

# Report Card 2024

Is Government keeping its promises to children?

**CHILDREN'S  
RIGHTS  
ALLIANCE**

Uniting Voices For Children

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# Foreword

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Report Card 2024 is the fourth analysis of Fianna Fáil, Fine Gael and the Green Party's joint *Programme for Government: Our Shared Future* and how the Government performed for children in 2023. Our independent panel of experts have once again closely examined the promises made to children and young people and have rated the Government on its efforts. This year's Report Card marks the sixteenth in the series.

In some areas, we have seen progressive change in those years but for other areas of children's rights, we need to see serious improvements. The Report Card reflects and analyses the commitments made to children and young people in the *Programme for Government* and puts forward recommendations to help the Government reach full implementation.

The Covid-19 pandemic had a major impact on the implementation of the *Programme for Government* and its ability to deliver for children and young people. As we reflect on the progress made in 2023 and the significant issues that remain for children and young people, it is clear that unprecedented international crises present new challenges to the Government's resources and capacity. The cost-of-living crisis continues to impact on the lives of children and young people and, in particular, families on the brink of poverty. The ongoing housing crisis and raging war in Ukraine remain primary issues for our political leaders and warrant fresh thinking and a unified, whole-of-government approach to address.



**Despite these pressures in 2023, the Government did make important strides progressing key commitments to children and young people.**



Despite these pressures, in 2023 the Government did make important strides progressing key commitments to children and young people.

In the area of **online safety, the Government received an 'A' grade** with the enactment of the Online Safety and Media Regulation Act and the Online Safety Commissioner established. Consistent work towards delivering **affordable and accessible childcare was recognised this year, with an 'A-' grade**. Investment in the early years sector has surpassed €1 billion, five years ahead of the commitment. Further progress was made in 2023 with an allocation of €4.5 million to commence work on the development of the Equal Participation Model – a new model for early years provision designed to ensure equal access to early years by focusing resources to reach families living in poverty.

2023 also saw the continued expansion of the **free school books scheme** to junior cycle students, **earning the Government an 'A-'**. Over the course of this *Programme for Government*, the scheme has grown from a pilot in 50 primary schools, to an expanded scheme reaching over 774,000 primary and secondary students. It has been a gamechanger in terms of addressing the cost of education which had been driving educational inequality and increasing pressures on families, with SVP Ireland noting a drop in calls for help since the introduction of the scheme.

This year's Report Card also included three 'B' grades for the Government's work to realise its commitment to create new **pathways for long-term undocumented** people and their children, **address food poverty** in children and, to introduce **guidelines and monitoring of reduced timetables**.

However, in some areas, there has been little to no progress. In **mental health**, the Government committed to ending the admission of children to adult psychiatric unit but worrying and retrograde steps in this area have resulted in **an 'E' grade** – representing "unacceptable, taking steps in the wrong direction or no positive impact on children." This is the third consecutive 'E' grade the Government has received on this commitment and reflects the continued practice of admitting children to adult psychiatric units and the unacceptable rise in waiting lists for Child and Adolescent Mental Health Services (CAMHS).

Declining standards in accommodation are a cause of serious concern for **the health, wellbeing and safety of the children and young people in Direct**

**Provision** now trapped in new emergency facilities and the Government's performance received a **'D' grade** in this respect. Similar challenges are present in the area of housing and homelessness. The **rise in child and family homelessness** peaked to the highest numbers we have seen in recent years. While families are exiting out of homelessness, into more stable and sustainable accommodation options, those options remain limited given the scale of building required to meet demand. Without significant progress in responding to this housing crisis or addressing the impact it continues to have on children and young people resulted in a **'D-' grade** this year.

We are now four years into this *Programme for Government*, and it is clear that there are some commitments to children and young people that have not received equal attention or urgency from the Government. The Government are now faced with the question of what they want to see happen for children and young people in the final year of this programme. There is clear momentum behind commitments including food poverty, free school books and affordable childcare which is reflected in the improved grades each year. The new Child Poverty and Wellbeing Unit in the Department of Taoiseach has the potential to leverage these departmental successes and ensure an integrated and whole-of-government approach to addressing child poverty is sustained. The long-term vision and forward thinking that we see in areas relating to child poverty has helped shift some of the systemic issues that have impact children's lives for years. With progress either declining or stalling completely in areas of mental health, and serious challenges in the areas of housing and accommodation standards, it is critical that similar thinking and recommendations are considered if the Government truly wants to deliver for children and young people.

**Tanya Ward**

Chief Executive

# Children's Rights Alliance Members

Founded in 1995, the Children's Rights Alliance unites 150 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.

- A.S.S.C Accompaniment Support Services for Children
- Alcohol Action Ireland
- Amnesty International Ireland
- An Cosán
- Anew
- Anne Sullivan Foundation
- Aoibhneas
- Archways
- AsIAm
- Association of Occupational Therapists of Ireland (AOTI)
- Association of Secondary Teachers Ireland (ASTI)
- ATD Fourth World – Ireland Ltd
- Atheist Ireland
- Barnardos
- Barretstown Camp
- Bedford Row Family Project
- BeLonG To Youth Services
- Bodywhys
- Breaking Through CLG
- Catholic Guides of Ireland
- Child Law Project
- Childhood Development Initiative
- Children in Hospital Ireland
- Children's Books Ireland
- Children's Grief Centre
- Citywise Education
- Clarecare
- COPE Galway
- Cork Life Centre
- Cork Migrant Centre
- Crann Centre
- Crosscare
- CyberSafeKids
- Cycle Against Suicide
- Dalkey School Project National School
- Daughters of Charity Child and Family Service
- Dental Health Foundation of Ireland
- Department of Occupational Science and Occupational Therapy, UCC
- Disability Federation of Ireland
- Doras
- Down Syndrome Ireland
- Dublin Rape Crisis Centre
- Dyslexia Association of Ireland
- Dyspraxia/DCD Ireland
- Early Childhood Ireland
- Early Learning Initiative (National College of Ireland)
- Educate Together
- EPIC
- Equality for Children
- Extern Ireland
- FamiliBase
- Féach
- Focus Ireland
- Foróige
- Gaeloideachas
- Galway Traveller Movement
- GIY Ireland CLG
- Good Shepherd Cork
- Helium Arts
- Immigrant Council of Ireland
- Inclusion Ireland
- Institute of Guidance Counsellors
- Irish Association for Infant Mental Health
- Irish Association of Social Workers
- Irish Congress of Trade Unions (ICTU)
- Irish Council for Civil Liberties (ICCL)
- Irish Foster Care Association
- Irish Girl Guides
- Irish Heart Foundation
- Irish National Teachers Organisation (INTO)
- Irish Penal Reform Trust
- Irish Primary Principals' Network
- Irish Refugee Council
- Irish Second Level Students' Union (ISSU)
- Irish Society for the Prevention of Cruelty to Children
- Irish Traveller Movement
- Irish Youth Foundation
- iScoil
- Jigsaw
- Katharine Howard Foundation
- Kerry Diocesan Youth Service (KDYS)
- Kids' Own Publishing Partnership
- Kinship Care
- Laois Domestic Abuse Services
- Leap Ireland
- Let's Grow Together! Infant and Childhood Partnerships CLG.
- LGBT Ireland
- Meath Women's Refuge & Support Services
- Mecpaths
- Mental Health Reform
- Mercy Law Resource Centre
- Migrant Rights Centre Ireland
- Mothers' Union
- Museum of Childhood Ireland
- Music Generation
- My Mind
- My Project Minding You
- National Childhood Network
- National Forum of Family Resource Centres
- National Parents Council Post Primary
- National Parents Council Primary
- National Youth Council of Ireland
- New Directions
- Novas
- One Family

- One in Four
- Parents Plus
- Pavee Point
- Peter McVery Trust
- Prevention and Early Intervention Network
- Psychological Society of Ireland
- Rainbow Club Cork
- Rainbows Ireland
- Rape Crisis Network Ireland (RCNI)
- Realt Beag/Ballyfermot Star
- Respond Housing
- SAFE Ireland
- Saoirse Domestic Violence Services
- SAOL Beag Children's Centre
- School of Education UCD
- Scouting Ireland
- Sexual Violence Centre Cork
- Simon Communities of Ireland
- SIPTU
- Social Care Ireland
- Society of St. Vincent de Paul
- SPHE Network
- SpunOut.ie
- St. Nicholas Montessori College
- St. Nicholas Montessori Teachers' Association
- St. Patrick's Mental Health Services
- TASC
- Teachers' Union of Ireland
- Terenure College Rugby Football Club
- The Ark, A Cultural Centre for Children
- The Irish Red Cross
- The Jack and Jill Children's Foundation
- The UNESCO Child and Family Research Centre, NUI Galway
- The Wheel
- Transgender Equality Network Ireland
- Traveller Visibility Group Ltd
- Treoir
- UNICEF Ireland
- Variety – the Children's Charity of Ireland
- Vision Ireland
- Women's Aid
- Young Ballymun
- Young Social Innovators
- Youth Advocate Programme Ireland (YAP)
- Youth Work Ireland



Photo by Ben Wicks, Unsplash.com

# Acknowledgements

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

- Department of Children, Equality, Disability, Integration and Youth
- Department of Education
- Department of Housing, Local Government and Heritage
- Department of Health
- Department of Justice
- Department of Social Protection
- Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media
- Health Service Executive

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

- Educate Together
- Focus Ireland
- Good Shepherd Cork
- Immigrant Council of Ireland
- Irish Heart Foundation
- Irish Refugee Council
- Irish Traveller Movement
- iScoil
- Mental Health Reform
- Migrant Rights Centre Ireland
- National Youth Council of Ireland
- Pavee Point
- Rape Crisis Network Ireland



Particular thanks are also due to the Children's Rights Alliance Board for their support and oversight of the process.

The Alliance would also like to acknowledge the work of Children Now, based in California, whose annual report card provided the initial inspiration for this series.

We extend our thanks to the members of the 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 comprised:

- Tom Costello, Member of the National Advisory Committee Children and Young People
- Maurice Devlin, Emeritus Professor, Department of Applied Social Studies, Maynooth University
- Áine Hyland, Emeritus Professor of Education and former Vice-President of University College Cork
- David Joyce, Equality Officer, Irish Congress of Trade Unions
- Dr Sindy Joyce, Lecturer, University of Limerick, Human Rights Defender and Member of President Michael D Higgins' Council of State
- Dr Aisling Parkes, Senior Lecturer, School of Law, University College Cork
- Aoife Quinn, Policy and Research Executive, Chambers Ireland

Finally, massive thanks go to the Report Card team for their incredible hard work and commitment to produce a superb publication once again this year.

# Research Methodology

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Report Card 2024 is the fourth analysis of the progress for children under the current *Programme for Government: Our Shared Future*.

In Report Card 2021, the Children's Rights Alliance selected 16 commitments in *Our Shared Future* to track over the course of this Government's term in office. Commitments were shortlisted based on several core criteria:

- The commitment directly impacts children, defined as those under the age of 18.
- The commitment wording is clear and measurable.
- The commitment relates to one of the Alliance's strategic goals, or of our members.
- If achieved, the commitment has significant potential to improve the quality of life for children growing up in Ireland.

We sought to ensure that the commitments covered multiple different groups of children, including those who are marginalised; that they related to the whole of a child's development from infancy through to adolescence; and finally, that they spanned multiple different policy areas to reflect the broad range of issues that can affect children's lives.

The research approach comprised of detailed children's rights analysis of relevant legal and policy documents and academic literature which was then supplemented with insights and evidence gained from members and subject specialists. We engaged with relevant Government departments and statutory agencies to capture developments which happened in 2023, as per our research timeframe. This enabled us to draw on the most up to date facts and figures when drafting each commitment section.

As in other years, members, Government officials and sector representatives had an opportunity to feed into our analysis, and once finalised, this went to an independent panel of experts for grading on the progress made in 2023. Details of panel membership are contained in the acknowledgements section.

# Grades Table

Government Commitment, June 2020	2023	2024
Reform the childcare system	B+	A-
Establish a central agency, Childcare Ireland	C	C
Commence a free school books pilot	B	A-
Introduce national monitoring of reduced school days	B-	B
Ensure each child with a special educational need has an appropriate school place	C	B-
Undertake an independent assessment of the education inclusion pilot for Traveller and Roma children	D+	D+
End the admission of children to adult psychiatric units	E	E
Address food poverty in children	C+	B
Introduce a Public Health Obesity Act	D	D-
Reduce the number of homeless families	D-	D-
Develop a National Youth Homelessness Strategy	B	B-
End the Direct Provision system and replace it with a not-for-profit accommodation model	D	D
Create new pathways for long-term undocumented people and their children	B+	B
Enact the Harassment and Harmful Communications Bill	A	-
Enact the Online Safety and Media Regulation Bill and establish an Online Safety Commissioner	A	A
Enact a Family Court Bill and build a new Family Court Building	C+	C-

## ⊕ Explanation of Grades:

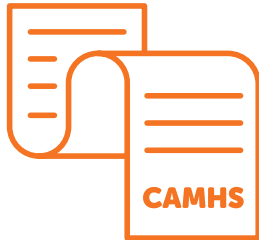
**A:** Excellent, making a real difference to children's lives  
**B:** Good effort, positive results for children  
**C:** Satisfactory attempt, but children still left wanting  
**D:** Barely acceptable performance, little or no positive impact on children

**E:** Unacceptable, taking steps in the wrong direction, no positive impact on children

**F:** Fail, taking steps that undermine children's wellbeing

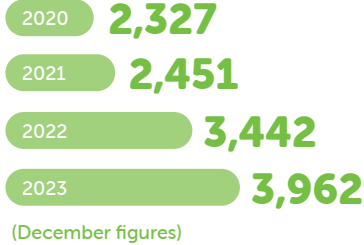
**N/A:** Not applicable, due to vague nature of Government commitment

# Key Facts & Statistics



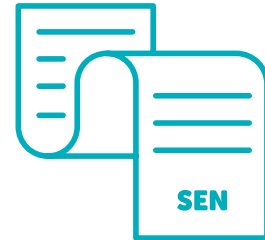
**3,911**

children waiting on a CAMHS appointment (July, 2023)



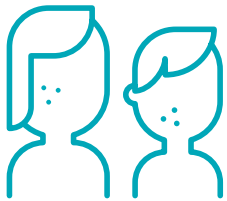
(December figures)

**Children homeless in Ireland**



**5,000+**

children waiting more than 12 months for an assessment of need (December, 2023)



**1,581**

number of 18-24 year olds who are homeless (December, 2023)



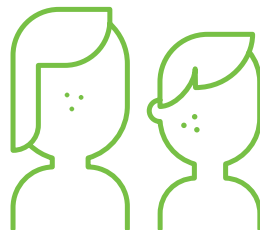
**774,000**

primary and secondary school students to benefit from free school books in 2024



**62%**

of 9 to 17 year-olds use social media



**5,590**

children and young people in Direct Provision (December, 2023)



**Over 320,000**

children benefitting from the School Meals Programme in 2023/24

**1**

# Reform of the Early Childhood Education and Care System

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Section Grade:

**A-**



## The Programme for Government commits to:

Reform the childcare system to create one that brings together the best of community and private childcare provision, is focused on children's rights and quality outcomes, reduces inequalities, supports staff retention, and substantially reduces costs to parents. We will do so in consultation with providers, staff and parents.

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▶ Progress: **Good**

'Reform of Early Childhood Education and Care System' receives an 'A-' grade, an increase on the 'B+' received last year. 2023 saw the realisation of the goal to invest €1 billion in the sector five years ahead of schedule. The second year of core funding has seen an increase in allocation with a further commitment to increase again next year. A freeze on fees, connected to the introduction of Core Funding since September 2021, remains in place. Work began on the development of the Equal Participation Model, a targeted scheme to support children and families experiencing disadvantage, with an initial allocation for implementation secured in Budget 2024. Improvement in the area of quality for childminding has progressed in 2023, including the publication of the Heads of Bill in relation to regulation. This is expected to commence in Autumn 2024.

## Ireland's duties and responsibilities in international law



The UN Convention on the Rights of the Child (UNCRC) calls for an understanding that early childhood is not merely preparation for adulthood and requires that children, including the very youngest children, be respected in their own right.<sup>1</sup> While Article 5 recognises parents and carers as primary caregivers, Article 18 imposes a duty on States to provide assistance, including quality childcare services.<sup>2</sup> Article 2 clearly requires that no child should experience discrimination in early childhood and that all children should be able to access the vital services that contribute to their survival and development, in line with Article 6.<sup>3</sup> It is acknowledged that potential discrimination is a particular concern in cases 'where health, education, welfare and other services are not universally available and are provided through a combination of State, private and charitable organisations'.<sup>4</sup> Recognising that the traditional divisions between 'care' and 'education' services have not always been in children's best interests, the Committee recommends a coordinated, holistic, and multisectoral approach to early childhood.<sup>5</sup>

Ireland committed to promote, respect and protect children's rights when it ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1992. As part of this, Ireland agreed to be reviewed every five years on its progress in implementing the rights in the Convention. Ireland was last examined by the Committee on the Rights of the Child in 2023. In its Concluding Observations, the Committee called for increased access to affordable childcare for parents engaged in the labour market, and especially those experiencing disadvantage. The Committee also recommended that the Irish government increase the level of funding allocated to childcare and move towards a publicly funded model of

1 UNCRC, General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 15.

2 *ibid.*

3 *ibid* para 12.

4 *ibid.*

5 *ibid* para 30.

childcare.<sup>6</sup> In relation to children with disabilities the Committee calls for inclusive education in early childhood by adapting curricula, training specialised teachers and ensuring reasonable accommodation within school infrastructure and for transportation.<sup>7</sup>

## ► What is the context for this commitment?

The perinatal, infancy and early childhood periods are formative times for child development and wellbeing. There is clear evidence that experience during these early years plays a unique role in shaping a child's brain, with long-term consequences for health and wellbeing, as well as learning.<sup>8</sup> No other stage of life depends more on the external environment for growth and development.<sup>9</sup>

Early Childhood Education and Care (ECEC) is defined as non-parental care provided to children before they enter the formal education system. Historically, Ireland's comparative expenditure on ECEC has lagged behind other countries.<sup>10</sup> Data from the Organisation on Economic Co-operation and Development (OECD) shows, up to a few years ago, Ireland's public spending in this area was in the second-lowest place.<sup>11</sup> The OECD is clear that if ECEC is not sufficiently subsidised, fewer children from disadvantaged backgrounds participate in it.<sup>12</sup>

In 2019, as part of the overall system reform, including reform to School-Age Childcare (SAC), the Government appointed an Expert Group to develop a set of principles to guide investment in Early Learning and Care (ELC) and SAC in Ireland and how additional funding should be structured, drawing on

6 UNCRRC, 'Concluding Observations Ireland' (2023) UN Doc CRC/C/IRL/CO/5-6, para 26.

7 *ibid.*

8 Harvard Centre for the Developing Child, 'What Is Early Childhood Development? A Guide to the Science' <<https://bit.ly/3rj2M4x>> accessed 26 January 2024.

9 J Clinton, A Feller, R Williams, 'The importance of infant mental health' (2016) *Paediatrics & Child Health*, 21(5), 239–241.

10 OECD, 'OECD Family database PF3.1: Public spending on childcare and early education' <<https://bit.ly/3az4cRP>> accessed 26 January 2024...

11 *ibid.*

12 OECD, *Education at a Glance 2019: OECD Indicators*. (OECD 2019) 165.



international evidence.<sup>13</sup> The Terms of Reference for the Group state that it was not to propose changes to the current model of delivery (i.e. privately operated provision), but that it should seek to further achieve the policy objectives of quality, affordability, accessibility and contributing to addressing disadvantage in a privately-operated market through increased public funding and public management.<sup>14</sup>

Six months after the establishment of the Expert Group, the *Programme for Government* was published, which committed to bring together the best of private and community provision with a focus on children's rights as well as committing to deliver progress in four key domains:

- ▶ **Quality Outcomes**
- ▶ **Inequalities**
- ▶ **Staff Retention**
- ▶ **Cost to Parents**

To facilitate auditing of progress against each of these aspects, this section considers the context for these four related areas separately.

## Quality Outcomes

In the first few years of life, the brain is at its most flexible and is rapidly developing through new experiences, with more than one million new neural connections formed every second.<sup>15</sup> A crucial element of healthy brain development is the nurturing of high-quality 'serve and return relationships' between children and caregiving adults in their homes and communities.<sup>16</sup> To ensure that all children can achieve their full developmental potential, it is vital that all those in the ecosystem of early childhood education and care

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13 *ibid.* The Group was asked to review the existing policy and approach against these principles and its effectiveness in delivering against objectives on quality, affordability, accessibility and contributing to addressing disadvantage; and finally drawing on international evidence, to consider how additional funding could be structured to deliver on the guiding principles and objectives.

14 Department of Children and Youth Affairs, 'Funding Model for Early Learning and Care and School Age Childcare Expert Group: Terms of Reference' <<https://bit.ly/3oKzwBV>> accessed 26 January 2024..

15 Harvard Centre for the Developing Child, 'What Is Early Childhood Development? A Guide to the Science' <<https://bit.ly/2U9jVlc>> accessed 26 January 2024.

16 Harvard Centre for the Developing Child, 'Serve and Return' <https://bit.ly/42ijOUe> accessed 26 January 2024.

are equipped with the requisite knowledge and skills to foster these pivotal relationships.

The UN Committee on the Rights of the Child sets out that:<sup>17</sup>

- ✓ **Staff possess the appropriate psychosocial qualities and are suitable, sufficiently numerous and well-trained;**
- ✓ **Services are appropriate to the circumstances, age and individuality of young children and all staff must be trained to work with this age group;**
- ✓ **Work with young children is socially valued and properly paid to attract a highly-qualified workforce and staff should have an up-to-date theoretical and practical understanding about children's rights and development; and**
- ✓ **Staff use child-centred care practices, curricula, and pedagogies, and have access to specialist professional resources and support, including a supervisory and monitoring system for public and private services.<sup>18</sup>**

Most studies across the whole age range, and across different types of provisions, support that higher pre-service qualifications and additional in-service training or professional development is positively associated with process quality.<sup>19</sup>

## Inequalities

High-quality early childhood education and care is beneficial for all children, but it can be of particular value for more disadvantaged children by helping to redress inter-familial inequalities,<sup>20</sup> thereby ensuring all children receive a baseline level of developmental support irrespective of home circumstances

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

18 *ibid* para 23.

19 *ibid*.

20 A Pearce et al, 'Pathways to inequalities in child health' (2019) *Archives of Disease in Childhood*, 104:998–1003.

and parenting capacity. There is robust evidence to show that children who are disadvantaged at age three are at increased risk of disadvantage across the life cycle.<sup>21</sup> European Commission research found that in Ireland, the participation rate of children from low-income families in formal childcare was less than a quarter of that of their high-income peers.<sup>22</sup> *First 5 - A Whole-of-Government Strategy for Babies, Young Children and their Families 2019-2028* - has committed to developing a Delivering Equality of Opportunity in Schools (DEIS) type model for early childhood education and care and SAC.<sup>23</sup>

A review of international evidence from programmes across five countries demonstrates that to break the cycle of poverty, investing in early years is one of the most effective methods.<sup>24</sup> It shows that investing in specific programmes targeted at those living in poverty with wraparound supports has demonstrated positive impacts on children's educational attainment, long term employment opportunities, physical health, an increase in lifetime earnings, a reduction in crime and number of lifetime arrests, improved mental health and improved socioemotional skills among others.<sup>25</sup>

## Staff Retention

The early years' workforce is made up predominantly of women, with high staff turnover and considerable variation in wages depending on regional location.<sup>26</sup> The latest profile data for the sector relates to 2020-2021 and shows that average annual turnover was approximately 19 per cent, rising to a high of 43 per cent in Leitrim and a low of 9 per cent in Cavan.<sup>27</sup> Staff retention rates were highest in private services, 58 per cent retained all of their staff

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21 A Caspi, RM Houts, DW Belsky, et al, Childhood forecasting of a small segment of the population with large economic burden, (2016) *Nature Human Behaviour*, 1.

