60 per cent of children under six were registered.²²⁵ An updated figure for the number of children who remain unregistered has not been published. As the scheme is a key way of implementing a child's right to access healthcare, the registration figure will need to be tracked to ensure close to 100 per cent registration.

Ireland has the only health system in the European Union that does not offer universal coverage of primary care. Instead, it operates a two-tier system which has resulted in long waiting lists to access public healthcare services.

The Government announced in Budget 2016 that the free GP Care Scheme will be extended to all children under the age of 12. The extension of the GP Care Scheme to the under 12s is expected to commence in late 2016 and will result in approximately 200,000 additional children being eligible to access GP services without fees.

There is a risk that particular marginalised communities may remain outside the scheme. Therefore, measures may need to be taken to promote awareness of the scheme and to remove any barriers to registration.

The new GP contract, negotiated as part of the scheme for under sixes, began a process of re-orientating the focus of GP care toward prevention and health promotion. New elements of the scheme include the provision of assessments of children at age two years and again at age five years. The health assessments are aimed at wellbeing and the prevention of disease. The scheme also includes an agreed cycle of care for children diagnosed with asthma.²²⁶ The expanded scheme is a further positive step towards fulfilling the child's right to access preventive healthcare, in line with EU law²²⁷ and international human rights law.²²⁸

The Government announced in Budget 2016 that the free GP Care Scheme will be extended to all children under the age of 12. The extension of the GP Care Scheme to the under 12s is expected to commence in late 2016²²⁹ and will result in approximately 200,000 additional children being eligible to access GP services without fees.²³⁰

Primary Care Teams and Centres: Community-based, early intervention and preventative healthcare services within a primary care structure are critical so that children can access effective services close to home and when they need them.²³¹ To fulfil the child's right to the highest attainable standard of healthcare, it is essential that primary care teams and primary care centres are in place and fully operational throughout the country. The UN Committee on the Rights of the Child encourages states to 'strive to ensure availability, accessibility, acceptability and quality of essential children's health services for all, without discrimination.'²³²

A key way in which the Government is seeking to fulfil its commitment to introduce universal primary healthcare is through the development of primary care teams²³³ and primary care centres.²³⁴ At the end of 2015, 484 primary care teams, at different stages of development, were in operation across the country.²³⁵ The teams comprise over 3,000 nursing, therapy and support staff and are providing services to almost four million people.²³⁶ As of December 2015, there were 90²³⁷ primary care centres in operation. An additional nine²³⁸ centres are due to become operational in 2016 and a further 38 centres

211 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 24 (b).
 212 UNCRC 'General Comment 15' on 'The Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art 24)' (2013) UN Doc CRC/C/GC/15 para 26.
 213 Department of Health, *The Path to Universal Healthcare: White Paper on Universal Health Insurance* (Health Service Executive 2014) 18.
 214 *ibid.*
 215 Social Justice Ireland, *Budget 2016 Analysis and Critique* (Social Justice Ireland 2015) 18.
 216 Government of Ireland, *Programme for Government 2011-2016* (Stationery Office 2011) 32.
 217 Almost €3,182 million (This figure includes €765 million allocated for Primary Care and €2,417 million provided under the Primary Care Reimbursement Service heading for the various Primary Care Schemes) out of an overall estimated Health Budget of €12,987 million for 2016. Health Service Executive, *National Service Plan for 2016* (Health Service Executive 2015) 2, 50.
 218 For more see: Council of Europe, 'Economic and Financial Affairs' <http://ec.europa.eu/economy_finance/economic_governance/sgp/index_en.htm> accessed 13 January 2016.
 219 Minister for Health, Leo Varadkar TD, Parliamentary Questions, Priority Questions, 22 October 2015 [36796/15].
 220 Social Justice Ireland, *Budget 2016 Analysis and Critique* (Social Justice Ireland 2015) 18.
 221 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (Department of Children and Youth Affairs 2014) 30.
 222 Department of Health, *Future health: a strategic framework for reform of the health service 2012 – 2015*, (Department of Health 2012) 50.
 223 Minister for Public Expenditure and Reform, Mr. Brendan Howlin TD, Address to Dáil Éireann on Expenditure Estimates 2014, 15 October 2013.
 224 Health Service Executive, *National Service Plan 2014*, (Health Service Executive 2013) 38.
 225 Department of Health, '100,000 Children Sign-Up for GP Care in 3 Weeks'(3 July 2015) <<http://health.gov.ie/blog/press-release/gp-care-under-6s/>> accessed 30 November 2015.

226 Health Service Executive, 'Form Of Agreement With Registered Medical Practitioners For Provision Of Services To Children Under 6 Years Old Pursuant To The Health (General Practitioner Service) Act 2014 (Under 6 Year Olds)' (2015) <<http://health.gov.ie/wp-content/uploads/2015/04/Under-6s-Form-of-Agreement-GP-Contract1.pdf>> accessed 30 November 2015, Recital E.
 227 European Union Charter of Fundamental Rights (22 October 2012) OJ C 326, Article 35: 'Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.'
 228 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 24; UN General Assembly, International Covenant on Economic, Social and Cultural Rights (16 December 1966) 993 UNTS 3 (ICESCR) Art 12.
 229 This is subject to contract negotiations with the Irish Medical Organisation and relevant legislative amendment. Communication received by the Children's Rights Alliance from the Department of Health, 18 December 2015.
 230 Communication received by the Children's Rights Alliance from the Department of Health, 5 January 2016.
 231 Sheila Greene 'Getting the First Steps Right' (*Trinity Research Centre*, 3 December 2015) <<http://health.gov.ie/wp-content/uploads/2011/06/Presentation-by-Sheila-Greene-Children%E2%80%99s-Research-Centre-Trinity-College-Dublin.pdf>> accessed 6 January 2016.
 232 UNCRC 'General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art 24)' (2013) UN Doc CRC/C/GC/15 para 104.
 233 A Primary Care Team (PCT) is a multidisciplinary group of health and social care professionals who work together to deliver local accessible health and social services to a defined population of between 7,000-10,000 people at 'primary' or first point of contact with the health service.
 234 Department of Health, 'Reforming Primary Care' <<http://health.gov.ie/future-health/reforming-primary-care-2/>> accessed 12 January 2016.
 235 Communication received by the Children's Rights Alliance from the Department of Health, 18 December 2015.
 236 *ibid.*
 237 *ibid.*
 238 *ibid.*

Despite a Programme for Government commitment and much progress in the area of primary care, there continues to be no legislative basis for Universal Primary Care. A legislative basis for primary care is needed to realise children's right to health by ensuring a legal entitlement to access primary care and to place a statutory obligation on the State to provide the services, programmes, human resources and infrastructure.

are under construction or at advanced planning stages.²³⁹ In 2015, the Government committed to provide 80 new primary care centres across the country under *Building on Recovery: Infrastructure and Capital Investment 2016-2021*.²⁴⁰

A system of Universal Health Insurance (UHI) was identified in the *Programme for Government 2011-*

2016 as the preferred model for the introduction of universal healthcare, including universal primary care and a target date for its introduction was set for 2019.²⁴¹ On foot of the findings of a costing exercise published in November 2015, the Government decided not to proceed with the proposed model.²⁴² There is no indication, as of yet, what reform if any will be pursued in lieu of UHI.²⁴³

Legislative Basis for Universal Primary Care:

Despite a *Programme for Government* commitment and much progress in the area of primary care, there continues to be no legislative basis for Universal Primary Care. A legislative basis for primary care is needed to realise children's right to health by ensuring a legal entitlement to access primary care and to place a statutory obligation on the State to provide the services, programmes, human resources and infrastructure.²⁴⁴ In 2006, the UN Committee on the Rights of the Child expressed concern about the lack of guidelines safeguarding access to healthcare. It also stated that Ireland should adopt all-inclusive legislation that addresses the health needs of children.²⁴⁵ It is regrettable that there has been no movement towards the establishment of such a legislative basis.

Primary Care

Immediate Actions for 2016



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

The completion of the introduction of free GP care for all children under 18 years should be a priority for the next Government, as a key strategy to vindicate the child's right to access healthcare services.

CONTINUE THE DEVELOPMENT OF PRIMARY CARE TEAMS AND CENTRES.

The development of primary care teams and centres should be continued; a well-staffed and adequately funded primary care system is essential for the child's right to health to be respected, protected and fulfilled.

INTRODUCE A LEGISLATIVE BASIS FOR PRIMARY CARE.

The current Government has not fulfilled its commitment to establish a legislative basis for primary care. It is essential that the next Government acts on the recommendation of the UN Committee on the Rights of the Child and creates a legal right to access primary care.

239 *ibid.*

240 Department of Public Expenditure and Reform, *Building on Recovery: Infrastructure and Capital Investment 2016-2021* (Department of Public Expenditure and Reform 2015) 32.

241 Minister for Communications, Energy and Natural Resources, Alex White TD, Dáil Debates, White Paper on Universal Health Insurance, 17 April 2014.

242 The findings found that the cost incurred in adopting the preferred model of UHI would not be outweighed by the anticipated benefits of improved patient outcomes, lower healthcare prices or lower premiums. M. Wren, S. Connolly, N. Cunningham, *An Examination of the Potential Costs of Universal Health Insurance in Ireland* (ESRI 2015).

243 Department of Health, 'Statement by Minister Varadkar following Cabinet discussion on UHI' (*Merion Street*, 17 November 2015) <http://www.merrionstreet.ie/en/News-Room/Releases/Statement_by_Minister_Varadkar_following_Cabinet_discussion_on_UHI.html#sthash.mjg7qlAV.dpuf> accessed 6 January 2016.

244 UNCRC 'General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art 24)' (2013) UN Doc CRC/C/GC/15 para 94-95.

245 UN Committee on the Rights of the Child 'Concluding Observations: Ireland' (2006) UN Doc CRC/C/IRL/CO/2, para 45(a).

3.2

Children's Hospital

GOVERNMENT COMMITMENT

The *Programme for Government 2011-2016* commits that the National Children's Hospital will be built.



Progress: Limited

'Children's Hospital' gets a 'C+' grade in Report Card 2016, up slightly from last year's grade of a 'C'. Progress has been slow due to the design and planning process for capital building projects. 2015 saw the design for the National Children's Hospital unveiled and the planning application lodged with An Bord Pleanála: a decision is expected by March 2016.

This is the final year being analysed in the Report Card series under the Programme for Government 2011-2016 in which a commitment was made to build a National Children's Hospital. With the building of the hospital yet to commenced, this commitment was progressed but remains unfilled.

A world class national children's hospital is essential to vindicating a child's right to the highest attainable standard of health²⁴⁶ and to facilities for the treatment of illness and rehabilitation of health.²⁴⁷ This right requires that children receive 'quality health services' and obliges states to the greatest extent possible, to

provide hospital care with 'functional referral systems linking communities and families at all levels of the health system'.²⁴⁸ A holistic approach to the right to health requires states to protect and respect rights that impact all other aspects of a child's life in the hospital setting, including the right to participate in matters relating to him or her;²⁴⁹ the best interests of the child;²⁵⁰ the right not to be separated from his/her parents;²⁵¹ the right to privacy;²⁵² the right to be protected from harm;²⁵³ the child's right to rest, leisure, play and recreational activities²⁵⁴ and the right to education.²⁵⁵

The development of a new, single, national children's hospital was first recommended in a 2006 McKinsey Report.²⁵⁶ It recommended the amalgamation of acute paediatric services in Dublin into a single site, 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 to completing the building of the new National Children's Hospital'.²⁵⁷

246 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 24.1; UN General Assembly, International Covenant on Economic, Social and Cultural Rights (16 December 1966) 993 UNTS 3 (ICESCR) Art 12.1.

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

248 UNCRC 'General Comment 15' on 'The Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art 24)' (2013) UN Doc CRC/C/GC/15 para 25.

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

250 *ibid* Art 3.

251 *ibid* Art 9.

252 *ibid* Art 16.

253 *ibid* Art 19.

254 *ibid* Art 31.

255 *ibid* Art 28.

256 Mc Kinsey and Company, *Children's Health First* (Mc Kinsey and Company 2006).

257 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (Department of Children and Youth Affairs 2014) Commitment 1.5.

The hospital will be co-located with St. James's Hospital in Dublin with satellite centres, sharing governance and staffing, to be built on the campuses of the Adelaide and Meath Hospital, Tallaght and Connolly Hospital, Blanchardstown.²⁵⁸ The decision to locate the hospital in the St James's campus continues to be the subject of some criticism with differing views as to the site's suitability.²⁵⁹ Some commentators propose that a green-field site at Blanchardstown would be more appropriate.²⁶⁰

The design for the new National Children's Hospital was unveiled in June 2015.²⁶¹ The design includes single en-suite rooms with in-room parent accommodation, hospital schools, play areas, 1,000 underground car parking spaces and a family accommodation facility.²⁶² The planning application for the new hospital and satellite centres was lodged by the National Paediatric Hospital Development Board (NPHDB) in August 2015. A decision is expected on this planning application by March 2016.²⁶³ If a positive decision is received from An Bord Pleanála, construction is expected to begin by April 2016 with an expected completion date of the end of 2019 – 13 years after the initial recommendation.²⁶⁴

Definition of a Child: The National Children's Hospital will accept new patients under the age of 16 years. Existing patients will continue under the hospital's care until they turn 18 years,²⁶⁵ and their transition to adult services will commence early and be completed by the eighteenth birthday, unless specific circumstances exist where clinical outcomes are better under paediatric services.²⁶⁶

Both the Council of Europe Guidelines on Child Friendly Healthcare²⁶⁹ and European Charter for Children in Hospital²⁷⁰ define a child as anyone under the age of 18 years. In addition, child protection measures place specific obligations on staff working with all those under 18 years.

In leading international children's hospitals, including Boston Children's Hospital, US; Children's Hospital of Philadelphia, US; Great Ormond Street Children's Hospital, UK; and Toronto Children's Hospital,

The definition of a child adopted by the hospital as a person under 16 years is not consistent with the definition of a child as a person under the age of 18 under the UN Convention on the Rights of the Child and key Irish statutes.

258 Minister for Health, Leo Varadkar TD, Parliamentary Questions, Written Answers, 16 July 2014 [31766/14].

259 Jack and Jill Foundation, 'NAGP Supports Jack & Jill Foundation In Their Bid To Prevent National Children's Hospital Locating At St James Hospital Site' (15 September 2015) < <https://www.jackandjill.ie/nagp-support-jack-jill-foundation-in-their-bid-to-prevent-national-childrens-hospital-locating-at-st-james-hospital-site/> > accessed 24 November 2015.

260 This "greenfield" position is not supported by the three children's hospitals in Ireland. Communication received by the Children's Rights Alliance from the Children's Hospital Group, 5 January 2016.

261 A 3D walk through of the proposed hospital can be viewed at: National Children's Hospital, 'Design Video' < <http://www.newchildrenshospital.ie/design-vision/video/> > accessed 28 January 2016.

262 Department of Health, 'New Children's Hospital, Summary project Brief for the new children's hospital' (March 2014) < <http://health.gov.ie/wp-content/uploads/2014/03/Project-Brief-for-the-New-Children-Summary-Document-for-Media-Release.docx.pdf> > accessed 24 November 2015, 4.

263 Gary Culliton, 'Oral hearing on National Children's Hospital due' (Irish *Medical Times*, 4 November 2015) < <http://www.imt.ie/news/latest-news/2015/11/oral-hearing-on-national-childrens-hospital-due.html> > accessed 24 November 2015.

264 Communication received by the Children's Rights Alliance from the National Paediatric Hospital Development Board, 5 November 2015.

265 Department of Health, 'New Children's Hospital, Summary project Brief for the new children's hospital' (March 2014) < <http://health.gov.ie/wp-content/uploads/2014/03/Project-Brief-for-the-New-Children-Summary-Document-for-Media-Release.docx.pdf> > accessed 24 November 2015.

266 *ibid*.

267 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 1 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'.

268 Such as the Child Care Act 1991 and the Children Act 2001.

269 Council of Europe, Guidelines on Child Friendly Healthcare (21 September 2011) Article 4.

270 See European Association for Children in Hospital < <http://www.each-for-sick-children.org/> > accessed 28 January 2016.

Canada, adolescents are treated up to the age of 18 and in some cases up to 21 years. In these hospitals there are specialist adolescent consultants and services available. The new national hospital provides an opportunity to address the gap in adolescent focused healthcare by raising the age that children are treated up to the age of 18 years in the new hospital and satellite centres.²⁷¹

Consultation with Children and Young People:

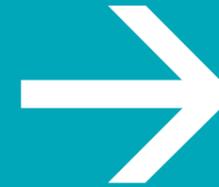
There has been extensive consultation on the design of the new hospital with patient advocacy groups, existing staff and the National Youth Advisory Committee made up of children and young people aged 12 to 19 years. Children will also have an input into how patient services are rolled out in the hospital setting. In November 2015, the Children's Hospital Group commenced a joint initiative with the Ombudsman for Children to hear and take account

of children's and young people's views as service users in relation to the planned delivery of services in the new children's hospital.²⁷² This continued engagement with children and young people is warmly welcomed as a vindication of a child's right to be heard under Article 12 of the UN Convention on the Rights of the Child.²⁷³

There has been extensive consultation on the design of the new hospital with patient advocacy groups, existing staff and the National Youth Advisory Committee made up of children and young people aged 12 to 19 years.

Children's Hospital

Immediate Actions for 2016



ENSURE THE BUILDING OF THE CHILDREN'S HOSPITAL COMMENCES AS A MATTER OF PRIORITY ONCE PLANNING IS GRANTED.

This was an immediate action of Report Cards 2012, 2013, 2014 and 2015 and remains unaddressed. The completion of the hospital must remain a key political priority for the next Government to ensure that there is no further slippage in the timeline.

EXTEND THE SERVICES OF THE HOSPITAL TO ALL THOSE UNDER 18 YEARS.

The hospital must be able to meet the health needs of adolescents aged 16 and 17 years. 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 Council of Europe Guidelines on Child Friendly Healthcare.

271 'Adolescence' is defined by the World Health Organisation as a distinct developmental period in the age group 10-19 years. World Health Organisation, 'Adolescent Health' <http://www.who.int/topics/adolescent_health/en/> accessed 24 November 2015.

272 Communication received by the Children's Rights Alliance from the Ombudsman for Children's Office, 16 December 2015.

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

3.3 Mental Health

GOVERNMENT COMMITMENT

The Programme for Government 2011-2016 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.²⁷⁴



Progress: Some

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



Progress: Complete

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



Progress: Unsatisfactory

'Mental Health' receives a 'D' grade in Report Card 2016, an increase from the 'E' grade awarded in Report Card 2015. Following consultation with stakeholders, the Expert Group Review of the Mental Health Act 2001 was published in March 2015 and contains a number of recommendations relating to children and young people. However, the number of children on waiting lists for CAMHS still remains high.

This is the final year being analysed in the Report Card series under the *Programme for Government*

2011-2016, of the three commitments tracked under this section the Government has only completely fulfilled one during its lifetime by publishing the Expert Group Review of the Mental Health Act 2001. The Government has, in four of the past five Budgets, ring-fenced €35 million for the development of community mental health teams. Although there has been a drop in the number of children on waiting lists for CAMHS, the numbers still remain high. In addition, the number of children and young people placed in adult in-patient units remains high.

²⁷⁴ 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.'

There is no legislative entitlement to health care or mental health care in Ireland.²⁷⁵ Children have a right to the enjoyment of the highest attainable standard of physical and mental health under Article 24 of the UN Convention on the Rights of the Child and also under Article 12 of the International Covenant on Economic Social and Cultural Rights. Furthermore, Article 27 of the Convention on the Rights of the Child provides that every child has the right to a standard of living adequate for his or her physical, mental, spiritual, moral and social development. The UN Committee on the Rights of the Child has emphasised the serious nature of mental health problems for children and the need to tackle 'behavioural and social issues that undermine children's mental health, psychosocial wellbeing and emotional development'.²⁷⁶

Child and Adolescent Mental Health Service

Teams: The *Programme for Government 2011-2016* committed to ring-fence €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 and improved integration with primary care services. Budget 2016 fulfilled this commitment by allocating €35 million to develop community mental health teams and services. During the lifetime of this Government €35 million was allocated in every Budget except 2014 where only €20 million was allocated.

Of the recommended 129 specialist teams needed for CAMHS to operate effectively,²⁷⁷ only 63 CAMHS teams are currently in operation.²⁷⁸ As of November 2015, the number of clinical staff in post in CAMHS was 505.4 whole time equivalents (WTEs).²⁷⁹ This represents only half of the staffing level recommended in *A Vision for Change*.²⁸⁰

The Programme for Government 2011-2016 committed to ring-fence €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 and improved integration with primary care services.

There are challenges with the recruitment and retention of CAMHS staff,²⁸¹ including staff mobility between regions²⁸² and a challenging work environment.²⁸³ Staffing the full complement of CAMHS teams is vital to ensure children and young people are not put at risk waiting too long for vital supports.

Waiting Lists: The demand for CAMHS has increased significantly in 2015; referrals made to the service from June 2014 to May 2015 show a growth rate of 49.39 per cent. CAMHS have managed the increased demand well with waiting lists for the same period rising by only 5.93 per cent.²⁸⁴ However, the high number of children on waiting lists remains a concern. In September 2015, there were a total of 2,309 children waiting for a first appointment with CAMHS.²⁸⁵ Of these 1,319 children were waiting for longer than three months²⁸⁶ and 214 were waiting over one year.²⁸⁷

In a positive move, in response to the large number of children on waiting lists CAMHS was identified as a Key Service Improvement Project for the Health

²⁷⁵ This lack of clarity hinders the fulfilment of Article 12 of the International Covenant on Economic, Social and Cultural Rights which requires State Parties to 'recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.' International Covenant on Economic, Social and Cultural Rights (16 December 1966) 993 UNTS 3 (ICESCR).

²⁷⁶ UNCRC 'General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art 24)' (2013) UN Doc CRC/C/GC/15 para 38.

²⁷⁷ 129 services were recommended (based on 2011 census data), including 77 CAMHS CMHTs, 15 Adolescent Day Hospital Teams, 15 Hospital Liaison Mental Health Teams, 1 Eating Disorder Mental Health Team, 2 Forensic Mental Health Teams, 4 Substance Misuse Mental Health Teams, 15 Intellectual Disability Mental Health Teams. Health Service Executive, *Fourth Annual Child and Adolescent Mental Health Service Report 2011-2012* (2012) 10.

²⁷⁸ Minister of State for Disability, Equality, Mental Health and Older People, Kathleen Lynch TD, Parliamentary Questions, Written Answers, 15 April 2015 [14649/15].

²⁷⁹ Joint Oireachtas Committee on Health and Children Child, Infant Mental Health: Discussion, 12 November 2015.

²⁸⁰ Health Service Executive, *Fourth Annual Child and Adolescent Mental Health Service Report 2011-2012* (2012) 12.

²⁸¹ Health Service Executive, *September Performance Report* (Health Service Executive 2015) 10.

²⁸² Minister of State for Disability, Equality, Mental Health and Older People, Kathleen Lynch TD, Seanad Debates, Mental Health Services: Statements, 29 April 2015.

²⁸³ *ibid*.

²⁸⁴ Health Service Executive, *May Performance Report* (Health Service Executive 2015) 91.

²⁸⁵ Health Service Executive, *September Performance Report* (Health Service Executive 2015) 10.

²⁸⁶ *ibid* 11.

²⁸⁷ *ibid* 10.

Service Executive (HSE) and a key priority for 2015.²⁸⁸ In June 2015, the HSE published standard operating procedures for both community and in-patient CAMHS.²⁸⁹ The aim of the procedures are to address inconsistencies across services, specifically in relation to 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.²⁹⁰ A targeted piece of work began in April 2015 to reduce the number of children on waiting lists for over a year.²⁹¹ By September 2015, this has resulted in a 53 per cent reduction in those waiting for more than a year.²⁹² It is critical that the work being done to reduce waiting lists continues in 2016 to vindicate a child's right to access timely and appropriate 'prevention, health promotion, curative, rehabilitative and palliative services'.²⁹³

Review of the Mental Health Act 2001: The *Programme for Government 2011-2016* commitment to review the Mental Health Act 2001 was fulfilled in 2015, with the publication in March of the *Report of the Expert Group Review of the Mental Health Act 2001*.²⁹⁴ The report was produced in consultation with service users, carers and other stakeholders, and informed by human rights standards.