22 European Commission, *Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the development of childcare facilities for young children with a view to increase female labour participation, strike a work-life balance for working parents and bring about sustainable and inclusive growth in Europe (the "Barcelona objectives")* (EU Commission 2018) 19.

23 Government of Ireland, *First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019 – 2028* (Government of Ireland 2018) strategic action 8.3.

24 Conor Cashman, Margaret Buckley and Grainne Mulcahy, *Briefing Document on Early Interventions and Public Childcare Approaches*, (Children's Rights Alliance and UCC 2023).

25 *ibid.*

26 Pobal, *Annual Early Years Sector Profile Report 2020-2021* (Pobal 2022).

27 *ibid.*

(down from 66 per cent the previous year) and in rural-based services, 61 per cent retained all of their staff (down from 67 per cent the previous year) over the previous 12 months.<sup>28</sup>

Research highlights that poor pay and conditions, coupled with perceived lack of respect for skills and expertise, cause many to leave the profession.<sup>29</sup> Prior to embarking on the Workforce Development Plan in 2019, the Government also acknowledged that pay levels are likely contributing to the staff turnover rate but indicated that under the current privatised model, the State is constrained in its capacity to introduce measures to improve terms and conditions of employment.<sup>30</sup> Since 2019 the Government have initiated actions that have led to the establishment of the Joint Labour Committee for Early Years Services and in turn the first Employment Regulation Orders for the sector.<sup>31</sup>

## Cost to Parents

The National Childcare Scheme (NCS) has been in operation since November 2019 and is the primary scheme aimed at supporting parents with childcare costs.<sup>32</sup> Under the NCS, parents with the lowest incomes receive the highest subsidy rate in line with the principle of progressive universalism.<sup>33</sup>

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28 *ibid.*

29 Joint Committee on Children and Youth Affairs, *Report on the Working Conditions of the Early Years Education and Care Sector 2017*, 27.

30 Department of Children, Equality, Disability, Integration and Youth, 'Workforce Development Plan for the ELC/ SAC Sector Background Note and Draft Terms of Reference for the Steering Group'.

31 Communications received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth 7 February 2024.

32 26 Department of Children and Youth Affairs, 'Minister Zappone launches communications campaign on the National Childcare Scheme' (Press Release 23 September 2019) <<https://bit.ly/2XZJeFH>> accessed 26 January 2024.

33 Communication received by the Children's Rights Alliance from Department of Children, Equality, Disability, Integration and Youth, 6 November 2020.

Two types of childcare subsidies are available under the scheme:

- ✓ A **universal subsidy** for children under fifteen years. Children over three who have not yet qualified for the ECCE are also eligible. This is not means-tested.
- ✓ An **income-assessed subsidy** for children up to fifteen years old.<sup>34</sup>

In addition to this, the NCS has a Sponsor Referral where special arrangements are made for vulnerable children and families. A referral is required from a Sponsor Body for a Sponsor Referral. The Sponsor Referral addresses instances where childcare is needed on child welfare, child protection, family support or other specified grounds. The decision is based on the particular need of the child in line with their defined criteria.<sup>35</sup>

## ► What has been achieved for children and young people so far?

Since the publication of the *Programme for Government* in mid-2020, there has been substantial progress made on reforming the Early Childhood Education and Care System and school-age care. In 2021, two key reports were published - *Partnership for the Public Good: A New Funding Model for Early Learning and Care and School-Age Childcare* and *Nurturing Skills: The Workforce Plan for Early Learning and Care and School-Age Childcare 2022-2028*.<sup>36</sup> Both of these reports set out an important roadmap for the sector in terms of funding and the development of the workforce. Other significant developments in 2021 included the establishment of a Joint Labour Committee and the publication of the *National Action Plan on Childminding*.<sup>37</sup>

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34 Government of Ireland, 'National Childcare Scheme: Types of Subsidy' <<https://bit.ly/3rM6E0U>> accessed 26 January 2024.

35 Communication received by the Children's Rights Alliance from Department of Children, Equality, Disability, Integration and Youth, 23 February 2023.

36 Department of Children, Equality, Disability, Integration and Youth, *Nurturing Skills: The Workforce Plan for Early Learning and Care and School-Age Childcare 2022-2028* (DCEDIY 2021).

37 Department of Children, Equality, Disability, Integration and Youth *National Action Plan for Childminding (2021-2028)* (DECDIY 2021).

This section tracks progress across the four areas identified in the *Programme for Government* commitment. Before examining each separately, it is important to acknowledge the cross-cutting nature of the Expert Group's final report. Upon publication of *Partnership for the Public Good* the Government accepted its recommendations and the Minister for Children, Equality, Disability, Integration and Youth confirmed that they would be implemented through a partnership approach between the state and providers.<sup>38</sup> The report's recommendations are being implemented on a multi-annual basis with funding available incrementally.<sup>39</sup>

In November 2023 the second *First 5 Implementation Plan* was published which describes the steps that will be taken over the period 2023 to 2025 to ensure children get the best start in life. Key actions include introducing measures to address food poverty; introducing the Equal Participation Model (EPM); expanding supports under the Access and Inclusion Model (AIM); and preparations for the introduction of a legal entitlement to the ECCE pre-school programme.<sup>40</sup>



## ► **Quality Outcomes**

### **Core Funding**

The main purpose of the Core Funding stream is to ensure better staff pay and conditions, the improved management of fees, and to ensure sustainable

38 Department of Children, Equality, Disability, Integration and Youth, 'Minister O'Gorman launches major reform of funding for early learning and childcare following Report of Expert Group', Press Release, 7 December 2021.

39 Department of Children, Equality, Disability, Integration and Youth, *Nurturing Skills: The Workforce Plan for Early Learning and Care and School-Age Childcare 2022-2028* (DCEDIY 2021).

40 Department of Children, Equality, Disability, Integration and Youth, *First 5: Implementation Plan 2023-2025*, (DCEDIY 2023)

funding.<sup>41</sup> The funding is linked to quality improvement and requiring a freeze in parents' fees.<sup>42</sup> In year one of Core Funding over 95 per cent of ELC and SAC services signed up to Core Funding. In year two, to date, 94 per cent of services have signed up and this represents more providers in absolute terms.<sup>43</sup> Providers are required to offer the NCS, which has led to a significant expansion of the number of providers offering access to the scheme.<sup>44</sup> From January 2022 to January 2023 the number of children in receipt of NCS subsidies has increased by 100 per cent and currently 111,000 are in receipt of support.<sup>45</sup>

In the first programme year of Core Funding (September 2022 to August 2023) €207 million was initially allocated in Budget 2022. This grew to €221 million in early 2022, in response to cost pressures for services, and then to €259 million in September 2022 based on capacity growth in the sector.<sup>46</sup> The second year of the programme (September 2023 to August 2024) saw funding increase further to €287 million with a commitment to allocate €331 million for Year 3 (September 2024 to August 2025).<sup>47</sup>

## Workforce Development

In 2021 a Workforce Development Plan, *Nurturing Skills: The Workplace Plan for Early Learning and Care and School Age Childcare 2022-2028*, was published.<sup>48</sup> *Nurturing Skills* places an emphasis on developing a 'well-

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41 Expert Group on the Funding Model, *Partnership for the Public Good: A New Funding Model for Early Learning and Care and School-Age Childcare* (DCEDIY 2021).

42 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth, 15 January 2024.

43 *ibid.*

44 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth, 11 January 2023.

45 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth, 23 February 2023.

46 *ibid.*

47 Department of Children, Equality, Disability, Integration and Youth, 'Minister O'Gorman welcomes substantial investment under Budget 2024', (Press Release 10 October 2023) <<https://bit.ly/48LWX5R>> accessed 24 January 2024.

48 Department of Children Equality, Disability, Integration and Youth 'Minister O'Gorman launches Nurturing Skills: The Workforce Plan for Early Learning and Care and School-Age Childcare (2022 – 2028)' (Press Release 7 December 2021) <<https://bit.ly/3fTJHCe>> accessed 25 January 2024.



**From January 2022-2023, the number of children in receipt of NCS subsidies increased by 100% and currently 111,000 are in receipt of support.**



qualified, skilled' and graduate-led workforce with career progression routes 'centred on children's rights, needs and potential'.<sup>49</sup>

This Workforce Plan seeks to move to a graduate-led workforce by 2028, in line with the *First 5* target.<sup>50</sup> The actions and recommendations set out in the report seek to address quality through five pillars. This includes establishing a career framework for educators and practitioners; raising qualification levels; developing a Continuous Professional Development (CPD) system; supporting recruitment, retention and diversity within the workforce and moving towards regulation of the profession incrementally over the course of *Nurturing Skills* plan.<sup>51</sup>

In July 2022, a Monitoring Committee was established by the Department of Children, Equality, Disability, Integration and Youth to oversee the implementation of *Nurturing Skills*.<sup>52</sup> The scope of the Committee's work includes the development of a set of indicators to capture progress and the submission of an annual progress report to the Minister for Children, Equality, Disability, Integration and Youth.<sup>53</sup> The first annual report was published in March 2023 and included the set of indicators.<sup>54</sup>

## Childminding

Further improvements to quality, outside of centre-based care, are also outlined in the *National Action Plan for Childminding* published in April 2021.<sup>55</sup> At the end of October 2023, there were 62 childminders registered under the

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49 Department of Children, Equality, Disability, Integration and Youth, *Nurturing Skills: The Workforce Plan for Early Learning and Care and School-Age Childcare 2022-2028* (DCEDIY 2021), 4.

50 Government of Ireland, *First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019 – 2028* (Government of Ireland 2018).

51 *ibid.*

52 Communication received by the Children's Rights Alliance from Department of Children, Equality, Disability, Integration and Youth, 11 January 2023.

53 Communication received by the Children's Rights Alliance from Department of Children, Equality, Disability, Integration and Youth, 15 January 2024.

54 Government of Ireland, *Nurturing Skills: The Workforce Plan for Early Learning and Care and School-Age Childcare, 2022- 2028 - Annual Monitoring Report on the Implementation of Nurturing Skills, 2022* (Government of Ireland 2023)

55 Department of Children, Equality, Disability, Integration and Youth *National Action Plan for Childminding (2021-2028)* (DCEDIY 2021).

current Early Learning and Care and School Age Childcare regulations.<sup>56</sup> In line with *First 5* commitments and the *Programme for Government* the *National Action Plan* sets out how regulation and subsidies will be extended to non-relative childminders with specific regulations expected to come into effect within the first three years of the Plan.<sup>57</sup>

The development of bespoke training is one of the actions in the *National Action Plan for Childminding 2021-2028*.<sup>58</sup> The Plan proposes the development of an initial Foundation Training Programme, in phase one, which must be completed as a pre-requisite for Tusla registration and to access the NCS.<sup>59</sup> Following this initial phase, a Quality Development Programme will be developed, resulting in a 'special purpose award at Level 5 on the NFQ [National Framework of Qualifications], significantly smaller in scale than a major Level 5 award'.<sup>60</sup> The plan states new entrants may still have access to 'phased training requirements' at the end of phase three.

Currently, Tusla-registered childminders are required to hold a minimum Level 5 major award in Early Childhood Education and Care if they are working with pre-school children or a Level 6 if they are offering the National Early Childhood Care and Education (ECCE) programme. These requirements are the same for educators working in centre-based settings. There is no qualification requirement for school-age childcare.<sup>61</sup> The development of pre-registration training has advanced in 2023,<sup>62</sup> with on-going supports for childminders strengthened through further expansion of the national network of Childminding Development Officers employed by the City/County Childcare Committees.

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56 Communication received by the Children's Rights Alliance from Department of Children, Equality, Disability, Integration and Youth, 15 January 2024

57 Communication received by the Children's Rights Alliance from Department of Children, Equality, Disability, Integration and Youth, 11 January 2023.

58 Department of Children, Equality, Disability, Integration and Youth *National Action Plan for Childminding (2021-2028)* (DECDIY 2021).

59 *ibid.*

60 *ibid* 50.

61 Communication received by the Children's Rights Alliance from Department of Children, Equality, Disability, Integration and Youth 7 February 2024.

62 Communication received by the Children's Rights Alliance from Department of Children, Equality, Disability, Integration and Youth, 15 January 2024.

While it is welcome that the Department is taking steps to incentivise more childminders to register with Tusla and therefore, be subject to regulation and inspection, it needs to be balanced with the rights of young children. While having different training programmes to adapt to the differences in home-based and centre-based care is a sensible approach, the difference in the level of qualification will mean that children being cared for at home may not have the same standard of care. Young children receiving care and education services in the homes of childminders have the same rights under the UN Convention on the Rights of the Child as children receiving centre-based services, including the right to services that conform to quality standards.<sup>63</sup>

Central to the reform of childminding is the introduction of regulations. Amendments to the Child Care Act 1991, to allow for the registration inspection of all paid, non-relative childminders, continued to progress through the legislative process; in 2023 Heads of Bill were published and Pre-Legislative Scrutiny in the Oireachtas was completed.<sup>64</sup> Public consultation on draft childminding-specific regulations commenced on 8 February 2024.<sup>65</sup> Following the public consultation process in early 2024, and the enactment of amendments to the Child Care Act 1991, it is envisaged that the new childminding-specific regulations will come into effect by Autumn 2024, with a transition period for childminders to register under the new regulations.<sup>66</sup>

## Inspections

*First 5* commits to undertaking reform of regulatory and inspection systems in the sector. A review of the inspectorate system will be informed by the OECD Country Policy Review.

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63 UNCRC 'General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 23.

64 Communication received by the Children's Rights Alliance from Department of Children, Equality, Disability, Integration and Youth, 15 January 2024.

65 Communication received by the Children's Rights Alliance from Department of Children, Equality, Disability, Integration and Youth 7 February 2024.

66 *ibid.*

This review recommended:

**“In the short-term, deepen collaborative working between Tusla, Early Years Inspectorate and the Department of Education Inspectorate. In the longer-term, consider bringing their functions within a single body that provides integrated care and education inspections”.**<sup>67</sup>

In 2022, two working groups were established. The first, an Inspection Streamlining and Coordination Working Group will bring the Department and the two inspectorates together to enhance collaboration and support alignment. The latest *First 5 Implementation Plan* contains a specific action on the establishment of a single body bringing together the functions carried out by Tusla’s Early Years Inspectorate and the Department of Education’s Inspectorate’s Early Years team.<sup>68</sup> The Department of Children, Equality, Disability, Integration and Youth (DCEDIY) will undertake work on an implementation plan and what form the single inspectorate will take in collaboration with the two inspectorates. This will include consultation with stakeholders.<sup>69</sup>

The second group, a Quality Assurance and Improvement Working Group, will align the inspection and quality support services, leading to the enhancement of the quality assurance and improvement system. The development of a single, integrated framework to support service delivery along a quality spectrum is committed to in the latest *First 5 Implementation Plan*.<sup>70</sup> Both of these groups will be reformed in 2024 as a result of the commitments in the new *First 5 Implementation Plan*; the commitment to develop a single inspectorate and the commitment to development of a single quality framework.<sup>71</sup>

In driving up quality standards for early years childcare, through professionalisation and improved regulation and inspection, the role of the

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67 OECD, *Strengthening Early Childhood Education and Care in Ireland: Review on Sector Quality*, (OECD, 2021).

68 Department of Children, Equality, Disability, Integration and Youth, *First 5: Implementation Plan 2023-2025*, (DCEDIY 2023), 94.

69 *ibid.*

70 *ibid.*

71 Communication received by the Children’s Rights Alliance from Department of Children, Equality, Disability, Integration and Youth 7 February 2024.

proposed new agency, Childcare Ireland, will be key – see commitment in [Section 2](#).

## Inequalities

In June 2021, the Citizens' Assembly on gender equality recommended that the development of a public mode of childcare happen over the next decade.<sup>72</sup> The European Child Guarantee aims to prevent and combat child poverty and social exclusion by supporting EU Member States to make efforts to guarantee access to quality key services for children in need, including free access to early childhood education and care.<sup>73</sup>

*Partnership for the Public Good* recognised that it would take time to put in place a dedicated funding stream to tackle disadvantage based on additional data to identify early years settings with 'high concentrations of disadvantaged children'.<sup>74</sup> The introduction of changes to NCS eligibility in Budget 2022 was one way the Expert Group thought the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) could bridge the gap.<sup>75</sup> An additional €9 million was allocated to extending the NCS to children under 15 years of age and the practice of deducting hours spent in education (including pre-school) was removed from Spring 2022.<sup>76</sup> Prior to this change parents were entitled to a reduced number of subsidised hours during term time as their child was in education.<sup>77</sup> Further investment in the NCS in Budget 2023 has

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72 The Citizen's Assembly, *Report of the Citizens' Assembly on Gender Equality*, (The Citizens' Assembly 2021) 13. Membership of the Assembly consisted of 100 people, comprising a Chairperson and 99 citizens entitled to vote at a referendum who were broadly representative of Irish society.

73 European Commission, Proposal for a Council Recommendation establishing the European Child Guarantee, Brussels, 24.3.2021 COM(2021) 137 final, 1.

74 Expert Group on the Funding Model, *Partnership for the Public Good: A New Funding Model for Early Learning and Care and School-Age Childcare* (DCEDIY 2021) 130.

75 *ibid* 132.

76 Department of Children, Equality, Disability, Integration and Youth, *Budget 2022 Overview and FAQ for Early Learning and Care (ELC) and School-Age Childcare (SAC) Providers*, (DCEDIY 2021).

77 For example, where parents were not engaged in work or study the entitlement for children participating in ECCE was five hours during term-time and 20 hours during school holidays. The introduction of this change meant that parents retained an entitlement to 20 hours subsidised childcare all year round. These changes were said to be particularly beneficial to one parent families and those experiencing disadvantage. Department of Children, Equality, Disability, Integration and Youth, 'Minister O'Gorman announces "transformative" €183 million budget package' (Press Release 12 October 2021) <<https://bit.ly/3GWE8D>> accessed 26 January 2024.

focused on the universal aspect of the scheme.<sup>78</sup> This change benefits all children including those on income assessed subsidies not in receipt of the highest subsidies (i.e. those families with incomes of more than €26,000).

Work on the development of a targeted model of early years progressed throughout 2023. This new strand of funding – the Equal Participation Model (EPM) – will provide a mix of universal and targeted supports through services accessed by children and families experiencing disadvantage.<sup>79</sup>

The design of the EPM is at an advanced stage and it is anticipated that targeted services will be identified by using existing data such as the Pobal HP Deprivation Index along with other data sources.<sup>80</sup> Traveller and Roma children are key cohorts in this model. Since September 2023 an ethnic identifier has been introduced for applications to the National Childcare and ECCE schemes.<sup>81</sup> An allocation of €4.5 million for the initial implementation of the EPM was secured in Budget 2024.<sup>82</sup> It is anticipated that the EPM policy document will be published early in 2024.<sup>83</sup> The latest *First 5 Implementation Plan* includes a target to increase the participation rates of Traveller and Roma children so that they are 'more closely aligned to the national average'.<sup>84</sup> The participation rates for Traveller and Roma children is 76 per cent and 70 per cent respectively compared to an overall participation of 96 per cent.<sup>85</sup>

Complementary to the development of the EPM, a pilot scheme to provide hot meals in ELC services has been completed and an evaluation of this initiative is nearing completion.<sup>86</sup> Once the latter has been finalised it will

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78 Government of Ireland, *Budget 2023 Expenditure Report* (DPER 2022)

79 Communication received by the Children's Rights Alliance from Department of Children, Equality, Disability, Integration and Youth, 11 January 2023.

80 Communication received by the Children's Rights Alliance from the the Department of Children, Equality, Disability, Integration and Youth, 15 January 2024.

81 *ibid.*

82 An allocation of €4.5 million for the initial implementation of the Equal Participation (DEIStype) Model.

83 Communication received by the Children's Rights Alliance from the the Department of Children, Equality, Disability, Integration and Youth, 15 January 2024.

84 Department of Children, Equality, Disability, Integration and Youth, *First 5: Implementation Plan 2023-2025*, (DCEDIY 2023), 126.

85 *ibid.*

86 Communication received by the Children's Rights Alliance from the the Department of Children, Equality, Disability, Integration and Youth, 15 January 2024.

help to inform the Budget 2025 estimate process.<sup>87</sup> The provision of meals in early years settings will also contribute to the objective of addressing disadvantage.<sup>88</sup>

Under *First 5*, the Government committed to undertake an evaluation of the Access and Inclusion Model for children with disabilities. The evaluation was completed in 2022 and was published in January 2024.<sup>89</sup> The findings will inform the future development of the programme under *First 5*.<sup>90</sup> In Budget 2024 additional funding was secured to extend AIM beyond the ECCE programme to children of ECCE age from September.<sup>91</sup>

The Department are currently conducting a review of the ECCE programme and as part of this review, harder to reach groups, such as Traveller and Roma families, will be consulted.<sup>92</sup> This is to understand why the uptake is lower amongst these groups and to identify barriers which can be addressed through policy.<sup>93</sup> The report was due for completion in Quarter Four 2023.<sup>94</sup>

## Staff Retention

In the absence of the state employing early years professionals, it cannot set a wage for the sector. Through the establishment of a Joint Labour Committee (JLC) process employer and employee representatives can negotiate pay rates for the sector.<sup>95</sup>

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87 *ibid.*

88 Communication received by the Children's Rights Alliance from Department of Children, Equality, Disability, Integration and Youth, 11 January 2023.

89 Deborah Robinson, et. al. *End-of-year three Evaluation of the Access and Inclusion Model: Full Technical and Research Report* (2022 University of Derby).

90 Communication received by the Children's Rights Alliance from the the Department of Children, Equality, Disability, Integration and Youth, 11 January 2023.

91 Communication received by the Children's Rights Alliance from Department of Children, Equality, Disability, Integration and Youth 7 February 2024.

92 *ibid.*

93 *ibid.*

94 *ibid.*

95 Communication received by the Children's Rights Alliance from the the Department of Children, Equality, Disability, Integration and Youth, 15 January 2024.

The first Employment Regulation Orders (EROs) for the sector came into effect on 15 September 2022. The EROs established an hourly minimum rate of pay for Early Years Educators / School-Age Childcare practitioners in different roles.<sup>96</sup> A draft of a second EROs was published for consultation on 10 January 2024, with a deadline for submissions by 30 January. Should a positive outcome be achieved, this will be supported through the existing Core Funding allocation.<sup>97</sup> Core funding should include significant investment in workforce pay and conditions of employment, and crucially, this investment should be ringfenced for this purpose.

A month prior to the introduction of the first EROs in September 2022, a survey found that almost three-quarters (73 per cent) of managers and owners of early years services believe the EROs would have a positive effect on recruitment and retention. However, of this percentage, 60 per cent indicated this would be dependent on future increases.<sup>98</sup> Over half of workers, 55 per cent, have indicated they would stay in the sector if there are agreed rates of pay with potential increases.<sup>99</sup> This indicates that the EROs represent an important starting point to improve retention and recruitment in the sector.

Pillar Four of the new Workforce Development Plan focuses on the recruitment, retention and diversity of staff in the early learning and care and school aged childcare workforce.<sup>100</sup> Actions identified to support this include a 'one-stop shop' on training and career opportunities as well as the active promotion of careers in these sectors.<sup>101</sup> However, the plan acknowledges that a key enabler of retaining staff is the improvement in pay and employment conditions.<sup>102</sup>

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96 EROs were established for Early Years Lead Educators/ School-Age Childcare Coordinators; Graduate Early Years Lead Educators/ School-Age Childcare coordinators; Deputy Managers; Managers, and; Graduate Managers.