The Expert Group made a number of recommendations including that the Mental Health Act 2001 be reformed to include a separate section on children under 18 years. It was recommended that this new section would have its own set of guiding principles, including the best interests of the child and the child's right to be heard central to the section.²⁹⁵ The report also recommended that consultation with a child is required at each and every state of diagnosis and treatment,²⁹⁶ which is reflective of the child's right to be heard under Article 12 of the UN Convention on the Rights of the Child.

It is now urgent that the Mental Health Act 2001 be amended in line with the recommendations of the Expert Group Report, in particular those relating to children and young people.

Children in Adult Units: The *Programme for Government* committed to endeavour to end the practice of placing children and adolescents in adult psychiatric wards. The UN Committee on the Rights of the Child states 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.²⁹⁷

The HSE *National Service Plan* for 2015 committed 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.²⁹⁸ In September 2015, there were 74 children in adult in-patient units 93 per cent of whom were 16 or 17

The Programme for Government committed to endeavour to end the practice of placing children and adolescents in adult psychiatric wards. The UN Committee on the Rights of the Child states 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.

years of age and 66 per cent were discharged within a week.²⁹⁹ Between January and September 2015, 269 children were admitted to in-patient facilities, 28 per cent of whom were to adult in-patient units.³⁰⁰ Although this is a four per cent decrease on the same period in 2014,³⁰¹ the high numbers remain a concern. All admissions of children under the age of 18 are notified to the Mental Health Commission and to a CAMHS Service Improvement Lead within the Mental Health Division.³⁰²

During this Government's term of office the number of inpatient admissions to adult units has reduced significantly. In 2011 there were 432 admissions of children and adolescents to inpatient units³⁰³ compared to 269 in 2015.³⁰⁴ However, the percentage of children and young people being admitted to adult units still remains high; in 2011 31 per cent of children admitted were to adult inpatient units³⁰⁵ compared to 28 per cent in 2015 (figures from January to September).³⁰⁶ The Mental Health Commission's Code of Practice states that the placement of children in adult wards would be phased out by the end of 2011.³⁰⁷ This voluntary Code of Practice has clearly not been adhered to. The Mental Health Act 2001 does not require that children under 18 years be admitted to age appropriate mental health facilities.³⁰⁸

The Ombudsman for Children in his Annual Report for 2014, reported that he had received a number of complaints in relation to children being inappropriately placed in adult in-patient facilities, particularly children at risk of suicide or self-harm, and that these situations appeared to be due to a lack of suitable emergency child beds.³⁰⁹

During this Government's term of office the number of inpatient admissions has reduced significantly; in 2011 there were 432 admissions of children and adolescents to inpatient units compared to 269 in 2015. However, the percentage of children and young people being admitted to adult units still remains high; in 2011, 31 per cent of children admitted were to adult inpatient units compared to 28 per cent in 2015 (figures from January to September).

288 Health Service Executive, *National Service Plan 2015* (Health Service Executive 2014) 49. 289

289 Health Service Executive, *Child and Adolescent Mental Health Services, Child and Adolescent Mental Health Services Standard Operating Procedure* (Health Service Executive 2015).

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

291 Communication received by the Children's Rights Alliance from the HSE Mental Health Services, 18 December 2015.

292 Health Service Executive, *September Performance Report* (Health Service Executive 2015) 53.

293 UNCRC 'General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art 24)' (2013) UN Doc CRC/C/GC/15 para 2.

294 Department of Health, *Expert Group Review of the Mental Health Act 2001* (Health Service Executive 2015).

295 *ibid* Recommendation 111.

296 *ibid* Recommendation 113.

297 UNCRC 'General Comment No. 4 on Adolescent Health and Development in the Context of the Convention on the Rights of the Child' (2003) UN Doc CRC/GC/2003/4.

298 Health Service Executive, *HSE Mental Health Division Operational Plan for 2015* (Health Service Executive 2014) 21.

299 Communication received by the Children's Rights Alliance from the HSE Mental Health Services, 18 December 2015.

300 Health Service Executive, *September Performance Report* (Health Service Executive 2015) 11.

301 *ibid*.

302 Communication received by the Children's Rights Alliance from the HSE Mental Health Services, 18 December 2015.

303 Health Service Executive, *Fourth Annual Child and Adolescent Mental Health Service Report 2011-2012* (Health Service Executive 2012) 6.

304 Health Service Executive, *September Performance Report* (Health Service Executive 2015) 11.

305 Health Service Executive, *Fourth Annual Child and Adolescent Mental Health Service Report 2011-2012* (Health Service Executive 2012) 6.

306 Health Service Executive, *September Performance Report* (Health Service Executive 2015) 11.

307 Mental Health Commission, *Code of Practice Relating to Admission of Children under the Mental Health Act 2001* (Mental Health Commission 2006).

308 While the primary Act does not prohibit the admission of children and young people to adult in-patient facilities, subsequent rules, codes and guidelines from the Mental Health Commission preclude admission to adult centres.

309 Ombudsman for Children, Ombudsman for Children Annual Report 2014 (Ombudsman for Children 2015) 31.

Mental Health

Immediate Actions for 2016



ENSURE THAT ALL CHILDREN UNDER 18 HAVE ACCESS TO MENTAL HEALTH SERVICES IN A TIMELY MANNER.

Build upon work done during 2015 to reduce the waiting times for first appointments, in particular those waiting over 12 months. Achieving this requires ongoing investment in the development of Child and Adolescent Community Mental Health teams.

ENSURE THAT ALL CHILDREN UNDER 18 YEARS RECEIVE AGE APPROPRIATE MENTAL HEALTH TREATMENT.

Amend 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. Invest in the provision of child and adolescent in-patient beds to ensure demand can be met.

IMPLEMENT THE RECOMMENDATIONS ON CHILDREN OF THE EXPERT GROUP REVIEW OF THE MENTAL HEALTH ACT 2001.

Put in place a legal framework to protect and fulfil the child's rights in relation to mental health by implementing the recommendations relating to children contained in the *Report of the Expert Group Review of the Mental Health Act 2001*.

3.4

Alcohol, Smoking and Drugs

GOVERNMENT COMMITMENT

The *Programme for Government 2011-2016* commits to ensuring that every Government department, agency or task force responsible for implementing elements of the National Addiction Strategy will be required to account to the Minister for their budget annually and to demonstrate progress on achieving targets.



Progress: Some

'Alcohol, Smoking and Drugs' gets a 'B' grade in Report Card 2016, an increase from the 'C' awarded in Report Card 2015. 2015 saw the long awaited publication of the Public Health Alcohol Bill 2015, the successful passage of the Public Health (Standardised Packaging of Tobacco) Act 2015 and a commitment to develop a new Drugs Strategy in 2016.

This is the final year being analysed in the Report Card series under the *Programme for Government 2011-2016* in which a commitment was made to implement across all Government departments the National Addiction Strategy.³¹⁰ This Strategy, which was to address alcohol and drug use in a single strategy for the first time, was never developed. The Government's approach has been to continue to address alcohol misuse, smoking and drug-taking under separate policies.³¹¹

Alcohol: Of Ireland's 4.59 million population it is estimated that 1.34 million people drink harmfully and 176,999 are dependent drinkers.³¹² The phenomenon of binge drinking is evident among adolescents in Ireland. A survey, published in December 2015, found that of children aged between 13 and 17 years, 64 per cent had consumed alcohol, 53 per cent had been drunk at least once and 50 per cent reported that they drink every month.³¹³ The UN Committee on the Rights of the Child has expressed concern 'about the high level of alcohol consumption by adolescents' and has called on Ireland to 'strengthen its efforts to address alcohol consumption by children, by, inter alia, developing and implementing a comprehensive strategy which should include awareness-raising, the prohibition of alcohol consumption by children and advertising that targets children'.³¹⁴

³¹⁰ More commonly referred to as the National Substance Misuse Strategy.

³¹¹ The Government's policy on alcohol derives from Department of Health, *Report of the Steering Group on a National Substance Misuse Strategy* (Department of Health 2012). National policy on smoking is guided by Department of Health, *Tobacco Free Ireland* (Department of Health 2013) and the national policy on drugs is guided by Department of Community, Rural and Gaeltacht Affairs, *Interim National Drugs Strategy 2009-2016* (Department of Community, Rural and Gaeltacht Affairs 2009).

³¹² Health Research Board, 'Irish Alcohol Diary 2013' <http://www.hrb.ie/uploads/media/Alcohol_Consumption_in_Ireland_2013_full_infographic.jpg> accessed 27 January 2016.

³¹³ Alcohol Action Ireland and the Health Promotion Research Centre NUI Galway, *Alcohol marketing and young people's drinking behaviour in Ireland* (Alcohol Action 2015) 8.

³¹⁴ UN Committee on the Rights of the Child 'Concluding Observations: Ireland' (2006) UN Doc CRC/C/IRL/CO/2, paras 19 and 9.

In December 2015, the Government published the long awaited Public Health (Alcohol) Bill 2015. The Bill contains a number of positive measures including the introduction of minimum unit pricing;³¹⁵ a prohibition of price-based promotions; mandatory health warnings and calorie labelling on alcohol products. The legislation also proposes to introduce restrictions on the advertising of alcohol including a prohibition on advertising in places frequented by children;³¹⁶ restrictions on advertising in sports grounds for events where the majority of competitors or participants are children or directly on a sports area for all events (for example on the actual pitch, the race track, tennis court etc.).³¹⁷ It is regrettable that the Bill does not take any measures to address the digital marketing of alcohol, particularly in light of a study published in November 2015 that showed 77 per cent of children aged 13 – 17 have reported exposure to online marketing.³¹⁸

The measures contained in the Bill are critical to ensuring that children's rights to health are vindicated. There was not sufficient time to allow for the passage of the Public Health (Alcohol) Bill 2015 before the end of the current Government's term of office. The continued delay in implementing reform to tackle alcohol misuse is a breach of children's rights under Article 24 of the UN Convention on the Rights of the Child, which obliges the State to protect children from alcohol, tobacco and illicit substances. It further places an onus on Government to take measures to reduce the consumption of these substances among children.³¹⁹

Smoking: The health implications of smoking are well documented and undisputed. Research has shown that nicotine is a highly addictive substance and children can become addicted within weeks of experimenting with tobacco.³²⁰ Half of all smokers

who start smoking as children die prematurely from a smoking related disease.³²¹ A December 2015 study found that the rates of childhood smoking have dramatically decreased since 2010. Only 16 per cent of children aged 10 to 17 years reported that they have ever smoked, a 12 per cent drop from the 2010 figure.³²²

National policy on smoking is guided by the 2013 report, *Tobacco Free Ireland: Report of the Tobacco Policy Review Group* which sets a target of 2025 to have a tobacco free Ireland – defined as a prevalence rate of less than 5 per cent. The national policy contains two key themes: protecting children and the de-normalisation of smoking. In March 2015, an implementation plan for Tobacco Free Ireland was published with targets for the policy's 60 recommendations.³²³

The Public Health (Standardised Packaging of Tobacco) Act 2015 was enacted in March 2015. The Act introduces standardised packaging for tobacco products, which will give effect in part to the revised European Tobacco Products Directive that entered into force in May 2014.³²⁴ Under the Act, all forms of branding – trademarks, logos, colours and graphics – will be removed from tobacco products, except

The continued delay in implementing reform to tackle alcohol misuse is a breach of children's rights under Article 24 of the UN Convention on the Rights of the Child.

for the brand and variant name, which would be presented in a uniform typeface for all brands. It is hoped that the measures introduced will deter young people from smoking. It is essential that this legislation is commenced as a matter of urgency.

Protection of Children's Health (Tobacco Smoke in Mechanically Propelled Vehicles) Act 2014 came into effect in 2015.³²⁵ 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.

Drugs: Article 33 of the UN Convention on the Rights of the Child obliges states to 'take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.'

The key policy guiding work in the area of drug misuse is the *Interim National Drugs Strategy 2009-2016*.³²⁶ Work has begun on the development of a new National Drugs Strategy to tackle the harm caused to individuals, families and communities by problem drug use in Ireland, which will cover the period from 1 January 2017 onwards.³²⁷ The new Strategy will provide an integrated policy approach to substance misuse, including a broad public health approach to tobacco and alcohol, as well as other substances which are subject to control or prohibition.³²⁸ It is essential that a specific focus on children and young people is included in the new National Drugs Strategy.

Article 33 of the UN Convention on the Rights of the Child obliges states to 'take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.'

The nature of drug use in Ireland is continually changing. Research points to concern that children and others in the community are engaged in polydrug use which involves the consumption of a number of substances at the same time. Consumption often includes legally available substances, such as alcohol and prescription drugs, including benzodiazepines, antidepressants or prescribed methadone, with illegal psychoactive substances, such as cocaine and heroin.³²⁹ Research published in December 2015, found that 8 per cent of children and young people aged 10 to 17 have reported using cannabis in the last 12 months.³³⁰ There is little publically available data on access for children to drug treatments. Concern has been raised about the lack of adequate drug treatment services for children with a call for the immediate availability of, and access to, detox facilities and methadone services.³³¹

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

316 Including schools, early years services, playgrounds and train and bus stations. The Bill also sets out the criteria for advertising in cinemas and publications.

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

318 Alcohol Action Ireland and the Health Promotion Research Centre NUI Galway, *Alcohol marketing and young people's drinking behaviour in Ireland* (Alcohol Action 2015) 4.

319 UNCRC 'General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art 24)' (2013) UN Doc CRC/C/GC/15 para 62.

320 Department of Health, *Tobacco Free Ireland* (Department of Health 2013) 53.

321 *ibid* 19.

322 Health Promotion Research Centre, *The Irish Health Behaviour in School-aged Children (HBSC) Study 2014* December 2015 (National University of Ireland, Galway and Department of Health, 2015) 13.

323 Department of Health, 'Tobacco Free Ireland Action Plan' (2015) <<http://health.gov.ie/wp-content/uploads/2015/03/Tobacco-Free-Ireland-Action-Plan.pdf>> accessed 1 December 2015.

324 European Union, 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 Dir

325 Department of Children and Youth Affairs, 'Reilly & Varadkar announce start date for smoking ban in cars where children are present, Law comes into effect on New Year's Day 2016' (17 December 2015) <<http://www.dcy.gov.ie/viewdoc.asp?DocID=3675>> accessed 27 January 2016.

326 Department of Community, Rural and Gaeltacht Affairs, *Interim National Drugs Strategy 2009-2016* (Department of Community, Rural and Gaeltacht Affairs 2009).

327 Damien English TD, Topical Issue Debate Misuse of Drugs, 6 October 2015.

328 Department of Justice, 'Minister Ó Riordáin addresses the first meeting of the National Drugs Strategy Steering Committee' (Merrion Street, 8 December 2015) <http://www.merrionstreet.ie/en/NewsRoom/Releases/Minister_%C3%93_R%C3%ADord%C3%A1in_addresses_the_first_meeting_of_the_National_Drugs_Strategy_Steering_Committee.html> accessed 27 January 2016.

329 CityWide Drugs Crisis Campaign, 'The Drugs Crisis in Ireland: A New Agenda for Action, City Wide Policy Statement' (Drugs and Alcohol.ie, February 2012) <http://www.drugsandalcohol.ie/17145/1/Citywide_the_drugs_crisis_in_ireland_a_new_agenda_for_action.pdf> accessed 13 December 2015.

330 Health Promotion Research Centre, *The Irish Health Behaviour in School-aged Children (HBSC) Study 2014* (National University of Ireland, Galway and Department of Health 2015) 14.

331 Irish Society for the Prevention of Cruelty to Children, *Investing in Childhood: ISPC Childline Pre-2016 Budget Submission* (2015) 7-8.

Alcohol, Smoking and Drugs

Immediate Actions for 2016



ENACT THE PUBLIC HEALTH (ALCOHOL) BILL 2015.

The Public Health (Alcohol) Bill 2015 should be progressed through the Houses of the Oireachtas by the next Government as a matter of priority. Furthermore measures should be taken to address the digital marketing of alcohol.

CONTINUE THE IMPLEMENTATION OF *TOBACCO FREE IRELAND: REPORT OF THE TOBACCO POLICY REVIEW GROUP* AND COMMENCE THE PUBLIC HEALTH (STANDARDISED PACKAGING OF TOBACCO) ACT 2015.

2014 and 2015 were landmark years for the introduction of policies and legislation to deter young people from smoking. It is essential that the Public Health (Standardised Packaging of Tobacco) Act 2015 is commenced as a matter of urgency and that the momentum behind the implementation of *Tobacco Free Ireland* is continued.

ADOPT A SPECIFIC FOCUS ON CHILDREN AND YOUNG PEOPLE WHEN DEVELOPING THE NEW NATIONAL DRUGS STRATEGY.

The Government is urged to adopt a specific focus on children and young people when developing the new National Drugs Strategy to reflect Article 33 of the UN Convention on the Rights of the Child which obliges states to protect children from the illicit drug use and production and trafficking of such substances.

4. RIGHT TO AN ADEQUATE STANDARD OF LIVING

Chapter Grade

E+

“

Every day in our service we witness the lasting impact of poverty on children, including social and emotional problems, early school leaving, unemployment, substance misuse and criminal activity. We have witnessed children steal food because they are hungry. We know children who don't have a proper warm coat in the winter. Increases in welfare and child benefit alone will not help children out of poverty. In our experience in many cases these benefits don't actually reach the child, especially if there is a substance misuse problem at home. Prevention and early intervention work helps to support children and families out of poverty. Departments and agencies must work together in an integrated way to break the child poverty cycle.”

Geraldine O'Driscoll, Centre Manager, Realt Beag, Ballyfermot STAR Child and Family Centre

Right to an Adequate Standard of Living

Every child has the right to a standard of living that is adequate to their development – physical, mental, spiritual, moral and social. While parents and guardians have the primary responsibility to provide for the child's material needs, the State also has the responsibility to assist parents and guardians to alleviate poverty where needed.

Summary of Article 27 of the UN Convention on the Rights of the Child

4.1

Child Poverty**GOVERNMENT COMMITMENT**

The *Programme for Government 2011-2016* 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: Unsatisfactory**

'Child Poverty' gets an 'E-' grade in Report Card 2015, a slight increase from the 'F' grade awarded in 2015. Despite the positive measures contained in Budget 2016 and a small improvement in the rate of child poverty, over 11 per cent of children are living in consistent poverty (an indicator that measures both poverty and deprivation). ³³²

This is the final year being analysed in the Report Card series under the *Programme for Government 2011-2016*, in which the objective was set to eliminate poverty and to achieve the targets in the *National Action Plan for Social Inclusion*. The Plan contains a commitment to reduce the number of those experiencing consistent poverty to between two and four per cent by 2012, with the aim of eliminating consistent poverty by 2016³³³ which has since been revised. The National Social Target for

Poverty Reduction sets a target to reduce consistent poverty to four per cent by 2016 and to two per cent or less by 2020, from the 2010 baseline rate of 6.3 per cent.³³⁴ While the Plan did not contain a child specific target it contained four high level goals relating to children, three of which relate to education and one was concerning income supports.³³⁵

Child poverty has deepened in Ireland during the *Programme for Government*. In 2011 9.3 per cent³³⁶ of children were living in consistent poverty and this rose to 11.2 per cent in 2014.³³⁷ Children in certain situations are particularly at risk of poverty, including children in lone parent families, children in jobless households,³³⁸ Traveller and Roma children,³³⁹ children living in direct provision centres,³⁴⁰ children with a disability³⁴¹ and homeless children.³⁴²

332 Central Statistics Office, *Survey on Income and Living Conditions (SILC) 2014* (CSO November 2015). Consistent poverty is measured using income and 11 deprivation indicators – 4 on material deprivation (clothing, footwear and furniture); 2 on food poverty; 2 on energy poverty and 3 on the ability of a child to participate in normal childhood social activities, such as buying a birthday present or going on a family outing. For more see: Department of Social Welfare, 'What is Poverty' <<http://www.socialinclusion.ie/poverty.html>> accessed 29 January 2016.

333 The Office of Social Inclusion, *National Action Plan For Social Inclusion 2007-2016* (Stationary Office 2007) 13.

334 Department of Social Protection, 'The National Social Target for poverty reduction' <http://www.welfare.ie/en/Pages/The-National-Social-Target-for-poverty-reduction_holder.aspx> accessed 29 January 2016.

335 *National Action Plan For Social Inclusion 2007-2016* (Stationary Office 2007) 30.

336 Central Statistics Office, *Survey on Income and Living Conditions (SILC) 2011* (CSO 2012) 9.

337 Central Statistics Office, *Survey on Income and Living Conditions (SILC) 2014* (CSO November 2015).

338 The Office of Social Inclusion, *National Action Plan For Social Inclusion 2007-2016* (Stationary Office 2007) 31.

339 *ibid* 35.

340 Health and Information Quality Authority, *Report on inspection of the child protection and welfare services provided to children living in direct provision accommodation under the National Standards for the Protection and Welfare of Children, and Section 8(1) (c) of the Health Act 2007*, (HIQA, 25 May 2015) 14.

341 The Office of Social Inclusion, *National Action Plan For Social Inclusion 2007-2016* (Stationary Office 2007) 31.

342 *ibid* 35.

**IN THE NEWS****HOMELESS CHILDREN WORRIED SANTA WON'T FIND THEM**

Kildare Now, 15 December 2015

Homeless children in Co Kildare are worried that Santa will not be able to find them, according to a new ISPCCC report.

As the ISPCCC launches a new Childline service, dedicated to providing emotional support to homeless children, it has highlighted the type of worries for children who find themselves in temporary accommodation.

Speaking today at the launch of the new service, ISPCCC CEO Grainia Long said: "Losing a home is traumatic at any age, but for a child it can be extremely destabilising. Childline is a national listening service, and our volunteers have lots of experience in supporting children through difficult times. That's why we are launching a service that will give homeless children the opportunity to talk.

Some children miss toys that have been packed away, others worry whether Santa will find them in their new home, and some worry about noise and new environments. Many children report feeling uncertain about the future, and are often worried about their parents and siblings as they see the level of stress they are under."

The service will provide non-directive listening; it is intended to complement child and family support services provided by other agencies and is not an alternative to one-to-one support, which will remain a key requirement for families living in temporary accommodation. [...]

The Government must uphold its international obligations, including those 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.³⁴³ The UN Committee on the Rights of the Child is clear that implementation of children's socio-economic rights is not a charitable process but a basic obligation of Government³⁴⁴ and that a financial crisis should not be used as a reason to postpone action to fulfil the State's obligations to tackle child poverty.³⁴⁵ In 2015, the UN Committee on Economic, Social and Cultural Rights expressed concern about the high number of people living in consistent poverty in Ireland and recommended that the State 'step up' its efforts to reduce poverty through adopting poverty reduction programmes and strategies.³⁴⁶

The EU Commission's *Recommendation on Investing in Children* sets out a concrete roadmap for addressing child poverty which draws on the UN Convention on the Rights of the Child.³⁴⁷ The Commission recommends tackling child poverty and social exclusion through integrated strategies encompassing not only children's material security but also the promotion of equal opportunities. A three pronged approach is recommended. The first prong is concerned with access to adequate resources through supporting parents' participation in the labour market and providing for adequate living standards through a combination of cash income and in-kind benefits.³⁴⁸ The second prong is securing access to affordable quality services

through investing in early childhood care and education, improving education systems' impact on equal opportunities, improving the responsiveness of the health systems to address the needs of disadvantaged children, provision of housing and enhancing family support.³⁴⁹ The third focuses on children's right to participate in decision-making that affects their lives as well as to participate in play, recreation, sport and cultural activities.³⁵⁰

Child Poverty Targets: Under the EU 2020 Strategy, Ireland has committed to lift 200,000 people out of poverty by 2020.³⁵¹ The national child-specific social target, set in *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020*, commits to lifting over 70,000 children out of consistent poverty by 2020, a reduction of at least two-thirds on the 2011 level.³⁵² The target has been adjusted to take account of the increase in child poverty since the target was set. The target is now to lift 97,000 children out of consistent poverty by 2020.³⁵³

The Government must uphold its international obligations, including those 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.