97 Communication received by the Children's Rights Alliance from the the Department of Children, Equality, Disability, Integration and Youth, 15 January 2024.

98 SIPTU Big Start Campaign, *Early Years Staffing and Pay Survey*, (SIPTU 2022).

99 *ibid.*

100 Department of Children, Equality, Disability, Integration and Youth, *Nurturing Skills: The Workforce Plan for Early Learning and Care and School-Age Childcare 2022-2028* <<https://bit.ly/3s8fTaX>> accessed 25 January 2024.

101 *ibid.*

102 *ibid.*



## Organisation of Structures and Systems

In response to the recommendations outlined in *Partnership for the Public Good*, the Early Learning and Care and School Age Childcare division of the DCEDIY has been reconfigured.<sup>103</sup> The Division encompasses six units: Scheme Oversight, Communication and Co-ordination; Finance and Compliance; Governance and Systems Development; Quality; Access and Inclusion; and Sector Development.<sup>104</sup> A seventh unit was established in January 2024 focused on Supply Management.<sup>105</sup> In addition, the Early Years Education Policy Unit is co-located between the division and the Department of Education.

In 2023 the Department continued to refine this reorganisation structure.<sup>106</sup> Continued ICT enhancement and development has been ongoing between the Department and Pobal. This has allowed for the development of new procedures, allocation calculations, funding disbursements and reporting as well as providing impact monitoring data on key indicators such as workforce pay, qualifications, turnover rates and non-contact time.<sup>107</sup>

## Cost to Parents

An additional allocation to the National Childcare Scheme has meant that from January 2023, families receive a minimum universal subsidy of €1.40 per hour, an increase of €0.90 on the previous rate of €0.50.<sup>108</sup> A further increase to €2.14 per hour per child will be introduced from September 2024.<sup>109</sup> From September, NCS sponsor referral rates will increase to €5.30 per hour for all children over the age of one. It is hoped this will encourage services to take

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103 Communication received by the Children's Rights Alliance from the the Department of Children, Equality, Disability, Integration and Youth, 18 January 2022 and 11 January 2023.

104 Communication received by the Children's Rights Alliance from the the Department of Children, Equality, Disability, Integration and Youth, 11 January 2023.

105 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Integration and Youth 7 February 2024.

106 Communication received by the Children's Rights Alliance from the the Department of Children, Equality, Disability, Integration and Youth, 15 January 2024.

107 *ibid.*

108 Department of Children, Equality, Disability, Integration and Youth, 'Minister O'Gorman secures €1 billion investment in early learning and childcare', Press Release 28 September 2022.

109 Communication received by the Children's Rights Alliance from the the Department of Children, Equality, Disability, Integration and Youth, 15 January 2024.



**The OECD  
emphasises that  
if ECEC is not  
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children from  
disadvantaged  
backgrounds  
participate in it.**

more children under this programme.<sup>110</sup> Uptake of the NCS continues to grow very significantly with the number of children availing of the NCS having grown from almost 100,000 to over 140,000 during 2023.<sup>111</sup> According to comparative analysis by the OECD, the introduction of childcare subsidies has substantially reduced costs for low income and one parent families.<sup>112</sup> However, some middle income families still have high childcare costs.<sup>113</sup>

In December 2021, the Department published a 12-month review of the NCS.<sup>114</sup> Preceding the review's publication, a number of changes to the NCS were introduced in Budget 2022. These changes expanded the scope of the scheme as well as amended the deduction of hours spent in pre-school or school from the subsidised hours.

In 2023, a number of steps were taken to streamline the administration of NCS for providers. This includes reducing duplication of tasks such as completing separate fee letters and agreements for different schemes.<sup>115</sup> Work will continue to decrease the administrative burden on providers.<sup>116</sup> In early 2024, the Department plans to commission an evaluation on the NCS.<sup>117</sup>

## ► **What children and young people need next**

The Government continues to make progress on reforming early childhood education and care. The realisation of the goal to invest €1 billion in the sector in 2023 five years ahead of schedule is proof of the commitment to ensure all children get the best start in life. Building on this commitment, it is critical that a number of key areas are prioritised in 2024.

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110 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth 7 February 2024.

111 *Ibid.*

112 OECD, Net childcare costs in EU countries, 2021 (OECD 2022), 17.

113 *ibid* 13.

114 Frontier Economics, *12-Month Review of the National Childcare Scheme* (Department of Children, Equality, Disability, Integration and Youth 2021) <<https://bit.ly/33AwATy>> accessed 20 December 2021.

115 Communication received by the Children's Rights Alliance from the the Department of Children, Equality, Disability, Integration and Youth, 15 January 2024.

116 *ibid.*

117 *ibid.*

In Budgets 2023 and 2024, the increase to the universal element of the NCS has meant that the cost of childcare has reduced for all parents. However, it is critical that targeted supports are provided to parents on low incomes. The OECD emphasises that if ECEC is not sufficiently subsidised, fewer children from disadvantaged backgrounds participate in it.<sup>118</sup> This echoes the concerns made by the UN Committee on the Rights of the Child in relation to discrimination in early childhood where the provision of services does not follow a universal model.<sup>119</sup> An analysis of OECD data indicates that supporting parents from low-income families to participate in full-time employment is a critical objective in terms of significantly reducing child poverty.<sup>120</sup> Notwithstanding this, challenges exist in relation to accessing work with decent pay and conditions and a substantial number of households continue to experience in-work poverty.<sup>121</sup> Consideration should be given to confining the National Childcare Scheme to Service Providers that sign up to Core Funding.

In early January 2024, the Department of Children, Equality, Disability, Integration and Youth published a *Financial Review of Sessional Early Learning and Care Services* undertaken by Frontier Economics.<sup>122</sup> While the review is limited in terms of focusing only on 12 service providers, there were mixed responses regarding Core Funding.<sup>123</sup> For instance, one service reported that it was insufficient to meet costs, while another stated that it greatly assisted the viability of their service.<sup>124</sup> Year two of Core Funding has introduced targeted measures for sessional services. This includes a flat rate payment of €4,075 for services registered as sessional only with Tusla along with a base rate minimum allocation of €8,150 per centre-based service.<sup>125</sup> There is a need for more comprehensive research to be undertaken on the impact that Core Funding is having on a wider number and types of services.

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118 OECD, *Education at a Glance 2019: OECD Indicators*. (OECD 2019) 165.

119 UNCRC, General Comment No.7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/GC/7/Rev.1 para 12.

120 Daly, M. *Fighting Child Poverty: The Child Guarantee* (European Parliament 2019) 5.

121 Social Justice Ireland 'Substantial portion of workers cannot achieve a socially acceptable standard of living' <https://bit.ly/2X8w78p> accessed 24 January 2024.

122 Frontier Economics, *Financial Review of Sessional Early Learning and Care Services* (DCEDIY 2024).

123 *ibid.*

124 *ibid.*

125 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth 7 February 2024.

The State needs to provide free or nearly free access to ECEC for parents living in consistent poverty. This would include those currently on welfare payments or in low-paid jobs. This is the single most important measure in addressing child poverty based on the evidence; that what works is providing quality employment alongside quality childcare.<sup>126</sup> The commencement of the development of the new Equal Participation Model in 2023 and the funding secured for its initial implementation is welcome. It is essential that momentum behind this is continued and that we see increased investment in Budget 2025, with a focus on wraparound services, provision of food and parental support. The research evidence shows that ECEC approaches that are aimed at inclusion and enabling participation address and improve childhood well-being and outcomes.<sup>127</sup>

The UN Committee is clear that to ensure quality in ECEC, the workforce must be socially valued and properly paid. The establishment of the EROs for the sector was a milestone event which will make an important contribution towards staff retention and recruitment. It is critical that this is recognised as a starting point which can be built on further to ensure that pay and conditions continue to improve. The supports outlined in the *Workforce Development Plan* to encourage staff to participate in ongoing Continuous Professional Development (CPD) will ensure they will be equipped with the up-to-date training necessary to work with this age group. It should include training specifically on children's rights and development, as outlined by the Committee. The launch of the pilot Nurturing Skills Learner Fund in December 2023 is a welcome development in terms of maintaining momentum on the development of a graduate-led workforce.<sup>128</sup>

The momentum towards regulating the childminding sector has continued in 2023 with the publication of the Heads of Bill of the Child Care (Amendment) Bill 2023. It is critical that this momentum is maintained in 2024 so that the regulations come into effect in Autumn 2024 as planned.

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126 Daly, M. *Fighting Child Poverty: The Child Guarantee* (European Parliament 2019) 5.

127 Conor Cashman, Margaret Buckley and Grainne Mulcahy, *Briefing Document on Early Interventions and Public Childcare Approaches*, (Children's Rights Alliance and UCC 2023).

128 Department of Children, Equality, Disability, Integration and Youth 'Nurturing Skills Learner Fund', 8 December 2023, <https://bit.ly/3ui8lC5> accessed 8 February 2024.

## **➔ Recommendations**

- ▶ Continue to increase public investment in Early Childhood Education and Care, and implement the recommendations of the Expert Group on the Funding Model including the continued investment in Core Funding for services and the development of national indicators to track progress linked to this investment.
- ▶ Finalise the development of the new Equal Participation Model in 2024, and commence the rollout of the programme with a focus on wraparound services, provision of food, and parental supports. Budget 2025 should substantially increase investment in the new model of funding in order to unlock the potential that early childhood education and care can have for children living in poverty and disadvantage.
- ▶ Finalise and commence the legislation allowing for the regulation of Childminders in Autumn 2024.

**2**

# **Childcare Ireland Agency**

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**Section Grade:**

**C**



## The Programme for Government commits to:

Establish an agency, Childcare Ireland, to assist in the expansion of high-quality childcare, spearheading leadership, best practice and innovation and professional development in community and private settings. It will also be tasked with developing career paths for childcare staff. Childcare Ireland will be responsible for expanding Síolta.

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▶ Progress: **Slow**

The establishment of Childcare Ireland receives a 'C' grade, the same grade as last year. Momentum has been maintained throughout 2023 to develop further analysis of how a new agency would operate. Clear milestones have been set over the next two years for the establishment of the Agency. However, despite some progress, the commitment will not be fully realised in the lifetime of this government.



## Ireland's duties and responsibilities in international law



The UN Convention on the Rights of the Child (UNCRC) highlights that early childhood is not merely preparation for adulthood and requires that children, including the very youngest children, be respected as persons in their own right.<sup>1</sup> While Article 5 recognises parents and carers as primary caregivers, States have a duty to provide assistance, including quality childcare services under Article 18.<sup>2</sup> Article 2 provides that no child should experience discrimination in early childhood and all should be able to access the vital services that contribute to their survival and development, in line with Article 6.<sup>3</sup> Children's best interests are always the starting point for service planning and provision,<sup>4</sup> and it is essential that the 'institutions, services and facilities responsible for early childhood conform to quality standards ... and that staff possess the appropriate psychosocial qualities and are suitable, sufficiently numerous and well trained.'<sup>5</sup> Work in early years education and care should be socially valued and properly paid, in order to attract a highly qualified workforce, including men as well as women.<sup>6</sup>

Ireland ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1992. As part of its commitments, Ireland agreed to be reviewed every five years on its progress in implementing the rights in the Convention. Ireland was last examined by the Committee on the Rights of the Child in 2023. In its Concluding Observations, the Committee called for increased access to affordable childcare for parents engaged in the labour market, and especially those experiencing disadvantage.

1 UNCRC, General Comment No.7: 'Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 15.

2 *ibid.*

3 *ibid* para 12.

4 *ibid* para 22.

5 *ibid* para 23.

6 *ibid.*

The Committee also recommended that the Irish Government increases the level of funding allocated to childcare and move towards a publicly funded model as recommended by the Citizens Assembly.<sup>7</sup> In relation to children with disabilities the Committee calls for inclusive education in early childhood by adapting curricula, training specialised teachers and ensuring reasonable accommodation within school infrastructure and for transportation.<sup>8</sup>

## ► What is the context for this commitment?

The commitment to establish Childcare Ireland is welcome, as it will help to align policy, practice and inspection in the early childhood education and care (ECEC) sector. The current system is characterised by fragmentation and duplication which has led to a perception of complexity, confusion and administrative burden for service providers and families.<sup>9</sup> Ireland currently deploys a private market and community-based model of early childhood education and care using state subsidies, capitation and regulation.

Currently a number of organisations operating at a national and local level support the operation of early learning and care services.<sup>10</sup> Amongst the existing infrastructure are separate inspectorates led by the Department of Education and Tusla, to inspect different aspects of a service respectively.<sup>11</sup> Work on the amalgamation of these two bodies has been undertaken by the Inspection Streamlining and Coordination Working Group.<sup>12</sup> As an overarching body, Childcare Ireland (the Agency) is expected to expand 'high quality childcare, best practice and innovation in community and private childcare settings'.<sup>13</sup> While a decision has yet to be made on the location of a single inspectorate, this could be within the scope of a new proposed Childcare Agency.

7 UNCRRC, 'Concluding Observations Ireland' (2023) UN Doc CRC/C/IRL/CO/5-6, para 26.

8 *ibid* para 37.

9 Indecon, *Review of Early Learning and Care ('ELC') and School Age Childcare ('SAC') Operating Model in Ireland*, (DCEDIY 2022), p. viii.

10 Government of Ireland, *First 5 Implementation Plan 2023-2025*, (Government of Ireland 2023), 121.

11 Early Childhood Ireland, *Rising to the Challenge: Budget 2020 Submission* (ECI 2019).

12 Communication from the Department of Children, Equality, Disability, Integration and Youth to the Children's Rights Alliance 15 January 2024.

13 Roderic O'Gorman TD, Minister for Children, Equality, Disability, Integration and Youth Childcare Services Written Answers 30 July 2020 [119744/20].

The review of the operating model of both Early Learning Care and School Age Care is a precursor to the establishment of a stand-alone agency.<sup>14</sup> This review includes an analysis of the evidence base to inform the establishment of the agency. The current fragmentation of monitoring and evaluation generates multiple 'inspection' visits that can result in duplication and inefficiencies, as well as systems that are confusing for providers, parents and stakeholders.<sup>15</sup>

## ► **What has been achieved for children and young people so far?**

The *Programme for Government* pledges significant reform of early childhood education and care (ECEC)<sup>16</sup> and an aspect of this is the establishment of Childcare Ireland.<sup>17</sup> While both ECEC, and School-Age Childcare (SAC) will likely fall under the remit of the proposed Agency,<sup>18</sup> the Report Card focuses specifically on the impact that a central agency could have for ECEC.

As a precursor to the establishment of Childcare Ireland, the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) embarked on a comprehensive review of the operating system that administers all Early Learning and Care and School-Age Childcare (SAC) schemes and initiatives.<sup>19</sup> The commitment to undertake this review was outlined in *First 5*.<sup>20</sup>

The review was published in March 2022, and it maps out the current operating model and the functions carried out by Pobal, the City/County Childcare Committees and funded National Voluntary Childcare Organisation, as well as operational functions performed by the DCEDIY. Based on the

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14 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth, 18 January 2022.

15 Early Childhood Ireland, *Rising to the Challenge: Budget 2020 Submission* (ECI 2019).

16 See Section 1 on Reform of the Early Childhood Education and Care System

17 Government of Ireland, *Programme for Government, Our Shared Future* (Government of Ireland 2020) 80.

18 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth, 6 November 2020.

19 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth, 18 January 2022.

20 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth, 6 November 2020.

analysis of international comparison and consultations with stakeholders, the report developed key components for a proposed operating model and seven options for change.<sup>21</sup>

In assessing the seven options, the report recommends the establishment of a new statutory agency as the optimal way forward in terms of future development of the ELC and SAC model.<sup>22</sup> In setting out the preference to establish a new agency, the report cautions that this option will require legislation that will take time to develop.<sup>23</sup> Furthermore, there are key costs involved in the initial outlay, particularly in relation to staffing, office and IT infrastructure. However, it is envisaged that there will be efficiencies in terms of HR and administration in the future.<sup>24</sup>

Upon publication of the report, the Minister for Children, Equality, Disability, Integration and Youth indicated that the Government had accepted its findings and that a project team had been established to undertake further 'detailed analysis, planning, consultation and engagement with key stakeholders to assess how this recommendation can best be implemented'.<sup>25</sup>

A planning and design programme has been devised to progress the establishment of the new National Early Learning and Childcare Agency.<sup>26</sup> Phase 1 will focus on gathering information, analysis and initial design work.<sup>27</sup> The timeline for Phase 1 is 18-24 months and will take place over 2024 to 2025.<sup>28</sup> The second phase will involve more in-depth design and costing

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21 An international comparison highlighted a range of approaches adopted by comparable countries in relation to ELC and SAC operating. Consultations with stakeholders identified the strengths and weaknesses of the current operating model in Ireland. Through a combination of governance requirements and 'fit for purpose' principles (identified through the national and international analysis), the report develops key components that should be part of a future operating model.

22 *Indecon, Review of Early Learning and Care ('ELC') and School Age Childcare ('SAC') Operating Model in Ireland*, (DCEDIY 2022), p. iii.

23 *ibid.*

24 *ibid.*

25 Department of Children, Equality, Disability, Integration and Youth, 'Minister O'Gorman launches findings from review that recommends dedicated State Agency for Early Learning and Care and School-Age Childcare'. Press Release, 29 March 2022.

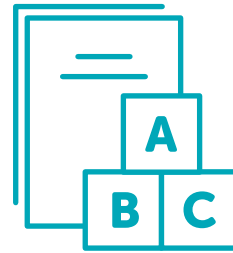
26 Communication from the Department of Children, Equality, Disability, Integration and Youth to the Children's Rights Alliance 15 January 2024.

27 *ibid.*

28 *ibid.*

work.<sup>29</sup> This phase is scheduled to be undertaken over the course of six to nine months in 2025.<sup>30</sup> Phase 1 will include ongoing and robust stakeholder engagement.<sup>31</sup> The outputs from Phase 1 will inform the work for Phase 2.<sup>32</sup> It is anticipated that a report on the design and costings for a new agency will be presented to Government.<sup>33</sup> It is anticipated that the establishment of the Agency will take a number of years to complete.<sup>34</sup>

The *First 5 Implementation Plan 2023-2025* refers to the establishment of the Agency noting that it will support the significant agenda for reform of early childhood education and care currently underway.<sup>35</sup> A key milestone in 2023 was the finalisation of memoranda of understanding between the Department, Pobal and each of the City and County Childcare Committees on engagement as the development of the Agency continues.<sup>36</sup> The *Implementation Plan* also commits to bringing together the inspection functions of the Department of Education and Tusla into a single entity.<sup>37</sup>



## **First 5 Implementation Plan 2023-2025**

**notes that the Agency will support the significant agenda of reform of early childhood education and care currently underway.**

29 *ibid.*

30 *ibid.*

31 *ibid.*

32 *ibid.*

33 *ibid.*

34 *ibid.*

35 Government of Ireland, *First 5 Implementation Plan 2023-2025*, (Government of Ireland 2023) 121.

36 *ibid.* 87.

37 *ibid.* 94.

However, there is no decision yet as to where this integrated inspection body would sit.<sup>38</sup> Key milestones for this plan over 2023 to 2025 will result in an implementation plan brought to government in 2025.<sup>39</sup>

## ► **What children and young people need next**

Following the publication of the report on the review of the ELC and SAC operating model in 2022, there has been some momentum to establish a new statutory agency focused on childcare. The latest *First 5* implementation plan sets out the milestones to be achieved over the next two years, both in terms of the Agency and the streamlining of the inspectorate. This includes engagement with stakeholders as part of the development of the joint inspectorate and the new agency. All work needs to be informed by the standards set out under the UNCRC on rights in early childhood and should take a children's rights approach. Based on the timeline set out by the Department and in *First 5*, the Agency will not be established within the lifetime of this government. However, it is positive to see continued progress on the development of the agency in the context of the overall reform of the early childhood education and care sector.

### ➔ **Recommendations:**

- Expediate the work being undertaken to establish Childcare Ireland.

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38 Communications from the Department of Children, Equality, Disability, Integration and Youth to the Children's Rights Alliance 31 January 2024.

39 *ibid.*

**3**

# Free School Books

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Section Grade:

**A-**



## The Programme for Government commits to:

Commence a free school books scheme pilot in September 2020 and, pending a successful review of that pilot, expand the scheme to schools nationwide, as resources allow.

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▶ Progress: **Good**

**'Free School Books' receives a 'A-' grade, up from the 'B' grade received last year. There was a welcome expansion of free school books to all students in junior cycle of secondary school in Budget 2024. The introduction of free school books for second-level students is a welcome universal measure and, in particular, will help to address some of the additional costs of older children. The final step to this commitment is the expansion of the initiative to students in senior cycle in order to ensure that all children and young people can benefit.**



## Ireland's duties and responsibilities in international law



Under the UN Convention on the Rights of the Child (UNCRC), every child has a right to education and should have an equal opportunity to participate in education.<sup>1</sup> To give effect to this right, states should 'take appropriate measures such as the introduction of free education and offering financial assistance in case of need'.<sup>2</sup>

The UN Committee on the Rights of the Child has stated that the goal of education is to 'empower the child by developing his or her skills, learning and other capacities, human dignity, self-esteem and self-confidence'.<sup>3</sup> The Committee has recommended that education should go beyond formal schooling to 'embrace the broad range of life experiences and learning processes which enable children, individually and collectively, to develop their personalities, talents and abilities and to live a full and satisfying life within society'.<sup>4</sup>

Ireland ratified the UNCRC in 1992. As part of its commitments, Ireland agreed to be reviewed every five years on its progress in implementing the rights in the Convention. Ireland was last examined by the Committee on the Rights of the Child in January 2023. The issue of education was identified in the Concluding Observations of the Committee as one of six areas where urgent measures should be taken. The Committee called on the Irish State to strengthen measures to ensure all children in disadvantaged groups have equal access to education including providing 'support to cover hidden costs of education'.<sup>5</sup>

1 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989) Art 28.

2 *ibid* Art 28(b).

3 UNCRC General Comment No. 1 on Article 29(1) the Aims of Education (2001) CRC/GC/2001/1 para 2.

4 *ibid*.

5 UNCRC, 'Concluding Observations Ireland' (2023) UN Doc CRC/C/IRL/CO/5-6, paras 4 and 37

## ► What is the context for this commitment?

Every child in Ireland has the right to access and receive an education. The Irish Constitution requires the State to 'provide for free primary education'.<sup>6</sup> The Education Act 1998 sets out that children should receive 'a level and quality of education appropriate to meeting the needs and abilities of that person'<sup>7</sup> and guarantees 'to promote equality of access to and participation in education and to promote the means whereby students may benefit from education'.<sup>8</sup> The UNCRC goes further in its wording, calling on States to take steps to achieve the right to education on the 'basis of equal opportunity' and to 'take appropriate measures such as the introduction of free education and offering financial assistance in case of need'.<sup>9</sup>

In Ireland, a person's socio-economic background remains a strong determining factor of their level of educational attainment.<sup>10</sup> The Higher Education Authority noted that one in ten students were from a disadvantaged background versus one in five students who were identified as affluent.<sup>11</sup> Living on a low income can also prevent children and young people from participating fully in education.<sup>12</sup> For example, according to Barnardos' school costs survey, in 2023 the average cost of a first-year student returning to school was €972<sup>13</sup> which was two and a half times greater than



6 Irish Constitution, Article 42.4.

7 Education Act 1998, s6(b).

8 *ibid* s6(c).

9 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989) Art 28(1).

10 Joint Committee on Education and Skills Report on education inequality and disadvantage and barriers to education (Houses of the Oireachtas 2019).

11 Higher Education Authority, Socio-Economic Profiles 2020-2021, < <https://bit.ly/3OeURTO/>> accessed 22 January 2024.

12 Joint Committee on Education and Skills Report on education inequality and disadvantage and barriers to education (Houses of the Oireachtas 2019).

13 Barnardos, *Back to School 2023*, (Barnardos 2023).

the rate of the Back to School Clothing and Footwear Allowance for this age cohort.<sup>14</sup> Furthermore, the hidden costs of education, such as extra-curricular activities, can put those with a higher income at an unfair advantage.<sup>15</sup>

The European Union (EU) *Recommendation on Investing in Children* recommends that the State 'provide for the inclusion of all learners, where necessary by targeting resources and opportunities towards the more disadvantaged'.<sup>16</sup> It further recommends that the State take measures to address barriers which hinder children attending school, including financial barriers, by providing targeted educational aid.<sup>17</sup> Building on this, in June 2021 the *European Child Guarantee* was adopted by the EU.<sup>18</sup> It aims to prevent and combat child poverty and social exclusion by supporting the 27 EU Member States to make efforts to guarantee access to quality key services for children in need.<sup>19</sup> Under the *European Child Guarantee*, each Member State is required to identify and address financial barriers to participation along with ensuring provision of educational materials.<sup>20</sup>

In the 2023-2024 school year, there were 3,233 Primary Schools and 672 Post-Primary Schools in the in the Free Education Scheme within the State, of which 964 Primary and 232 Post-Primary were categorised as Delivering Equality of Opportunity in Schools (DEIS).<sup>21</sup> The number of DEIS schools has increased in the past number of years with an additional 280 Primary and 38 Post-Primary Schools



14 Citizens Information, 'Back to School Clothing and Footwear Allowance', accessed 09 January 2024.

15 Joint Committee on Education and Skills Report on education inequality and disadvantage and barriers to education (Houses of the Oireachtas 2019).

16 European Commission, Commission Recommendation: Investing in children: breaking the cycle of disadvantage (Brussels 20.2.2013 C(2013) 778) 5.

17 *ibid* 7.

18 European Commission, *Proposal for a Council Recommendation establishing the European Child Guarantee* (Brussels 24.3.2021 COM(2021).

19 *ibid*.

20 *ibid* 7.

21 Communication received by the Children's Rights Alliance from the Department of Education, 11 December 2023.

respectively brought in under the programme in the academic year 2022-2023.<sup>22</sup> This increase means more children in disadvantaged areas will benefit from the increased supports and programmes provided by DEIS schools.<sup>23</sup>

## ► Cost of Education

As far back as 2013, the then Joint Oireachtas Committee on Education and Social Protection called for a five-year template for the delivery of an entirely free school book system, based on the UK model, in place since the 1940s,<sup>24</sup> and to discontinue the use of workbooks in all schools.<sup>25</sup> Prior to the introduction of free school books, a survey by Barnardos found that parents of children in 4th class in primary school were spending an average of €424 on back-to-school costs, with books (at €124), making up almost a third of the total cost of education.<sup>26</sup> At post-primary level, school books represent the biggest outlay for parents of 1st and 5th year students and in 2023 cost €232 and €234 respectively.<sup>27</sup>



22 Communication received by the Children's Rights Alliance from the Department of Education, 16 November 2022.

23 Supports provided to DEIS schools include access to Home School Community Liaison Services (HSCL); School Meals Programme; supports under the School Completion Programme and literacy/numeracy supports.

24 Education Act 1944.

25 Joint Committee on Education and Social Protection, *Report on Tackling Back to School Costs* (Houses of the Oireachtas 2013) 20.

26 Barnardos, *Back to School 2022* (Barnardos 2022) 2.

27 *ibid* 7.

## ► What has been achieved for children and young people so far?

Budget 2020 marked an initial step in providing free school books by allocating €1 million for the development of a new pilot scheme to be administered by 102 primary schools for the school year 2020-2021.<sup>28</sup> In Budget 2023, a commitment to provide 'funding for free school books for all pupils in primary schools within the Free Education Scheme from September' was announced.<sup>29</sup> The scheme, which provides funding directly to recognised primary and special schools, eliminates school book costs for the families of all children attending these schools.<sup>30</sup> Through this funding, schools purchase school books and resources for their classrooms.<sup>31</sup>

In the academic year 2023-2024, over 561,000 students in over 3,230 primary schools, including over 130 special education schools benefitted from the scheme.<sup>32</sup> Funding is paid at a rate of €96 per pupil<sup>33</sup> reducing the weekly expenditure for families with a primary school child by €3.29.<sup>34</sup> The positive impact of the introduction of this measure has resulted in fewer parents seeking help from charities with back-to-school costs in 2023.<sup>35</sup>

An evaluation of the first year of the scheme is currently underway.<sup>36</sup> The evaluation methods include a survey of schools, as well as stakeholder

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28 Department of Education 'Minister McHugh announces additional funding of €1 million to reduce the cost of school books in DEIS schools' (Press Release January 2020) <<https://bit.ly/3J7uQAX>> accessed 31 January 2022.

29 Minister for Public Expenditure and Reform, 'Statement by Minister McGrath on Budget 2023', Speech, 27 September 2022 (Houses of the Oireachtas).

30 Communication received by the Children's Rights Alliance from the Department of Education on 16 November 2022.

31 *ibid.*

32 Minister for Education, Norma Foley TD, Dáil Debates, Written Answers, School Text Books, 7 November 2023 [47311/23 & 47312/23].

33 Department of Education, *Schoolbooks Grant Guidelines for Primary and Special Schools*, (Department of Education 2023).

34 This is based on the Vincentian MESL Research Centre data which calculates that school books previously cost €170.83 annually and this is taken from the overall MESL budget as opposed to adding back in the €96 as income. See Vincentian MESL Research Centre, Annual Update 2023, (Vincentian MESL Research Centre 2023).

35 Society of St Vincent de Paul, 'SVP Records Fall in Back-to-School Calls', Press Release 31 August 2023.

36 Communication received by the Children's Rights Alliance from the Department of Education, 11 December 2023.

interviews with organisations such as Barnardos and the Society of St Vincent de Paul.<sup>37</sup> The results of the evaluation will inform any need to amend the scheme's guidelines.<sup>38</sup> Any amendments will need to be considered in advance of the awarding of funding in April 2024.<sup>39</sup> Further investment in Budget 2024 means the provision of free school books will be expanded to junior cycle students in post-primary schools in the Free Education Scheme from September 2024.<sup>40</sup> An additional allocation of €67 million brings the total funding for free school books to €115 million.<sup>41</sup> This expansion is expected to benefit up to 213,000 second-level students in addition to the 561,000 pupils in primary and special schools currently benefitting.<sup>42</sup>

The Department of Education will shortly develop guidance for the implementation of the expanded scheme and will engage with stakeholders as part of this including schools, parent and management bodies, representatives of book publishers and retailers, and Barnardos and the Society of St Vincent de Paul.<sup>43</sup> Funding will be issued to schools early in 2024 in order to ensure they have the financial resources in place to support the administration of the scheme for the 2024-2025 school year.<sup>44</sup> As part of the rollout of free school books at primary level, schools are allocated an administration grant<sup>45</sup> based on the number of pupils enrolled in the school.<sup>46</sup> A similar administration grant will be provided to secondary schools for the 2024-2025 school year.<sup>47</sup>

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37 *ibid.*

38 Communication received by the Children's Rights Alliance from the Department of Education, 11 December 2023.

39 *ibid.*

40 Department of Education, 'Ministers Foley, Madigan and Byrne announce details of over €10.5 billion education funding in Budget 2024', (Press Release 11 October 2023).

41 *ibid.*

42 Communication received by the Children's Rights Alliance from the Department of Education, 11 December 2023.

43 *ibid.*

44 *ibid.*

45 The grant supports tasks such as placing orders, covering books, and preparing and tracking books. These tasks can be carried out by an existing employee of the school such as the deputy principal, teacher, or another suitable individual.

46 Department of Education, *Schoolbooks Grant Guidelines for Primary and Special Schools*, (Department of Education 2023).

47 Communication received by the Children's Rights Alliance from the Department of Education, 11 December 2023.



**This expansion of the Free School Book Scheme is expected to benefit up to 213,000 second level students in addition to the 561,000 pupils in primary and special schools currently benefitting.**

The average cost of secondary school books was €218 according to Barnardos' *Back to School Survey 2023*.<sup>48</sup> The Vincentian Minimum Essential Standard or Living (MESL) Research Centre estimates that the provision of free school books for households with teenagers would reduce the cost of the MESL by €174.49 per annum or €3.36 per week.<sup>49</sup> This will be an important support in terms of addressing the increased costs of older children.

## ► **What children and young people need next**

The UNCRC is clear that children have a right to education on the basis of equal opportunity and that the State has an obligation to offer financial assistance in the case of need.<sup>50</sup> The *Programme for Government* commitment on providing free school books makes a significant contribution towards this. Budgets 2023 and 2024 have delivered an important commitment to tackle the financial costs of going to school for both primary school and junior cycle students. While every child and young person will benefit from these measures, it is particularly welcome for those children and families experiencing educational disadvantage.

It is critical that the momentum to address school costs is maintained. As a next step, the government could expand the provision of free school books to senior cycle of second level. This would deliver free school books as a universal measure across all primary and special schools and post-primary schools in the Free Education Scheme. For families on low incomes, the expansion of school books to all secondary school students would be particularly welcome given the increased costs incurred for older children. The initiation of an evaluation by the Department of Education, which should help to inform the future administration of the scheme, is particularly welcome as a means of ensuring that the scheme responds to implementation on the ground.

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48 Barnardos, *Back to School 2023*, (Barnardos 2023).

49 Vincentian MESL Research Centre, *Annual Update 2023*, (Vincentian MESL Research Centre 2023).

50 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989) Art 28(1).



## **Recommendations**

- ▶ Implement the commitment to expand the free school book scheme to schools nationwide by introducing this initiative to all students in senior cycle of secondary school.

**4**

# Reduced School Days

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Section Grade:

**B**



## The Programme for Government commits to:

Ensure robust data collection on the use of reduced timetables. Ensure that reduced timetables are only used in a manner that is limited, appropriate and absolutely necessary in line with the Department of Education's rules.

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▶ Progress: **Steady**

'Reduced School Days' receives a 'B' grade, which is an increase on last year's 'B-' grade. In September 2023, the Department, for the first time, published data on the use of reduced school timetables in primary, post primary and special schools. This provided an important insight into the prevalence of the practice and highlighted the significant overrepresentation of certain vulnerable groups, including Traveller and Roma students and students with special educational needs.

## Ireland's duties and responsibilities in international law



Under the UN Convention on the Rights of the Child (UNCRC), which Ireland ratified in 1992, every child has a right to education, and the UN Committee on the Rights of the Child is clear that the overall objective of this right is to maximise the child's ability and opportunity to participate fully in their society.<sup>1</sup> Under Article 2 of the UNCRC, States are obliged to ensure that all children can access all their Convention rights in full, without discrimination. In an education context, the Committee on the Rights of the Child is clear that discrimination 'offends the human dignity of the child and is capable of undermining or even destroying the capacity of the child to benefit from educational opportunities.'<sup>2</sup>

The right to education also forms part of the UN Convention on the Rights of Persons with Disabilities (UNCRPD), which Ireland ratified in 2018. In this Convention, Article 24 is clear that children with special educational needs have a right to individualised support and reasonable accommodations to enable their effective participation in the general education system.<sup>3</sup> Placing students with disabilities within mainstream classes without accompanying structural changes to, for example, organisation, curriculum, and teaching and learning strategies, does not constitute inclusion.<sup>4</sup>

Ireland was last examined by the Committee on the Rights of the Child in 2023. The issue of education is identified in the Concluding Observations of the Committee as one of six areas where urgent measures should be taken.<sup>5</sup> The Committee calls for the Irish State to collect and analyse disaggregated data in relation to education, including the use of

1 UNCRC General Comment No. 1 on Article 29(1) the Aims of Education (2001) CRC/GC/2001/1 para 12.

2 *ibid* para 10.

3 UN Convention on the Rights of Persons with Disabilities A/RES/61/106 Art 24.

4 Committee on the Rights of Persons with Disabilities, 'General Comment No. 4, Article 24: Right to inclusive education' (2016) UN Doc CRPD/C/GC/4 para 11.

5 UNCRC, 'Concluding Observations Ireland' (2023) UN Doc CRC/C/IRL/CO/5-6, para 4.

reduced timetables.<sup>6</sup> This data should include information on ethnicity, socioeconomic background, and residence status, and it should help to inform the development of policies to ensure equal access to quality education.<sup>7</sup> The Committee also recommended that the implementation of the reduced timetable guidelines should be effective, and measures should be developed to address their overuse, particularly for Traveller children and children with disabilities.<sup>8</sup>

Article 28 of the UNCRC provides that States should 'encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need'.<sup>9</sup>

## ► What is the context for this commitment?

The Department of Education defines reduced school days as:

- a reduced day in school where, by arrangement with the school authorities, a student arrives to school after the usual starting time or leaves before the end of the school day, and/or;
- a reduced week where, by arrangement with the school authorities, a student may not attend the full five days each week.<sup>10</sup>

A 2020 study revealed that approximately a quarter of national schools reported children being placed on reduced hours.<sup>11</sup> In recent years, there has been growing unease that schools' use of reduced days is infringing the education rights of children, with this practice disproportionately affecting children with special educational needs and disabilities, children of Traveller and Roma heritage, and children who are experiencing trauma or

6 *ibid* para 37.

7 *ibid* para 37.

8 *ibid* para 37.

9 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989) Art 28.

10 Department of Education and Tusla Education Support Service, *Guidelines for schools on recording and notification of the use of Reduced School Days* (Department of Education 2021) 3.

11 Dymrna Devine et al., *Children's School Lives: An Introduction, Report No.1* (University College Dublin 2020) 17.

adversity.<sup>12</sup> Research conducted with almost 400 parents found that one in four children with a disability have been put on short school days.<sup>13</sup>

Reduced school days can have a long-lasting impact on a child's life and can reduce their opportunities to build relationships with their peers and fulfil their full potential.<sup>14</sup> However, if used appropriately and in a narrow set of particular circumstances, reduced days may be helpful to enable the integration or reintegration of children into school life depending on their needs, for example, in certain medical situations.<sup>15</sup>

The inappropriate use of reduced days infringes on the child's right to education by inhibiting their access to school. It is of particular concern that children who are already marginalised or vulnerable are at greater risk of discrimination. Under the UNCRC, schools have a duty to be inclusive, enabling all children to fully participate in society.<sup>16</sup> The UNCRPD requires States to ensure that children with additional needs receive individualised support and accommodation to enable full participation - the opposite to informal exclusions. For children facing adversity either in their homes or communities, it is particularly vital that school is an accessible and enabling environment where consistent, safe, stable, and nurturing relationships can be cultivated. Schools should be child-friendly spaces that foster a humane atmosphere and allow children to develop according to their evolving capacities, without discrimination.<sup>17</sup>

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12 Joint Committee on Education and Skills, *Interim Report on the Committee's Examination on the Current Use of Reduced Timetables* (Houses of the Oireachtas 2019).

13 Dymphna Devine et al., *Children's School Lives: An Introduction*, Report No.1 (University College Dublin 2020) 17.

14 Children's Rights Alliance, *Helpline and Legal Advice Clinics Annual Report 2020* (CRA 2021) 15.

15 Joint Committee on Education and Skills, *Interim Report on the Committee's Examination on the Current Use of Reduced Timetables* (Houses of the Oireachtas 2019) 10.

16 UNCRC General Comment No. 1 on Article 29(1) the Aims of Education (2001) CRC/GC/2001/1 para 12. Committee on the Rights of Persons with Disabilities, 'General Comment No. 4, Article 24: Right to inclusive education' (2016) UN Doc CRPD/C/GC/4.

17 UNCRC General Comment No. 1 on Article 29(1) the Aims of Education (2001) CRC/GC/2001/1 para 12. Committee on the Rights of Persons with Disabilities, 'General Comment No. 4, Article 24: Right to inclusive education' (2016) UN Doc CRPD/C/GC/4 para 12 and 10.



**The inappropriate use of reduced days infringes on the child's right to education by inhibiting their access to school.**

## ► What has been achieved for children and young people so far?

### Guidelines on Appropriate Use of Reduced School Days

In September 2021, the Government published guidelines for schools on the use of reduced school days. The purpose of these Guidelines is to provide clarity to school authorities and parents and guardians on the use of reduced school days and to ensure that this practice is limited to only those circumstances where it is deemed absolutely necessary.<sup>18</sup> Where reduced days are used, schools must put the best interests of the child first.<sup>19</sup> The Guidelines came into effect on 1 January 2022. They emphasise that reduced school days should not be used as a punishment, offered as an alternative to a punishment, or used as a behavioural management tool.<sup>20</sup> They state that reduced days should only ever be considered in very limited and time-bound circumstances such as supporting a student to return to school after a period of absence, or due to a medical or mental health-related condition or other exceptional circumstances<sup>21</sup>

The Guidelines put in place a list of requirements which must be met by schools before the decision to put a student on a reduced school day can be implemented. Some of the requirements include that schools must engage with relevant professionals; provide reasons for considering a reduced day; notify Tusla Education Support Service (TESS) of the decision to place a student on a reduced school day; and engage in reviews and keep records of all instances where reduced school days are used.<sup>22</sup> School authorities must obtain the written consent of the student's parents/guardians, or if the student is 18, their consent is required rather than that of their parents/guardians. Consent to a reduced school day can be withdrawn at any time and must be documented by school authorities.<sup>23</sup>

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18 Department of Education and Tusla Education Support Service, *Guidelines for schools on recording and notification of the use of Reduced School Days* (Department of Education 2021) 3.

19 *ibid.*

20 *Ibid* 2.

21 *Ibid.*

22 *Ibid* 4.

23 *ibid* 7.



Where consent is not given or subsequently withdrawn and the school proceeds or continues with a reduced school day, this is effectively a suspension and the *Guidelines* set out that an appeal can be made under the Education Act 1998.<sup>24</sup>

Importantly, the *Guidelines* also provide that a student should not be on a reduced school day for more than six school weeks without review and further notification to Tusla, and a reduced school day cannot be carried forward from one academic year to the next.<sup>25</sup> To implement the *Guidelines*, the Department of Education published two circulars which provided that the School Inspectorate would engage with management during incidental Inspections conducted during the 2021-2022 school year to ascertain the extent to which, if any, of the schools visited have placed some pupils on reduced days and if the practice followed by a school is in line with the guidelines issued by the Department.

In certain situations, the use of reduced school days can assist a young person to return to full-time attendance.<sup>26</sup> Programmes such as the Nurture Schools Project<sup>27</sup> and the Yellow Flag Programme<sup>28</sup> are important interventions which operate in a number of schools and look at the integration, cultural, and wellbeing factors which might prevent a young person from engaging in mainstream education on a full-time basis.

## Robust Data Collection

The Guidelines on the use of reduced school days state school authorities must inform Tusla Education Support Service (TESS) of the decision to place a student on a reduced school day no later than the first day of the

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24 Education Act 1998 s29.

25 Department of Education and Tusla Education Support Service, *Guidelines for schools on recording and notification of the use of Reduced School Days* (Department of Education 2021) 4.

26 Communication received by the Children's Rights Alliance from the Department of Education on 8 February 2024.

27 The Educate Together Nurture School Project applies a nurture approach to address the social, emotional and learning needs of individual students by providing help to remove barriers to learning. See: < <https://bitly.ws/3cPpQ> > accessed 9 February 2024.

28 The Yellow Flag Programme supports schools to become more supportive of different cultures and ethnicities. See: < <https://bitly.ws/3cPpH> > accessed 9 February 2024.

commencement of each episode of a reduced school day.<sup>29</sup>

The notification form, published in December 2021, sets out the specific information and data that school authorities are required to pass on to TESS.<sup>30</sup> It is welcome that this includes the rationale for use of reduced day; the proposed length of time they will be used for; special educational needs or disability; ethnicity, including Traveller or Roma heritage; and what plan is in place for return to school and supports that will be provided. In the case of children with disabilities, the school is required to record if the local special educational needs officer (SENO) has been notified of the reduced school day.<sup>31</sup>

In September 2023, two reports covering the use of school days between January to June 2022, and the 2022/2023 school year were published.

In the first half of 2022 there were a total of 743 first notifications<sup>32</sup> of students being placed on a reduced school day.<sup>33</sup> Of that number, 527 students (70.9 per cent) had special educational needs, and 61 students (8.2 per cent) were Traveller or Roma students.<sup>34</sup> Similarly, in the 2022/2023 school year, of the total 1,044 first notifications of students being placed on reduced school days, 684 students (65.5 per cent) had special educational needs, and 90 students (8.6 per cent) were Traveller or Roma students.<sup>35</sup>

Across both the first half of 2022 and the 2022/2023 school year, Traveller and Roma students tended to be placed on a reduced school days more often at post-primary level, while students with special educational needs were placed

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29 Department of Education and Tusla Education Support Service, *Guidelines for schools on recording and notification of the use of Reduced School Days* (Department of Education 2021) 3.

30 Department of Education, 'Reduced School Day Notification Form' <<https://bit.ly/3G8Uzqs>> accessed 9 February 2024.

31 *ibid.*

32 After parental consent is gained from to place a child on a reduced school day, the school will then notify Tusla Education Support Service (TESS) of its intention to place the student on a reduced school day no later than the start of the first day the reduced school day is due to start. Once in place a plan must be agreed with parents for the period for which the reduced school day will be in place. A reduced school day should not exceed 6 weeks or be carried forward from one school year to the next.

33 Department of Education, *Reduced School Days January to June 2022* (Sept 2023) 6.

34 *ibid.*

35 *ibid* 5.

on reduced school days at double the rate in primary schools than they were in post-primary schools.<sup>36</sup>

**Fig 1. First Notification of Reduced School Days January – June 2022<sup>37</sup>**

Sector	Total number of students on Reduced School Days (January– June 2022)	Of which were Traveller and Roma students	Of which were students with special educational needs
Primary	361	18 (4.9%)	317 (87.8%)
Post Primary	318	43 (13.5%)	146 (45.9%)
Special Schools	64	0	64

**Fig 2. First Notification of Reduced School Days 2022/2023 Academic Year<sup>38</sup>**

Sector	Total number of students on Reduced School Days (September 2022/ June 2023 Academic Year)	Of which were Traveller and Roma students	Of which were students with special educational needs
Primary	485	38 (7.8%)	393 (81%)
Post Primary	460	52 (11.3%)	192 (41.7%)
Special Schools	99	0	99

Viewed as a percentage of the student population who have identified as Traveller or Roma and those with special educational needs, these statistics are concerning. In the 2022 census, 32,949 people self-identified as an Irish Traveller.<sup>39</sup> Of that number, 2,777 stated that they were currently in full-time

36 Department of Education, *Reduced School Days January to June 2022* (Sept 2023) 6; Department of Education, *Reduced School Days 2022/2023 School Year* (September 2023) 5-6.

37 The data for this table is taken from: Department of Education, *Reduced School Days January to June 2022* (Sept 2023) 6.

38 *ibid* 5-6.

39 Central Statistics Office, *Census 2022 Profile 5 – Diversity, Migration, Ethnicity, Irish Travellers & Religion*, 26 October 2023, < <https://bitly.ws/3cPqe> > accessed 4 January 2024.

education at school or university.<sup>40</sup> Based on this figure, between January and June 2022, 2.19 per cent of the Traveller student population were placed on a reduced school day, and in the 2022/2023 academic year 3.24 per cent of the Traveller student population were placed on a reduced school day. These percentages, though high, are still an underestimate given that the number above includes university students.

Currently, it is estimated that 25 per cent of the school-going population have special educational needs (SEN). Of these, 2.67 per cent – approximately 25,753 students – are supported in special classes and schools.<sup>41</sup> Based on this figure, between January and June 2022, 2 per cent of students with special educational needs were placed on a reduced school day, and in the 2022/2023 academic year 2.7 per cent of students with special educational needs were placed on a reduced school day.