The Department of Social Protection is leading the preparation of a whole-of-government Implementation Plan to meet the child poverty target. This work was adopted as one of five key priorities for 2015 under the *National Policy Framework*.³⁵⁴ The Implementation Plan for the national child poverty target should use the European Commission Recommendation on Investing in Children as a roadmap and adopt the three pronged approach.³⁵⁵

Key challenges for families on low income include the cost of housing, healthcare, education and childcare. The Implementation plan must include a focus on improving the affordability of key public services for families with children as well as a focus on child and family income supports.

The European Commission has set two Country Specific Recommendations for Ireland including a recommendation on child poverty where it calls on the Government to 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.'³⁵⁶ Secondly, it recommends that Government improve access to affordable and full-time childcare, in particular for low income families.³⁵⁷

Income Supports: The European Commission Recommendation on Investing in Children places a significant focus on both supporting parents' participation in the labour market and supporting family incomes through adequate benefits and minimum income schemes.³⁵⁸ Budget 2016

maintained the weekly rate of payment for the majority of primary social welfare payments and reduced the Universal Social Charge (USC) for all workers in Budget 2016, meaning more money in people's pockets.³⁵⁹ There was an increase of 50 cent per hour for the statutory national minimum wage bringing it to €9.15 per hour. While this is a very positive step, it is still well below the living wage (the wage which makes possible a minimum acceptable standard of living)³⁶⁰ of €11.50 per hour.³⁶¹ In another positive development, 2015 saw the establishment of the Low Pay Commission³⁶² to advise on the appropriate rate of the National Minimum Wage. It published its first report on the National Minimum Wage in July 2015.³⁶³

In Budget 2016, the Child Benefit payment was increased by €5 per month to €140 per child. Child Benefit 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. 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.³⁶⁴ 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. Once again in Budget 2016 the Government failed

343 UNCRC 'General Comment No. 5 General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)' (2003) Un Doc CRC/GC/2003/5 para 8.
 344 UNCRC 'General Comment No. 5 General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)' (2003) Un Doc CRC/GC/2003/5 para 6.
 345 UNCRC, 'Day of General Discussion on 'Resources for the Rights of the Child – Responsibility of States' (21 September 2007) <http://www.ohchr.org/EN/HRBodies/CRC/Pages/DiscussionDays.aspx> accessed 29 January 2016.
 346 UN Committee on Economic, Social and Cultural Rights 'Concluding Observations for Ireland' (2015) UN Doc E/C.12/IRL/CO/3 para 24.
 347 European Commission 'Recommendation on Investing in Children: breaking the cycle of disadvantage' (20 February 2013) C(2013) 778.
 348 *ibid* 3-4.
 349 *ibid* 4-5.
 350 *ibid* 5-6.
 351 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.
 352 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (Department of Children and Youth Affairs 2014) Commitment 4.2. This target includes 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).
 353 Communication received by the Children's Rights Alliance from the Department of Social Protection, 2 December 2015.

354 The Department is working with five partner departments to develop and implement a whole-of-government, multi-dimensional approach to tackling child poverty. This group has met twice with a child poverty subgroup co-convened by the Department of Social Protection and the Children's Rights Alliance as part of the National Advisory Council for the Implementation of the National Policy Framework.
 355 European Commission 'Recommendation on Investing in Children: breaking the cycle of disadvantage' (20 February 2013) C (2013) 778, 3-5.
 356 European Commission, *Council recommendation on Ireland's 2014 national reform programme and delivering a Council opinion on Ireland's 2014 stability programme* (European Commission 2014) 7.
 357 *ibid*.
 358 European Commission 'Recommendation on Investing in Children: breaking the cycle of disadvantage' (20 February 2013) C(2013) 778, 3.
 359 From January 2016, gross incomes below €13,000 will be exempt from USC, ensuring 700,000 earners will not be liable to USC. There will be a reduction of 1% in the rate of USC paid on incomes under €12,012; reduction of 3% on incomes from €12,013 to €18,668; and a reduction of 5.5% on incomes from €18,669 to €70,044.
 360 The Living Wage is a wage which makes possible a minimum acceptable standard of living. In principle, a living wage is intended to establish an hourly wage rate that should provide employees with sufficient income to achieve an agreed acceptable minimum standard of living. In that sense it is an income floor, representing a figure which allows employees afford the essentials of life. Earnings below the living wage suggest employees are forced to do without certain essentials so they can make ends-meet. For more information see: Living Wage <www.livingwage.ie> accessed 7 January 2016.
 361 *ibid*.
 362 Established Under National Minimum Wage (Low Pay Commission) Act, 2015.
 363 Low Pay Commission, *Recommendations for the National Minimum Wage* (LPC NO. 1 Low Pay Commission 2015).
 364 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.

to reverse the cuts to the means-tested Back to School Clothing and Footwear Allowance which removed income from vulnerable households. The current payment of €100 for a child under 11 years and €200 for a child of 12 years or over does not cover the average cost of clothing and shoes for school-going children. In 2015, the average costs of a primary school child's clothing or uniform and shoes cost between €150 and €165 and the costs for a secondary school pupil was €255.³⁶⁵ The Back to School Clothing and Footwear Allowance is a means-tested payment so it is a targeted method of supporting parents with the cost of sending their children to school and of addressing child poverty.

The social welfare system provides an important safety net for many families.³⁶⁶ However the increases in Budget 2016 did not go far enough to address the gap that has deepened between social welfare rates and the cost of living.³⁶⁷ Households with adolescent children are experiencing the greatest shortfall of income.³⁶⁸ Aside from the Back to School Clothing and Footwear Allowance, child income supports, including the Child Benefit payment, do not take account of the increase in cost for adolescent children. An age differential should be introduced to take account of this reality.

In-Kind Benefits: The European Commission Recommendation on Investing in Children places a significant focus on complementing cash income with in-kind benefits and highlights in particular nutrition, childcare, education, health, housing, transport and access to sports or socio-cultural activities.³⁶⁹ Budget 2016 contained a number of welcome measures including the extension of the Free GP Care scheme to children aged between 6 and 12,³⁷⁰ improvements to the Community Childcare Subvention programme,³⁷¹

and the extension of the Early Childhood Care and Education Scheme.³⁷²

Two particular aspects of child poverty will now be examined – lone parent families and food poverty as these are issues that are continuously raised by our members in consultations on poverty.

One Parent Families: One parent family households have the highest consistent poverty rate of any household type at 22.1 per cent.³⁷³ Supporting the employability and participation of single parents in the workforce is a key action in the European Commission's Recommendation on Investing in Children.³⁷⁴ Until 2012, the One Parent Family Payment was available to a lone parent of a child up to the age of 18 years who satisfied the qualifying criteria and means-test. Since then a series of measures have been introduced the final phase of which set the age threshold of the youngest child for new recipients to seven years in July 2015.³⁷⁵ Although lone parents may be eligible for other social welfare payments, they continue to face structural barriers which hinder their engagement in the labour market. Key among these barriers is access to affordable high-quality childcare and after-school supports, affordable housing and well paid family-friendly employment opportunities.³⁷⁶

One parent family households have the highest consistent poverty rate of any household type at 22.1 per cent.

Food poverty has been exacerbated by the recession. Since 2010, the percentage of people experiencing food poverty in Ireland has risen from 10 to 13.2 per cent. A 2015 report found that 22 per cent of children aged between 10 and 17 years have gone to school or to bed hungry because there was not enough food at home.

Budget 2016 provided some positive measures for lone parents and families on low incomes,³⁷⁷ including an €18 million increase in the Family Income Supplement (FIS),³⁷⁸ weekly income thresholds by €5 for a family with one child and by €10 for a family with two children or more from January 2016,³⁷⁹ and an increase in the earnings disregard for the Jobseeker's Transitional Payment from €60 to €90, with effect from January 2016 for existing and new recipients.³⁸⁰

Food Poverty: Food poverty has been exacerbated by the recession. Since 2010, the percentage of people experiencing food poverty in Ireland has risen from 10 to 13.2 per cent.³⁸¹ A 2015 report found that 22 per cent of children aged between 10 and 17 years have gone to school or to bed hungry because there was not enough food at home.³⁸² There is no national

strategy on food poverty. Research found that the rate of social welfare payments and level of earnings based on the minimum wage in Ireland are such as to make eating a healthy diet difficult.³⁸³ The risk of low income families experiencing food poverty is related to the age of their children, with expenditure greatest when a child is an infant (who has specific dietary requirements) or a teenager (who need to consume more food) in the household.³⁸⁴

The School Meals Programme, funded through the Department of Social Protection, continues to be a positive way of ensuring regular food services for disadvantaged school children. In 2015, over 217,000 children in over 1,700 schools and local organisations benefitted from this programme.³⁸⁵ A total of €42 million has been allocated to the School Meals Programme for 2016, an increase of €3 million on 2015. However, the programme does not cover the cost of kitchen equipment, facilities or salaries, training for staff or repurposing of space within the school to provide food in a safe and social way. This forces schools to take from their core budget or charge students to implement the programme.³⁸⁶ Unlike other European countries, Ireland has a poor infrastructure of kitchen facilities in schools.³⁸⁷ The School Meals Programme is not universal, an application process is in place and priority is given to schools which are part of the DEIS initiative.³⁸⁸ There are no mechanisms to support non-formal education and early-years settings to address food poverty.

365 Barnardos, *School Costs Survey Briefing 2015* (Barnardos 4 August 2015) 7.

366 Dorothy Watson and Bertrand Maitre, *Social Transfers and Poverty Alleviation in Ireland: An Analysis of the Survey on Income and Living Conditions 2004–2011* (Department of Social Protection and the Economic and Social Research Institute 2013) xi–xii.

367 Vincentian Partnership for Social Justice, *Budget 2016: Minimum Essential Budget Standards Impact Briefing October 2015* (Vincentian Partnership for Social Justice 2015)1.

368 The urban two parent household with a primary and secondary school child for example has a shortfall of €117 per week, which when calculated on an annual basis is €6,000. Vincentian Partnership for Social Justice, *Minimum Essential Standard Of Living 2015* (Vincentian Partnership for Social Justice 2015)17–18.

369 European Commission 'Recommendation on Investing in Children: breaking the cycle of disadvantage' (20 February 2013) C(2013) 778, 3.

370 See section 3.1 for more.

371 See Section 2.1 for more.

372 See Section 2.1 for more.

373 Central Statistics Office, *Survey on Income and Living Conditions (SILC) 2014* (CSO November 2015).

374 European Commission 'Recommendation on Investing in Children: breaking the cycle of disadvantage' (20 February 2013) C(2013) 778, 3.

375 Communication received by the Children's Rights Alliance from the Department of Social Protection, 2 December 2015.

376 See: Start Strong, 'The Double Dividend: Childcare that's Affordable and High Quality' (June 2014) <http://www.startstrong.ie/files/Double_Dividend_Policy_Brief_Web2.pdf> accessed 29 January 2016. Vincentian Partnership for Social Justice, *Minimum Income Standard and the Cost of Childcare* (Vincentian Partnership for Social Justice 2015).

377 Department of Social Protection, *Social Impact Assessment of the Welfare and Income Tax Measures in Budget 2016* (Department of Social Protection November 2015) 6.

378 FIS is an in-work support for employees with families on low earnings.

379 The level of FIS payment is based on 60% of the shortfall between net weekly family income and the applicable weekly family threshold. The measure will benefit nearly 60,000 families and over 131,000 children, including an additional 1,500 households and 3,365 children becoming eligible for FIS as a result of the increase in income thresholds.

380 This will benefit lone parent families who transitioned from One Parent Family Payment. All earnings above €90 will be assessed at 50% (currently assessed at 60%). The measure will cost €8 million a year, and is expected to benefit 5,900 recipients in 2016.

381 Department of Social Protection, *Social Inclusion Monitor 2013* (Department of Social Protection 2015) 39.

382 National University of Ireland, Galway, *The Irish Health Behaviour in School-aged Children (HBSC) Study 2014* (Department of Health 2015) 14.

383 B. MacMahon, and G. Weld, *The cost of a minimum essential food basket in the Republic of Ireland: Study for six household types* (Safefood 2015) 63.

384 B. MacMahon, G. Weld, R. Thornton and M. Collins, *The Cost of a Child: A Consensual Budget Standards Study Examining the Direct Cost of a Child Across Childhood* (Vincentian Partnership for Social Justice 2012) 32.

385 Communication received by the Children's Rights Alliance from the Department of Social Protection, 2 December 2015.

386 Communication received by the Children's Rights Alliance from the Irish Heart Foundation, 20 April 2015.

387 Educational Disadvantage Centre, 'Hunger Prevention in Schools Strategy Group' <<https://www.spd.dcu.ie/site/edc/HungerPreventioninSchools.shtml>> accessed 29 January 2016.

388 Communication received by the Children's Rights Alliance from the Department of Social Protection, 2 December 2015.

Child Poverty

Immediate Actions for 2016



PUBLISH AN AMBITIOUS IMPLEMENTATION PLAN TO ACHIEVE THE CHILD POVERTY TARGET.

The Implementation Plan to achieve the Child Poverty Target currently being developed under the *National Policy Framework for Children and Young People 2014-2020* should be rights based and 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.

INTRODUCE AN AGE DIFFERENTIAL IN CHILD INCOME SUPPORTS FOR FAMILIES WITH CHILDREN OVER 12 YEARS.

Aside from the Back to School Clothing and Footwear Allowance, child income supports, including the Child Benefit payment, do not take account of the increase in cost for adolescent children. An age differential should be introduced to take account of this reality.

TAKE MEASURES TO ADDRESS POVERTY AMONG ONE PARENT FAMILIES.

One parent family households have the highest consistent poverty rate at 22.1 per cent.³⁸⁹ A review should be undertaken to assess the impact of the One Parent Family Payment reforms on child poverty rates and work activation and to recommend measures that can address poverty among these families.

REMODEL THE FUNDING SYSTEM FOR THE SCHOOL MEALS SCHEME.

The School Meals Scheme should be remodelled to cover both capital and non-food operating costs. Extend the scheme to enable the provision of affordable and nutritious breakfast, lunch and dinner meals in DEIS schools and more limited provision to all publicly-funded schools. Extend access to the Scheme to early years and non-formal education settings for young people. Develop a cross departmental national strategy on school food provision and food poverty with the Department of Social Protection, the Department of Health and the Department of Education and Skills.

389 Department of Social Protection, *Social Impact Assessment of the Welfare and Income Tax Measures in Budget 2016* (Department of Social Protection November 2015) 8.

4.2

Children and the Social Welfare System

GOVERNMENT COMMITMENT

The *Programme for Government 2011-2016* 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: Complete

'Children and the Social Welfare System' gets a 'D' grade, a fall from last year's 'D+' grade. The Government has fulfilled its commitment to have the Commission on Taxation and Social Welfare examine and make recommendations on the interaction between the tax and welfare system. However, no action has been taken on the report's recommendations.

This is the final year being analysed in the Report Card series under the *Programme for Government 2011-2016*, in which the objective was set to examine and make recommendations on the interaction between taxation and the welfare system to ensure that work is worthwhile. *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* 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.'³⁹⁰

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. Article 27 is a qualified right,³⁹¹ subject to the economic conditions of the State. That said, children should not disproportionately bear the brunt of budgetary cuts. 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.³⁹²

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

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

391 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.

392 UNCRC 'General Comment No. 5 General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)' (2003) Un Doc CRC/GC/2003/5 para 8.

The report 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. The recommendations have not as of yet been accepted or acted on by Government. It is understood that a 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.

Mangan – has now concluded its work on child income support with its report being published in February 2013.³⁹³ The report 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.³⁹⁴ The recommendations have not as of yet been accepted or acted on by Government.³⁹⁵ It is understood that a 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. This report has been completed and is with the Minister for Social Protection for her consideration.³⁹⁶ The Advisory Group's report on working age income should be published to facilitate debate.

4.3

Area Based Approach to Tackling Child Poverty

GOVERNMENT COMMITMENT

The *Programme for Government 2011-2016* 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: Steady

'Area Based Approach to Tackling Child Poverty' gets a 'C+' grade in Report Card 2016, the same grade awarded last year. This grade recognises the fact that all 13 projects are now under contract and have commenced operations. It also reflects the robust framework in place for evaluation and management.

This is the final year being analysed in the Report Card series under the *Programme for Government 2011-2016* in which a commitment was made to adopt a new area based approach to child poverty, drawing on international best practice and existing services to tackle every aspect of child poverty. The Government committed to roll this model out in up to ten of Ireland's most disadvantaged communities. In April 2014, the Government reiterated its commitment to implement the ABC programme in *Better Outcomes, Brighter Futures: The National Policy Framework for Children and*

Young People 2014-2020 as a way to address 'the impact of child poverty and improve child outcomes', and committed to 'mainstream the learning from the programme to services throughout the country'.³⁹⁷

The UN Committee on the Rights of the Child recognises the negative impact of growing up in poverty.³⁹⁸ The UN Human Rights Council has stated that 'equitable, continuous and broad-based investment in children can level the playing field by providing every child with the same opportunities for survival and development' and noted that 'inadequate investment, especially in the most vulnerable and marginalized, can perpetuate the intergenerational transmission of poverty and inequality, leading to irreversible negative impact on children's development'.³⁹⁹

Following a public call for proposals in April 2013, the Department of Children and Youth Affairs selected

393 Department of Social Protection, *Report of the Advisory Group on Tax and Social Welfare First Report: Child and Family Income Supports* (Department of Social Protection 2012).

394 *ibid* 28 -29.

395 Recommendations included 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.

396 Communication received by the Children's Rights Alliance from the Department of Social Protection, 26 November 2015.

397 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (Department of Children and Youth Affairs 2014) Commitment 4.1, 93.

398 UNCRC 'General Comment No. 7: Implementing Child Rights in Early Childhood' (2005) UN Doc CRC/C/GC/7/Rev.1 para 10.

399 UN Human Rights Council, 'Towards better investment in the rights of the child, Report of the United Nations High Commissioner for Human Rights' UN Doc A/HRC/28/33 (19 December 2014) para 4.

13 successful sites,⁴⁰⁰ exceeding the Government's commitment to fund up to ten sites.⁴⁰¹ By 2015, all sites came under contract and commenced operations.⁴⁰² The programme is a joint initiative of the Department of Children and Youth Affairs and The Atlantic Philanthropies. Over a three year period, €29.7 million has been committed to the programme.⁴⁰³

In the *Programme for Government* it was committed to draw on best international practice and existing services in rolling out this new programme. At the application stage, applicants were asked to demonstrate an evidence base for the practices which they were seeking to implement and to include evidence informed practices which had been successfully trialed, preferably in Ireland.⁴⁰⁴ In addition, applicants were required to demonstrate how existing services, practices and resources will be made more efficient and more effective as a result of the project.⁴⁰⁵

The programme was targeted at areas where the cycle of child poverty is most deeply entrenched with sites required to demonstrate high levels of entrenched child poverty, having regard to measurements of poor outcomes for children and young people as well as other relevant measures of disadvantage.⁴⁰⁶ In implementing the *Programme for Government* commitment to 'tackle every aspect of child poverty' the design of the ABC programme adopted a more focused approach of addressing the effects of poverty on children in four key areas: child development, child wellbeing, parenting and educational disadvantage.⁴⁰⁷

In 2015, the Department of Children and Youth Affairs established the ABC Programme 'Mainstreaming the Learning' Task Group to explore the issue of mainstreaming.⁴⁰⁸ The Task Group is examining the challenge of how to mainstream the learning of the processes and programmes that worked into mainstream provision, rather than committing to replicate the approach of an individual site on a national basis. The Task Group comprises representatives from a number of ABC and former Prevention and Early Intervention Programme (PEIP) sites, the Centre for Effective Services, Pobal and nominees from the Department of Children and Youth Affairs and The Atlantic Philanthropies. In November 2015, the Task Group presented its initial discussion paper outlining feasible options in relation to mainstreaming to the ABC Interdepartmental Project Team.⁴⁰⁹ This paper will be further informed by the hosting in Dublin in February 2016 of an EU Peer Review event on effective prevention and early intervention for children, particularly those at risk of poverty, and strategies adopted in mainstreaming this learning.⁴¹⁰

This paper will be further informed by the hosting in Dublin in February of this year of an EU Peer Review event on effective prevention and early intervention for children, particularly those at risk of poverty, and strategies adopted in mainstreaming this learning.

Evaluation: An evaluation approach for the ABC Programme has been agreed. It adopts a standardised approach across the 13 sites and employs a shared measurement framework, detailing common measures to be collected on core outcomes and implementation processes. Analyses of outcomes data will be conducted for each site, in addition to aggregated analyses of the overall outcomes achieved by the ABC Programme.⁴¹¹ The purpose of the evaluation is to determine how the outcomes for children and families in ABC Sites change; to what extent did the ABC Programme make progress in implementing evidence-informed programmes and approaches; and what were the costs of services provided.⁴¹²

The evaluation will examine outcomes, implementation and cost using a range of quantitative and qualitative methods including pre- and post-outcomes assessments, online surveys, focus groups and interviews.⁴¹³ The evaluation will consider the implementation from both local and national perspectives. National interim reports will be provided from mid-2016.⁴¹⁴ The final national evaluation reports will be produced in 2018.⁴¹⁵

An evaluation approach for the ABC Programme has been agreed. It adopts a standardised approach across the 13 sites and employs a shared measurement framework, detailing common measures to be collected on core outcomes and implementation processes. Analyses of outcomes data will be conducted for each site, in addition to aggregated analyses of the overall outcomes achieved by the ABC Programme.

400 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 northside 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).

401 Department of Children and Youth Affairs, 'Government announces €30m investment in new ABC (Area-Based Childhood) programme' (27 November 2013) <<http://www.dcy.gov.ie/viewdoc.asp?DocID=3034>> accessed 29 January 2016.

402 Department of Children and Youth Affairs, 'Area Based Childhood Programme 2013-2017' <http://www.dcy.gov.ie/viewdoc.asp?fn=%2Fdocuments%2FNational_Childrens_Advisory_Council_L.htm&mn=betq&nID=3&nID=1> accessed 29 January 2016.

403 Government funding of €14.85 million is being matched by The Atlantic Philanthropies.

404 Department of Children and Youth Affairs, *Area Based Response to Child Poverty Programme 2013 – 2016* (Department of Children and Youth Affairs April 2013) 7.

405 *ibid* 9.

406 *ibid* 5.

407 *ibid* 6.

408 Mainstreaming involves discerning the key factors and features of effective responses delivered through a range of prevention and early intervention sites and transferring this learning into more established domains of policy and provision to improve outcomes for children and young people.

409 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2016.

410 *ibid*.

411 Communication received by the Children's Rights Alliance from the Centre for Effective Services, 8 January 2016.

412 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2016.

413 *ibid*.

414 Minister for Children and Youth Affairs, Dr James Reilly, Parliamentary Questions, Written Answers, 21 October 2015 [35510/15].

415 *ibid*.

Area Based Approach to Tackling Child Poverty

Immediate Action for 2016



MAINSTREAM LEARNINGS FOUND TO BE SUCCESSFUL UNDER THE ABC PROGRAMME.

The learning from the evaluation of the ABC Programme should be incorporated where possible into mainstream services to deliver better outcomes for children and their families across both rural and urban settings.

4.4

Child and Youth Homelessness

GOVERNMENT COMMITMENT

The *Programme for Government 2011-2016* commits to ending long-term homelessness and the need to sleep rough. To address the issue of existing homelessness it commits to reviewing and updating the existing Homeless Strategy, including a specific focus on youth homelessness, and taking into account the current demands on existing housing and health services with a view to assessing how to best provide additional services.



Progress: Unsatisfactory

'Child and Youth Homelessness' receives an 'F' grade in Report Card 2016, a fall from last year's 'D+' grade. Homelessness among families with children has reached crisis point with numbers increasing month on month.