Between January and June 2022, there were a total of 137 second notifications<sup>42</sup> (85.4 per cent SEN students, 4.4 per cent Traveller and Roma students), 46 third notifications (91.3 per cent SEN students, 6.5 per cent Traveller and Roma students) and 14 fourth notifications (92.9 per cent SEN students, no Traveller and Roma students).<sup>43</sup> In the 2022/2023 academic year, there were a total of 342 second notifications (69.6 per cent SEN students, 12.6 per cent Traveller and Roma students), 170 third notifications (78.2 per cent SEN students, 11.8 per cent Traveller and Roma students), and 86 fourth notifications (88.4 per cent SEN students, 8.1 per cent Traveller and Roma students).<sup>44</sup>

The high percentage of SEN students and Traveller and Roma students placed on a reduced school day and having this arrangement extended multiple times is of concern. Traveller and Roma groups have expressed concern

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40 Central Statistics Office, Census 2022 Profile 8 – The Irish Language and Education, F8072 – Irish Travellers, < <https://bitly.ws/3cPqk> > accessed 4 January 2024.

41 Communication received by the Children's Rights Alliance from the Department of Education on 8 February 2024.

42 If a child remains on a reduced school day as the time limit approaches the school must arrange for a review with the parents and child. Extending the time period should only happen in exceptional circumstances and needs to be agreed in writing with the parents. If extended a new 'second notification' must be submitted to TESS.

43 Department of Education, *Reduced School Days January to June 2022* (Sept 2023) 6-7.

44 *ibid.*

about the use of reduced school days, that if not used appropriately they can perpetuate inequalities and act as an impediment to equity in education.<sup>45</sup> While it is welcomed that the Department have, for the first time, published data on the use of reduced school days in primary and post-primary schools, more disaggregated data is needed to ensure that such arrangements are appropriate including gender, age, county data, reason for being placed on a reduced school day, and the reason for extending a reduced school day beyond first notification.

Further to the receipt of policy advice from the National Council for Special Education (NCSE), the Department of Education established an Expert Working Group to develop guidelines for schools on the prevention and management of challenging behaviours (including the use of physical interventions) where such behaviour is considered as likely to present a serious risk of physical harm to the student concerned and/or others within the school environment.<sup>46</sup> The Department is working to finalise these guidelines for schools to enhance their understanding of behaviours of concern and to support best practice in intervening in crisis situations.<sup>47</sup> The guidelines underline the importance of continued supervision of children during a crisis period including matters related to behaviour and the need for such incidents to be recorded.<sup>48</sup> They also make clear that seclusion of children is inappropriate.<sup>49</sup> The guidelines will apply to all recognised schools and are currently with 15 special schools who have been asked to examine and review them for clarity of message for teachers, SNAs, school management, parents and, where appropriate, students.<sup>50</sup> Feedback from the schools will inform the final version of the Guidelines.<sup>51</sup>

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45 Communication received by the Children's Rights Alliance from Pavee Point on 15 December 2023.

46 Communication received by the Children's Rights Alliance from the Department of Education on 23 February 2023.

47 Communication received by the Children's Rights Alliance from the Department of Education on 8 February 2024.

48 *ibid.*

49 *ibid.*

50 *ibid.*

51 *ibid.*



**Of the total 1,044 first notifications of students being placed on reduced school days in 2022/23, 684 students (65.5%) had special educational needs, and 90 students (8.6%) were Traveller or Roma students.**

## ► What children and young people need next?

Schools must be inclusive spaces and children with additional special educational needs should receive the support necessary to enable full participation. All children have the right to be free from discrimination,<sup>52</sup> but inappropriate use of reduced school days potentially breaches this right.

The Government published an information note for parents and guardians on reduced days in early 2022.<sup>53</sup> However, it is also important for children and young people to be educated about their rights when they are placed on a reduced school day. To aid this, it would be a positive start to make sure that children and young people are aware of their rights by publishing a child-friendly version of the *Guidelines*. The Department of Education's initiative in composing an awareness-raising video for Traveller parents/guardians about the use of reduced hours in the first quarter of 2022 is an encouraged development.<sup>54</sup> This was developed in collaboration with three National Traveller organisations, including Pavee Point.<sup>55</sup> The video was published in September 2023 and provides an explanation of the reduced school day process by members of the Traveller community for parents.<sup>56</sup>

For the first time, in September 2023, the Department of Education published two reports covering the use of school days between January to June 2022 and the 2022/2023 school year. This important step provides a key insight into the prevalence of the practice and demonstrates that certain groups such as students with SEN and Traveller and Roma students are significantly overrepresented. To ensure early identification and a needs-based response to these groups who are at greater risk of being placed on reduced school days potentially inappropriately, more disaggregated data needs to be collated including gender, age, county data, the reason the student is being placed on a reduced school day, and the reason for extending the reduced school day beyond first notification.

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52 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 2.

53 Department of Education, 'The Use of Reduced School Days: Information for Parents and Guardians' < <https://bit.ly/3jGsUzb> > accessed 9 February 2024.

54 Communication received by the Children's Rights Alliance from Pavee Point on 21 October 2022.

55 *ibid.*

56 Department of Education, 'Ministers Foley and Madigan publish report on use of reduced school days' Press Release 21 September 2023 < <https://bitly.ws/3cPqD> > accessed 9 February 2024.

It should also be acknowledged that the mainstream education system does not suit the needs of all children. Some children who experience reduced days end up in Alternative Education settings. In a 2021 evaluation of Rethink Ireland's Education Fund, it was noted that those who leave school early are experiencing 'a high complexity of challenges and needs' in the area of mental health, wellbeing, engagement with work or education, and possible involvement with the judicial system, while also being three times more likely to be unemployed than others aged 18-24 who are not early school leavers.<sup>57</sup>



An evaluation of Rethink Ireland's Education Fund noted that those who leave school early are

**three times more likely**

to be unemployed than others aged 18-24 who are not early school leavers

In 2022, the Department of Education published its Review of Out-of-School Educational Provision.<sup>58</sup> The Review found that despite Ireland having a high retention rate to Leaving Certificate, there is a small group of students who find it difficult to engage in mainstream education.<sup>59</sup> Factors that may contribute to this include the young person's own needs and personal situation and/or their relationship with school and their learning.

The Review notes that countries with higher retention rates than Ireland place more of an emphasis on vocational education pathways.<sup>60</sup>

57 T Kovačič, C Forkan, P Dolan, L Rodriguez, *Enabling An Inclusive And Equitable Quality Education For All, Through The Implementation Of A New, Evidence-Based Model On Educational Progression And Transformation, Findings From An Evaluation Of Rethink Ireland's Education Fund* (UNESCO NUIG 2021) 4.

58 Social Inclusion Unit Department of Education, *Review of Out-of-School Education Provision, Version 2 – October 2022*.

59 *ibid* 10.

60 *ibid*.





**Countries with higher retention rates than Ireland place more of an emphasis on vocational education pathways.**

The Review also found that 'no clear tracking system exists for students who become disengaged or are at risk of becoming disengaged from mainstream education.'<sup>61</sup> This means that it is not possible to determine an accurate number of children and young people aged 15 and under who are not receiving any education or who are attending out-of-school settings. Further, the structure of support for students at risk of becoming disengaged from education, and how it is provided, is not currently standardised.<sup>62</sup>

The findings of the Review suggest that out-of-school education settings are providing an 'educational and holistic service' to the cohort of students who have become disengaged from mainstream education settings.<sup>63</sup> Out-of-school education settings were found to have the ability to provide 'flexible, individual education plans with prolonged support on a one-to-one basis to students.'<sup>64</sup> The out-of-school model adopts a wrap-around approach to meeting student needs, using supports from local community services, Government Departments, and agencies.<sup>65</sup> However, the review notes that there is no consistent approach applied with regard to education curriculum, certification, and education pathways across the sector.<sup>66</sup> The unstructured nature of the provision of out-of-school education was highlighted by the Review group as the governance approach adopted varies from provider to provider.<sup>67</sup>

The Review recommended the development of a framework of support for students who are at risk of becoming disengaged from education, which considers the provision of out-of-school education, improvement in the level of data recording and tracking of students who are expelled or referred to educational welfare officers due to chronic absenteeism, and additional research on the needs, supports, and outcomes of students who avail of out-of-school provision.<sup>68</sup> An implementation group has been established to oversee the fulfilment of the recommendations of the Review. It is important

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61 *ibid* 10 and 22.

62 *ibid* 10 and 83.

63 *ibid* 11.

64 *ibid*.

65 *ibid*.

66 *ibid*.

67 *ibid*.

68 *ibid* 12.

that in the implementation of the Review children over the age of 16 are not excluded from alternative education settings.

Article 29 of the UNCRC clarifies that the right to education encompasses more than academic achievement and sets out a number of aims including the 'development of the child's personality, talents and mental and physical abilities to their fullest potential'.<sup>69</sup> The UN Committee on the Rights of the Child's guidance in relation to addressing early school leaving states that 'to develop the fullest potential of adolescents, consideration must be given to the design of learning environments which capitalise on their capacity for learning, motivation to work with peers, and focus on experiential learning, exploration and limit testing'.<sup>70</sup> Although it is encouraging that there is an emphasis on short-term and in-school interventions, it is crucial that children and young people who cannot remain in mainstream education may easily access a more long-term intervention if necessary. Some alternative education providers are oversubscribed with iScoil, stating that despite its growth in student places in the 2022/2023 academic year, it still had to turn down 75 suitable referrals.<sup>71</sup> As part of the work of the Implementation Group, there is a need to ensure that all children can access an alternative education placement where it is in their best interests, and there needs to be a focus on ensuring that waiting lists are not long and people do not have to be turned away.

In 2023, the Implementation Group engaged with relevant stakeholders including alternative education providers, school principals, and children and young people.<sup>72</sup> It is a welcome step that members of the Group visited a number of alternative education settings and met staff and parents who shared their experience and thoughts on alternative education settings, as well as the additional supports that are deemed vital for student success including smaller class sizes and the provision of food.<sup>73</sup> The engagement process is ongoing, and it is hoped that the Implementation Group will finalise its report and action plan for the future of alternative education provision in the first half of 2024.<sup>74</sup>

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69 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989) Art 29(1)(a).

70 UNCRC 'General Comment No. 20 on the Rights of the Child During Adolescence' (2016) UN Doc CRC/C/GC/20 para 77.

71 iScoil, *Annual Report and Financial Statements 31 August 2023* (2023) 5.

72 Communication received by the Children's Rights Alliance from the Department of Education on 4 December 2023.

73 *ibid.*

74 *ibid.*

The work of the Implementation Group provides an opportunity to consider the availability of alternative forms of education provision for students who are identified as being at risk of disengagement from mainstream education and early school leaving. It is essential that alternative forms of education provision are adequately funded and available throughout the country to ensure every child has the opportunity to continue with an education that can help them realise their full potential.

## ➔ Recommendations

- ▶ Further disaggregate the data collected on reduced school days to ensure robust data collection and those most at risk of being placed on a reduced school day are identified. This should include gender, age, county data, the reason a student was placed on a reduced school day, and the reason for extending a reduced school day beyond first notification.
- ▶ Distinguish ethnic data of those placed on reduced school days to separate out data on Traveller and Roma pupils.
- ▶ Publish a child-friendly version of the *Guidelines on Reduced School Days*.
- ▶ Ensure that schools have the necessary resources to avoid an extra administrative burden the new notification process places on staff members.
- ▶ Ensure that there are enough staff in place in TESS and resources to enforce the *Guidelines on Reduced School Days*.
- ▶ The Government should consider growing and expanding funding for out-of-school education provision to ensure a child-centred approach to education by providing alternatives best suited to the individual child up to completion of second-level education.
- ▶ Promote programmes such as the Nurture Schools Project and the Yellow Flag Programme as an early intervention measure to remove barriers and to young people engaging in mainstream education on a full-time basis.

**5**

# **Constitutional Right to Education for Children with Special Educational Needs**

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**Section Grade:**

**B-**



## The Programme for Government commits to:

Ensure each child with a special educational need has an appropriate school place in line with their constitutional right.

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▶ Progress: **Steady**

'Constitutional Right to Education for Children with Special Educational Needs' receives a 'B-' grade, which is an increase on the 'C' grade awarded last year. It is welcome that the review of the Education for Persons with Special Educational Needs Act is due for publication in early 2024. Budget 2024 increased the funding for special education by five per cent with an additional €82 million pledged to support 744 new special education teacher posts, as well as 1,216 additional Special Needs Assistants, providing for 2,700 new places for children with special educational needs. In 2023, there was an increase in the number of special schools with the opening of two new facilities in Dublin and plans to open an additional 389 special classes in the 2023-2024 academic year.

## Ireland's duties and responsibilities in international law



Every child has a right to education and the UN Committee on the Rights of the Child is clear that the overall objective of this right is to maximize the child's ability and opportunity to participate fully in their society.<sup>1</sup> The Committee is clear that discrimination offends the human dignity of the child and is capable of undermining or even destroying the capacity of the child to benefit from educational opportunities.<sup>2</sup>

Ireland was last examined on its progress against the UN Convention on the Rights of the Child (UNCRC) in January 2023. The issue of education is identified in the Concluding Observations of the Committee as one of six areas where urgent measures should be taken.<sup>3</sup> The Committee raised concerns about the establishment of special classes for children with a disability.<sup>4</sup> Furthermore, the Committee recommended that Ireland:

- a. Review relevant legislation, including the Equality Acts, Disability Act and Education for Persons with Special Education Needs Act, to bring them in line with a human rights-based approach to disability, particularly with regard to the definition of disability and with due regard to the needs of Roma and Traveller children;
- b. Revise the standard operating procedure for Assessments of Need by the Health Service Executive and decrease the waiting time for such assessments and diagnoses, with a view to ensuring their prompt access to the necessary services and support, including by urgently addressing the shortage of staff and qualified experts;
- c. Strengthen support for the social integration and individual development of children with disabilities, including by; ensuring their access to early detection and early intervention programmes; providing capacity-building to child protection professionals on

1 UNCRC General Comment No. 1 on Article 29(1) the Aims of Education (2001) CRC/GC/2001/1 para 12.

2 *ibid* para 10.

3 UNCRC, 'Concluding Observations Ireland' (2023) UN Doc CRC/C/IRL/CO/5-6, para 4.

4 *ibid* para 36.



the rights and specific needs of children with disabilities; ensuring their personal assistance, rehabilitation and assistive devices; and allocating sufficient resources for the implementation of the Irish Sign Language Act;

- d. Ensure the right of children with disabilities to be heard in all decisions that affect them;
- e. Undertake awareness-raising campaigns to combat discrimination against children with disabilities and promote a positive image of them as rightsholders.<sup>5</sup>

Ireland also committed to making greater efforts towards equality and inclusion when it ratified the Convention on the Rights of Persons with Disabilities (UNCRPD). Article 24 is clear that children with special educational needs have a right to individualised support and reasonable accommodations to enable their effective participation in the general education system. In considering the features of inclusive education,<sup>6</sup> the UN Committee on the Rights of Persons with Disabilities has commented:

- ▶ Persons with disabilities and, when appropriate, their families, must be recognised as partners and not merely recipients of education.
- ▶ Placing students with disabilities within mainstream classes without accompanying structural changes to, for example, organisation, curriculum, teaching, and learning strategies, does not constitute inclusion.

## ▶ **What is the context for this commitment?**

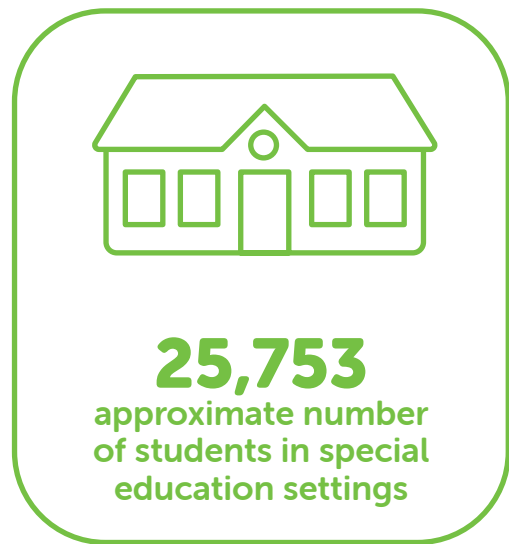
A total of 210,846 young people aged 0-19 years identified as having 'a long-lasting condition or difficulty experienced to some extent, to a great extent, or to any extent' in the 2022 census.<sup>7</sup>

5 *ibid* para 29.

6 Committee on the Rights of Persons with Disabilities, 'General Comment No. 4, Article 24: Right to inclusive education' (2016) UN Doc CRPD/C/GC/4, para 11, 32 and 16.

7 Central Statistics Office, Census 2022 Profile 4 – Disability, Health and Carers, < <https://bitly.ws/3cP7U> > accessed 9 February 2024.

Disability was defined broadly in the most recent census as including those who experienced long-lasting conditions or difficulties.<sup>8</sup> The estimated youth population in 2022 was 1,201,618,<sup>9</sup> meaning that 17.5 per cent of the current population of young people in Ireland experience a disability. Of the overall student population, 2.67 per cent are in a special education setting; approximately 25,753 students.<sup>10</sup> There are 16,508 students enrolled in special classes in mainstream primary and post-primary schools.<sup>11</sup>



The commitment in the *Programme for Government* focuses on the constitutional right of children to education which is contained under Article 42 and requires the State to 'provide for free primary education'.<sup>12</sup> The Courts have interpreted this to mean that there is no obligation on the State to educate children directly but they can discharge their obligation by providing financial assistance including paying teachers, providing buildings and school transport, and setting minimum standards.<sup>13</sup> The Education Act 1998 provides for 'a level and quality of education appropriate to meeting the needs and abilities of that person'<sup>14</sup> and 'to promote equality of access to, and participation in, education and to promote the means whereby students may benefit from education'.<sup>15</sup>

A series of legal challenges brought by families against the State have delivered some clarity on the entitlement of children with special educational

8 *ibid.*

9 Department of Children, Equality, Disability, Integration and Youth, *State of the Nation's Children – Sociodemographics* (2022) 5.

10 Communication received by the Children's Rights Alliance from the Department of Education on 8 February 2024.

11 *ibid.*

12 Irish Constitution, Article 42.4.

13 *Crowley v Ireland* [1980] IR 102, 126.

14 Education Act 1998 s6(b).

15 *ibid* s6(c).

needs. Through these cases, the Courts have explicitly recognised the constitutional right to education of children with severe disabilities and the State's responsibility to provide free primary school education accordingly,<sup>16</sup> although the scope of this right is limited to those under the age of 18, rather than the developmental stage of the child.<sup>17</sup> In keeping with this narrower understanding, in subsequent cases the Courts have maintained that variations in educational provision, such as class sizes, quality of lessons, or differing approaches to support for children with special needs, do not amount to a failure on the part of the State to provide an appropriate education under the Constitution,<sup>18</sup> and that parents are not entitled to choose the exact type of care their child receives in the school setting.<sup>19</sup> The Irish Courts' interpretation of the constitutional right to education is much more limited than the right to education as delineated by the UN Committee on the Rights of the Child.<sup>20</sup>

Under the UNCRC, the right to education is considered expansively, and both the Committee on the Rights of the Child and the Committee on Rights of Persons with Disabilities recognise the need for individualised support and reasonable accommodations.<sup>21</sup> While seeking to ensure compliance with the Constitutional right, the Department of Education has noted that it seeks to go beyond this interpretation and is 'committed to delivering an education system that is of the highest quality, where every child and young person feels valued and is actively supported and nurtured to reach their full potential' and 'strives to ensure that every child has access to an educational experience that is appropriate to their needs'.<sup>22</sup>

The Education Act 1998 provides the regulatory framework for primary and secondary education and explicitly refers to the provision of appropriate educational supports for children with special educational needs.

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16 O'Donoghue v Minister for Health [1993] IEHC 2.

17 Sinnott v. Minister for Education [2001] IESC 63.

18 O'C v Minister for Education and Science [2007] IEHC 170.

19 O'Carolan v Minister for Education and Science [2005] IEHC 296.

20 O'C v Minister for Education and Science [2007] IEHC 170.

21 Committee on the Rights of Persons with Disabilities, 'General Comment No. 4, Article 24: Right to inclusive education' (2016) UN Doc CRPD/C/GC/4; UNCRC, 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4.

22 Communication received by the Children's Rights Alliance from the Department of Education on 21 February 2023.

The Equal Status Acts 2000-2018 require that primary and post-primary schools do not discriminate in student admissions, including on disability grounds.<sup>23</sup> More recently, the Education (Admissions to Schools) Act 2018 and the Education (Provision in respect of children with special educational needs) Act 2022 have provided the Minister for Education with the power to compel a school to open a special needs class where the National Council for Special Education (NCSE) identifies a need in a given area.<sup>24</sup> The provisions in the Education Act 1998 that permitted a school to appeal a decision to designate a school place to an appeals committee and allowed a parent to appeal a decision not to designate a school place to an appeals committee, have been removed.<sup>25</sup>

Crucially, a key piece of legislation, the Education for Persons with Special Educational Needs (EPSEN) Act 2004, remains only partially commenced.<sup>26</sup> The EPSEN Act provides that children with special educational needs should be educated in an inclusive mainstream environment, unless if doing so would not be in the best interests of the child.<sup>27</sup> However, the provision to prepare a tailored, annually-reviewed, individual Education Plan for a pupil following assessment of need is not yet operational,<sup>28</sup> nor has the Special Education Appeals Board, the independent mechanism for review and redress, been established.<sup>29</sup> While there is currently no legislative entitlement to an individual education plan, the Department of Education note that all students have access to a student support plan.<sup>30</sup> The review of the EPSEN Act has commenced and is due to be published in 2024. Given the EPSEN Act pre-dates Ireland's ratification of the UNCRPD in 2018, consideration should be given to reviewing and updating it to ensure it is in line with international human rights standards. This process must be prioritised, and all sections commenced as a matter of urgency.

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23 Conor O'Mahony in C L Glenn and J De Groof (Eds.) *Balancing freedom, autonomy and accountability in education: Volume 2* (Wolf Legal Publishers 2012) 245-259.

24 Department of Education and Skills, 'Minister Bruton Delivers Historic Reform of School Admissions' (9 May 2018) <<https://bit.ly/2YadvBB>> accessed 6 February 2024.

25 *ibid.*

26 D Doyle et al., 'Education in Ireland: accessible without discrimination for all?' (2020) *International Journal of Human Rights*, 11.

27 Education for Persons with Special Educational Needs Act 2004, s2.

28 *ibid* s9-13.

29 *ibid* s36 and s37.

30 Communication received by the Children's Rights Alliance from the Department of Education on 21 February 2023.

## ► What has been achieved for children and young people so far?

In the *Programme for Government: Our Shared Future*, the Government committed to 'ensure each child with a special educational need has an appropriate school place in line with their constitutional right'.<sup>31</sup>

### School Places

In the 2022-2023 school year, 188 children were left without a school place and availed of the home tuition programme.<sup>32</sup> This represents the highest number of children without a school place availing of the programme since 2018-2019.<sup>33</sup> Under the SEN home tuition scheme, the maximum home tuition grant for children awaiting a placement is based on 20 hours tuition per week.<sup>34</sup> Currently, there are 132 children with special educational needs seeking a school place for the 2023-2024 academic year that have applied for home tuition.<sup>35</sup> Of those 132 children, 97 have been granted access to home tuition at the time of publication.<sup>36</sup> Some of these children are accessing home tuition as a support to transition into a SEN placement.<sup>37</sup>

In 2023, one new special school opened<sup>38</sup> and the establishment of two new special schools for the 2023-2024 school year was announced,<sup>39</sup> both of which are due to open in 2024.<sup>40</sup>

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31 Government of Ireland, *Programme for Government, Our Shared Future* (Government Publications 2020) 96.

32 Minister for Education, Norma Foley T.D. Dáil Debates, Written Answers, Department of Education and Skills Education Schemes, 18 October 2023 [45611/23], [45612/23], [45613/23].

33 *ibid.*

34 Communication received by the Children's Rights Alliance from the Department of Education on 8 February 2024.

35 *ibid.*

36 *ibid.*

37 *ibid.*

38 *ibid.*

39 Department of Education, 'Ministers Foley and Madigan announce two new special schools as part of forward planning for 2023-2024' Press Release 12 April 2023, < <https://bitly.ws/3cP97> > accessed 9 February 2024.

40 Communication received by the Children's Rights Alliance from the Department of Education on 8 February 2024.

A further four new special schools were announced, all of which are due to be completed in September 2024.<sup>41</sup> Along with these new special schools, over 300 additional students have been accommodated in special schools for the 2023-2024 school year compared to the previous school year.<sup>42</sup> In addition, 389 new special classes – 253 at primary level and 136 at post-primary level – have been sanctioned by the NCSE for opening in the 2023-2024 school year.<sup>43</sup>

Since ratification of the UNCRPD, there has been significant and ongoing debate about what inclusive education means in the Irish context. The UN Committee on the Rights of Persons with Disabilities has advised that having a mainstream education system and a separate special education system is not compatible with its view of inclusion, but recognises that significant change takes time to implement.<sup>44</sup> There has been an 817 per cent increase in the number of special classes supporting children with autism, from 287 classes in 2010 to 2,633 classes in 2023.<sup>45</sup> Considering this large increase in the number of special classes in mainstream schools, predominantly for autistic children,<sup>46</sup> the NCSE has been undertaking an extensive policy consultation on the education provision that should be in place for students with special educational needs, with a view to making recommendations around the continued use of special schools and classes.<sup>47</sup> The policy advice was to be made available in 2020. However, the Department of Education asked the NCSE 'to further consider the greater parental demand for special school and class places post Covid-19'.<sup>48</sup> The Department received the NCSE Policy Advice paper in early 2023 and it was published in January 2024.<sup>49</sup>

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41 Department of Education, 'Ministers Foley and Madigan announce four new special schools to provide more places for students with special educational needs' Press Release 6 December 2023 < <https://bitly.ws/3cP9n> > accessed 9 February 2024.

42 Communication received by the Children's Rights Alliance from the Department of Education on 8 February 2024.

43 *ibid.*

44 National Council for Special Education, *Policy Advice on Special Schools and Classes An Inclusive Education for an Inclusive Society?* Progress Report (NCSE 2019).

45 Communication received by the Children's Rights Alliance from the Department of Education on 8 February 2024.

46 Communication received by the Children's Rights Alliance from the Department of Education on 22 February 2023.

47 *ibid.*

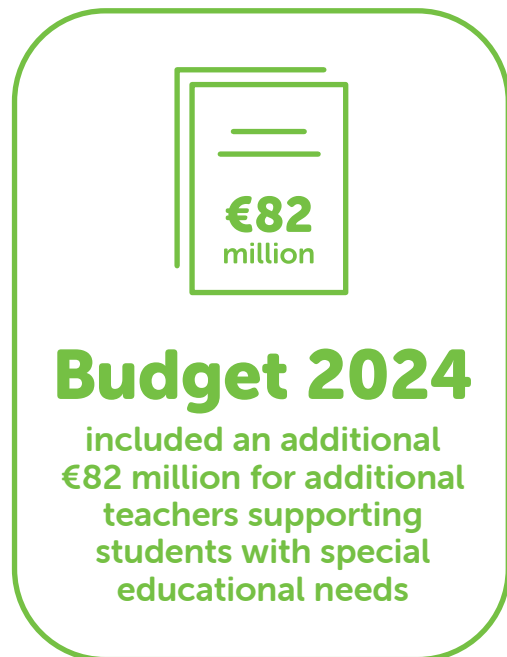
48 *ibid.*

49 NCSE, *An Inclusive Education for an Inclusive Society – Policy Advice Paper on Special Schools and Classes* (2024).

## Budget

The Government has significantly increased investment in special educational needs support over the last decade. In 2022, allocation for additional special educational needs provisions amounted to over one-quarter of the overall education and training budget, representing an increase of more than 60 per cent since 2011.<sup>50</sup>

Budget 2024 increased the funding for special education by five per cent, with a total spend on supporting students with special educational needs of over €2.7 billion,<sup>51</sup> amounting to 25 per cent of the Department of Education's total budget allocation. Under the Budget, an additional €82 million is pledged for additional teachers supporting students with special educational needs, to support 744 new special needs teacher posts, as well as 1,216 additional SNAs, providing for 2,700 new places for children with special educational needs.<sup>52</sup>



This brings the current total of SNAs in the system to 21,584.<sup>53</sup> Of the 1,216 additional SNAs, 260 will support students in mainstream schools to provide for exceptional needs reviews and appeals, 806 SNAs will support new special classes, and 150 SNAs will support special schools.<sup>54</sup> Of the 744 new teachers, 205 will provide additional support for children attending mainstream classes, 477 will act as special class teachers, and there will be 62 additional teachers in

50 Communication received by the Children's Rights Alliance from the Department of Education on 17 December 2021. This included an allocation of €16 million for 980 special education teachers comprising 620 posts for children in mainstream classes and 360 posts which allowed 287 new special classes to open. A further €12 million was allocated for 1,165 additional Special Needs Assistants (SNA) bringing the total number to 19,200. This marked an increase of 81 per cent on the 2011 number of SNAs.

51 Department of Education, 'Ministers Foley, Madigan and Byrne announce details of over €10.5 billion education funding in Budget 2024' (11 October 2023) < <https://bitly.ws/3cPap> > accessed 9 February 2024.

52 *ibid.*

53 Department of Education, *Main Features of Budget 2024 Department of Education* (October 2023) 2.

54 *ibid.* 4.

special schools.<sup>55</sup> A further €11 million in funding will provide for 100 teaching posts to provide more appropriate education for post-primary-aged students who attend special schools<sup>56</sup> and remove the threshold for the appointment of an administrative deputy principal, benefitting almost 9,000 children in these schools from next September.<sup>57</sup>

## Summer Programme

In 2023, €40 million was provided for summer programmes,<sup>58</sup> with over 1,400 schools taking part, more than ever before.<sup>59</sup> Planning for the 2024 Summer Programme has now commenced.<sup>60</sup>

The Joint Oireachtas Committee on Autism conducted a survey of special schools after they reported difficulties with the Summer Programme.<sup>61</sup> The online survey was completed by 54 special schools, 20 per cent of which ran the summer programme in 2022.<sup>62</sup> Only 41 per cent of respondents said that they would run the Summer Programme in 2023.<sup>63</sup> The main difficulty identified by special schools in running the programme was staffing, with challenges recruiting internal teaching staff and internal SNAs posing the greatest barrier to 48 per cent of those surveyed.<sup>64</sup> Various schools emphasised that staff are 'completely burnt out by the end of June,'<sup>65</sup> to the extent that 'even very dedicated staff do not want to participate'<sup>66</sup> in the Summer Programme.

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55 *ibid.*

56 *ibid.*

57 Department of Education, 'Ministers Foley, Madigan and Byrne announce details of over €10.5 billion education funding in Budget 2024' (11 October 2023) < <https://bitly.ws/3cPap> > accessed 9 February 2024.

58 Communication received by the Children's Rights Alliance from the Department of Education on 4 December 2023.

59 *ibid.*

60 *ibid.*

61 Joint Committee on Autism, *Report on the Survey of Special Schools about the Summer Programme 2023* (June 2023) 5.

62 *ibid.*

63 *ibid.*

64 *ibid.*

65 Joint Committee on Autism, *Report on the Survey of Special Schools about the Summer Programme 2023* (June 2023) 21, 9, 10, 11, 12, 14, 16, 17, 18, 20, 23, 29.

66 *ibid.* 23.



A review of the Summer Programme was undertaken in 2022, and a number of new and targeted measures were introduced that were aimed at encouraging greater participation in the 2023 Summer Programme.<sup>67</sup> These included a new pilot initiative to the scheme for special schools to increase participation.<sup>68</sup> As part of the pilot, a national coordinator was appointed to support special schools in running a summer programme.<sup>69</sup> Additional supports were also put in place for schools, teachers, and SNAs.<sup>70</sup> The review of the 2021 school-based summer programme described its impact as 'life altering' for some students and their families.<sup>71</sup> It is therefore extremely positive that the changes made under the pilot initiative have appeared to address some of the concerns expressed in the Joint Committee's report, with more than 50 per cent of special schools participating in the programme this year.<sup>72</sup>

## EPSEN Act 2004

In December 2021, the Minister of State for Special Education and Inclusion, Josepha Madigan T.D. announced that a full review of the Act would commence in January 2022.<sup>73</sup> The purpose of the review is to ensure that legislation on education for students with SEN is up-to-date, fully operational, and reflective of the lived experiences of students and families.<sup>74</sup> Significant engagement and consultation took place as part of the review with a Steering Group, Working Group, and Advisory Group established for the review, and

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67 Communication received by the Children's Rights Alliance from the Department of Education on 4 December 2023.

68 *ibid.*

69 *ibid.*

70 This included reducing the length of the school day to 10am – 2pm with the same day rate being paid to staff, and the introduction of a dedicated role of school organiser in each school offering the summer programme instead of preparation hours: Communication received by the Children's Rights Alliance from the Department of Education on 4 December 2023.

71 Department of Education Inspectorate, A Review of the 2021 School-Based Summer Programme for Primary, Post-Primary and Special Schools (Inspectorate May 2022) 38.

72 Communication received by the Children's Rights Alliance from the Department of Education on 4 December 2023.

73 Department of Education, 'Minister Josepha Madigan launches review of the Education for Persons with Special Educational Needs (EPSEN) Act 2004' (20 December 2021) <<https://bit.ly/3tb5QDV>> accessed 9 February 2024.

74 Communication received by the Children's Rights Alliance from the Department of Education on 22 February 2023.

consultations were carried out in these groups.<sup>75</sup> The review is considering recent reforms and the provision of increased investment in supports and the development of new allocation models.<sup>76</sup> The full review of the EPSEN Act is due to be published in quarter three of 2024.<sup>77</sup> This will include reports of the survey, focus groups, academic report, open policy day, and recommendations for the Minister.<sup>78</sup>

The Government now needs to ensure that the review of the EPSEN Act, a twenty-year-old piece of legislation that was never fully commenced, is comprehensive and significantly broadened to encapsulate provisions in the UNCRPD 2018 and full compliance with the UNCRC. The Joint Committee on Children, Equality, Disability, Integration and Youth have stated that the resulting legislation must be 'child centred, rights-based, UNCRPD compliant and be underpinned by a needs-led rather than a diagnosis-led model'.<sup>79</sup> Crucially, the Committee continued to say that the review of the Act should not impact upon the provision of timely assessments and interventions for all children who need them in the meantime.<sup>80</sup>

## Education (Provision in Respect of Children with Special Educational Needs) Act 2022

New legislation, the Education (Provision in respect of children with special educational needs) Act 2022, was commenced in July 2022 and provides for a more streamlined process for the Minister to direct schools to make additional special education provisions available and ensure sufficient places are provided.<sup>81</sup> The provisions in the Education Act 1998 that permitted a school to appeal a decision to designate a school place to an appeals committee

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75 Communication received by the Children's Rights Alliance from the Department of Education on 29 November 2022.

76 Communication received by the Children's Rights Alliance from the Department of Education on 17 December 2021.

77 Communication received by the Children's Rights Alliance from the Department of Education on 4 December 2023.

78 *ibid.*

79 Joint Committee on Children, Equality, Disability, Integration and Youth, *Report on Assessments of Need for Children* (February 2023) Recommendation 33C.

80 *ibid* Recommendation 33F.

81 Communication received by the Children's Rights Alliance from the Department of Education on 22 February 2023.

and allowed a parent to appeal a decision not to designate a school place to an appeals committee have been removed.<sup>82</sup>

## Other Educational Developments

Budget 2024 included an investment of nearly €13 million to support the expansion and development of the NCSE to ensure that it is fit for purpose and able to deliver real and meaningful supports for children, families, and schools that support children with special educational needs.<sup>83</sup> The funding announced in Budget 2023 will see an increase of over 50 per cent in staffing levels in the NCSE.<sup>84</sup> This will provide for an additional 160 staff, including the recruitment of approximately 43 additional Special Education Needs Organisers.<sup>85</sup> The State has also committed to invest in research and practice innovation through the roll-out of the School Inclusion Model (SIM) pilot across 75 schools nationwide, which continued in 2020 and 2021.<sup>86</sup> This model trials enhanced support in the form of standardised training and support for SNAs, increased access to National Educational Psychological Service (NEPS), and the establishment on a pilot basis of a NCSE Regional Support Team, which includes specialists in relevant disciplines.<sup>87</sup> Although the Pilot recommenced in November 2021, the lack of availability of therapists has posed a substantial challenge to roll out.<sup>88</sup> For this reason, the extension of the pilot did not happen as planned in 2023.<sup>89</sup> However, the SIM process is continuing in the existing areas and is being evaluated.<sup>90</sup> A proposal is currently before the Department of Public Expenditure and Reform (DPER) on the further development of the SIM and the Department of Education met with DPER in November to discuss this.<sup>91</sup>

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82 *ibid.*

83 Department of Education, 'Minister Madigan appoints Fergal Lynch as Chair of the National Council for Special Education' Press Release 4 September 2023 <<https://bitly.ws/3cPdu>> accessed 9 February 2024.

84 Communication received by the Children's Rights Alliance from the Department of Education on 8 February 2024.

85 *ibid.*

86 Department of Education, 'Ministers Foley and Madigan confirm continuation of the pilot School Inclusion Model for the forthcoming school year' (5 August 2020) <<https://bit.ly/2KOGY16>> accessed 9 February 2024.

87 Minister for Special Education and Inclusion, Josepha Madigan T.D. Dáil Debates, Written Answers, 26 April 2022 [19268/22].

88 Communication received by the Children's Rights Alliance from the Department of Education on 29 November 2022.

89 *ibid.*

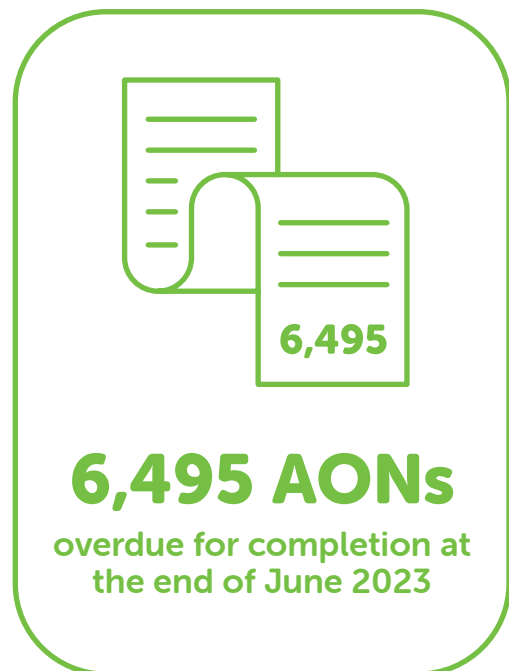
90 Communication received by the Children's Rights Alliance from the Department of Education on 22 February 2023.

91 Communication received by the Children's Rights Alliance from the Department of Education on 8 February 2024.

## Assessments of Need

Under the Disability Act 2005, all persons with a disability are entitled to an Assessment of Need (AON) to determine the health or educational services required. The EPSEN Act 2004 also provides for an assessment of special educational needs for children to enable specific provisions to be made in the education setting.<sup>92</sup> However, as the relevant sections of the EPSEN Act have not been brought into effect, children who require AONs are using the mechanisms under the Disability Act 2005 for this.<sup>93</sup> Crucially, the assessment under the Disability Act is of the need for services for that child or young person, not an assessment of the need itself.<sup>94</sup>

At the end of June 2023 there were 6,495 AONs overdue for completion,<sup>95</sup> over four times the amount of assessments overdue at the same time last year.<sup>96</sup> It is estimated that there is a total of 11,666 applications currently overdue for completion, which includes overdue AONs and preliminary team assessments that now require diagnostic assessment.<sup>97</sup> As of December 2023, over 5,000 children have been waiting more than 12 months for an assessment of need<sup>98</sup> and are delayed in accessing services, often resulting in missed opportunities for vital early intervention and poorer outcomes.



92 Ombudsman for Children's Office, *Unmet Needs: A report by the OCO on the challenges faced by children of Ireland who require an assessment of their need* (OCO 2020).

93 *ibid.*

94 *ibid.*

95 Health Service Executive, 'Letter from the HSE to Deputy David Cullinane' (3 November 2023) < <https://bitly.ws/3cPe4> > accessed 9 February 2024.

96 Health Service Executive, 'Letter from the HSE to Deputy Holly Cairns' (8 June 2022) < <https://bit.ly/3JNQhsf> > accessed 9 February 2024.

97 Health Service Executive, 'Letter from the HSE to Deputy David Cullinane' (3 November 2023) < <https://bitly.ws/3cPe4> > accessed 9 February 2024.

98 Dáil debates – Delivery of a Rights-Based Care Economy in Ireland: Motion, 7 December 2023.



**As of December 2023,  
over 5,000 children  
have been waiting  
more than 12 months  
for an assessment of  
need and are delayed  
in accessing services.**

Approximately €11 million has been provided specifically to improve waiting times when it comes to an assessment of need.<sup>99</sup>

In 2020, the HSE introduced a standard operating procedure for AON, which shortened the time taken to make an AON from 29 clinical hours to 90 minutes, a reduction of 99.95 per cent in clinical hours for an assessment.<sup>100</sup> In April 2022, the High Court ruled the Standard Operating Practice that the HSE applied to Assessments of Need since 2020 was non-compliant with the Disability Act 2005. As a result of this, 10,000 children received an assessment of need that is now deemed unlawful.<sup>101</sup> A revised AON standard operating procedure incorporating guidance on completion of clinical assessment was launched in July 2023.<sup>102</sup>

The Department of Education and NCSE worked with stakeholders in 2022 to establish, from an educational perspective, an AON process that would comply with the legal requirements while also ensuring that key principles of educational assessment were maintained.<sup>103</sup> The aim of an educational assessment is to meet the educational needs of a child and it does not use a diagnostic model.<sup>104</sup> The Department and NCSE trialled the process in a number of schools in 2022, and from early 2023 the NCSE commenced a nationwide roll-out of the process for children for whom the HSE considered an educational component was required.<sup>105</sup> The assessment of health needs is still carried out by the HSE.<sup>106</sup>

While an AON is not needed to unlock educational supports, it can be required to access other supports such as speech and language therapy, which

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99 Health Service Executive, 'Letter from the HSE to Deputy David Cullinane' (3 November 2023) < <https://bitly.ws/3cPe4> > accessed 9 February 2024.

100 Dáil Éireann debate – Assessment of Needs for Children with Special Education Requirements: Motion (Resumed) [Private Members] (8 March 2022).

101 *CTM (A Minor) v Assessment Officer* [2022] IEHC 131.

102 Health Service Executive, 'Letter from the HSE to Deputy David Cullinane' (3 November 2023) < <https://bitly.ws/3cPe4> > accessed 9 February 2024.

103 Communication received by the Children's Rights Alliance from the Department of Education on 8 February 2024.

104 *ibid.*

105 *ibid.*

106 Department of Education, Report of Education Needs for Purpose of Assessment of Need (Disability Act 2005), 27 October 2022.

can play a crucial role in a child's development. In this way, an assessment of need is the crucial first step for enabling a child to receive reasonable accommodations and supports necessary for them to achieve their full potential. Therefore, State failure to deliver additional support services that require AONs could be seen as an interference with a child's rights under Irish law or their rights under the UNCRC and UNCRPD.

## ► **What children and young people need next**

In March 2023, AslAm's *Same Chance Report* found that 61 per cent of those surveyed<sup>107</sup> 'did not find the education system to be inclusive of and accessible for autistic people,' while 23 per cent reported that they did not have a suitable school place that met their needs.<sup>108</sup> The Ombudsman for Children has noted that there is a "lack of centralised data with respect to how many children with special educational needs require a school placement or require a more appropriate school placement."<sup>109</sup> The gap of centralised data in this respect acts as a compounding factor.

While it is positive that the number of children and young people with special educational needs in mainstream schools has been increasing steadily from 7,386 in 2017<sup>110</sup> to 16,508 in 2023,<sup>111</sup> joined-up thinking and cross-departmental engagement is crucial to ensuring data is captured to reflect the true extent of need for appropriate school places for young people with SEN. To this end, greater coordination and data collection in line with the data and research development plan in Ireland's new child and youth strategy, *Young Ireland 2023-2028*, could help enable the fulfilment of Action 33.1 of the strategy to ensure that all children are supported to avail of inclusive education in mainstream schools.<sup>112</sup>

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107 A total of 1603 people responded to the survey. The majority of those represented in the report were of school going age.

108 AslAm, '*Same Chance Report 2023*' (2023) 15.

109 Ombudsman for Children's Office '*Plan for Places – Forward Planning for the Provision of Schools Places for Children with Special Educational Needs: A Children's Rights Issue*' (OCO 2022) 15.

110 Government of Ireland, *Education Indicators for Ireland* (February 2023) 26.

111 Communication received by the Children's Rights Alliance from the Department of Education on 8 February 2024.

112 Government of Ireland, *Young Ireland: National Policy Framework for Children and Young People 2023-2028* (2023) 26-29, 80.

## ➔ **Recommendations**

- ▶ Publish the review of the ESPEN Act 2004 without delay and ensure that the resulting legislation is child centred, rights-based, and UNCRPD compliant, and that the review of the Act should not impact upon the provision of timely assessments and interventions for all children who need them in the meantime.
- ▶ Gather centralised data on how many children with special educational needs require a school placement or require a more appropriate school placement each year.
- ▶ Complete the School Inclusion Model pilot and, based on the findings, put in place a plan for additional school supports to support children with special educational needs.



**6**

# Traveller and Roma Education

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Section Grade:

**D+**



## **The Programme for Government commits to:**

Undertake an independent assessment of the pilot projects aimed at retaining Traveller and Roma children in education.

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▶ Progress: **Some**

The Government commitment in relation to Traveller and Roma Education receives a 'D+' grade, the same as last year. This grade reflects the fact that there is not enough data published yet to assess the impact of the pilot projects. The independent evaluation of the four pilot education projects for Traveller and Roma children commenced in May 2023. The commencement of the independent assessment of the pilot sites is a positive step, however a timeline for completion of the evaluation is urgently needed in 2024. A Research Advisory Group with Traveller and Roma representation was also established to support the evaluation. This evaluation will provide important findings regarding the provision of increased educational resources for Traveller and Roma children. The pilot has been extended until June 2024, and it benefits approximately 1,400 Traveller children and young people. The consultation phase for the development of a Traveller and Roma Education Strategy began in July 2023, and consultation with specific groups is ongoing.