This is the final year being analysed in the Report Card series under the *Programme for Government 2011-2016*, in which the objective was set to end long-term homelessness and the need to sleep rough. To achieve this the Government committed to review and update the existing Homeless Strategy, include a specific focus on youth homelessness, and take into account the current demands on existing housing and health services with a view to assessing how to best provide additional services. While the the Department of Environment, Community and Local Government did issue a new *National Homelessness Policy Statement* in 2013,⁴¹⁶ and measures have been put in place to end the need to sleep rough,⁴¹⁷ the rate of homelessness among families with children has risen dramatically. Following a 2013 review of the

Youth Homelessness Strategy, the policy response to youth homelessness is now integrated into the child protection and welfare service, rather than set out in a stand-alone strategy.⁴¹⁸ In assessing the Programme for Government commitment, this section looks at four key areas: homeless families with children, housing, youth homelessness and aftercare.

Under Article 27(3) of the UN Convention on the Rights of the Child states have an obligation to assist parents and guardians and shall 'in cases of need provide material assistance and support programmes particularly with regard to nutrition, clothing and housing.' Furthermore, children have a right to adequate housing under Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) which the UN has stated should not be interpreted in a restrictive manner but should be seen as 'the right to live somewhere in security, peace and dignity.'⁴¹⁹ For housing to be deemed adequate it should be: accessible; habitable; affordable; households should have legal security

⁴¹⁶ Department of the Environment, Community and Local Government, National Homelessness Policy Statement (Department of the Environment, Community and Local Government 2013 <<http://www.environ.ie/en/PublicationsDocuments/FileDownload,32434,en.pdf>> accessed 29 January 2016.

⁴¹⁷ These include the provision of additional accommodation and an establishment of an all night Cafe in Dublin.

⁴¹⁸ Department of Children and Youth Affairs, *Every Child a Home: A Review of the Implementation of the Youth Homelessness Strategy* (DCYA 2013).

⁴¹⁹ CESCR 'General Comment No.4 on the Right to Adequate Housing (Art. 11 (1) of the Covenant)' (1991) UN Doc E/1992/23.

of tenure; should contain certain facilities essential for health, security, comfort and nutrition; and be in a location which allows access to employment options, health-care services, schools, childcare centres and other social facilities.⁴²⁰

In 2015 the Committee on Economic, Social and Cultural Rights expressed concern at the increased cost of renting in the face of reduced family incomes and the ineffective support programmes which do not reflect rent increases and the growing number of families and children that are homeless or are at risk of being homeless as a result of the lack of social housing and the inadequate levels of rent supplement.⁴²¹ The Committee made a number of recommendations, including to review policies to make housing more effective for disadvantaged and marginalised groups in society, to step up efforts to increase the number of social housing units so as to satisfy the high demand and to reduce the long waiting list and increasing rent supplement levels.⁴²²

Homeless Families with Children: The number of families experiencing homelessness has increased dramatically. In October 2015, there were 774 families, with 1,638 children, living in emergency accommodation.⁴²³ The number of children becoming homeless rose by 90 per cent during 2015 and children now account for almost one-third

In October 2015, there were 774 families, with 1,638 children, living in emergency accommodation. The number of children becoming homeless rose by 90 per cent during 2015 and accounts for almost one-third of the homeless population.

of the homeless population. The majority of these homeless families were in Dublin.⁴²⁴

The quality of emergency accommodation being offered to families – in hotel rooms and bed and breakfast (B&B) accommodation – is sometimes inappropriate for family life. Children are living in unsuitable temporary accommodation that is not designed for homeless families, and is usually provided without appropriate housing management or support services.⁴²⁵ Many families are living in one room with no privacy and no access to safe cooking and washing facilities.⁴²⁶ The lack of available accommodation means that families have become stuck in emergency accommodation for months on end.⁴²⁷ There is often no safe and secure areas for children to play or do homework, in many cases children have to travel long distances to remain in the school which they were attending prior to their family becoming homeless.⁴²⁸ Long-term living in inappropriate emergency accommodation is not conducive to a child's development, well-being, health and education.

Child welfare and protection issues arise where families are living in shared emergency homeless accommodation, such as hotels and B&B accommodation, with staff who are not Garda vetted to assess their suitability for working in proximity to children.⁴²⁹ It is imperative that Tusla - the Child and Family Agency, conducts a children's rights audit of emergency homeless accommodation placing a particular focus on child protection, welfare and development. The purpose of this audit would be to identify risks and best practice. Following the audit, minimum child protection standards should be put in place for any temporary accommodation used by families with children to ensure compliance with the *Children First* national guidelines.⁴³⁰ These standards should include the appointment of a Designated

Liaison Person to receive information on child protection issues and link with Statutory Agencies; establishment of a Complaints Procedure; measures to ensure the owner/proprietor meets a 'fit and proper person' test; and that there is a secure area for children to play and that this place is only for children and accompanying adults (not for other guests).⁴³¹ Any child subject to child protection measures should not be moved outside of their local area as this would undermine their access to services and consistent intervention by Tusla.⁴³²

A 20 point Action Plan agreed at the end of 2014 contained a commitment that Tusla and Dublin City Council will coordinate operations to ensure that services are fully responsive to the protection and welfare needs that might arise for families in emergency accommodation.⁴³³ Work has commenced on the creation of a multi-agency protocol to clarify individual agency and multi-agency responsibilities in regard to homelessness being led by Tusla.⁴³⁴ Tusla has also put in place a number of new initiatives working with relevant services to maximise supports available to families who are homeless.⁴³⁵ Measures include; the appointment of a Homelessness Liaison Officer to lead Tusla engagement with other services, particularly in relation to child protection; linking with the Dublin Region Homeless Executive to ensure

access for children and families to Family Resource Centres and guidance for Home School Community Liaison and School Completion staff on helping children and families to maintain regular school attendance.

Housing: Budget 2016 saw an additional €17 million allocated to address homelessness, bringing the 2016 allocation to €70 million. In addition, €811 million was allocated for housing programmes.⁴³⁶ In addition to Budget 2016, the Government announced the new *Capital Plan (Building on Recovery: Infrastructure and Capital Investment 2016-2021)* which pledged funding of almost €3 billion in support of the *Social Housing Strategy 2020*.⁴³⁷

The rise in homelessness is set against the backdrop of a very large number of households on the social housing waiting list – 89,872 households in 2013, with 47 per cent waiting seven years or more.⁴³⁸ In October 2015, the Government approved an immediate initiation of a programme for the early delivery of 500 units of modular housing.⁴³⁹ The first 22 homes were expected to be completed in Ballymun by 21 December 2015⁴⁴⁰ with a further 128 units to be delivered by February 2016 on various sites in the Dublin City Council.⁴⁴¹ None of the modular housing units have yet been delivered.⁴⁴²

420 *ibid* para 8.

421 UN Committee on Economic, Social and Cultural Rights 'Concluding Observations for Ireland' (2015) UN Doc E/C.12/IRL/CO/3 para 26.

422 *ibid* para 27.

423 Department of the Environment, Community and Local Government, 'Homeless Persons, October 2015' <<http://www.environment.ie/en/DevelopmentHousing/Housing/SpecialNeeds/HomelessPeople/>> accessed 15 January 2016.

424 *ibid*.

425 ISPC Childline 'Pre-2016 Budget Submission' (2015) <<http://www.ispcc.ie/news-media/news/investing-in-childhood/13134>> accessed 2 February 2016

426 ISPC Childline 'Pre-2016 Budget Submission' (2015) <<http://www.ispcc.ie/news-media/news/investing-in-childhood/13134>> accessed 2 February 2016; Focus Ireland, 'Briefing Note: Family Homelessness' <<http://www.focusireland.ie/files/focus%20ireland%20family%20homelessness%20briefing%201.pdf>> accessed 2 February 2016.

427 RTE, 'My Homeless Family' (18 January 2016) <<http://www.rte.ie/tv/programmes/myhomelessfamily.html>> accessed 3 February 2016.

428 *ibid*.

429 Issues raised at the Children's Rights Alliance Homeless Services Stakeholder Meeting, 7 October 2015.

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

431 Communication received by the Children's Rights Alliance from the ISPC, 12 January 2016.

432 *ibid*.

433 Department of Environment, Community and Local Government, 'Ministers Kelly & Coffey announce 20 actions on Homelessness' (09 December 2014) <<http://www.environment.ie/en/DevelopmentHousing/Housing/News/MainBody,39778.en.htm>> accessed 8 January 2016.

434 Minister for Children and Youth Affairs, Dr James Reilly TD, Dáil Debates, Written Answers 18 November 2015 [40745/15]

435 Tusla 'Tusla working with relevant services to ensure support for families' (Dublin Regional Homeless Executive 20 January 2016) <<http://www.homelessdublin.ie/tusla-working-homeless-services-maximise-supports-available-families-hotels>> accessed 29 January 2016.

436 A commitment was also made in the Budget to provide over 9,500 social housing units by 2018, funded through direct investment and public/private partnership, with over 3,100 of these social housing units to be provided in 2016.

437 Under Public Private Partnership, €300 million will be invested in social housing which is expected to deliver 1,500 social housing units. In addition, the National Asset Management Agency will facilitate the completion of 4,500 new residential units in the Dublin area by the end of 2016. Department of Public Expenditure and Reform, *Capital Plan (Building on Recovery: Infrastructure and Capital Investment 2016-2021)*(DEPER 2015) 32.

438 Housing Agency, *Summary of Social Housing Assessments 2013, Key Findings*, (The Housing Agency, December 2013) Table A1.1: Net Household Need 1993–2013.

439 Department of the Environment, Community and Local Government, 'Government Announces Delivery of 500 Modular Housing Units for Homeless Families – Ministers Kelly & Coffey' (21 October 2015) <<http://www.environment.ie/en/DevelopmentHousing/Housing/SpecialNeeds/HomelessPeople/News/MainBody,43131.en.htm>> accessed 1 December 2015.

440 Olivia Kelly, 'Providers to be sought for 131 more modular houses this month' *Irish Times Online* (1 December 2015) <<http://www.irishtimes.com/news/social-affairs/providers-to-be-sought-for-131-more-modular-houses-this-month-1.2449404>> accessed 1 December 2015.

441 Department of the Environment, Community and Local Government, 'Government Announces Delivery of 500 Modular Housing Units for Homeless Families – Ministers Kelly & Coffey' (21 October 2015) <<http://www.environment.ie/en/DevelopmentHousing/Housing/SpecialNeeds/HomelessPeople/News/MainBody,43131.en.htm>> accessed 1 December 2015.

The introduction of these units is to be welcomed as an immediate interim measure to tackle the high numbers of families currently living in emergency homeless accommodation.

For the past two decades, the State has relied on the private rented sector to provide accommodation for people on lower incomes, using rent supplementation schemes to enable households to pay their rent. There is a widening disparity between the rate of Rent Supplement and the cost of renting.⁴⁴³ In March 2015, the Department of Social Protection ruled out any increase in Rent Supplement to address this.⁴⁴⁴ However, discretion is exercised on a case-by-case basis for people that are at risk of homelessness as a result of demands for increased rents from landlords.⁴⁴⁵

In a positive initiative, the Housing Assistance Payment (HAP) is currently being introduced for people who have a long-term housing need and who qualify for social housing support.⁴⁴⁶ Issues in the private rented sector, including the lack of rent regulation, poor controls on quality and standards and limited rights for tenants,⁴⁴⁷ and the lack of long-term tenancies need to be addressed.

Youth Homelessness: A child or young person who is homeless without their family 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 (Article 20). Much progress has been made in the area of youth homelessness over the past number of years. However, the lack of a national out-of-hours social work service in Ireland

means that some newly homeless children still must access emergency accommodation through the Garda Síochána (police).⁴⁴⁸

Aftercare: In 2006, the UN Committee called on Ireland to '[s]trengthen its efforts to ensure and provide for follow-up and aftercare to young persons leaving care centers'.⁴⁴⁹ At the end of September 2015, 1,737 young adults aged between 18 and 22 years were receiving an aftercare service.⁴⁵⁰ The Child Care (Amendment) Act 2015 was signed into law in December 2015. The Act provides for a statutory right to the preparation of an aftercare plan. The Act places a statutory duty on the Child and Family Agency to prepare an aftercare plan for each eligible young person and sets the grounds for eligibility based on the length of time a child has been in care.⁴⁵¹ While the Act's provisions represent significant improvement on the existing legislative situation, they do not provide the young person with an entitlement to access services, only an entitlement to have a plan drawn up.

A child or young person who is homeless without their family 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 (Article 20).

442 It is reported that this is due to threats to the staff carrying out the building works. RTE News, 'Further setback in modular homes build' (6 January 2016) < <http://www.rte.ie/news/2016/0106/758190-homeless-housing/> > accessed 29 January 2016.

443 For more see: Simon Communities of Ireland, *Locked Out of the Market II*, (Simon Communities 2015).

444 See generally: Department of Social Protection, *Maximum Rent Limit Analysis and Findings Report* (Department of Social Protection February 2015).

445 Under Tenancy Sustainment initiatives, increases in the level of Rent Supplement normally allowable have been granted to approximately 6,000 clients (of which 4,500 were in 2015). Communication received by the Children's Rights Alliance from the Department of the Environment, Community and Local Government, 26 January 2016.

446 Department of Environment, Community and Local Government, 'Housing Assistance Payment' < <http://www.environ.ie/en/DevelopmentHousing/Housing/SocialHousingSupport/HousingAssistancePayment/> > accessed 29 January 2016.

447 Consideration should be given to amending the Residential Tenancies Acts 2004-2015, so that where financial institutions are permitted by agreement of the landlord, or by order of court, to sell a property, the protections outlined in the Residential Tenancies Acts, in particular notice to quit requirements, should apply.

448 The Nightlight Project, based in Lefroy House in Dublin's city centre, is the primary centre providing accommodation for homeless children between the ages of 12 to 17 years: children known to the service can access it directly during specific hours.

449 UN Committee on the Rights of the Child 'Concluding Observations: Ireland' (2006) UN Doc CRC/C/IRL/CO/2, para 33.

450 Tusla, *Quarterly Management Data Activity Report, Quarter 3 2015* (Tusla 2015) 11.

451 To be eligible a child aged needs to be 16 years or over who has spent at least 12 months in the care of the State between the ages of 13 and (up to) 18 years old and an adult means a young person aged 18, 19 or 20 who has spent at least 12 months in the care of the State between the ages of 13 and 18 years old.

Child and Youth Homelessness

Immediate Actions for 2016



CONDUCT A CHILDREN'S RIGHTS AUDIT WITH A PARTICULAR FOCUS ON CHILD PROTECTION, WELFARE AND DEVELOPMENT AND PUT IN PLACE STANDARDS FOR TEMPORARY ACCOMMODATION PROVIDED TO FAMILIES WITH CHILDREN.

Tusla, the Child and Family Agency, as a matter of urgency should carry out a children's rights audit of emergency accommodation provided to families with children with a particular focus on child protection, welfare and development. Following this, minimum child protection standards must be put in place for accommodation provided for homeless families and these standards should be routinely monitored to ensure compliance.

ENACT LEGISLATION TO PROHIBIT THE PLACEMENT OF FAMILIES WITH CHILDREN IN INAPPROPRIATE EMERGENCY ACCOMMODATION, INCLUDING HOTEL ROOMS.

The Government should provide appropriate, family-friendly emergency accommodation and enact legislation to prohibit the placement of families with children in inappropriate emergency accommodation, including hotel rooms. In addition, legislation should set a limit on the time families can spend in emergency accommodation.

CONTINUE TO INVEST IN PROVIDING FAMILIES WITH AFFORDABLE AND SECURE SOCIAL HOUSING.

Continue to invest in the roll out of the *Social Housing Strategy 2020* to provide families with access to affordable and secure social housing accommodation. Increase the proportion of such accommodation delivered through local authorities and not-for-profit voluntary housing bodies.

5. RIGHT TO PROTECTION FROM ABUSE AND NEGLECT

Chapter Grade

B

“

Having an allocated social worker is one essential protective factor to help ensure that a child is safe, has a voice and is safeguarded from abuse. As we commemorate the centenary of 1916 where the Proclamation promised a State ‘cherishing all the children of the nation equally’, the Government must now commit to ensuring that every child at risk has a social worker, an action identified in the Ryan Report as far back as 2009.”

Jennifer Gargan, Director, EPIC

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 UN Convention on the Rights of the Child



5.1

Child and Family Agency

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

'Child and Family Agency' gets a 'B' in Report Card 2016. This grade is the same as last year's grade and is reflective of increased Government allocation to Tusla – the Child and Family Agency and initiatives to address waiting lists for referrals, and to improve information management and out of hours services.

Under the UN Convention on the Rights of the Child, the child has a right to protection from abuse and neglect (Article 19), protection from sexual and other forms of exploitation (Articles 34-36) and to rehabilitate care (Article 39).⁴⁵² A children's rights approach to child protection starts with prevention and builds a child's capacity to protect themselves and to understand their right to protection.⁴⁵³ Central to this approach is the right of a child to be cared for by his or her parents,⁴⁵⁴ and not to be separated from parents unless it is in the child's best interests.⁴⁵⁵

This is the final year of the Report Card series under the *Programme for Government 2011-2016*. The Government's objective in this area was to reform child welfare and protection services by removing these services from the Health Service Executive (HSE),

creating a dedicated Child Welfare and Protection Agency, reforming the model of service delivery and improving accountability to the Dáil. Significant progress has been made towards achieving each of these goals.

The Child and Family Agency was established in January 2014 under Child and Family Agency Act 2013. The establishment of the Agency fulfilled the *Programme for Government* commitment to remove child welfare and protection services from the HSE and create a dedicated new agency. Tusla – the Child and Family Agency brings together the HSE's Children and Family Services,⁴⁵⁶ the Family Support Agency, the National Educational Welfare Board, and services relating to pre-school inspections, psychology, and domestic, sexual and gender-based violence.⁴⁵⁷

The *Programme for Government* pledged to improve accountability for child protection services to the Dáil. Accountability is defined as the ability to make certain that those charged with protecting and fulfilling children's rights actually do what they are supposed to do, and if they do not or cannot, that children and their representatives have some

452 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Arts 19, 34-36 and 39.
 453 UNCRC 'General Comment No.13 on the right of the child to freedom from all forms of violence' UN Doc CRC/C/GC/13 para 1.3(e) and (g); UNCRC 'Concluding Observations Ireland,' (29 September 2006) UN Doc CRC/C/IRL/CO/2 para 37(c).
 454 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 7.
 455 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 9.
 456 These services comprise child welfare and protection services; foster and residential care and aftercare; and adoption services.
 457 For information see <http://www.tusla.ie/about>



IN THE NEWS

STAFF SHORTAGE AFFECTS QUALITY OF FOSTER CARE

Connacht Tribune, 31 October 2015

Foster care services in Galway and Roscommon are not adequately staffed, which is having a negative impact on vulnerable children, according to a new report.

HIQA (Health Information and Quality Authority), has highlighted the problem of understaffing of the two counties' foster care services following an inspection this summer.

HIQA pointed out that the unfilled posts in the service were impacting on the care received by children.

The report noted that staff were "appropriately skilled and qualified for their roles with varying levels of experience in fostering, child protection and in working with children in care."

But staff vacancies in social care and administration were impacting on children.

HIQA said: "The service was impacted by two vacancies on children in care teams and two vacancies on fostering teams. In addition, there were two unfilled posts of staff on long term leave in Roscommon. Inspectors found that across Galway and Roscommon there were 23 children without an allocated child in care social worker reported to be due to vacancies and long term leave.

Inspectors found that some children had a number of different social workers assigned to them and experienced periods of unallocation due to staff leave, and this impacted on a consistent service for children." [...]

Galway/Roscommon is one of 17 services areas served by Tusla, the Child and Family Agency. It is the fourth largest area in the country, and when combined with Mayo it ranked as one of the most deprived in the country. [...]

By Dara Bradley

recourse.⁴⁵⁸ Essential to an effective accountability process is the existence of remedies or sanctions, so that when duties are not fulfilled or standards are not met, something happens and citizens' claims are honoured.⁴⁵⁹

The Child and Family Agency Act 2013 provides for accountability measures, including the approval and input of the Minister for Children and Youth Affairs on the Agency's Corporate Plan, Performance Statements and budgetary expenditure.⁴⁶⁰ Tusla is governed by a Board and its Chief Executive is obliged on request to provide information to the Minister for Children and Youth Affairs and to attend Oireachtas Committee hearings.⁴⁶¹ During 2015, Tusla appeared before the Joint Oireachtas Committee on Health and Children on four occasions.⁴⁶² Part 9 of the 2013 Act provides for a complaints mechanism. In addition, the inspection role of HIQA against national standards, the complaints function of the Ombudsman for Children and the ratification of the Communications Procedure to the UN Convention on the Rights of the Child are critical independent monitoring and remedy mechanisms. In April 2015 in an indication of a new culture of openness, the Minister for Children and Youth Affairs, on his own violation, made public that Tusla had identified evidence of significant risks in how child protection referrals were managed in the Laois/Offaly area.⁴⁶³ The accountability framework in relation to Tusla's work and the monitoring and remedy bodies have greatly improved accountability in the area of child protection. Further areas that need attention include promoting awareness of complaints and remedy

bodies and collecting data on how child protection services are operating to vindicate children's rights.

In its Corporate Plan, Tusla identifies the social problem it is trying to solve as 'a lack of long-term, evidence-informed planning and insufficient resources leads to disjointed services and inadequate supports for children and families.'⁴⁶⁵ It sets out a pathway to address this problem, including a short term (1-3 year) output that 'Tusla's child protection processes and systems are responding to children at risk in a timely manner'.⁴⁶⁶ To achieve this, Tusla identified reform activities for 2015, including to improve information systems and introduce a Child Protection Notification System and a National Out of Hours Emergency Service.⁴⁶⁷

Under Budget 2016, the Department of Children and Youth Affairs was allocated an additional €38 million for Tusla, bringing its annual allocation to €676 million for 2016.⁴⁶⁸ The additional funding will address shortcomings, such as the number of children and families awaiting services; improve special care facilities; and support the roll out of services such as the National Child Care Information System; and develop an ICT system to support frontline work and data management.⁴⁶⁹ This additional allocation is very welcome given the centrality of these issues for ensuring quality services for children and families.

In line with a recommendation from the UN Committee on the Rights of the Child, a key indicator of success for Tusla is whether all reported cases of suspected abuse and neglect are adequately investigated in a timely manner.⁴⁷⁰ In January 2015, of

the child protection cases 'open' to social work teams across the country, 7,787 cases had not been allocated a social worker, including 2,235 cases deemed 'high priority'.⁴⁷¹ By December 2015, progress has been made to reduce these figures to 5,585 unallocated cases, of which 1,087 are high priority.⁴⁷²

In response to unallocated child protection referrals identified in Laois/Offaly,⁴⁷³ the Minister for Children and Youth Affairs requested Tusla to put in place a rapid improvement response (consisting of resources and senior management oversight).⁴⁷⁴ This immediate response model was used to address the findings of HIQA reports in Louth/Meath⁴⁷⁵ and Dublin North⁴⁷⁶ and will be utilised if needed in the future.⁴⁷⁷ In addition, the Minister commissioned a national audit to determine the number of unallocated cases.⁴⁷⁸ It identified approximately 5,900 assessed triaged cases awaiting assignment to an allocated social worker.⁴⁷⁹ An action plan was developed to address the backlog of cases,⁴⁸⁰ and €6.1 million secured to recruit 201 whole-time equivalent additional social workers and support personnel staff in the first year of this two-year plan.⁴⁸¹ These measures are welcome as the backlog of cases must be addressed as a matter of priority.

Another important indicator of whether Tusla is adequately staffed is the number of children in care who do not have an allocated social worker – in November 2015, the figure was 7 per cent of children in care.⁴⁸² It is vital that this gap is closed and measures

taken to improve the consistency of assigned social workers to allow for the building of a relationship with the child.⁴⁸³

On 1 October 2015, the national interim Child Protection Notification System (CPNS) went live: it is a secure database containing a national record of all children who have reached the threshold of being at ongoing risk of significant harm and for whom there is an ongoing child protection concern.⁴⁸⁴ Specific professionals can record details of their work with, and request information on, a child. It is now available to external services such as GPs and An Garda Síochána. The CPNS is a welcome and essential tool.