## Ireland's duties and responsibilities in international law



Articles 28 and 29 of the UN Convention on the Rights of the Child (UNCRC) provides that all children have the right to quality education, to enable children to maximise their ability and participate fully in their society.<sup>1</sup>

As the UN Committee on the Rights of the Child has noted, discrimination 'offends the human dignity of the child and is capable of undermining or even destroying the capacity of the child to benefit from educational opportunities'.<sup>2</sup> Indigenous children, which includes Traveller children, are particularly at risk of experiencing serious discrimination in accessing their rights, including in education, contrary to Article 2 of the UNCRC. Therefore, the Committee has found that children from minority backgrounds require special measures to ensure they can fully enjoy their rights.<sup>3</sup>

Education is a key enabler of economic, social, and cultural rights, and strengthens access to civil and political rights.<sup>4</sup> Full realisation of the right to education for indigenous children is therefore considered by the UN Committee to be essential for achieving individual empowerment and self-determination of indigenous peoples.<sup>5</sup> Ireland committed to promote, respect, and protect children's rights when it ratified the UNCRC in 1992. Ireland was last assessed on its progress in protecting the rights contained in the UNCRC in January 2023. The issue of education is identified in the Concluding Observations to the Committee as one of six areas where urgent measures should be taken.<sup>6</sup> The Committee called on the Irish State to strengthen measures to ensure Roma and Traveller children have

1 UNCRC General Comment No. 1 on Article 29(1) the Aims of Education (2001) CRC/GC/2001/1 para 12.

2 *ibid* para 10.

3 UNCRC 'General Comment No. 11 Indigenous children and their rights under the Convention' (2009) UN Doc CRC/C/GC/11 para 5.

4 *ibid* para 57.

5 *ibid*.

6 UNCRC, 'Concluding Observations Ireland' (2023) UN Doc CRC/C/IRL/CO/5-6, para 4.

equal access to quality education.<sup>7</sup> The Committee recommended that Ireland amend school admissions legislation; introduce measures that target improving educational outcomes for Roma and Traveller children, and develop the National Traveller Education Strategy.<sup>8</sup>

The Committee called for the collection of disaggregated data on education, including information on ethnicity and the use of reduced school timetables.<sup>9</sup> This data should help to inform the development of policies to ensure equal access to quality education.<sup>10</sup> The Committee also recommended that the implementation of the reduced timetable guidelines should be effective, and measures should be developed to address their overuse, particularly amongst Traveller children.<sup>11</sup> The Committee also recommended that Ireland adopt the Traveller Culture and History in Education Bill and set up an advisory group to remove 'racist and negative stereotypes against ethnic minority groups in textbooks and curricula. It also recommended the development of educational materials that promote intercultural dialogue and foster respect for and appreciation of racial, cultural, gender and other diversities.'<sup>12</sup>

The Committee urged for a timeline to be set for the next National Traveller and Roma Inclusion Strategy and the strengthening of measures to ensure the full enjoyment of Traveller and Roma children of their rights under the UNCRC including equal access to education.<sup>13</sup> The Committee also highlighted the need for clarification on the rights of Travellers as an ethnic minority.<sup>14</sup>

## ► **What is the context for this commitment?**

Based on the 2022 census data, just under one per cent of the Irish population identify as Travellers (32,949 people) which is a six per cent increase since the

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7 *ibid* para 37.

8 *ibid*.

9 *ibid*.

10 *ibid*.

11 *ibid*.

12 *ibid*.

13 *ibid*.

14 *ibid*.

last census.<sup>15</sup> In contrast to the general population, most Travellers in Ireland are young, with over 50 per cent aged under 25 and almost 40 per cent under 15 years of age.<sup>16</sup> Census 2022 included Roma as a separate ethnic category for the first time. Just over 16,000 people identified as Roma, or 0.3 per cent of the population.<sup>17</sup>

Traveller and Roma children face significant structural discrimination in Ireland.<sup>18</sup> Persistent discrimination against the Traveller community contributes to poorer outcomes in health, education and employment, and lower life expectancy.<sup>19</sup> Similarly for the Roma community, persistent poverty and inadequate standards of living jeopardise their health and wellbeing, as well as access to education.<sup>20</sup>

The experience and attainment of Traveller and Roma children at school is of particular concern when compared to the rest of the population.<sup>21</sup> The overall educational attainment level of Irish Travellers increased between 2016 and 2020, with more Travellers completing post-primary school than before, however, a significant percentage do not.<sup>22</sup> The retention rates to the Leaving Certificate measure the percentage of pupils who entered the first year of post-primary schools in 2016 and who completed the Leaving Certificate examination in 2021 or 2022.<sup>23</sup> The retention rate increased slightly at both Junior Certificate and Leaving Certificate levels over the period, with close to 90 per cent of Travellers progressing to third year of post-primary school and 72.2 per cent sitting the Junior Certificate.<sup>24</sup>

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15 Central Statistics Office, 'Census 2022 – Profile 5 Diversity, Migration, Ethnicity, Irish Travellers and Religion' <https://data.cso.ie/> accessed on 15 January 2024.

16 *ibid.*

17 *ibid.*

18 UNCRC, 'Concluding Observations Ireland' (2023) UN Doc CRC/C/IRL/CO/5-6.

19 Department of Health, *All Ireland Traveller Health Study: Our Geels* (UCD 2010). See also: F Kennedy, A Ward, D Mockle, J Villani, J Broderick, 'Scoping review on Physical Health Conditions in Irish Travellers (Minceiri)' *BMJ Open* 2023 Aug 28; 13(8).

20 Pavee Point & Department of Justice and Equality, *Roma in Ireland: A National Needs Assessment* (Pavee Point 2018) 59-66.

21 The Irish population stands at 5,149,139 after the 2022 census.

22 Department of Education, *Pupils from the Traveller Community 2016-20* (2023) 13.

23 Communication received by the Children's Rights Alliance from the Department of Education on 17 February 2023.

24 Communication received by the Children's Rights Alliance from the Department of Education on 13 December 2023.



**Persistent  
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lower life expectancy.**

There was an increase of almost ten percentage points in retention rates to Leaving Certificate level between 2016 (21.9 per cent) and 2020 (31.4 per cent).<sup>25</sup>

With the extension of the Delivering Equality of Opportunities In Schools (DEIS) programme in March 2022, the percentage of Traveller students in DEIS schools has increased to approximately 65 per cent.<sup>26</sup> The refined DEIS identification model which was implemented in 2022 includes a component to reflect the level of educational disadvantage experienced by students who have self-identified as Traveller or Roma. This refined model increased the number of Traveller pupils in DEIS post-primary schools to 55 per cent, and in DEIS primary schools to 71.9 per cent for the 2022-2023 academic year.<sup>27</sup> Traveller student enrolments in primary schools increased marginally between 2017 and 2021, with enrolments in those years standing at 7,946 and 8,148 respectively.<sup>28</sup> At post-primary level, the increase is minimal, with 3,017 enrolments in 2017, and 3,292 enrolments in 2021.<sup>29</sup> While figures are not yet available for 2022 and 2023, the Department has confirmed that the statistics continue to show an upward trend.<sup>30</sup>

Comprehensive data on Roma children and young people in education is lacking. However, analysis highlights that the number of Roma children attending mainstream and special primary school classes increased across the 2016 to 2018 period.<sup>31</sup> Given the absence of more recent data, the proportion of Roma children attending primary or post-primary school is not available.

Significant financial and cultural barriers can help explain lower rates of school completion amongst Traveller and Roma children. Traveller families are more likely to experience unemployment, and have a greater number of

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25 *ibid.*

26 Communication received by the Children's Rights Alliance from the Department of Education on 17 February 2023.

27 Department of Education, *Pupils from the Traveller Community 2016-20 (2023)* 8.

28 Communication received by the Children's Rights Alliance from the Department of Education on 13 December 2023.

29 *ibid.*

30 *ibid.*

31 Department of Children and Youth Affairs, *Statistical Spotlight #4, Young Travellers in Ireland (DCYA 2020)* 44.

children than settled families.<sup>32</sup> The financial costs associated with school attendance may therefore be particularly challenging for Traveller families to meet.<sup>33</sup> Similarly, poverty and inadequate standards of living, including overcrowded accommodation, have been identified as significant obstacles to Roma children's attendance and participation in education.<sup>34</sup> Aligned to this, the marginalisation of Traveller and Roma culture within the Irish education system adversely affects young people's sense of belonging and place.<sup>35</sup> A 2019 review of the position of Traveller history and culture in the school curriculum, undertaken by the National Council for Curriculum and Assessment, concluded that 'the dissonance between the social, linguistic, and cultural environments of the home and school can account for disaffection', which is then compounded by conscious and unconscious bias against Travellers in the school community.<sup>36</sup>

In March 2022, DCU's Anti-Bullying Centre published research on the effectiveness of the Department's anti-bullying procedures on Traveller and Roma experiences in the school system, which was commissioned by the Department of Education.<sup>37</sup> Traveller pupils described teacher behaviour that was 'demeaning and made them feel unwanted and excluded',<sup>38</sup> and the research found that reports of bullying were not always investigated.<sup>39</sup> There was also evidence that being bullied influenced students' attendance and their decision to leave school.<sup>40</sup> With regard to anti-bullying policies making specific reference to membership of the Traveller and Roma communities, only 52

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32 Kathleen Marie Lawrence, *Traveller outcomes in education: A Traveller perspective* (Maynooth University 2017) 8.

33 *ibid.*

34 Pavee Point & Department of Justice and Equality, *Roma in Ireland: A National Needs Assessment* (Pavee Point 2018) 114.

35 Kathleen Marie Lawrence, *Traveller outcomes in education: A Traveller perspective* (Maynooth University 2017); Pavee Point & Department of Justice and Equality, *Roma in Ireland: A National Needs Assessment* (Pavee Point 2018).

36 National Council for Curriculum and Assessment, *Traveller culture and history in the curriculum: a curriculum audit* (NCCA 2019) 68.

37 Communication received by the Children's Rights Alliance from the Department of Education on 29 November 2022. It is important to qualify the results of the research at the outset by acknowledging that the study was not a prevalence study and that due to the size of the sampling used, any prevalence statistics should be interpreted with caution.

38 Dublin City University, *A study into the effectiveness of Anti-Bullying Procedures on Traveller and Roma pupils' experiences in the school system* (2022) 54.

39 *ibid.*

40 *ibid.*





**The marginalisation  
of Traveller and  
Roma culture within  
the Irish education  
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per cent of the schools surveyed referenced Travellers and ten per cent referenced Roma.<sup>41</sup> This research provided an important evidence base for the development of the Action Plan on Bullying, Cineáltas.<sup>42</sup> This plan sets out a whole-education approach to preventing and addressing bullying in schools.<sup>43</sup> An implementation plan published in April 2023 sets out 61 actions to be achieved over five years.<sup>44</sup> 170 children and young people were consulted in the development of this, including children with special educational needs, Traveller and Roma children, children from Ukraine, and refugees.<sup>45</sup>

The Department of Children, Equality, Disability, Integration and Youth (DCEDIY) sought proposals for the evaluation of three equality strategies, including the *National Traveller and Roma Inclusion Strategy 2017-2021* (NTRIS).<sup>46</sup> The review carried out by the Centre for Effective Services (CES) was published in May 2023 and developed a number of findings and recommendations. The Review found that diversity of representation on the strategy committee from civil society groups and interactions between the group and government were seen as two of the main successes of the strategy, however the role of the representatives on the committee was reported as unclear, limited, and lacking influence.<sup>47</sup>

The Review highlighted that civil society representatives on the strategy committee felt that when they raised emerging issues for their communities, these were rarely acted upon.<sup>48</sup> Ensuring commitment and buy-in from government departments assigned responsibility for implementing NTRIS was identified as a major challenge, and the development and use of indicators of progress for NTRIS was found to be unsatisfactory, making it 'impossible to assess the extent to which the strategy was implemented as intended.'<sup>49</sup> CES

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41 *ibid.*

42 Department of Education, Cineáltas: Action Plan on Bullying, (Department of Education 2022).

43 *ibid.*

44 Department of Education, Cineáltas: Action Plan on Bullying - Implementation Plan 2023-2027, (Department of Education 2023).

45 *ibid.*

46 Department of Justice and Equality, *National Traveller and Roma Inclusion Strategy 2017 – 2021* (Department of Justice and Equality 2017).

47 The Centre for Effective Services, *Realising the promise of national equality policy – An evaluation of the processes of implementation of three national equality strategies* (May 2023) xiv.

48 *ibid.*, xv.

49 *ibid.*

made a number of recommendations which will feed into the development of the next iteration of NTRIS, including the need to develop suitable indicators of progress before launching the strategy, paying ongoing attention to implementation, and implementing learnings from evaluation activities.<sup>50</sup> The Review, along with other key inputs such as *The Joint Oireachtas Committee Report on Key Issues Affecting the Traveller Community* in 2021,<sup>51</sup> will inform the development of the next iteration of NTRIS which is underway.

## ► **What has been achieved for children and young people so far?**

A key commitment under the NTRIS is that access, participation, and outcomes for Travellers and Roma in education should be improved to achieve outcomes equal to those for the majority population.<sup>52</sup> NTRIS includes specific education actions to improve outcomes for children at primary and post-primary level including, for example, actions on Traveller culture and history, bullying research, and school admissions.<sup>53</sup> On foot of these, a number of actions have been undertaken or commenced to better understand and address the barriers that Traveller and Roma children face in education, including a pilot project aimed at improving Traveller and Roma attendance, participation, and retention in education.<sup>54</sup> This 'STAR' pilot began in September 2019 with three sites – Galway, Wexford, and Dublin - with a fourth site in Cork joining in 2020.<sup>55</sup> The specific areas the pilot covers are Tuam, Bunclody/Enniscorthy, Finglas/Ballymun/Coolock, and Cork. The project has been extended to June 2024.<sup>56</sup> The Department of Education has stated that the pilot project has cost circa €1.1 million per year.<sup>57</sup>

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50 *ibid.*, xviii.

51 Joint Committee on Key Issues Affecting the Traveller Community, *Final Report of the Joint Committee on Key Issues Affecting the Traveller Community*, November 2021.

52 Department of Justice and Equality, *The National Traveller and Roma Inclusion Strategy 2017-2021* (Department of Justice and Equality 2017) 25-26.

53 *ibid.*

54 Communication received by the Children's Rights Alliance from the Department of Education on 17 February 2023.

55 Communication received by the Children's Rights Alliance from the Department of Education on 20 January 2021.

56 Communication received by the Children's Rights Alliance from the Department of Education on 13 December 2023.

57 *ibid.*

Each pilot area is being provided with an additional Educational Welfare Officer funded by the Department of Education via Tusla Education Support Services (TESS) an additional Home School Community Liaison (HSCL) co-ordinator funded by the Department of Education, and two additional Traveller and Roma education workers, funded by the DCEDIY.<sup>58</sup> As well as supporting educational participation and engagement, the aim of the pilot is to increase engagement with parents, schools, and the community, and the Government has stated that the pilot will inform the development of policy and innovative solutions to issues identified as barriers to participation and engagement.<sup>59</sup> With all sites operational, the pilot is currently available in over 55 schools with approximately 1,400 Traveller and Roma students enrolled.<sup>60</sup>

In the *Programme for Government*, the Government commits to undertake an evaluation of the pilot projects aimed at retaining Traveller and Roma children in education.<sup>61</sup> The review is underway but has still not been published. The Department of Education have confirmed that the review shows both progress made and where intervention and improvements are required to improve educational outcomes for Travellers.<sup>62</sup> It anticipates publishing the review shortly, accompanied by an addendum with relevant updates on Traveller and Roma education since the review.<sup>63</sup>

The DCEDIY commissioned a baseline research report for the pilot project which was published jointly in 2021 by DCEDIY and the Department of Education.<sup>64</sup> This study explored the lived experience of parents and students from the Traveller and Roma communities, teachers, principals, education welfare officers, HSCL co-ordinators, and other members of the school

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58 Communication received by the Children's Rights Alliance from the Department of Education on 20 January 2021.

59 Enda Hughes, Principal Officer, Department of Education, Joint Committee on Education and Skills and Joint Committee on Key Issues affecting the Traveller Community, 3 December 2019.

60 Communication received by the Children's Rights Alliance from the Department of Education on 13 December 2023.

61 Government of Ireland, *Programme for Government, Our Shared Future* (Government Publications 2020) 77.

62 Communication received by the Children's Rights Alliance from the Department of Education on 13 December 2023.

63 *ibid.*

64 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth, on 6 February 2024

communities across the four NTRIS pilot sites.<sup>65</sup> The focus was on exploring their thoughts, feelings, and experiences with regard to school attendance, engagement, participation, and retention.<sup>66</sup>

Traveller parents taking part in the study outlined how they want their children to feel included in school and to have a better educational experience than they had.<sup>67</sup> Parents noted that increased supports at primary-level had a positive impact on their children but the transition to secondary school is challenging as the same level of support was not available.<sup>68</sup> In the absence of parents' direct experience or 'legacy knowledge' of post-primary school, the study observed parents found it difficult to support their children in this transition.<sup>69</sup> Parents were often faced with the challenge of balancing their commitment and desire for their children to acquire a second level education with the continued negative impact on their children's mental health that the participation in school created.<sup>70</sup> Roma parents also had strong ambitions for their children's participation in school, however, practical barriers relating to language, a lack of financial resources, and transport were challenging with regard to participation.<sup>71</sup>

Young Travellers also expressed negative experiences of attending secondary school. Actions such as having to sit at the back of the class and racist name-calling with no redress from teachers or principals meant that feelings of isolation and exclusion were commonplace.<sup>72</sup> Young people from the Traveller community expressed the desire to talk more about Traveller culture.<sup>73</sup> Young Roma people reflected their parents' ambitions for them to positively participate in education and they recognised the need to acquire certain educational qualifications to have a career.<sup>74</sup>

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65 *ibid* 3. In total, it comprised 130 interviews and 15 interactive workshops across four sites with children, parents and teachers, to provide a range of views on the subject of Traveller and Roma children's engagement with school.

66 *ibid*.

67 *ibid* 14.

68 *ibid*.

69 *ibid*.

70 *ibid*.

71 *ibid* 47.

72 *ibid* 18, 26.

73 *ibid* 30.

74 *ibid* 37.

The impact of systemic exclusion and discrimination on the retention of Traveller students was identified by some members of the school community, in one of the four pilot sites.<sup>75</sup> The same participants identified a general lack of additional supports needed to address the impact of these structural issues and felt that, therefore, Traveller students were failing to reap the same benefits from education as their settled peers.<sup>76</sup> At the same time, young people from this pilot area reported a lower incidence of negative experiences compared to other areas, whilst greater participation in parent-teacher meetings by Traveller parents was also observed.<sup>77</sup> In contrast to this, other members of the school community perceive their schools as inclusive to Traveller students.<sup>78</sup> Members of the school community who participated in this study saw poor attendance as one of the key root causes of poor engagement and retention.<sup>79</sup> Many amongst the school community who participated in this study considered it up to the Traveller community to address the poor attendance and participation of children at school.<sup>80</sup>

A wide range of initiatives were developed, trialled, or continued by the pilot project in 2023. The pilot teams have undertaken a number of initiatives to address participation and retention in education, including monitoring and early intervention with respect to attendance.<sup>81</sup> Other actions included initiatives to promote and encourage engagement with Roma and Traveller culture, bespoke programmes to support transitions from primary to post-primary school, and encouraging parental engagement in schools.<sup>82</sup> In annual workplans, each pilot team identifies actions to improve attendance, participation, and retention; to improve the learning experience and outcomes for Traveller and Roma students; and to improve parental/guardian engagement with the school community.<sup>83</sup>

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75 *ibid.*, 49.

76 *ibid.*, 46.

77 *ibid.*, 37, 55.

78 *ibid.*, 40.

79 *ibid.*

80 *ibid.*

81 Communication received by the Children's Rights Alliance from the Department of Education on 13 December 2023.

82 *ibid.*

83 *ibid.*

As of June 2023, a total of 175 initiatives are underway across the four pilot sites to support students, parents/guardians, schools, and communities.<sup>84</sup>

Additional supports across the pilot sites include the STAR Ambassador programme to promote inclusion and develop Traveller and Roma student leaders, Inspectorate assistance and support in school action planning, and the National Educational Psychological Service (NEPS) Literacy Action Project which involved implementation of evidence-based interventions with pupils and monitoring their progress.<sup>85</sup>

Using Dormant Accounts funding, 10 new HSCL co-ordinator posts have also been established in 14 non-DEIS post-primary schools with high numbers of Traveller and Roma students.<sup>86</sup> The refined DEIS identification model includes a component to reflect the significant educational disadvantage experienced by students who self-identify as Traveller or Roma.<sup>87</sup> Following the expansion of the DEIS programme in 2022, at least 60 per cent of Traveller students are in a school supported by the DEIS programme.<sup>88</sup>



In September 2022, the Minister for Education announced the long-awaited opening of a tender process to undertake an evaluation of the pilot sites.<sup>89</sup> The evaluation commenced in May 2023.<sup>90</sup> A Research Advisory Group with

84 *ibid.*

85 *ibid.*

86 *ibid.*

87 *ibid.*

88 *ibid.*

89 Department of Education, 'Minister Foley announces tender process for the independent pilot project, aimed at tackling education disadvantage in Traveller and Roma Communities' (19 September 2022) < <http://bit.ly/3Svq8CU> > accessed 22 February 2023.

90 Communication received by the Children's Rights Alliance from the Department of Education on 13 December 2023.

Traveller and Roma representation was established to support the evaluation, with the group's feedback on the design and implementation of the evaluation being taken into account.<sup>91</sup> Examples of this include the incorporation of community-based researchers into the evaluation, additional membership of the Advisory Group to ensure youth participation, and the undertaking of Traveller cultural awareness training by the research team and the wider project team.<sup>92</sup> The evaluation team is currently progressing fieldwork across the four STAR pilot sites which includes qualitative data collection through focus groups, surveys, and interviews with children and young people, parents of those in the project, and with STAR teams.<sup>93</sup> The evaluation is due to be completed in 2024.<sup>94</sup>

The consultation phase for the development of a Traveller and Roma Education Strategy began in July 2023.<sup>95</sup> Phase one of the consultation consisted of an initial online survey open to members of the public.<sup>96</sup> This public consultation ran until October with 424 responses.<sup>97</sup> A targeted consultation phase has now commenced which involves three main strands: Traveller and Roma families and communities, children and young people, and the education system.<sup>98</sup> The Department have confirmed that consultation events with stakeholders from these three strands have commenced and the findings from these engagements will be central to the development of the strategy.<sup>99</sup> As part of this, the Department of Education is working with Hub na nÓg on consulting with Traveller and Roma young people.<sup>100</sup>

The Minister for Rural and Community Development announced funding for additional projects related to Traveller and Roma education to be delivered

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91 *ibid.*

92 *ibid.*

93 *ibid.*

94 *ibid.*

95 *ibid.*

96 Communication received by the Children's Rights Alliance from the Department of Education on 6 February 2024.

97 Communication received by the Children's Rights Alliance from the Department of Education on 13 December 2023.

98 *ibid.*

99 *ibid.*

100 Communication received by the Children's Rights Alliance from the Department of Education on 6 February 2024.



by TESS under the 2024 Dormant Accounts.<sup>101</sup> Funding has been allocated to update and reproduce School Avoidance Packs<sup>102</sup> for all schools, an educational development programme to enhance outcomes for children from Traveller and Roma communities by removing barriers to have a positive impact on attendance, participation and retention in Balbriggan/Skerries and Cavan/Monaghan, and a project to create webinars with themes around diversity and inclusion including a focus on Traveller and Roma young people.<sup>103</sup> In October 2023, the Department of Education issued a once-off payment, the Attendance Campaign Support Grant, to all primary and post-primary schools to support them in tackling attendance challenges.<sup>104</sup> The grant is focused on enhancing and supporting regular school attendance with a particular emphasis on aiding children and young people at risk of educational disadvantage.<sup>105</sup>

## ► **What children and young people need next**

It is positive to see that the independent evaluation of the pilot projects has been progressing. The Department of Education have confirmed that an interim report has been drafted and the research is due to conclude in April 2024.<sup>106</sup> The pilot was a key outcome of the *National Traveller and Roma Inclusion Strategy 2017-2021* and could have a significant impact on children and young people from marginalised communities. While the pilot supports have been extended to June 2025,<sup>107</sup> it is crucial that the independent evaluation is completed and published without any further delay, and that the learnings from the pilot project can be implemented and extended to more regions.