In November 2015, Tusla commenced an Emergency Out-of-Hours Social Work Service (EOHS) which co-operates with and supports An Garda Síochána in relation to the removal of a child from his or her family under Section 12 of the Child Care Act 1991 and separated children seeking asylum.⁴⁸⁵ Through the service, the Gardai can contact a social worker by phone or arrange access to a local on-call social worker. The EOHS is to be welcomed as it strengthens inter-agency co-operation and creates a single national service.⁴⁸⁶ However, despite a recommendation from the UN,⁴⁸⁷ there continues to be no social work service that is directly accessible to children or families at risk outside of office hours: support must be sought through An Garda Síochána.

458 UNICEF, 'Rights in Principle and Accountable in Practice: Child Rights and Social Accountability in the Post-2015 World, Background Paper' (2014) <http://www.unicef.org/policyanalysis/rights/files/Accountabilities_Meeting_Background_Paper_final.pdf> accessed 29 January 2016, 1.

459 *ibid.*

460 The Children and Family Relationships Act 2013, Part 6.

461 *ibid.*, Part 2, 3 and 4. In addition, since 2015 CORU can hear complaints regarding professional practice by social workers.

462 The hearings took place on May 7, July 17, October 22 and December 10 2015.

463 Department of Children and Youth Affairs, 'Press statement by Dr. James Reilly TD, Minister for Children and Youth Affairs, regarding child protection issues in the Laois/Offaly area brought to his attention by Tusla – the Child and Family Agency' (30 April 2015) <<http://www.justice.ie/en/JELR/Pages/PR15000487>> accessed 29 January 2016.

464 See for example, Geoffrey Shannon and Norah Gibbons, *Report of the Independent Child Death Review Group*, (Government Publications 2012) 401-414; and Helen Buckley et al, *Service Users' Perceptions of the Irish Child Protection System*, (Stationery Office 2008) 5.

465 Tusla – Child and Family Agency, Corporate Plan 2015-2017 (Tusla – Child and Family Agency 2014) 5.

466 *ibid.*

467 Tusla – Child and Family Agency, 'Business Plan 2015' <http://www.tusla.ie/uploads/content/Business_Plan_2015.pdf> accessed 29 January 2016, 42.

468 Department of Children and Youth Affairs, 'Minister Reilly announces significant budget increase for Tusla' (13 October 2015) <<http://dcya.gov.ie/viewdoc.asp?DocID=3628>> accessed 29 January 2016.

469 Tusla – Child and Family Agency, 'Statement on 2016 Budget Allocation' (15 October 2015) <<http://www.tusla.ie/news/tusla-statement-on-2016-budget-allocation/>> accessed 27 January 2016.

470 UNCRC 'Concluding Observations Ireland,' (29 September 2006) UN Doc CRC/C/IRL/CO/2 para 37(b).

471 Tusla – Child and Family Agency, 'Monthly Management Data Activity Report January 2015' <http://www.tusla.ie/uploads/content/Final_Version_Tusla_Management_Data_Report_January_2015_v1.pdf> accessed 19 February 2016, 13.

472 Dáil Debate 10 December 2015, vol 606, col 1690.

473 Department of Children and Youth Affairs, 'Press statement by Dr. James Reilly TD, Minister for Children and Youth Affairs, regarding child protection issues in the Laois/Offaly area brought to his attention by Tusla – the Child and Family Agency' (30 April 2015) <<http://www.justice.ie/en/JELR/Pages/PR15000487>> accessed 29 January 2016.

474 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2016.

475 HIQA, *Child protection and welfare – monitoring inspection report on child protection and welfare services under the National Standards for the Protection and Welfare of Children, and Section 8(1)(c) of the Health Act 2007: Louth/Meath* (HIQA, 2015).

476 HIQA, *Child protection and welfare – monitoring inspection report on child protection and welfare services under the National Standards for the Protection and Welfare of Children, and Section 8(1)(c) of the Health Act 2007: North Dublin* (HIQA, 2015).

477 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2016.

478 UNCRC, 'Replies of Ireland to the List of Issues' (2015) UN Doc CRC/C/IRL/Q/3-4/Add.1 para 47.

479 *ibid.*

480 UNCRC, 'Replies of Ireland to the List of Issues' (2015) UN Doc CRC/C/IRL/Q/3-4/Add.1 para 47.

481 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2016.

482 Tusla – Child and Family Agency, 'Monthly Management Data Activity Report November 2015' <http://www.tusla.ie/uploads/content/Tusla_Management_Data_Report_November1.0.pdf> accessed 19 February 2016, 1.

483 See for example, Geoffrey Shannon and Norah Gibbons, *Report of the Independent Child Death Review Group* (Government Publications 2012) 405.

484 Communication received by the Children's Rights Alliance from Department of Children and Youth Affairs, 27 January 2016.

485 The Gardai have specific powers under section 8.5 of the Refugee Act 1996.

486 It replaces two services: the Crisis Intervention Service which operated in Dublin, Wicklow and Kildare providing an out-of-hours emergency social work service to any child in a crisis situation; and the Emergency Place of Safety Service which provided a service to children in the rest of the country who require an emergency care placement.

487 UNCRC 'Concluding Observations Ireland,' (29 September 2006) UN Doc CRC/C/IRL/CO/2 para 29 (b).

Child and Family Agency

Immediate Action for 2016



CONTINUE TO INVEST IN CHILD PROTECTION SOCIAL WORK SERVICES TO ENSURE THEY ARE ADEQUATELY EQUIPPED TO FULFIL THE STATE'S STATUTORY AND HUMAN RIGHTS OBLIGATIONS TO CHILDREN.

Ensure adequate resourcing of the Child and Family Agency to enable it to assess child protection referrals in a timely, appropriate and consistent manner, assign each case a social worker and ensure the caseload allows the social worker to build a relationship with the child, including those in the care system. In addition to the planned Alternative Care Strategy, a national child abuse prevention strategy is needed to ensure steps are taken to prevent and intervene early to reduce the incidences of child abuse and neglect.

5.2

Ryan Report Implementation Plan**GOVERNMENT COMMITMENT**

The *Programme for Government 2011-2016* 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

'Ryan Report Implementation Plan' receives a 'B' in Report Card 2016. This is an increase on last year's 'B-' grade to reflect the enactment of the Children First Act 2015 and the removal of the defence of reasonable chastisement. The grade is only a small increase due to the failure to commence the National Vetting Bureau Act 2012.

The UN Convention on the Rights of the Child provides that a child has the right to protection from abuse and neglect (article 19), including from sexual and other forms of exploitation (articles 34 to 36). It further provides for the right to rehabilitative care (article 39) and specific protections for children in the care system such as the child's right not to be separated from his or her parents and protection for children without families (article 9 and 20), the review of care placements (article 25) and the best interests of the child in adoption cases (article 21). Article 19 obliges States to 'take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse'. To ensure that children are adequately protected, the UN Committee on the Rights of the Child recommends that States establish a government focal point to coordinate child protection strategies and services.⁴⁸⁸

This is the final year of the Report Card series under the *Programme for Government 2011-2016*. The Government's objective in this area was to implement 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 has been made towards achieving these objectives – the recommendations of the Ryan Report have been progressed; the Children First Act was enacted in 2015, putting elements of the *Children First Guidelines* on a statutory footing; and the National Vetting Bureau (Children and Vulnerable Persons) Act was enacted in 2012, legislating for the use of 'soft information'. However, for these reforms to have a positive impact on the lives of children the two statutes needed to be commenced in full.

The UN Convention on the Rights of the Child provides that a child has the right to protection from abuse and neglect (article 19), including from sexual and other forms of exploitation (articles 34 to 36).

488 UNCRC, 'General Comment No.13 on the Right of the Child to Freedom from All Forms of Violence (2011) UN Doc CRC/C/GC/13 para 42.

Ryan Report Implementation Plan: The Ryan Report Implementation Plan was published in July 2009 to respond to the recommendations contained in the Report of the Commission to Inquire into Child Abuse (Ryan Report).⁴⁸⁹ The Implementation Plan identified key weaknesses in the child protection system and provided a roadmap for reform. The Fourth and Final Progress Report of the Monitoring Group for the Ryan Report Implementation Plan was published in March 2015.⁴⁹⁰ The work of the Monitoring Group is now complete. The final report notes that of the 99 actions of the Implementation Plan, 94 are either 'complete' or 'ongoing', as by their nature they are not once off actions so continue to be implemented on an ongoing basis⁴⁹¹ and are being progressed under other fora, including the Children First Interdepartmental Implementation Group and the Tusla Business Plan.⁴⁹² There were also five actions under the Implementation Plan which were deemed to be 'incomplete' at the end of December 2014.⁴⁹³ The Minister for Children and Youth Affairs has committed to follow up on these actions and report back to Government until their completion.⁴⁹⁴

Three of the five 'incomplete' actions fall under Tusla's remit – to establish a longitudinal study on outcomes for children who leave care (Action 65); develop a professionally managed national archive as a central repository for the records of all children in care (Action 75); and secure the records created in non-statutory agencies in the national archive

(Action 76). These actions were not implemented due to resource restraints. In 2014, the Minister for Children and Youth Affairs requested Tusla to develop a business case with costings to complete these recommendations.⁴⁹⁵ Each of these actions has been incorporated into Tusla's 2016 Business Plan.⁴⁹⁶

The fourth 'incomplete' action relates to the construction of a memorial to the survivors of institutional abuse (Action 1). This original proposal faced planning difficulties⁴⁹⁷ and will not go ahead, but the Department of Education and Skills is pursuing an alternative.⁴⁹⁸ The final 'incomplete' action related to the Courts Service conducting research into best practice in other jurisdictions on the management of children and family services (Action 96). This research has not been undertaken by the Court Service. However, the work of the Child Care Law Reporting Project is adding to our knowledge in this area.⁴⁹⁹

Children First: A 2008 national review of compliance with Children First⁵⁰⁰ and 2010 investigation by the Ombudsman for Children⁵⁰¹ found that the *Children First Guidelines* were being applied in an *ad hoc* manner across the country leading to incidences of non-reporting of child abuse concerns. These findings highlighted the inadequacy of a voluntary set of guidelines.⁵⁰²

In line with recommendations of the Ryan Report Implementation Plan⁵⁰³ and the UN Committee,⁵⁰⁴

Based on international experience, following the commencement of the legislation it is anticipated that the number of child protection and welfare referrals will initially rise and then level out. Hence measures must be in place to ensure the availability of sufficient social workers to access referrals and respond to them in an effective and timely manner.

the Children First Bill was published in April 2014 and enacted in November 2015 to place elements of the *Children First Guidance* on a statutory footing. The legislation places a legal duty on organisations providing specified services for children to carry out a risk assessment and prepare an organisation-specific Child Safeguarding Statement.⁵⁰⁵ It requires 'mandated persons' to report child protection concerns which meet a defined threshold.⁵⁰⁶ Although the Bill is welcome, the sanctions for those who fail to comply with its provisions are weak. The only sanction introduced under the Bill is the establishment of a non-compliance register to 'name and shame' organisations which do not have a child safeguarding statement.⁵⁰⁷ The Bill provides no new sanction to address a breach of its provisions by a mandated individual. A failure by a mandated person to report a child protection concern will therefore need to be addressed through existing employment legislation or a sanction by a professional body.

Based on international experience, following the commencement of the legislation it is anticipated that the number of child protection and welfare referrals will initially rise and then level out. Hence measures must be in place to ensure the availability of sufficient social workers to access referrals and respond to them in an effective and timely manner.

Ireland's failure to explicitly prohibit corporal punishment in the home has been criticised by international bodies.⁵⁰⁸ Corporal punishment continues to be a feature in the lives of children in Ireland with research finding that 43 per cent of mothers reported using corporal punishment.⁵⁰⁹ In a very welcome development, provision was made under Section 28 of the Children First Act 2015 to abolish the common law defence of reasonable chastisement⁵¹⁰ for parents and others in the home, including certain childminders.⁵¹¹ This provision was commenced from 11 December 2015.⁵¹² It sends a powerful message to society that hitting children is wrong. However, to change behaviour towards disciplining children more work needs to be done to promote positive, non-violent alternative forms of discipline.

Vetting: Three years on from the enactment in December 2012, the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 has yet to be commenced. The Act places the National Vetting Bureau on a statutory footing and permits the Bureau to collect and exchange 'relevant' or 'soft' non-criminal information that indicates that there is a reason to believe that a person may harm or attempt to cause harm to children or vulnerable adults.⁵¹³ The protracted delay in commencing the Act is deeply disappointing. This means that the vetting of staff working with children and vulnerable adults is confined to 'hard' information relating to criminal

489 The Report of the Commission to Inquire into Child Abuse (the Ryan Report) was published in May 2009, revealing horrific wrongdoings perpetrated against children living in institutions during the period 1936 to 2000.
 490 Ryan Report Monitoring Group, 'Ryan Report Implementation Plan, Fourth Progress Report' (December 2014) <<http://www.dcy.gov.ie/documents/publications/20150324RyanRepFourthProgressDec2014.pdf>> accessed 29 January 2016.
 491 *ibid* 19.
 492 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2016.
 493 *ibid* Part 2.
 494 Orla Ryan, 'Some Ryan Report recommendations yet to be implemented due to lack of resources' (*TheJournal.ie* 28 December 2015) <<http://www.thejournal.ie/ryan-report-recommendations-2482780-Dec2015/>> accessed 29 January 2016.
 495 Ryan Report Monitoring Group, 'Ryan Report Implementation Plan, Fourth Progress Report' (December 2014) <<http://www.dcy.gov.ie/documents/publications/20150324RyanRepFourthProgressDec2014.pdf>> accessed 29 January 2016, 6.
 496 Tusla – Child and Family Agency, *Business Plan 2016* (Tusla – Child and Family Agency 2016) 57.
 497 Ryan Report Monitoring Group, 'Ryan Report Implementation Plan, Fourth Progress Report' (December 2014) <<http://www.dcy.gov.ie/documents/publications/20150324RyanRepFourthProgressDec2014.pdf>> accessed 29 January 2016, 6.
 498 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 27 January 2016.
 499 For more information visit Child Care Law Reporting Project <<http://www.childlawproject.ie/>> accessed 29 January 2016.
 500 Office of the Minister for Children and Youth Affairs, *National Review of Compliance with Children First: National Guidelines for the Protection and Welfare of Children* (The Stationery Office 2008).
 501 Ombudsman for Children, *A Report Based on an Investigation into the Implementation of Children First: National Guidelines for the Protection and Welfare of Children* (Ombudsman for Children's Office 2010).
 502 See also Geoffrey Shannon, *Third Report of the Special Rapporteur on Child Protection: A Report Submitted to the Oireachtas*, (Department of Children and Youth Affairs 2009); Helen Buckley et al, *Service Users' Perceptions of the Irish Child Protection System*, (The Stationery Office 2008).
 503 Office of the Minister for Children and Youth Affairs, *Report of the Commission to Inquire into Child Abuse, 2009: Implementation Plan*, (Department of Health and Children 2009) Action 85.
 504 UNCRC, 'Concluding Observations: Ireland' (2006) UN Doc CRC/C/IRL/CO/2 para 37(a).

505 Children First Act 2015, Part 2.
 506 *Ibid* Part 3. Schedule 2 of the Children First Act 2015 specifies the classes of persons who are deemed to be mandated persons. They include social workers, teachers and certain health professionals including doctors and nurses.
 507 Children's Rights Alliance, 'Saving Childhood Group welcomes the publication of the Children First Bill 2014 and highlights areas of concern' (14 April 2014) <<http://www.childrensrights.ie/resources/saving-childhood-group-welcomes>> accessed 29 January 2016.
 508 UNCRC, 'Concluding Observations: Ireland' (2006) UN Doc CRC/C/IRL/CO/2 para 40; UNCAT, 'Concluding Observations: Ireland' (2011) UN Doc CAT/C/IRL/CO/1 para 24; UNHRC, 'Concluding Observations: Ireland' (2014) UN Doc CCPR/C/IRL/CO/4 para 14; Council of Europe, *Resolution CM/ResChS(2015)9, Association for the Protection of All Children (APPROACH) Ltd v. Ireland*, Complaint No. 93/2013, 17 June 2015, <<https://wcd.coe.int/ViewDoc.jsp?id=2336121&Site=COE&BackColorIntranet=EDB021&BackColorLogged=F5D383>> accessed 29 January 2016.
 509 32 per cent said they did so 'rarely' and 11 per cent 'now and again'. J. Williams et al., *Growing up in Ireland, National Longitudinal Study of Children*, The Lives of 9-year-olds (Stationery Office 2009) 45.
 510 The defence dates back to the case of *R. v Hopley* [1860] 2 F & F 202.
 511 This provision was added to the Children First Bill during its passage through Seanad Éireann. The amendment was co-sponsored by the Minister for Children and Youth Affairs, Dr James Reilly TD, and independent Senator, Jillian van Turnhout.
 512 Department of Children and Youth Affairs, "End corporal punishment" as removal of defence takes effect" (10 December 2015) <<http://www.dcy.gov.ie/viewdoc.asp?DocID=3669>> accessed 29 January 2016.
 513 National Vetting Bureau (Children and Vulnerable Persons) Act 2012.

convictions. Concern exists that the weak level of vetting in Ireland is placing children at risk and may attract people who wish to commit offences against children or vulnerable adults from jurisdictions that operate a more robust vetting system.⁵¹⁴

The commencement of the 2012 Act was put on hold in light of a legal development.⁵¹⁵ It was felt the legislation needed to be amended in relation to the inclusion of convictions for old, minor offences, to protect against a breach of Article 8 of the European Convention on Human Rights (right to respect for private and family life).⁵¹⁶ This concern has been addressed through the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016, which was passed into law in February 2016. Under the 2016 Act, certain convictions may become 'spent' after a period of seven years to remove barriers to employment, education, housing and insurance for people who have moved on from past offending behaviour. Section 21 of the 2016 Act amends the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 to clarify that certain offences do not need to be disclosed in a vetting application – minor offences where over 7 years has passed since the conviction in the District Court and the sentence imposed or order made was complied with. The Act excludes all offences relating to physical violence or assault, sexual offences, domestic violence, child cruelty and endangerment, trafficking and pornography.

Ryan Report Implementation Plan

Immediate Actions for 2016



COMMENCE THE CHILDREN FIRST ACT 2015 AND PROVIDE FUNDS TO PROMOTE COMPLIANCE.

It is critical that the Children First Act 2015 is commenced as soon as possible to vindicate the child's right to protection from abuse under Article 19 of the UN Convention on the Rights of the Child. Investment in education, training, support and adequate social work services will be needed to support compliance with the Act. An independent review of the operation of Children First legislation should be undertaken two years after its commencement. Additional public education on positive, non-violent forms of discipline should be provided for parents/carers.

COMMENCE THE NATIONAL VETTING BUREAU ACT 2012 AND CRIMINAL JUSTICE (SPENT CONVICTIONS AND CERTAIN DISCLOSURES) ACT 2016.

Commence the National Vetting Bureau Act (Children and Vulnerable Persons) 2012 and Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 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.

514 Paul Hosford, 'Is Ireland becoming a "safe haven" for sex offenders?' (*TheJournal.ie* 12 February 2015) <<http://www.thejournal.ie/sex-offenders-loophole-1934369-Feb2015/>> accessed 29 January 2016.

515 Elements of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 relating to the disclosure of convictions require amendment before it can be commenced following a Court judgment, *UK Court of Appeal (T and others v Chief Constable of Greater Manchester, 2013)*.

516 Minister for Justice and Equality, Alan Shatter TD, Dáil Debates, Written Answers, Garda Vetting of Personnel, 13 February 2014.

5.3

Children in Detention**GOVERNMENT COMMITMENT**

The *Programme for Government 2011-2016* commits to ending the practice of sending children to St. Patrick's Institution.



Progress: Good

'Children in Detention' receives a 'B+' grade in Report Card 2016, an increase from the 'B-' grade awarded last year. This is reflective of the progress made towards ending the practice of sending children to St. Patrick's Institution, an adult prison. Key achievements in 2015 include ending the detention of 16 year olds children (detained on remand) in St. Patrick's Institution and the enactment of the Children (Amendment) Act 2015 which will prohibit the detention of a child in adult prisons.

This is the final year of the Report Card series under the *Programme for Government 2011-2016*. The Government's objective in this area was to end the practice of sending children to St. Patrick's Institution. Significant progress has been made to meet this commitment, with the Children Detention Schools now responsible for the detention of all categories of children with the exception of boys aged 17 years who are serving a sentence – this group is currently accommodated in Wheatfield Place of Detention.

Article 37 of the UN Convention on the Rights of the Child provides that children shall be deprived of their liberty only as a measure of last resort and for the shortest appropriate time; that they be treated in a matter that takes into account the needs of a person of his or her age, including that he or she be separated from adults unless in the child's best interests; and that the child maintain contact with

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family and have prompt access to legal and other appropriate assistance.

Article 10(2)(b) of the International Covenant on Civil and Political Rights provides that '[a]ccused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication'. On ratifying this Covenant, Ireland lodged a reservation to Article 10 noting that although it accepts the principles referred to in Article 10(2)(b) and implements them as far as practically possible it 'reserves the right to regard full implementation of these principles as objectives to be achieved progressively'.⁵¹⁷

The practice in Ireland of detaining boys⁵¹⁸ in adult prisons has been widely criticised as a glaring human rights violation by a number of international and domestic bodies, including the UN Committee on the Rights of the Child,⁵¹⁹ the UN Human Rights

Committee,⁵²⁰ the UN Committee Against Torture,⁵²¹ the Council of Europe Commissioner for Human Rights,⁵²² the Council of Europe Committee for the Prevention of Torture⁵²³ and the Ombudsman for Children.⁵²⁴ The adult prison most often used for the detention of children has been St Patrick's Institution.⁵²⁵ It was described as the most violent prison in Ireland, responsible for one third of all assaults in the prison system, and the Inspector of Prisons concluded that there is a culture in St. Patrick's which results in 'the human rights of some prisoners (children and young adults) being either ignored or violated'.⁵²⁶ The Inspector's report includes cases of children on 23 hour lock up (isolation) for their own protection from other detainees. He noted that in one case, 'the bed clothes were dirty, the toilet was blocked and he had no running water'.⁵²⁷

In 2012, the Government committed to end the practice of detaining children in adult prisons and to develop a National Children Detention Facility for the detention of all those under 18 years,⁵²⁸ as originally provided for in the Children Act 2001. Progress towards these goals has been made through changes to detention practice, capital investment and legislative reform. Since 2013, €56 million has been invested in the development of the National Children Detention Facility on the Oberstown campus at Lusk, County Dublin, which is nearing completion.⁵²⁹ The new Facility comprises the existing three Children Detention Schools⁵³⁰ and additional accommodation to cater for 16 and 17

years old boys who previously were accommodated in the adult prison system.

On foot of incremental changes, children are no longer routinely detained in St Patrick's Institution. Since 2012, the responsibility for 16 year old boys (on remand and those serving a sentence) was transferred to the Children Detention Schools. Since March 2015, 17 years old boys on remand (i.e. children awaiting trial for criminal offences who have been denied bail) are also detained in Children Detention Schools.⁵³¹ The transfer of responsibility for 17 year olds on remand from St Patrick's Institution to Oberstown is particularly welcome as the Inspector of Prisons had expressed grave concern about the continued detention of a small number of boys in that prison describing it as 'at times, tantamount to holding them in isolation and it is certainly inhumane'.⁵³²

In 2012, the Government committed to end the practice of detaining children in adult prisons and to develop a National Children Detention Facility for the detention of all those under 18 years, as originally provided for in the Children Act 2001.

520 UNHRC, 'Concluding Observations: Ireland' (2014) UN Doc CCRPR/C/IRL/CO/4 para 15.

521 UNCAT, 'Concluding Observations: Ireland' (2011) UN Doc CAT/C/IRL/CO/1 para 22.

522 Council of Europe, *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Ireland from 1 to 2 June 2011* (Council of Europe 2011) paras 35-36.

523 Council of Europe (2010) *Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)* (Council of Europe 2010) 17.

524 Ombudsman for Children's Office, 'Children's Ombudsman calls on the next Government to expedite closure of St. Patrick's Institution as a place of detention for children' (9 February 2011) < <http://www.oco.ie/2011/02/childrens-ombudsman-calls-on-the-next-government-to-expedite-closure-of-st-patricks-institution-as-place-of-detention-for-children/> > accessed 29 January 2016.

525 St. Patrick's Institution is a closed, medium security detention centre for males up to the age of 21 years, located on the Mountjoy Prison complex in Dublin.

526 Judge M Reilly, *Report on an Inspection of St. Patrick's Institution by the Inspector of Prisons* (Office of the Inspector of Prisons 2012) 58.

527 *ibid* 54.

528 Department of Children and Youth Affairs, 'Minister Fitzgerald to End Detention of 16 and 17 Year Olds in St. Patrick's Institution' (2 April 2012) < <http://www.dcy.gov.ie/viewdoc.asp?DocID=1842> > accessed 29 January 2016.

529 Budget 2015 provided the final instalment of a €56.4 million investment over three years in the national facility. 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. Department of Children and Youth Affairs, 'Budget 2015, Speech by Dr James Reilly T.D. Minister for Children and Youth Affairs (15 October 2014)' < <http://www.dcy.gov.ie/viewdoc.asp?DocID=3332> > accessed 29 January 2016.

530 The three existing Children Detention Schools are Oberstown Boys School, Trinity House School and Oberstown Girls School. The schools currently operate under the same board of management but not under a single director.

531 For legal reasons children on remand cannot be detained in Wheatfield Place of Detention so the practice remained in St Patrick's Institution up until March 2015.

532 Judge M. Reilly, *Overview of Mountjoy Prison Campus with particular emphasis on the Separation Unit* (Office of the Inspector of Prisons 2014) para 2.11.

517 United Nations Office of the High Commissioner for Human rights, 'Ratification of 18 International Human Rights Treaties' < <http://indicators.ohchr.org/> > accessed 18 February 2016.

518 Girls under 18 years in custody have been detained on the Oberstown campus since 2007.

519 UNCRC, 'Concluding Observations: Ireland' (2006) UN Doc CRC/C/IRL/CO/2 para 68-69.

Since December 2013, all 17 year olds serving custodial sentences are detained in Wheatfield Place of Detention, an adult prison rather than St Patrick's Institution. For example on 22 January 2016, thirteen 17 year olds were detained in Wheatfield.⁵³³ This is intended to be an interim measure until the completion of the new facility in Oberstown.⁵³⁴ A minimum of two additional units at the Oberstown campus are needed to allow for the transfer of responsibility for this category of 17 year old boys. To open these units, additional residential social care worker grade staff is needed.⁵³⁵ Recruitment for these posts by the Irish Youth Justice Service is ongoing, and is expected to be completed by the end of Q1 2016.⁵³⁶

2015 saw the publication and enactment of two important pieces of legislation. In May 2015, the Minister for Children and Youth Affairs, James Reilly TD, published the Children (Amendment) Act 2015, which was enacted in July 2015.⁵³⁷ The Act provides for the amalgamation of the Children Detention Schools into a single facility and for the repeal of all legislative provisions that allow for detention of children in Irish Prison Service facilities. The Act was partially commenced on 1 December 2015.⁵³⁸ The remaining provisions will be commenced once the staffing complement in the Oberstown facility has been achieved to enable Oberstown to receive sentenced persons aged 17.⁵³⁹

On foot of an Inspector of Prisons report published in July 2013 which found 'very disturbing incidents of non-compliance with best practice and breaches of the fundamental rights of prisoners',⁵⁴⁰ the Government announced its intention to close St Patrick's Institution. The General Scheme of the Prisons Bill was published in April 2015 and enacted in December 2015.⁵⁴¹ It provides for the complete

closure of St. Patrick's Institution by repealing statutory provisions that enable courts to detain offenders under the age of 21 in St Patrick's Institution and by deleting references to St Patrick's Institution from the statute book.⁵⁴² The provisions of the Prisons Act 2015 cannot be commenced until the Oberstown campus is ready to receive all sentenced persons under the age of 18 years and the relevant provisions of the Children (Amendment) Act 2015 are commenced.

It is vital that the recruitment is finalised and the Children (Amendment) Act 2015 and Prison Act 2015 are commenced as a matter of priority to end the detention of children in Wheatfield Place of Detention and the continued use of St. Patrick's Institution to detain a child on remand while awaiting places in Oberstown. For example, Prison Services figures show that during 2015, a 16 year old was in custody at

2015 saw the publication and enactment of two important pieces of legislation. In May 2015, the Minister for Children and Youth Affairs, James Reilly TD, published the Children (Amendment) Act 2015, which was enacted in July 2015. The Act provides for the amalgamation of the Children Detention Schools into a single facility and for the repeal of all legislative provisions that allow for detention of children in Irish Prison Service facilities.

St Patrick's Institution on 16 October,⁵⁴³ 19 October,⁵⁴⁴ 20 October,⁵⁴⁵ 26 October,⁵⁴⁶ 27 October,⁵⁴⁷ 18 December⁵⁴⁸ and 21 December 2015.⁵⁴⁹

Since 2012, the Government has taken steps to remove children from St. Patrick's Institution and to close the prison. From 2012 to late 2015, these changes have resulted in 428 cases of boys being detained in Oberstown rather than in an adult prison.⁵⁵⁰ The Department of Children and Youth Affairs has stated that it is 'now a matter of when, and not if, there will be a final end to the practice of detaining children in adult prison facilities'.⁵⁵¹

533 Irish Prison Service, 'Prisoner Population on Friday 22 January 2016' <http://www.irishprisons.ie/images/dailynumbers/22_january_2016.pdf> accessed 29 January 2016.
 534 Minister for Children and Youth Affairs, Dr. James Reilly TD, Dáil Debates, Child Detention Centres, 24 February 2015 [7693/15].
 535 Department of Children and Youth Affairs, 'Information Note: Progress on Oberstown' (10 December 2015).
 536 Four recruitment phases have been arranged to date since mid-2014, three external and one internal. Two further recruitment processes for care staff commenced on 19 November 2015 and 23 December 2015.
 537 Department of Children and Youth Affairs, 'Legislation enacted in 2015' <<http://www.dcy.gov.ie/viewdoc.asp?fn=%2Fdocuments%2Flegislation%2Flegislation.htm>> accessed 29 January 2016.
 538 The Order provides for the commencement of sections 1, 2, 4 other than paragraph (d), 5, 6 (insofar as it relates to s88A, 7, 11 to 15, 17, 20 to 25 and 31 of the Children (Amendment) Act 2015 with effect from 1 December 2015. Children (Amendment) Act 2015 (Commencement) Order 2015, Statutory Instrument 539 of 2015.
 539 Department of Children and Youth Affairs, 'Information Note: Progress on Oberstown' (10 December 2015).
 540 Inspector of Prisons, Annual Report 2012 (Inspector of Prisons 2013) 23. See also Ombudsman for Children, *Young People in St. Patrick's Institution, A Report by the Ombudsman for Children's Office* (Ombudsman for Children's Office 2011).
 541 Department of Justice and Equality, 'Minister Fitzgerald welcomes the passage of the Prisons Bill through the Oireachtas' (16 December 2015) <<http://www.justice.ie/en/JELR/Pages/PR15000648>> accessed 18 February 2016.
 542 Department of Justice and Equality, 'Minister Fitzgerald publishes General Scheme of the Prisons Bill' (2 April 2015) <<http://www.justice.ie/en/JELR/Pages/PR15000103>> accessed 18 February 2016.

543 Irish Prison Service, 'Prisoner Population on Friday 16 October 2015' <http://www.irishprisons.ie/images/dailynumbers/16_october_2015.pdf> accessed 18 February 2016.
 544 Irish Prison Service, 'Prisoner Population on Monday 19 October 2015' <http://www.irishprisons.ie/images/dailynumbers/19_october_2015.pdf> accessed 18 February 2016.
 545 Irish Prison Service, 'Prisoner Population on Tuesday 20 October 2015' <http://www.irishprisons.ie/images/dailynumbers/20_october_2015.pdf> accessed 18 February 2016.
 546 Irish Prison Service, 'Prisoner Population on Monday 26 October 2015' <http://www.irishprisons.ie/images/dailynumbers/26_october_2015.pdf> accessed 18 February 2016.
 547 Irish Prison Service, 'Prisoner Population on Tuesday 27 October 2015' <http://www.irishprisons.ie/images/dailynumbers/27_october_2015.pdf> accessed 18 February 2016.
 548 Irish Prison Service, 'Prisoner Population on Friday 18 December 2015' <http://www.irishprisons.ie/images/dailynumbers/18_december_2015.pdf> accessed 18 February 2016.
 549 *ibid.* See also Adam Cullen, 'Teen boy held in St.Patrick's' *The Irish Independent* (Dublin, 29 October 2015).
 550 89 boys were detained in Oberstown rather than in an adult prison in 2012, 109 in 2013, 119 in 2014, and 111 in 2015 (up to 10 December 2015).
 551 Department of Justice and Equality, 'Prisons Bill 2015 Dáil Éireann Second Stage Speech by Minister of State Ann Phelan on behalf of the Minister for Justice and Equality Frances Fitzgerald TD' (14 December 2015) <http://www.justice.ie/en/JELR/Pages/SP15000643>> accessed 29 January 2016.

Children in Detention

Immediate Actions for 2016



SUPPORT THE OPENING OF ADDITIONAL UNITS IN THE NATIONAL CHILDREN DETENTION FACILITY TO ACCOMMODATE 17 YEAR OLDS SERVING A CUSTODIAL SENTENCE.

Provide all necessary supports, including staffing recruitment, to facilitate the opening of additional units in the National Children Detention Facility to allow for the transfer of responsibility for 17 year olds serving a custodial sentence, currently detained in Wheatfield Place of Detention.

FULLY COMMENCE THE CHILDREN (AMENDMENT) ACT 2015 AND THE PRISONS ACT 2015.

Fully commence the Children (Amendment) Act 2015 and the Prisons Act 2015 at the earliest opportunity to ensure that no child under 18 years is detained in an adult prison.

WITHDRAW THE RESERVATION TO ARTICLE 10(2)(B) OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS.

Once the transfer of responsibility for 17 year old males to the Oberstown campus has been completed, the Government should withdraw the reservation to Article 10(2)(b) of the International Covenant on Civil and Political Rights.

6. RIGHT TO EQUALITY AND NON-DISCRIMINATION

Chapter Grade

D+

“

The Children and Family Relationships Act (2015) for the first time recognises and gives legal status to the broad range of families in Ireland of the 21st century. This important Act has brought much needed security to thousands of children in Ireland and is a very welcome reform to Irish family law. Children from all family types can now enjoy the security and care of a legal relationship with their parents that heretofore was not possible”

Sandra Irwin-Gowran, Director of Education Policy, GLEN - Gay and Lesbian Equality Network

Right to Equality and Non-Discrimination

Every child has the right to equal treatment, without discrimination of any kind, irrespective of the race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status of the child or the child's parents or guardian.

Summary of Article 2 of the UN Convention on the Rights of the Child



6.1

Traveller and Roma Children**GOVERNMENT COMMITMENT**

The *Programme for Government 2011-2016* 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: Unsatisfactory**

'Traveller and Roma Children' is awarded an 'E-' grade in Report Card 2016, a decrease from last year's 'E+' grade. The lower grade reflects the Government's persistent failure to implement their commitment to recognise the ethnic minority status of Travellers and the missed opportunity presented by the Carrickmines fire tragedy to uphold the rights of Traveller children. Traveller and Roma children continued to face educational disadvantage in 2015.

This is the final year being analysed in the Report Card series under the *Programme for Government 2011-2016*. A commitment was made to promote greater co-ordination and integration of delivery of services to Travellers. The coordination of delivery of services for Travellers remains very weak. In many cases whilst policies and strategies have been put in place, there is limited implementation, monitoring, evaluation or accountability. For example, the National Traveller Health Advisory Committee (NTHAC) entrusted with developing a

strategy to respond to the All-Ireland Traveller Health Study in 2010 has not met since 2012.⁵⁵² Between 2008 and 2013, funding for interagency activities relating to Travellers was cut completely and has not been reinstated.⁵⁵³ Of serious concern is that the adoption of integrated services has resulted in a mainstreaming approach which fails to address the specific experiences of Traveller and Roma children as members of communities who experience high levels of marginalisation, discrimination, educational disadvantage and poverty. In the area of education for example, additional supports for Travellers to assist the process of mainstreaming have not been put in place.⁵⁵⁴

There are 14,913 Traveller children living in Ireland.⁵⁵⁵ The Traveller community has a very young population with 42 per cent of Travellers under the age of 15 years.⁵⁵⁶ At the end of the *Programme for Government*, outcomes for Traveller and Roma children continue to be among the worst for children in Ireland in areas such as equality and

552 Communication received by the Children's Rights Alliance from Pavee Point, 10 February 2016.

553 Brian Harvey, *Travelling with Austerity: Impacts of cuts on Travellers, Traveller Projects and Services* (Pavee Point Publications 2013) 1.

554 Ibid 35.

555 Central Statistics Office, 'Census 2011 Profile 7-Religion, Ethnicity and Irish Travellers' <<http://www.cso.ie/en/media/csoie/census/documents/census2011profile7/Profile7EducationEthnicityandIrishTravellerEntire.doc.pdf>> accessed 29 January 2016.

556 Pavee Point Travellers' Centre, *Profile of the Traveller Family for Family Resource Centres* (Pavee Point 2010) 1.

**IN THE NEWS****STATE TO INTRODUCE PARTS OF CHILDREN AND FAMILY RELATIONSHIPS ACT**

The Irish Times, 20 May 2015

The Government is preparing to activate parts of the Children and Family Relationships Act, which overhauls the law on adoption and donor-assisted reproduction.

The Act was signed into law by President Michael D Higgins in April but its provision will not come into force until formal commencement orders are signed. Some parts of the legislation will not be activated for at least a year.

The landmark reform of family law changes guardianship and custody rules and allows same-sex couples to apply to adopt. A section on surrogacy was removed by Minister for Justice Frances Fitzgerald when she succeeded Alan Shatter last year, and the Department of Health plans to

incorporate surrogacy into a forthcoming Bill on assisted human reproduction. Three departments – Justice, Children and Foreign Affairs – must sign separate commencement orders for the Children and Family Relationships Act to come into force. A spokesman for the Department of Justice, which is responsible for most sections of the legislation, said it was "proceeding with preparations" for the commencement of those parts but could not say when it would be done.

[...]The spokesman said the department was already in discussions with the Courts Service on the rules of court that would be needed to activate the provisions on guardianship, custody, access and maintenance. Ms Fitzgerald has indicated that the provisions in parts two and three of the Act, which deal with donor-assisted human reproduction, will not be activated for at least a year. [...]

By Ruadhán Mac Cormaic

In Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020, 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.

non-discrimination,⁵⁵⁷ access to social protection,⁵⁵⁸ health,⁵⁵⁹ education,⁵⁶⁰ and accommodation.⁵⁶¹ The Final Report of the Child Care Law Reporting Project, published in November 2015, noted that Traveller children are over-represented in child protection cases coming before the courts compared to the general population.⁵⁶²

In Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020, 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.⁵⁶³ The Government also reiterated its commitment to implement and monitor the *National Traveller Roma Integration Strategy*.⁵⁶⁴

Under the UN Convention on the Rights of the Child, the State is obliged to take measures, using the maximum available resources, to ensure that all children, including Traveller and Roma children, have an adequate standard of living.⁵⁶⁵ All children have the right not to experience discrimination on any ground irrespective of the race, language, religion, ethnic or social origin, other status of the child or the child's parents or guardian⁵⁶⁶ and they have the right to life, survival and development.⁵⁶⁷ The State is obliged to ensure that every child has a standard of living which is adequate to allow them to develop fully – physically, mentally, spiritually, morally and socially.⁵⁶⁸ Moreover, children in ethnic, religious, linguistic minorities or of indigenous origin must not be denied the right to enjoy their own culture, religion or language.⁵⁶⁹

National Traveller and Roma Inclusion Strategy:

A National Traveller Roma Integration Strategy was launched in 2011.⁵⁷⁰ In April 2015, the National Traveller and Roma Inclusion Strategy Steering Group was established to oversee the development and implementation of a revised Strategy.⁵⁷¹ A second phase of the consultation process for this strategy

was commenced in February 2016.⁵⁷² It is vital that the development of the Strategy involves Travellers and Roma, is based on human rights, and sets out clear goals, targets, indicators, timelines and funding mechanisms.⁵⁷³ Rigorous monitoring, evaluation and accountability mechanisms should be put in place to oversee the impact of the new Strategy in particular on children.

Recognition of the Ethnic Status of Travellers:

In November 2014, the Minister of State for New Communities, Culture and Equality, Aodhán Ó Riordáin TD, made a commitment that the State would recognise Travellers as an ethnic minority within six months.⁵⁷⁴ One year later, in November 2015, Traveller ethnicity was debated in Dáil Éireann. A motion calling for the State to recognise the ethnic minority status of Travellers was rejected by Government by 58 to 39 votes.⁵⁷⁵

The Government's failure to recognise Traveller ethnicity is incompatible with international human rights standards and has been criticised at both national and international level,⁵⁷⁶ including in 2014 by the UN Human Rights Committee.⁵⁷⁷ Travellers are an indigenous minority group that have been part of Irish society for hundreds of years and deserve the right to self-identification. They have a distinctive lifestyle and culture based on a nomadic tradition with a language, customs and traditions that make them identifiable as a group to both themselves

and to others.⁵⁷⁸ One impact of the recognition of ethnicity would be that Travellers would be automatically given consideration in anti-racism and anti-discrimination initiatives.⁵⁷⁹

Ethnic Identifier: There is no publicly available statistical information on the number of Roma living in Ireland or the number of Roma or Traveller children in the care system.⁵⁸⁰ The UN Committee on the Rights of the Child has called on States to employ data collection mechanisms that can study the situation of specific groups, including ethnic and/or indigenous groups.⁵⁸¹ Report Card 2013, 2014 and 2015 highlighted that the lack of disaggregated data on Traveller and Roma children hinders our understanding of the progression of these children within the education, health and child protection systems.

During 2015, the Department of Education and Skills continued to develop a Primary Online Database (POD).⁵⁸² Data on ethnicity is sought from families

The Government's failure to recognise Traveller ethnicity is incompatible with international human rights standards and has been criticised at both national and international level.

557 Seanad Public Accounts Committee, *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*, (Houses of the Oireachtas, Seanad Éireann 2014) para 19; and Pavee Point, *Irish Traveller and Roma Children, An Update to Pavee Point Traveller and Roma Centre's shadow report in response to Ireland's consolidated third and fourth report to the UN Committee on the Rights of the Child* (Pavee Point 2015) 5.

558 Hilary Harmon, *Irish Traveller and Roma Children, Shadow Report, A response to Ireland's Consolidated Third and Fourth Report to the UN Committee on the Rights of the Child* (Pavee Point 2015) 8, 10-11.

559 *ibid* 10.

560 *ibid* 15-19 and Brian Harvey, *Travelling with Austerity, Impacts of Cuts on Travellers, Traveller Projects and Services* (Pavee Point 2013) 34-38.

561 Pavee Point, *Irish Traveller and Roma Children, An Update to Pavee Point Traveller and Roma Centre's shadow report in response to Ireland's consolidated third and fourth report to the UN Committee on the Rights of the Child* (Pavee Point 2015) 9-10.

562 Carol Coulter, *Final Report, Child Care Law Reporting Project* (Child Care Law Reporting Project 2015) 13.

563 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (Department of Children and Youth Affairs 2014) Commitments 1.4, 2.22, 4.9 and 5.6.

564 *ibid* Commitment 4.9.

565 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 4.

566 *ibid* Art 2.

567 *ibid* Art 6.

568 *ibid* Art 27.

569 *ibid* Art 30.

570 Department of Justice and Equality, 'Traveller and Roma Inclusion' <<http://www.justice.ie/en/JELR/Pages/WP15000120>> accessed 29 January 2016.

571 Department of Justice and Equality, 'Report of Implementation Group set up to monitor implementation of the Recommendations contained in Ms Emily Logan's Report of the inquiry into the circumstances surrounding the removal of two Roma children from their families' <http://www.justice.ie/en/JELR/Pages/Logan_Report_Implementation_Group_2015> accessed 29 January 2016, 2.

572 Department of Justice and Equality, 'Minister Ó Riordáin announces details of Phase 2 in the development of a new National Traveller and Roma Inclusion Strategy' <<http://www.justice.ie/en/JELR/Pages/PR16000044t>> accessed 12 February 2016. It is expected that a new strategy will be presented to Government for approval as part of the EU Framework for National Roma Strategies up to 2020 in October 2016. See *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] (European Commission 2011).

573 See Pavee Point, 'Briefing Note on the National Traveller and Roma Integration Strategy' (February 2014) <<http://www.paveepoint.ie/document/briefing-note-irelands-national-traveller-roma-integration-strategy/>> accessed 29 January 2016; and Hilary Harmon, *A response to Ireland's Consolidated Third and Fourth Report to the UN Committee on the Rights of the Child* (Pavee Point 2015) 23.

574 Kitty Holland, 'Traveller ethnicity will be reality in six months, says O Riordain' *The Irish Times* (Dublin, 19 November 2014).

575 Pádraig Mac Lochlainn TD, Dáil Debates, Written Answers: Travellers Rights Motion, 3 November 2015.

576 State failure to recognise Traveller ethnicity has been criticised by the Equality Authority, 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 and the Advisory Committee on the Implementation of the Council of Europe Framework Convention on the Protection of National Minorities (FCNM). See also Houses of the Oireachtas, Joint Committee on Justice, Equality and Defence, 'Report on the Recognition of Traveller Ethnicity' <<http://www.oireachtas.ie/parliament/media/committees/justice/Report-on-Traveller-Ethnicity.pdf>> accessed 29 January 2016, 7.

577 UNHRC, 'Concluding Observations: Ireland' (19 August 2014) UN Doc CCPR/C/IRL/CO/4 para 23.

578 Cecily Kelleher et al., *Our Geels, All Ireland Traveller Health Study*, (University College Dublin 2010) 9.

579 Hilary Harmon, *Irish Traveller and Roma Children, Shadow Report, A response to Ireland's Consolidated Third and Fourth Report to the UN Committee on the Rights of the Child* (Pavee Point 2015) 22.

580 *ibid* 7.

581 UNCRC 'General Comment No. 4 on Adolescent Health and Development in the Context of the Convention on the Rights of the Child' (2003) UN Doc CRC/GC/2003/4 para 13.

582 Department of Education and Skills, 'Primary Online Database (POD)' <<https://www.education.ie/en/Publications/Statistics/Primary-Online-Database-POD-/>> accessed 29 January 2016.

as part of the data collection for the POD, known as an ethnic identifier.⁵⁸³ The POD is due to be fully operational for the academic year 2015/16.⁵⁸⁴ An ethnic identifier is an important measure to track and monitor the impact of policies and legislation on minority children, including school attendance, retention and learning outcomes. The data generated by the POD is to be used to monitor the progress of children through the education system and the question on ethnicity is to allow the Department to collect data on the diversity of the school population.⁵⁸⁵ It is anticipated that the database will be shared with other relevant bodies, such as the Department of Social Protection, the HSE and the National Council for Special Education.⁵⁸⁶ The Data Protection Commissioner has advised that 'the most equitable way' to collect this type of data is to give all pupils an opportunity to identify their own ethnic and cultural background and to consent to the data being shared with the Department.⁵⁸⁷ Because ethnicity is considered to be sensitive data, consent of the child's parent or guardian is required in order for it to be shared with the Department.⁵⁸⁸ The database only applies to primary schools. At second level, Traveller children are the only group asked to identify their ethnicity.

Traveller Accommodation: Adequate and culturally appropriate accommodation is a serious and

ongoing issue for the Traveller community and has a direct impact on health outcomes of Traveller children.⁵⁸⁹ A study in 2010 found that almost three-quarters of Travellers live in houses and almost a fifth live in caravans, trailers or mobile homes.⁵⁹⁰ It also found a quarter of families felt where they lived was unhealthy and over a quarter felt that their place of residence was unsafe.⁵⁹¹ Over three quarters did not have safe play areas.⁵⁹²

Local authorities are charged with providing Traveller accommodation but between 2008 and 2013, 25 local authorities failed to meet their targets for accommodation provision.⁵⁹³ There are no sanctions against those who failed to achieve their target.⁵⁹⁴ The Irish Human Rights and Equality Commission expressed concern at the rising numbers of Travellers living on the roadside and sharing accommodation in the context of 'low or non-existent' capital investment in Traveller accommodation through the Department of the Environment, Community and Local Government.⁵⁹⁵ The Commission went on to note that emergency accommodation has become 'de facto permanent' accommodation for many Traveller families and that such accommodation 'cannot, in the long term, vindicate the right to dignity and protection of the individuals concerned'.⁵⁹⁶ A 2015 Supreme Court judgment in *O'Donnell & Ors v South Dublin County Council & Ors* highlighted

the fact that poor quality Traveller accommodation, may be a breach of a local authority's statutory duty, and in addition may also amount to a breach of the constitutional right to autonomy, bodily integrity and privacy.⁵⁹⁷

On 9 October 2015, a fire at a temporary Traveller halting site, in Carrickmines, Dublin, killed ten people including five children. Local residents objected to the use of a nearby green field site to re-accommodate the survivors on a temporary basis.⁵⁹⁸ Legal action by residents threatened to delay the relocation decision so the Local Authority accommodated the survivors in an alternative site – a car park. The Carrickmines fire tragedy highlighted the deeply rooted racism in Irish society towards Travellers and focused national attention on the deficits of Traveller accommodation. Following the tragedy, fire safety reviews are to be undertaken on all sites⁵⁹⁹ and Pavee Point called for the establishment of a dedicated Traveller Agency to drive improvements and implementation of policy and legislation for Travellers.⁶⁰⁰

Roma Children: In December 2013, the then Ombudsman for Children, Ms. Emily Logan was appointed in her personal capacity by the Minister for Justice and Equality to carry out a special inquiry into the removal of two Roma Children from their families by An Garda Síochána.⁶⁰¹ The Report of the Implementation Group set up to monitor the recommendations in the Logan Report was published in November 2015 and lists the range of activities undertaken to date.⁶⁰² One of the report's key recommendations was that an assessment of

The Programme for Government commits to use available resources to more effectively deliver on principles of social inclusion such as Traveller education. All children including Traveller and Roma children have the right to education.

the needs of the Roma community be undertaken.⁶⁰³ This assessment is ongoing in partnership with Pavee Point and is expected to be finalised by the end of 2015.⁶⁰⁴ The Government note that the completed assessment will 'inform consideration of whether an up-dated needs assessment of the Traveller community could usefully be undertaken'.⁶⁰⁵

Education: The *Programme for Government* commits to use available resources to more effectively deliver on principles of social inclusion such as Traveller education. All children including Traveller and Roma children have the right to education.⁶⁰⁶ This education must be directed to the development of 'respect for the child's parents, his or her own cultural identity, languages and values, [...]'.⁶⁰⁷ While the *Report and Recommendations for a Traveller Education Strategy* was published in 2006,⁶⁰⁸ a strategy of itself with an implementation plan and timeline was never developed. In April 2015, an evaluation of the Delivering Equality of Opportunity In Schools (DEIS) programme was published;⁶⁰⁹ it repeated earlier findings comparing average test

583 Department of Education and Skills, 'Information for Parents on the New Primary Online Database (POD) <<https://www.education.ie/en/Publications/Statistics/Primary-Online-Database-POD-/POD-Information-for-Parents.pdf>> accessed 29 January 2016, 1.

584 Department of Education and Skills, Primary Online Database (POD) <<https://www.education.ie/en/Publications/Statistics/Primary-Online-Database-POD-/>> accessed 29 January 2016.

585 Department of Education and Skills, 'Information for Parents on the New Primary Online Database (POD) <<https://www.education.ie/en/Publications/Statistics/Primary-Online-Database-POD-/POD-Information-for-Parents.pdf>> accessed 29 January 2016, 4.

586 Department of Education and Skills, 'Primary Online Database (POD)' <<https://www.education.ie/en/Publications/Statistics/Primary-Online-Database-POD-/>> accessed 29 January 2016.

587 Department of Education and Skills, 'Information for Parents on the New Primary Online Database (POD) <<https://www.education.ie/en/Publications/Statistics/Primary-Online-Database-POD-/POD-Information-for-Parents.pdf>> accessed 29 January 2016, 4.

588 *ibid* 1.

589 Cecily Kelleher et al., *Our Geels, All Ireland Traveller Health Study*, (University College Dublin 2010) 148.

590 *ibid* 46.

591 *ibid*.

592 *ibid*.

593 Pavee Point, *Irish Traveller and Roma Children, An Update to Pavee Point Traveller and Roma Centre's shadow report in response to Ireland's consolidated third and fourth report to the UN Committee on the Rights of the Child* (Pavee Point 2015) 11.

594 Pavee Point, *Irish Traveller and Roma Children, An Update to Pavee Point Traveller and Roma Centre's shadow report in response to Ireland's consolidated third and fourth report to the UN Committee on the Rights of the Child* (Pavee Point 2015) 11.

595 *ibid*, 11.

596 The Irish Human Rights and Equality Commission, 'Statement by the Irish Human Rights and Equality Commission in response to recent tragedies at a temporary Traveller halting site at the Glenamuck Road in South Dublin' (23 October 2015) Section 42 of the Irish Human Rights and Equality Commission Act 2014 places a duty on public bodies, including local authorities, to have regard to the need to eliminate discrimination, promote equality of opportunity and protect human rights in the performance of their functions.<<http://www.ihrec.ie/news/2015/10/23/statement-by-the-irish-human-rights-and-equality-c/>> accessed 29 January 2016.

597 The Irish Human Rights and Equality Commission, 'Statement by the Irish Human Rights and Equality Commission in response to recent tragedies at a temporary Traveller halting site at the Glenamuck Road in South Dublin' (23 October 2015) <<http://www.ihrec.ie/news/2015/10/23/statement-by-the-irish-human-rights-and-equality-c/>> accessed 29 January 2016.

597 [2015] IESC 28 para 68.

598 Kitty Holland, 'Carrickmines fatalities: Anger distilled from shock and grief' *The Irish Times* (Dublin 24 October 2015) and Gene Kerrigan, 'The policy of leaving things as they are' *The Sunday Independent* (Dublin 25 October 2015).

599 Minister for the Environment, Community and Local Government, Alan Kelly TD, Dáil Debates, Written Answers, Traveller Accommodation, 5 November 2015.

600 Pavee Point Traveller and Roma Centre, 'Almost 5,500 sign up for Traveller agency' (11 November 2015) <<http://www.paveepoint.ie/almost-5500-sign-up-for-traveller-agency/>> accessed 29 January 2016.

601 Emily Logan, *Garda Síochána Act 2005 (Section 42) (Special Inquiries relating to Garda Síochána) Order 2013: Report of Ms Emily Logan* (Department of Justice and Equality 2013).

602 Department of Justice and Equality, 'Report of Implementation Group set up to monitor implementation of the Recommendations contained in Ms Emily Logan's Report of the inquiry into the circumstances surrounding the removal of two Roma children from their families' <http://www.justice.ie/en/JELR/Pages/Logan_Report_Implementation_Group_2015> accessed 29 January 2016.

603 Emily Logan, *Garda Síochána Act 2005 (Section 42) (Special Inquiries relating to An Garda Síochána) Order 2013: Report of Ms Emily Logan* (Department of Justice and Equality 2014) 106.

604 Pavee Point 'Assessment of need of Roma community in Ireland' <<http://www.paveepoint.ie/roma-needs-assessment/>> (accessed 29 January 2016).

605 UNCRRC 'List of Issues in relation to the Combined Third and Fourth Periodic reports Ireland' UN Doc CRC/C/IRL/Q/3-4/Add.1.4.

606 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 28.

607 *ibid*, Art 29(c).

608 Department of Education and Skills, *Report and Recommendations for a Traveller Education Strategy* (Stationery Office 2006).

609 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. For more information see section 2.2 of this Report.

scores of pupils from the Traveller community in 2007 and in 2010 with non-Traveller pupils in reading and mathematics.⁶¹⁰ The study found that the average scores of Travellers in both years were significantly below those of non-Travellers and that the difference between them was 'large'.⁶¹¹ Small but not significant improvements were seen across the board in reading but not in mathematics.⁶¹² This is of particular concern given the broader context that of the general Traveller population 55 per cent have left school by the age of 15, on average 4.7 years earlier than the general population,⁶¹³ and 17.7 per cent of Travellers have no formal education, compared with 1.4 per cent in the general population.⁶¹⁴

Half of Traveller pupils attend DEIS schools, those in non-DEIS schools do not receive additional support because Traveller specific supports, such as resource teachers for Travellers and the Visiting Teacher Service were abolished in 2011.⁶¹⁵ The Irish National Teacher's Organisation (INTO) has noted that 'many teachers' are of the view that 'the DEIS support programme did not adequately respond to the needs of Traveller children'.⁶¹⁶

Despite the obvious challenges faced by Traveller and Roma children in education, Budget 2016 did not include any additional supports for these groups. Resources are provided on 'identified individual educational need' to all children with no targeted initiatives for Traveller children or others based on cultural or ethnic background to facilitate and support their engagement in mainstream education.⁶¹⁷

Despite the obvious challenges faced by Traveller and Roma children in education, Budget 2016 did not include any additional supports for these groups. Resources are provided on 'identified individual educational need' to all children with no targeted initiatives for Traveller children or others based on cultural or ethnic background to facilitate and support their engagement in mainstream education.

Traveller and Roma Children

Immediate Actions for 2016



PUT IN PLACE A MONITORING AND EVALUATION MECHANISM FOR THE NATIONAL ROMA AND TRAVELLER INCLUSION STRATEGY.

To ensure commitments are delivered, a rigorous monitoring and evaluation mechanism should be established for the Strategy.

DELIVER ON THE GOVERNMENT COMMITMENT TO RECOGNISE TRAVELLER ETHNICITY.

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.

INTRODUCE AN ETHNIC IDENTIFIER ACROSS ALL ADMINISTRATIVE AREAS.

An ethnic identifier should be introduced across all administrative areas to enable the Government to track outcomes for minorities and to measure the efficacy of Traveller and Roma related initiatives.

ENSURE ADEQUATE AND APPROPRIATE ACCOMMODATION, INCLUDING TRANSIENT ACCOMMODATION, IS PROVIDED TO TRAVELLER FAMILIES BY LOCAL AUTHORITIES.

Local authorities should fulfil their obligations under the Housing (Traveller Accommodation) Act 1998 to provide culturally appropriate accommodation to Travellers with adequate water and sanitation facilities. Penalties should be imposed where local authorities fail in their duty to do so. Safe play and recreational areas should be provided for Traveller children and young people.

ESTABLISH A TRAVELLER AGENCY.

A Traveller Agency should be established to drive cohesion and integration of delivery of services as well as improvements to and implementation of policy and legislation for Travellers and their children.

TAKE STEPS TO IMPROVE THE EDUCATIONAL OUTCOMES FOR TRAVELLER AND ROMA CHILDREN.

Targeted education supports should be introduced to support Traveller and Roma inclusion in mainstream education. An evaluation of the impact of the withdrawal of Traveller specific education supports should be undertaken to inform this. A monitoring and evaluation framework with clear timelines for the *Report and Recommendations for a Traveller Education Strategy* should also be developed and implemented.

610 Emer Smyth et al, *Learning from the Evaluation of DEIS*, (Economic and Social Research Institute 2015) 12.

611 Susan Weir et al, *A Report of the First Phase of the Evaluation of DEIS* (Education Research Centre 2011) 45-47.

612 *ibid.*

613 Central Statistics Office, 'Census 2011-Profile 7-Religion, Ethnicity and Irish Travellers' <<http://www.cso.ie/en/media/csoie/census/documents/census2011profile7/Profile7EducationEthnicityandIrishTravellerCommentary.pdf>> accessed 29 January 2016, 32.

614 *ibid.*

615 The Irish National Teacher's Organisation, 'DEIS Consultation Submission' <<https://www.education.ie/en/Schools-Colleges/Services/DEIS-Delivering-Equality-of-Opportunity-in-Schools-/DEIS-Supporting-Information/DEIS%20Review%20Consultation/INTO-submission.pdf>> accessed 29 January 2016, 9.

616 *ibid.* 6.

617 Communication Received by the Children's Rights Alliance from the Department of Justice and Equality, 4 November 2014.

6.2

Migrant Children**GOVERNMENT COMMITMENT**

The *Programme for Government 2011-2016* commits to promoting policies that integrate minority ethnic groups in Ireland, and that promote social inclusion, equality, diversity and the participation of immigrants in the economic, social, political and cultural life of their communities.



Progress: Limited

'Migrant Children' receives a 'D-' in Report Card 2016. This grade represents an increase on last year's 'E+' grade. The increased grade reflects the fact that the Working Group on the Protection Process completed its task and published its report, and that the first government consultation of its kind in the EU took place with children in the Direct Provision system. Further resources are required to ensure that the Working Group recommendations that relate to children are implemented. However, the grade remains low because in spite of the report, little changed on the ground for children in 2015 and the promised Integration Strategy has not yet been published.

This is the final year being analysed in the Report Card series under the *Programme for Government 2011-2016*. A commitment was made to promote policies on the integration of minority ethnic groups including the promotion of inclusion, equality and diversity. While progress is beginning to be made now, little has changed for migrant children on the ground across these areas over 2015.

Census 2011 shows that one in seven children under the age of 14 is from an ethnic minority and/or migrant background.⁶¹⁸ There were more than 1,200 asylum seeking children living in the Direct Provision system in Ireland at the end of December 2015.⁶¹⁹ International developments have seen an increase over the last twelve months in the number of migrant and asylum-seeking families and unaccompanied children in Europe.⁶²⁰ The Government responded to the refugee crisis by establishing the Irish Refugee Protection Programme and agreed to accept up to 4,000 persons under the EU Resettlement and Relocation Programmes.⁶²¹

This is the final year being analysed in the Report Card series under the *Programme for Government 2011-2016*. A commitment was made to promote policies on the integration of minority ethnic groups including the promotion of inclusion, equality and diversity.

618 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 29 January 2016.

619 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 27 January 2016.

620 Niall Collins TD, Dáil Debates, EU Council Decisions on Measures in the Area of International Protection: Motions, 1 October 2015.

621 Department of Justice and Equality, 'The Irish Refugee Protection Programme (IRPP)' <[http://www.justice.ie/en/JELR/Pages/Irish_Refugee_Protection_Programme_\(IRPP\)](http://www.justice.ie/en/JELR/Pages/Irish_Refugee_Protection_Programme_(IRPP))> accessed 29 January 2016.

There are a range of rights relating to migrant children under the UN Convention on the Rights of the Child⁶²² but for the purpose of this section, we will examine the *Programme for Government* commitment under two key provisions relating to migrant children – non-discrimination and special protection measures. Under Article 2, the State is required to ensure that children are not discriminated against on any ground irrespective of their race, national or ethnic origin or other status.⁶²³ Furthermore, they must be protected against discrimination based on their parent or guardian's race, national, ethnic or other status. Under Article 22, States must provide special protection measures for children outside their country of origin seeking refugee protection.⁶²⁴

The *Programme for Government* commitment in this area is broad-reaching. *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* recognises migrant children as a vulnerable group and makes specific commitments including to tackle inequalities in health,⁶²⁵ strengthen social inclusion measures, improve educational outcomes,⁶²⁶ address the interaction of migrant children with the immigration system, provide for a more efficient protection determination system⁶²⁷ and reduce discrimination and intolerance experienced by migrant children.⁶²⁸

Integration Strategy: In 2014, a review of Ireland's approach to migrants was ordered by the then Minister for Justice and Equality, Alan Shatter TD. A Cross-Departmental Group on Integration was established in March 2014 to draft an overarching Integration Strategy taking account of existing

policies⁶²⁹ and actions being implemented.⁶³⁰ Consultation with key stakeholders was carried out and in October 2015 a draft of the Strategy was shared with stakeholders for their observations; the Strategy is due to be published shortly.⁶³¹

It has been eight years since the publication of *Migration Nation, Statement on Integration Strategy and Diversity Management* in 2008⁶³² and the landscape has changed significantly in the intervening period, with the lapse of *Planning for Diversity, The National Action Plan Against Racism 2005-2008*, the closure of the National Consultative Committee on Racism and Interculturalism and the loss of the designated Minister for Integration as well as a significant reduction in the capacity of community migrant-led groups.⁶³³ The new Strategy is an opportunity for the State to meet its commitments to migrant children under the *National Policy Framework* and its obligations under the UN Convention on the Rights of the Child. The Strategy should include commitments on legislative reforms. The continued lack of a modern and coherent legal structure in relation to migrants and their families, impacts negatively of the everyday lives of migrant children, young people and their families in Ireland. 2015 saw the publication and enactment of the International Protection Act 2015. However, this legislation only addresses issues relating to the protection determination process, which is not covered in this report.

There is still no legal framework on the reception conditions of asylum seekers in Ireland, that is, Direct Provision. Ireland has decided to opt out of the EU Reception Conditions (Recast) Directive, which governs reception conditions for applicants

622 See for example, Article 7 of the UN Convention on the Rights of the Child, which stipulates that a child shall have the right to a nationality and Article 30 which provides that the State must ensure that children of an ethnic religious or linguistic minority are not denied the right to enjoy their own culture, to profess and practise their own religion, or to use their own language. Article 31(2) obliges States to ensure that children can participate fully in cultural [...] life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

623 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 2 para 1.

624 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 22.

625 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (Department of Children and Youth Affairs 2014) Commitment 1.4.

626 *ibid* Commitment 2.22.

627 *ibid* Commitment 3.7.

628 *ibid* Commitment 5.6.

629 Existing strategies include the Intercultural Education Strategy and the Garda Síochána Diversity Strategy.

630 Minister of State at the Department of Justice and Equality, Mr Aodhán Ó Riordáin TD, Dáil Debates, Migrant Integration, 25 November 2015 [41947/15].

631 Office for the Promotion of Migrant Integration, 'Review of the Integration Strategy – Update (Oct 2015)' <<http://www.integration.ie/website/omi/omiwebv6.nsf/page/NewIntegrationStrategy-en>> accessed 29 January 2016.

632 Office of the Minister for Integration, *Migration Nation, Statement on Integration Strategy and Diversity Management* (Office of the Minister for Integration 2008).

633 Nasc, 'Submission to the Office for the Promotion of Migrant Integration on the Development of a Migrant Integration Policy' <<http://www.nascireland.org/wp-content/uploads/2012/02/OPMI-Integration-Submission.pdf>> accessed 29 January 2016, 2.

for international protection.⁶³⁴ This is disappointing as Article 23 of the Directive requires signatories to ensure that the best interests of the child are a primary consideration in decision making and States must 'ensure a standard of living adequate for the minor's physical, mental, spiritual, moral and social development.'

Children Living in Direct Provision: Young people from migrant backgrounds experience discrimination in their daily lives both interpersonally⁶³⁵ and systemically in terms of their right to family life,⁶³⁶ access to play and recreational facilities,⁶³⁷ social protection⁶³⁸ and independent complaints (though this is expected to change shortly).⁶³⁹ Few children are more vulnerable to discrimination in Ireland than those of asylum seeking families. Approximately half of children in asylum-seeking families in Ireland live in the Direct Provision system.⁶⁴⁰ Direct Provision is a system of accommodation provided by the State to people seeking asylum in Ireland. It provides

room and board within former hotels, hostels or other large buildings. Each centre is managed by private contractors on behalf of the Reception and Integration Agency.⁶⁴¹

Concerns about the system and the living conditions at the centres are well documented⁶⁴² and the Government's own *Statement of Government Priorities 2014-2016* highlights the need for reform.⁶⁴³ In October 2014, the Minister for Justice and Equality, Frances Fitzgerald TD and the Minister of State for New Communities, Culture and Equality, Aodhán Ó Riordáin TD 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.⁶⁴⁴ The Final Report of the Working Group, published in June 2015, made a range of findings and 173 recommendations, five of which were of particular

The average length of stay in Direct Provision is three years and four months but almost 15 per cent of residents have been living in the system for more than seven years. This means that there are children who have spent their whole lives living in a centre, which often involves living in communal or shared accommodation not appropriate for family life.

relevance to children. The Working Group report provides a blueprint for the State to significantly improve the lives of children and families in the Direct Provision system.

The average length of stay in Direct Provision is three years and four months but almost 15 per cent of residents have been living in the system for more than seven years.⁶⁴⁵ This means that there are children who have spent their whole lives living in a centre, which often involves living in communal or shared accommodation not appropriate for family life. One of the main recommendations of the Working Group relates to reducing the length of time being spent by people in the protection process and leave to remain stages.⁶⁴⁶

Another key issue raised by the Working Group related to the quality of the physical conditions in Direct Provision accommodation, which, they noted, varied across the centres⁶⁴⁷ and in some cases involved 'cramped physical conditions' and that the 'multipurpose and multi-occupancy nature of the accommodation...raises concerns around privacy, mental health, family life and child protection'.⁶⁴⁸ The Working Group notes that some children had grown up without a memory of their parents cooking a family meal,⁶⁴⁹ and that all families should have access to cooking facilities and their own private living space in so far as practicable.⁶⁵⁰ The Group recommended that all requests for tender for new accommodation for asylum seeker families should specifically require self-contained units with cooking facilities and/or family quarters with communal kitchens and adequate recreational space for children and young people.⁶⁵¹ However, a tender for new accommodation released in July 2015 did not reflect this recommendation, missing an important opportunity to act on the Working Group's recommendation in this area.⁶⁵²

In May 2015, the Health Inspection and Quality Authority (HIQA) issued a report that found that in one year child welfare and protection referrals had been made to Tusla – the Child and Family Agency in relation to approximately 14 per cent of the population of children living in Direct Provision.⁶⁵³ This represents a significantly higher referral rate than for the general child population of 1.6 per cent.⁶⁵⁴ The Final Report of the Child Care Law Reporting Project, published in November 2015, also noted

634 Council Directive 2013/33/EU of 26 June 2013, laying down standards for the reception of applicants for international protection (recast) [2013] L 180/96.
635 Immigrant Council of Ireland, 'Young People on Frontline of Racism' (6 January 2014) <<http://immigrantcouncil.ie/pages/articles/2014/110>> accessed 29 January 2016; Out of 182 reported incidents of racism recorded between July and December 2014, 13 (8 per cent) were directly experienced by children aged 17 and under, Shane O'Curry and Dr Lucy Michael, *Reports of Racism in Ireland, 5th and 6th quarterly reports of iReport.ie* (ENAR Ireland 2015) 12.
636 CESCR, 'Concluding Observations on the third periodic report of Ireland' (2015) UN Doc E/C.12/IRL/CO/3 para 14.
637 Samantha K. Arnold, *State Sanctioned Child Poverty and Exclusion – The case of children in state accommodation for asylum seekers* (Irish Refugee Council 2012) 13-15.
638 Working Group to Report to the Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, *Final Report* (June 2015) <<http://bit.ly/1GYBUL5>> accessed 29 January 2016, para 5.5.
639 In February 2016, in line with a recommendation of the Working Group, the Minister for Justice and Equality agreed, subject to the advice of the Attorney General, to allow asylum seekers living in Direct Provision to have their complaints heard by both the Ombudsman and the Ombudsman for Children. Up to this point, children living in Direct Provision centres were the only group of children denied access to the Ombudsman for Children's complaints procedure. Ombudsman for Children's Office, 'Commitment to allowing residents in Direct Provision to make complaints to Ombudsman offices welcomed' (4 February 2016) <<http://bit.ly/1PUtvK6>> accessed 5 February 2016.
640 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 27 January 2016.
641 For more information, see Reception and Integration Agency, 'Direct Provision' <http://www.ria.gov.ie/en/RIA/Pages/Direct_Provision_FAQs> accessed 29 January 2016.
642 See for example, Health Information and Quality Authority, 'Report on inspection of the child protection and welfare services provided to children living in Direct Provision accommodation under the National Standards for the Protection and Welfare of Children, and Section 8(1) (c) of the Health Act 2007' <<https://www.hiqa.ie/inspection-reports/inspection-id706-child-protection-and-welfare-services-provided-children-living-d>> accessed 29 January 2016. In addition, the Special Rapporteur on Child Protection, Prof. Geoffrey Shannon, has repeatedly raised concerns about children living in the Direct Provision and has called for an immediate review of the system, research on 'the specific vulnerability of children accommodated in this system' and has recommended that 'asylum proceedings are accessible and effective[...] for all applicants, including children' and that the 'rights of children, including the right to a fair trial and the right to private and family life, are not violated by asylum proceedings.' Prof Geoffrey Shannon, *Fifth Report of the Special Rapporteur on Child Protection: A Report Submitted to the Oireachtas* (Department of Children and Youth Affairs 2012) 13. See also the UN Committee on Economic, Social and Cultural, 'Concluding Observations on the third periodic report of Ireland' (2015) UN Doc E/C.12/IRL/CO/3 para 14 and UN Human Rights Committee 'Concluding Observations under the International Covenant on Civil and Political Rights: Ireland' (2014) UN Doc CCPR/C/IRL/CO/4 para 19.
643 It contains a number of commitments to address issues in this area such as to make the system of Direct Provision more respectful to the applicant; introduce a Protection Bill to reduce the length of time the applicant spends in the system through the establishment of a single applications procedure; work on an Immigration and Residence Bill; establishment of an independent Working Group to report to Government on improvements with the protection process, including Direct Provision and supports for asylum seekers. Government of Ireland, 'Statement of Priorities 2014-2016' <http://www.taoiseach.gov.ie/eng/Publications/Publications_2014/Statement-of-Government-Priorities-2014-2016.pdf> accessed 29 January 2016.
644 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' (13 October 2014) <<http://www.justice.ie/en/JELR/Pages/PR14000280>> accessed 29 January 2016.

645 Reception and Integration Agency, 'Monthly Statistics Report – September 2015' <<http://www.ria.gov.ie/en/RIA/RIA%20Monthly%20Report%209-2015.pdf/Files/RIA%20Monthly%20Report%209-2015.pdf>> accessed 29 January 2016.
646 Working Group to Report to the Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, *Final Report* (June 2015) <<http://bit.ly/1GYBUL5>> accessed 29 January 2016, paras 3.128, 3.134 and 3.135.
647 *ibid* para 47.
648 *ibid* para 4.56.
649 *ibid* para 1.62.
650 *ibid* para 4.75.
651 *ibid* para 4.75.
652 RTE News, 'RIA accused of failing to enforce direct provision recommendations' (8 September 2015) <<http://www.rte.ie/news/2015/0908/726570-ria-asylum-seekers/>> accessed 29 January 2016.
653 The report focused on the following service areas, namely Louth/Meath, Midlands, Sligo/Leitrim/West Cavan and Dublin North City. Health Information and Quality Authority, 'Report on inspection of the child protection and welfare services provided to children living in Direct Provision accommodation under the National Standards for the Protection and Welfare of Children, and Section 8(1) (c) of the Health Act 2007' <<https://www.hiqa.ie/inspection-reports/inspection-id706-child-protection-and-welfare-services-provided-children-living-d>> accessed 29 January 2016, 11. There were a range of referrals concerns but common themes included physical or mental illness of parents impacting on capacity to provide quality care for children, mental health issues for children and parents and a lack of clothes and toys. The nature of protection concerns focused on physical abuse due to excessive physical chastisement, protection concerns about older children left caring for younger children, proximity of children to unknown adults living on the same site and inappropriate contact by adults towards some children, exposure to incidents of domestic violence and children being left alone for significant periods of time.
654 *ibid* 12. There were approximately 1600 children living in Direct Provision accommodation in Ireland, and of these children, there were 209 referrals of child protection and welfare concerns relating to 229 children between August 2013 and August 2014. Of these referrals, 51 per cent refer to child welfare issues while a further 49 per cent of refer to child protection concerns.

the prevalence of families in Direct Provision centres involving in child care proceedings.⁶⁵⁵

While a child protection policy is in place at the accommodation centres, the current approach must be revisited to develop a broader policy in line with the recommendation of the Working Group.⁶⁵⁶ The Group recommended that Tusla, in conjunction with the Reception and Integration Agency (RIA) should develop a welfare strategy within RIA, to advise on policy and practice matters and to liaise on individual cases as required.⁶⁵⁷ This followed a number of recommendations from HIQA to Tusla in this area including that Tusla develop an inter-cultural strategy to inform the provision of social services to ethnic minority children and families. It is understood that work is underway on formalising current practice between Tusla and RIA and in their cooperation on tracking movement of children and families between centres to ensure social workers are notified where necessary.⁶⁵⁸ HIQA also recommended that Tusla complete an audit to ensure all assessments have been carried out where needed; ensure effective interagency and inter-professional co-operation with key stakeholders and gather information on referrals to their services about children in Direct Provision accommodation to inform strategic planning.⁶⁵⁹

The Working Group found that the existing inspection regimes at Direct Provision centres lacked credibility among residents, and focused on compliance with contractual obligations in relation to health and safety, for example, and lacked care standards in areas such as training of staff in diversity issues, ensuring that residents have a voice and facilities for children.⁶⁶⁰ The Group recommended that national standards for inspection be developed to reflect fully government policy across all areas of service in Direct Provision. The report further recommended that an independent Inspectorate should be established to ensure equality of treatment across services and that the Inspectorate should report its findings directly to the Minister.

In early 2016, plans were announced to extend the remit of the complaints procedure under the Office of the Ombudsman for Children to include children in the Direct Provision.⁶⁶¹ Up to this point, this group of children were the only group of children in Ireland who were denied access to this procedure.⁶⁶² They continue to be among a minority of children denied access to the Child Benefit payment.⁶⁶³ On 5 January 2016, the Department of Social Protection announced that the child component of the weekly Direct Provision allowance of €9.60 will be increased by €6.00 to €15.60.⁶⁶⁴ This represents the first increase in the payment in 16 years. While this

increase is welcome, it falls far short of the €29.80 weekly figure recommend by the Working Group for the child component of the payment.⁶⁶⁵

Consultations: During October and November 2015, the Citizen Participation Unit of the Department of Children and Youth Affairs conducted consultations with approximately 90 asylum seeking children and young people (aged 8-17) living in Direct Provision, in co-operation with the Reception and Integration Agency (RIA) of the Department of Justice and Equality. An independent researcher is compiling a report of the consultations. RIA has committed to giving consideration to the views of the children in the forthcoming series of reforms aimed at improving conditions, particularly for families and children, in the Direct Provision system.⁶⁶⁶

On 5 January 2016, the Department of Social Protection announced that the child component of the weekly Direct Provision allowance of €9.60 will be increased by €6.00 to €15.60. This represents the first increase in the payment in 16 years. While this increase is welcome, it falls far short of the €29.80 weekly figure recommend by the Working Group for the child component of the payment.

655 Carol Coulter, *Final Report - Child Care Law Reporting Project* (Child Care Law Reporting Project 2015) 45. This often related to instances where mothers in Direct Provision suffered from mental illness problems, leading to their children being taken into care.

656 Reception and Integration Agency, 'Child Protection and Welfare Policy and Practice Document for Reception and Integration Agency (RIA) and Centres under contract to RIA' <<http://bit.ly/1SLHPvA>> accessed 29 January 2016.

657 Working Group to Report to the Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, *Final Report* (June 2015) <<http://bit.ly/1GYBUL5>> accessed 29 January 2016, para 4.199.

658 Communication received by the Children's Rights Alliance from Tusla, The Child and Family Agency, 18 February 2016.

659 Health Information and Quality Authority, 'Report on inspection of the child protection and welfare services provided to children living in Direct Provision accommodation under the National Standards for the Protection and Welfare of Children, and Section 8(1) (c) of the Health Act 2007' <<https://www.hiqa.ie/inspection-reports/inspection-id706-child-protection-and-welfare-services-provided-children-living-d>> accessed 29 January 2016, 29.

660 Working Group to Report to the Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, *Final Report* (June 2015) <<http://bit.ly/1GYBUL5>> accessed 29 January 2016, para 4.212-4.226.

661 In February 2016, in line with a recommendation of the Working Group, the Minister for Justice and Equality agreed, subject to the advice of the Attorney General, to allow asylum seekers living in Direct Provision to have their complaints heard by both the Ombudsman and the Ombudsman for Children. Children living in Direct Provision centres are the only group of children denied access to the Ombudsman for Children Office. Ombudsman for Children's Office, 'Commitment to allowing residents in Direct Provision to make complaints to Ombudsman offices welcomed' (4 February 2016) <<http://bit.ly/1PUtvK6>> accessed 5 February 2016.

662 Ombudsman for Children Act 2002, s 11(1)(e)(i) precludes the Office of the Ombudsman for Children from hearing complaints on decisions taken in the administration of the law relating to asylum, immigration, naturalisation or citizenship.

663 Child Benefit is a monthly payment to parents for the support of their children. Department of Social Protection, 'Child Benefit Payment' <<http://www.welfare.ie/en/Pages/Child-Benefit.aspx>> accessed 29 January 2016. The Habitual Residence Condition was introduced in 2005 under the Social Welfare (Consolidation) Act 2005 as amended, s 246, restricting access to certain social welfare payments including Child Benefit, to those who can prove a close link to Ireland. This amounts to indirect discrimination against approximately 10,000 children as they are denied the payment due to their parents' immigration status or migration history.

664 Department of Social Protection, 'Government announces increase in the Direct Provision Allowance for Children' (5 January 2016) <<https://www.welfare.ie/en/pressoffice/Pages/pa050116.aspx>> accessed 29 January 2016.

665 The Government has committed to revisiting the payment with a view to considering the possibility of further increases. Communication received by the Children's Rights Alliance from the Irish Naturalisation and Immigration Service, 28 January 2016.

666 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 15 February 2016.

Migrant Children

Immediate Actions for 2016



PUBLISH AND IMPLEMENT A NEW INTEGRATION STRATEGY WITHOUT DELAY.
The Integration Strategy should be published together with a plan and timeline for its implementation. It should contain a specific focus on children and young people.

ENSURE THAT NO FAMILIES WITH CHILDREN ARE LIVING IN THE DIRECT PROVISION SYSTEM FOR ANY LENGTH OF TIME.
All families with children should be accommodated in individual self-catering family accommodation together with adequate recreational space for children. All future requests for tenders for accommodation should reflect this, as per the recommendation of the Working Group on the Protection Process. Accommodation that is inappropriate for families should not be used.

THE STATE SHOULD TAKE IMMEDIATE ACTION TO IMPLEMENT THE OTHER RECOMMENDATIONS OF THE WORKING GROUP ON THE PROTECTION PROCESS. IN PARTICULAR, IT SHOULD:
Develop national standards for the management of Direct Provision centres and establish as a matter of urgency an independent regime for the system.

Increase the weekly allowance for children in Direct Provision to the amount recommended by the Working Group by a further €14.20 to €29.80.

Develop a dedicated preventative child welfare and protection strategy for Direct Provision accommodation.

OPT-IN TO THE EU RECAST RECEPTION CONDITIONS DIRECTIVE TO PROVIDE A LEGAL FRAMEWORK TO GOVERN RECEPTION CONDITIONS FOR ASYLUM SEEKERS, INCLUDING CHILDREN, IN IRELAND.
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 applicant.

6.3**Inequalities in Family Life****GOVERNMENT COMMITMENT**

The Programme for Government 2011-2016 promises to modernise and reform outdated elements of family law.

**Progress: Complete**

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: Complete**

Inequalities in Family Life' receives an 'A' grade in Report Card 2016, an increase from the 'B' grade awarded last year. The improved grade reflects the enactment of the Children and Family Relationships Act 2015, which represents the most important reform of family law for a generation and the improvement in the law relating to children parented by same sex couples.

This is the final year being analysed in the Report Card series under the *Programme for Government 2011-2016*. A commitment was made to modernise and reform the law in relation to families and adoption. Significant progress has been made through the enactment of the Children and Family Relationships Act 2015 and Marriage Act 2015, and the publication of the General Scheme and Heads of the Adoption (Information and Tracing) Bill 2015.

The UN Convention on the Rights of the Child recognises the central role played by parents

and guardians 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.⁶⁶⁷ 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.⁶⁶⁸ States are obliged to 'respect the responsibilities, rights and duties of parents' or 'persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of [his or her rights].'⁶⁶⁹ Irrespective of the relationships entered into by parents, children should not be discriminated against on any ground, including due to the status of their parents' relationship.⁶⁷⁰

Family Law: The Government committed under *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People*

669 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 7.

668 ibid Art 9.

669 ibid Art 5.

670 ibid Art 2.

2014-2020, 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'.⁶⁷¹

The Children and Family Relationships Act 2015 was enacted on 6 April 2015. It modernises and reforms outdated elements of family law by providing legal clarity around various family types and addressing discrimination faced by children of non-marital families. Prior to the Act, there was no legal framework to govern the relationship between a child and a non-biological parent acting in loco parentis (day to day parenting) such as their parent's cohabiting partner.⁶⁷² The lack of a legal relationship made routine family life difficult because the non-biological parent could not consent for example, to emergency medical treatment, vaccinations or school forms. It also meant that the non-biological parent had no visitation rights or maintenance duties toward a child upon breakdown of the relationship. It is a long overdue recognition that the make-up of families has changed since we last revisited their status in primary legislation.

One of the key strengths of the Children and Family Relationships Act 2015 is that it provides that the best interests of the child are paramount in decisions on guardianship, custody and access.⁶⁷³ In addition the Act sets out the arrangements that will apply with regard to the parentage of a child through donor assisted human reproduction.⁶⁷⁴ This follows a commitment under the *National Policy Framework* 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 a mechanism to collect and retain information necessary to enable a child to exercise their right to

One of the key strengths of the Children and Family Relationships Act 2015 is that it provides that the best interests of the child are paramount in decisions on guardianship, custody and access.

identity...'⁶⁷⁵ The Act also addresses the obligations of a donor assisted human reproduction (DAHR) facility and the categories of information required for, and available from, the national donor-conceived person register.⁶⁷⁶ It is expected that this part of the Act will not be commenced for at least a year to allow DAHR facilities to prepare for the changes contained in the legislation.⁶⁷⁷ The longer this is delayed however, the longer the rights of children to know their parents and to have accurate information about their identity under the UN Convention are not being respected.⁶⁷⁸

In relation to guardianship, the Act provides that a step-parent, civil partner or a person who has cohabited with a parent for not less than three years may apply to the court to become a guardian where they co-parented the child for more than two years. A person who has provided for the child's day-to-day care for a continuous period of more than a year may apply for guardianship if the child has no parent or guardian who is willing or able to exercise the rights and responsibilities of guardianship. The Act also allows for the appointment of a temporary guardian. Further, the Act stipulates that an unmarried father will automatically be a guardian if he has lived with the child's mother for 12 months, including at least three months with the mother and child following the birth of the child. This is a welcome development as previously unmarried fathers did not automatically acquire guardianship rights.

The provisions of the Act relating to adoption, guardianship and custody were commenced on 18 January 2016⁶⁷⁹ and Part 10 which relates to passports has also been commenced.⁶⁸⁰ Despite the significant progress made in the area of family law under the 2015 Act, two significant problems remain unresolved.

Section 63 of the Act 2015 provides, at the discretion of the Court, to procure from an expert a report in writing on any question affecting the welfare of the child or to appoint an expert to determine the views of the child and convey these to the Court.⁶⁸¹ The cost of the expert must be borne by the parties to the cases, in effect the parent or guardian. This provision is likely to impact negatively on children in low income families who will face an additional barrier to having their voices heard. Section 63 has yet to be commenced meaning that a child still has no automatic entitlement to have their voice heard in family law proceedings affecting them, such as guardianship, custody and access decisions.⁶⁸²

The second issue relates to the lack of a Central Register for Statutory Declarations for Joint Guardianship which may cause a difficulty for an unmarried father who has not retained a copy of his declaration of guardianship and so is unable to prove that he is a joint guardian of his child. 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. It is understood that work is being undertaken by the Department of Justice and Equality to develop a repository of statutory declarations relating to guardianship.⁶⁸³

Adoption Law: In addition to the right to know their parents and to have accurate information about their identity, a child has the right to the assistance and protection of the State where they have been denied an element of their identity.⁶⁸⁴ In July 2015, the Government published the General Scheme and Heads of the Adoption (Information and Tracing) Bill 2015. It provides a statutory basis for the provision of information related to prospective and retrospective adoptions, including access for persons over 18 years to their original birth certificate. Moreover, it provides that the best interests of the child principle is to be the deciding factor in the sharing of information on anyone under 18 years.⁶⁸⁵ This legislation should be enacted to vindicate the right of an adopted child to know his or her identity.

The Children and Family Relationships Act 2015 places new obligations on the court system, in particular the District Court. On foot of the Act and as part of a broader programme of reform, a number of new initiatives were announced. These include plans to develop a state-of-the-art Family Law and Children's Courts building on Hammond Lane in Dublin⁶⁸⁶ and courtroom capacity in Dolphin House will be freed up to facilitate family law proceedings.⁶⁸⁷ It is anticipated that these changes will have a positive impact on waiting times in family law cases.⁶⁸⁸

In addition, a court welfare service is needed to support the roll out of the Children and Family Relationships Act 2015. This service would support the judiciary to make informed decisions by carrying out assessments of the child's welfare and best interests, ascertaining his or her views, and carrying out family risk assessments. Additional ancillary services are also needed to support children and families, such as mediation services and child contact centres.⁶⁸⁹

671 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (Department of Children and Youth Affairs 2014) Commitment 3.17.

672 For example, there were only two ways in which the relationship between a child and their non-biological parent could be recognised in law. The relationship between a step-parent and their partner's child could be recognised only if the step-parent adopted the child. Adopting a child is not a practical solution in many cases, particularly if the child's other parent is present in the child's life. The only other way was if a non-biological parent became a child's guardian in the case of the death of the child's parent through testamentary guardianship. In this case however, testamentary guardianship will act jointly with the child's surviving parent who is a guardian unless the parent objects, in which case a court order must be obtained, granting joint guardianship to the testamentary guardian and the child's surviving parent or excluding the child's surviving parent.

673 Children and Family Relationships Act 2015, s 45.

674 Children and Family Relationships Act 2015, Part 2.

675 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020* (Department of Children and Youth Affairs 2014) Commitment 5.10.

676 Children and Family Relationships Act 2015, Part 3.

677 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 11 November 2015.

678 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Arts 7 and 8.

679 Department of Justice and Equality, 'Minister Fitzgerald signs order for commencement of landmark family law reform' (18 January 2016) <<http://www.justice.ie/en/JELR/Pages/PR16000018>> accessed 28 January 2016.

680 Part 10 amends the Passports Act 2008.

681 Children and Family Relationships Act 2015, s 63.

682 Section 52 of the Children Act 1997 would have provided for it, but the section was never commenced.

683 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 11 November 2015.

684 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 7 and 8.

685 Ibid 85, 92 and 177.

686 Department of Justice and Equality, 'Minister Fitzgerald announces unprecedented Capital Investment in Justice Sector' (29 September 2015) <<http://www.justice.ie/en/JELR/Pages/PR15000498>> accessed 12 February 2016.

687 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 1 December 2015.

688 Communication received by the Children's Rights Alliance from the Department of Justice and Equality, 1 December 2015. The General Scheme of a Family Courts Bill is due to be published shortly, which will provide for the establishment of a dedicated family court to improve levels of judicial expertise and training in family law matters and streamline family law proceedings, thereby making them more user-friendly and less costly. Department of Justice and Equality, 'Family Courts Bill' <<http://www.justice.ie/en/JELR/Pages/FamilyCourtsBill>> accessed 12 February 2016.

689 Child contact centres are for children whose parents are separated and are unable to agree safe and appropriate arrangements for the child/children to have contact with the parent they do not live with and for children who are in the care who need support to have contact with their parent(s). These are time-limited services so families need to engage with family supports so that they can move to self-arranged contact over time. See: Candy Murphy and Louise Caffrey, *Supporting Child Contact: the Need for Child Contact Centres in Ireland* (One Family 2010).

Civil Partnership and Cohabiting Couples: The commitment in the *Programme for Government* to address anomalies and omissions in civil partnership legislation has been addressed through the Children and Family Relationships Act 2015. The Civil Partnership and Certain Rights and Obligations of Cohabiting Couples Act 2010 did not provide a legal framework governing the relationship between a child and their mother or father's civil partner or cohabiting partner in a number of critical areas. This meant that civil or cohabiting partners could not apply for guardianship, custody or access of a child in the family unit.⁶⁹⁰ It was also not possible for a maintenance order to be made against a civil or cohabiting partner in relation to a dependent child⁶⁹¹ and non-biological children of a deceased civil or cohabiting partner were denied inheritance rights.⁶⁹² This meant that civil partner or cohabiting families faced significant discrimination in comparison with married families. The Children and Family Relationships Act 2015 addresses these anomalies and ensures that the legal relationship is formalised.⁶⁹³

Furthermore, on 23 May 2015, a referendum took place to determine whether or not the Constitution should be amended to extend civil marriage rights to same sex couples.⁶⁹⁴ The amendment was passed by a 62.1 per cent majority.⁶⁹⁵ On foot of the referendum result, the Marriage Act 2015 was enacted and commenced on 16 November 2015. It provides for civil marriages for same sex couples – which have the same status under the Constitution as a marriage between a man and a woman.⁶⁹⁶

The commitment in the *Programme for Government* to address anomalies and omissions in civil partnership legislation has been addressed through the Children and Family Relationships Act 2015. The Civil Partnership and Certain Rights and Obligations of Cohabiting Couples Act 2010 did not provide a legal framework governing the relationship between a child and their mother or father's civil partner or cohabiting partner in a number of critical areas.

Inequalities In Family Life

Immediate Actions for 2016



COMMENCE THE OUTSTANDING PROVISIONS OF THE CHILDREN AND FAMILY RELATIONSHIPS ACT 2015.

Commence the outstanding provisions of the Children and Family Relationships Act 2015 without delay to provide legal clarity around various family types and address discrimination faced by children of non-marital families.

DEVELOP A REPOSITORY FOR STATUTORY DECLARATIONS RELATING TO GUARDIANSHIP.

Put in place a repository for statutory declarations to ensure that all guardians, in particular unmarried fathers, can prove their right to guardianship of their children.

ENACT THE ADOPTION (INFORMATION AND TRACING) BILL 2015.

The Adoption (Information and Tracing) Bill 2015 should be enacted at the earliest opportunity to provide for a statutory adoption information and tracing service, including retrospective application.

690 Paula Fagan, *Missing Pieces, A comparison of the rights and responsibilities gained from civil partnership compared to the rights and responsibilities gained through civil marriage in Ireland* (Marriage Equality 2011) 26-27.

691 Paula Fagan, *Missing Pieces, A comparison of the rights and responsibilities gained from civil partnership compared to the rights and responsibilities gained through civil marriage in Ireland* (Marriage Equality 2011) 27.

692 *ibid.*

693 Children and Family Relationships Act 2015, Part 4 addresses amendments to the Guardianship of Infants Act 1965; Part 5 addresses amendments to the Succession Act 1965; Part 6 covers amendments to the Family Law (Maintenance of Spouses and Children) Act 1976.

694 Department of Justice and Equality, 'Minister and Department of Justice and Equality Achievements in 2015' (January 2016) <http://www.justice.ie/en/JELR/Pages/Minister_and_Department_of_Justice_and_Equality_Achievements_2015> accessed 29 January 2016.

695 Referendum Ireland, 'Current Referendum: Thirty-Fourth Amendment to the Constitution (Marriage Equality) Bill 2015' <<http://www.referendum.ie/results.php?ref=10>> accessed 29 January 2016.

696 Department of Justice and Equality, 'Minister Fitzgerald announces commencement Marriage Act 2015' <<http://justice.ie/en/JELR/Pages/PR15000577>> accessed 29 January 2016.

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CHILDREN'S RIGHTS ALLIANCE

Uniting Voices For Children

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

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