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101 Communication received by the Children's Rights Alliance from the Department of Education on 13 December 2023.

102 The pack was developed to provide information and practical tools on how to address emotionally based school avoidance.

103 Communication received by the Children's Rights Alliance from the Department of Education on 13 December 2023.

104 *ibid.*

105 *ibid.*

106 Communication received by the Children's Rights Alliance from the Department of Education on 6 February 2024.

107 *ibid.*

Progress on the consultation stage of a Traveller and Roma Education Strategy, which began in July 2023, is a positive step. The findings from these consultations should be published in advance of the strategy developed.

The Department of Children Equality, Disability, Integration and Youth is leading out on the development of NTRIS which is whole-of-government strategy across a number of themes, including education. The review of NTRIS 2017-2021 carried out by the CES in May 2023 provided important recommendations including the need to develop suitable indicators of progress before launching the strategy, paying ongoing attention to implementation, and implementing learnings from evaluation activities. The Review, along with other key inputs such as the Joint Oireachtas Committee Report on Key Issues Affecting the Traveller Community in 2021, must now be used to inform the development of the next iteration of NTRIS.

### **➔ Recommendations**

- ▶ The Department of Education needs to publish a timeline for the conclusion of the evaluation as a matter of priority.
- ▶ Building on the approach undertaken in the baseline study and on the recommendations contained within it, ensure that solutions aimed at improving the experience of Traveller and Roma children in schools are co-created by the communities.
- ▶ Publish the findings from the public consultation on a Traveller and Roma Education Strategy and develop the Strategy without delay.

**7**

# Children in Adult Psychiatric Facilities

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Section Grade:

**E**



## The Programme for Government commits to:

Work to end the admission of children to adult psychiatric units by increasing in-patient beds, as well as examining the model of assigning these beds.

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▶ Progress: **Limited**

'Children in adult psychiatric facilities' receives an 'E' grade, the same as last year. The number of children admitted to adult psychiatric units in 2023 has decreased from 20 in 2022 to 12. In November 2023, there were 72 in-patient beds in four public child in-patient units. However, only 51 beds were operational due to staffing shortages. It is of particular concern that the admission of children to adult in-patient facilities is expressly included in the General Scheme of the Mental Health (Amendment) Bill 2021. While the provision aims to incorporate the current Mental Health Commission Code of practice into law, it means that for the first time the admission of children into adult units is placed on a statutory footing. Almost 4,000 children and young people were waiting on a first appointment with Child and Adolescent Mental Health Services (CAMHS) in July 2023. The Mental Health Commission's independent review of CAMHS highlighted the link between lengthy CAMHS waiting lists and the downstream negative consequences of more children and young people requiring care for acute mental health difficulties, including in-patient care.

## Ireland's duties and responsibilities in international law



The UN Convention on the Rights of the Child (UNCRC) affords every child the right to the highest attainable standard of physical and mental health.<sup>1</sup> This right covers the full spectrum of health and wellbeing, and fulfilling the right requires 'a comprehensive multisectoral response ... through integrated systems ... that involve parents, peers, the wider family and schools and the provision of support and assistance through trained staff'.<sup>2</sup> The UN Committee on the Rights of the Child endorses a public health and psychosocial support approach to mental health rather than overmedicalisation and institutionalisation.<sup>3</sup>

In order to uphold the right to the best possible health provision for children, treatment facilities should be available to all and staffed by an appropriately trained workforce, with accountability and oversight to ensure that quality assurance standards are met.<sup>4</sup> For children with acute needs who require support in a psychiatric unit, the Committee is clear that adolescents should be separated from adults, where appropriate, and any decision on their care should be made in accordance with their best interests.<sup>5</sup>

Ireland committed to promote, protect, and respect children's rights, including the right to health, when it ratified the UNCRC in 1992. As part of this, Ireland agreed to be reviewed every five years on its progress in implementing the rights in the Convention.

Ireland was last examined by the Committee in 2023. In its Concluding Observations, the Committee expressed serious concerns relating to mental health policy for children and young people, and identified the

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

2 UN Committee on the Rights of the Child (CRC), General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, 6 December 2016, CRC/C/GC/20, para 58.

3 *ibid.*

4 UN Committee on the Rights of the Child (CRC), General comment No. 15 (2013) the right of the child to the enjoyment of the highest attainable standard of health (art. 24), 1 February 2013 CRC/C/GC/15 para 27.

5 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 29.

issue of mental health as one of six areas where urgent measures should be taken.<sup>6</sup>

The Committee raised concerns about the insufficient and inadequate services; the long waiting lists; the placement of children in adult psychiatric wards; and the impact that racism and discrimination is having on the mental health of children from ethnic minorities; and the slow progress in developing a mental health action plan for Traveller and Roma children.<sup>7</sup>

The Committee recommended that Ireland make revisions to the Mental Health Act and Assisted Decision-Making (Capacity) Act to ensure 'an explicit prohibition of the practice of placing children with mental health issues in adult psychiatric units'.<sup>8</sup> The Committee urged the Irish State to increase its resources in this area as well as ensuring that the number of mental health professionals meet the needs of children.<sup>9</sup> The Committee also called for the allocation of resources to expand the children's mental health advocacy and information service.<sup>10</sup>

## ► **What is the context for this commitment?**

Ending child admissions to adult psychiatric wards is a key commitment to ensuring that all children receive the right support in the right environment for their mental health.

Experience of mental ill-health and poor emotional wellbeing can have a significant adverse impact on the child, affecting their experience and attainment at school, their friendships and family relationships, and their day-to-day life.<sup>11</sup> While there has been some reduction since the start of the decade,

6 UNCRRC, 'Concluding Observations Ireland' (2023) UN Doc CRC/C/IRL/CO/5-6, para 4.

7 *ibid* para 31.

8 *ibid* para 32.

9 *ibid*.

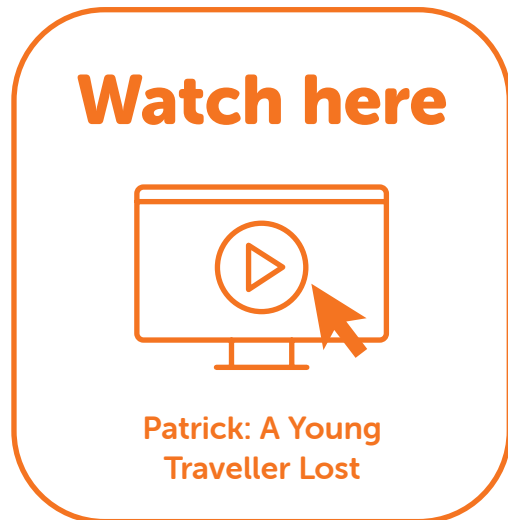
10 *ibid*.

11 JM de Lijster, et al, *Social and academic functioning in adolescents with anxiety disorders: A systematic review*, (2018) *Journal of Affective Disorders*; Whear, Ukoumunne, Bethel, Thompson-Coon, Stein & Ford *School exclusion in children with psychiatric disorder or impairing psychopathology: a systematic review* (2014) *Emotional and Behavioural Difficulties*, 20.

2020 data shows that almost eight in every 100,000 children and young people aged 15-24 years die by suicide.<sup>12</sup>

While mental health problems are not selective, certain groups of children are at greater risk of poor mental health, including children who have experienced abuse or neglect, including domestic abuse,<sup>13</sup> children living in poverty,<sup>14</sup> children who have experienced discrimination, including homophobia or transphobia,<sup>15</sup> and children with chronic physical health conditions.<sup>16</sup> In 2023, the disproportionate levels of poorer mental health and suicide for Travellers, who have the highest rate of

suicide of any group in Ireland,<sup>17</sup> was drawn into stark relief by the incredibly affecting documentary *Patrick: A Young Traveller Lost*. It highlighted the story of Patrick McDonagh, a 12-year-old Traveller boy from Finglas who sadly took his own life after he was bullied.<sup>18</sup> Young Travellers 'remain largely invisible in mental health policy and service delivery' despite the 'robust evidence' of the disproportionate levels of mental health difficulties experienced.<sup>19</sup>



12 Communication received by the Children's Rights Alliance from the Department of Health on 7 January 2022.

13 K Sharratt, SJ Mason, N Wager, 'Childhood Abuse and Neglect, Exposure to Domestic Violence and Sibling Violence: Profiles and Associations with Sociodemographic Variables and Mental Health Indicators' (2023) *Journal of Interpersonal Violence* Vol 38, Iss 1-2, 1141-1162..

14 Wickham, Whitehead, Taylor-Robinson, Barr, *The effect of a transition into poverty on child and maternal mental health: A longitudinal analysis of the UK millennium cohort study* (2017) *The Lancet Public Health*, 2(3).

15 Tina Dürrbaum, Frank A. Sattler, *Minority stress and mental health in lesbian, gay male, and bisexual youths: A meta-analysis* (2020) *Journal of LGBT Youth* 17:3; Liu & Mustanski, *Suicidal Ideation and Self-Harm in Lesbian, Gay, Bisexual, and Transgender Youth* (2012) *American Journal of Preventative Medicine*, 42(3).

16 Vanessa E. Cobham, et al., *Systematic Review: Anxiety in Children and Adolescents With Chronic Medical Conditions*, (2020) *Journal of the American Academy of Child & Adolescent Psychiatry*, 59(5).

17 Mental Health Commission, *Independent Review of the provision of Child and Adolescent Mental Health Services (CAMHS) in the State by the Inspector of Mental Health Services* (July 2023) 110.

18 RTE Player, *Patrick: A Young Traveller Lost*, 27 November 2023 < <https://bitly.ws/3bG8s> > accessed 18 January 2024.

19 Mental Health Commission, *Independent Review of the provision of Child and Adolescent Mental Health Services (CAMHS) in the State by the Inspector of Mental Health Services* (July 2023) 110.



**Young Travellers  
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experienced.**



## ► What has been achieved for children and young people so far?

### Use of Adult Facilities

In 2023 there were 12 child admissions to adult units,<sup>20</sup> which marks a decrease on the 20 child admissions to adult units in 2022<sup>21</sup> and is in line with the welcome downward trajectory over the past six years.<sup>22</sup> Young people have described the experience of being placed in an adult psychiatric ward as 'traumatic'.<sup>23</sup> Of the twelve children admitted to an adult unit in 2023, 50 per cent occurred where no bed was available in a CAMHS unit.<sup>24</sup> This is a concerning increase from the 31 per cent admitted for the same reason in 2021.<sup>25</sup>

Child Admissions to Adult Units 2017 - 2023

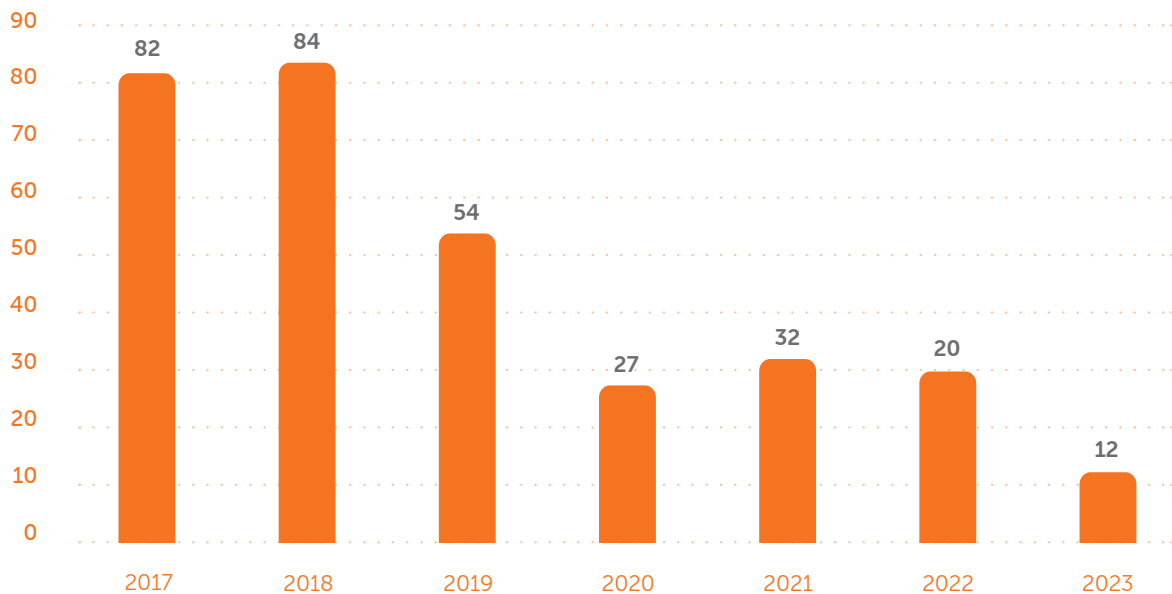


Fig.1 Data Source Mental Health Commission Annual Report 2022 (MHC 2023) 39 and the figure for 2023 is provided from a Communication received by the Children's Rights Alliance from the Department of Health on 29 January 2024.

20 Communication received by the Children's Rights Alliance from the Department of Health on 29 January 2024.

21 Mental Health Commission, *Annual Report 2022* (MHC 2023) 7.

22 *ibid.*

23 Ombudsman for Children's Office, "Take My Hand" Young People's Experiences of Mental Health Services – A report by the Ombudsman for Children's Office' (OCO 2018) 40.

24 Communication received by the Children's Rights Alliance from the Department of Health on 13 December 2023.

25 Mental Health Commission, *Annual Report 2021* (MHC 2022) 33.

The Department of Health have stated that children are admitted to adult units only after all efforts to place them in CAMHS in-patient units are unsuccessful due to clinical need or capacity.<sup>26</sup> All admissions of young people under the age of 18 are notified to the Mental Health Commission in accordance with regulations and the majority of child admissions to adult units are for children in the 16-17 year old age bracket.<sup>27</sup>

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.<sup>28</sup> Yet, over a decade later, significant issues persist, and some children continue to be placed in age-inappropriate facilities. The Department has confirmed that taking into consideration the clinical need of the child and the services they require, Ireland may not reach a point where there are absolutely no children using adult facilities.<sup>29</sup>

The Mental Health Commission observes that a child's 'first introduction to mental health care should not be through a service or building that is not specifically equipped to support their needs'.<sup>30</sup> Children who are placed in adult psychiatric wards are receiving care in a unit which is not designed with their specific needs in mind. For the last three years, the Mental Health Commission has noted its concern that there was zero per cent compliance in 2021<sup>31</sup> and 2020.<sup>32</sup> It was also noted that only one centre of eight inspected in 2022<sup>33</sup> was in compliance with the code of practice on the admission of children to approved centres, as services did not provide age-appropriate facilities and programmes of activities appropriate to children admitted to adult units.<sup>34</sup>

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26 Communication received by the Children's Rights Alliance from the Department of Health on 29 January 2024.

27 *ibid.*

28 Mental Health Commission, *Code of Practice Relating to Admission of Children under the Mental Health Act 2001: Addendum* (MHC 2009).

29 Communication received by the Children's Rights Alliance from the Department of Health on 29 January 2024.

30 Mental Health Commission, *Annual Report 2020* (MHC 2021) 5.

31 *ibid* 21.

32 *ibid* 20.

33 Mental Health Commission, *Annual Report 2022 (2023)* 23. See also Mental Health Commission, *Code of Practice Relating to Admission of Children under the Mental Health Act 2001* (MHC 2006); Mental Health Commission, *Code of Practice Relating to Admission of Children under the Mental Health Act 2001 Addendum* (MHC 2009).

34 *ibid.*

## Sharing the Vision

While the previous mental health policy framework, *A Vision for Change*, had a target of providing 100 in-patient beds in child units based on the child population at the time, the updated version of this policy, *Sharing the Vision*, published in 2020, does not contain any targets for expanding capacity in child in-patient units.<sup>35</sup> *Sharing the Vision* acknowledges that adult in-patient units are not appropriate environments for children and states that where there are no available CAMHS beds 'and short-term admission to an adult unit is the only option, then a range of actions are necessary... consistent with the CAMHS in-patient standard operating guidelines to provide appropriate, effective and safe care'.<sup>36</sup>

## In-Patient Capacity

In November 2023, there were 72 in-patient beds in four public child in-patient units in Galway, Cork, and Dublin, however only 51 beds were operational.<sup>37</sup> The Department has stated that the current bed reduction across units is primarily due to staff shortages but notes that there continues to be capacity available to admit children and young people who require intensive in-patient treatment.<sup>38</sup> Once opened, the National Children's Hospital will have an additional 20 in-patient CAMHS beds.<sup>39</sup>



35 Department of Health, *A Vision for Change* (DOH 2006); Department of Health, *Sharing the Vision: A Mental Health Policy for Everyone* (DOH 2020).

36 *ibid* 47.

37 Communication received by the Children's Rights Alliance from the Department of Health on 13 December 2023.

38 *ibid*.

39 *ibid*.

The National Forensic Mental Health Hospital, opened officially in November 2022 with an additional 10 in-patient beds for children.<sup>40</sup> However, broader staffing issues are affecting the ability of units to open beds. A lack of psychiatric nurses has been impacting the Linn Dara CAMHS in-patient facility since May 2022, and it closed 13 of its 24 beds as a result.<sup>41</sup> The beds remain closed at the time of writing due to staff recruitment challenges.<sup>42</sup>

## Child and Adolescent Mental Health Services (CAMHS)

The increased need being placed on an overstretched Child and Adolescent Mental Health Services (CAMHS), meant that there were 3,911 children on a waiting list for services in July 2023.<sup>43</sup> Research in the United Kingdom exploring young adults' experiences of waiting lists within mental health services found that all participants expressed in some form an inability to function sufficiently and the emergence of negative beliefs, emotions and thoughts while waiting to access mental health services.<sup>44</sup> Ensuring that all children under 18 years have equitable and timely access to age-appropriate, quality mental health treatment and services is key to avoiding such negative outcomes.



40 Communication received by the Children's Rights Alliance from the Department of Health on 16 December 2022.

41 Eilish O'Regan, 'Children in psychiatric distress are missing out on mental health care due to staff shortages' The Independent (25 November 2022).

42 Eimear McAuley, 'HSE 'regrets' being unable to reopen children's psychiatric ward after 17 months of closure' The Journal 6 October 2023, < <https://bitly.ws/3bhkv> > accessed 30 January 2024.

43 Communication received by the Children's Rights Alliance from the Department of Health on 13 December 2023.

44 Punton G, Dodd AL, McNeill A "You're on the waiting list": An interpretive phenomenological analysis of young adults' experiences of waiting lists within mental health services in the UK' PLoS ONE 17(3): e0265542 (2022) <<https://doi.org/10.1371/journal.pone.0265542>> accessed 02 August 2022.

The Mental Health Commission, in its independent review of CAMHS, highlighted the link between lengthy CAMHS waiting lists and the downstream negative consequences of more children and young people requiring care for acute mental health difficulties, including in-patient care.<sup>45</sup> The Commission referred to the 'complete unacceptability' of children lingering on long waiting lists until they become seriously ill and potentially develop suicidal behaviour, at which point many must resort to making a crisis presentation to the Emergency Department.<sup>46</sup>

### Children Awaiting CAMHS Services 2020 - 2023

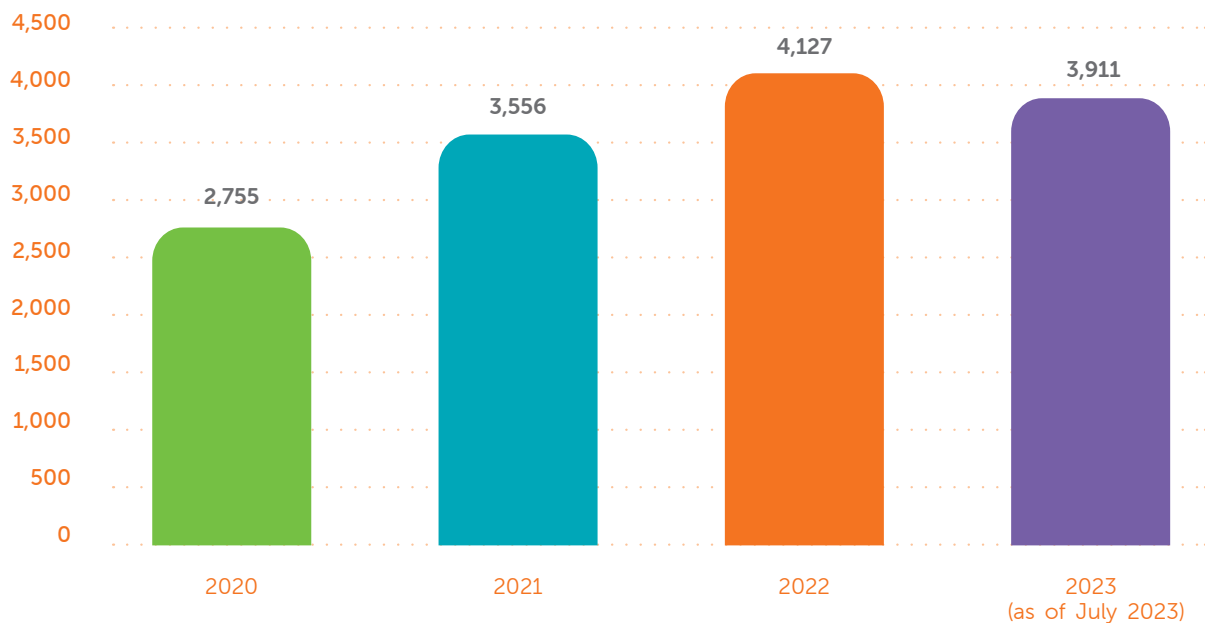


Fig 2. Statistics are taken from HSE reply to Donnchadh O Laoghaire T.D. 16 September 2022 [42660/22] and Communication received by the Children's Rights Alliance from the Department of Health on 13 December 2023.

In January 2022, the *Maskey Report* into South Kerry CAMHS found that the care received by 240 young people did not meet the required standards, with serious clinical and governance failings resulting in unreliable diagnoses; inappropriate and over prescription of medication; the poor monitoring of treatment; and potential adverse effects.<sup>47</sup>

45 Mental Health Commission, *Independent Review of the provision of Child and Adolescent Mental Health Services (CAMHS) in the State by the Inspector of Mental Health Services* (July 2023) 77.

46 *ibid.*

47 Dr Sean Maskey, *Report on the Look-Back Review into Child and Adolescent Mental Health Services County Kerry MHS* (HSE 2022) 49.

In January 2023, the *Interim Report of the Independent Review of the Provision of Child and Adolescent Mental Health Services (CAMHS) in the State by the Inspector of Mental Health Services* was published. It demonstrated service failings on the part of CAMHS, most notably a lack of governance and regulation leading to deficits in service provision,<sup>48</sup> 140 young people lost to follow up,<sup>49</sup> many teams not having training to provide standard therapies,<sup>50</sup> a lack of emergency provision particularly outside of Dublin resulting in GPs referring young people to emergency departments,<sup>51</sup> and failings in the monitoring of anti-psychotic medication.<sup>52</sup>



In July 2023, the full *Independent Review of the Provision of Child and Adolescent Mental Health Services (CAMHS) in the State by the Inspector of Mental Health Services* was published.<sup>53</sup> It found continued failings on the part of CAMHS since the interim report discovered that many teams were operating below the less than 60 per cent the recommended staffing levels under a *Vision for Change*.<sup>54</sup>



The total allocation in Budget 2024 for mental health services is over €1.3 billion which provides an increase of €100 million in funding to enable additional CAMHS staff recruitment.<sup>55</sup> Budget 2024 also allocates funding for the development of a new referral mechanism for children's services known as the 'No Wrong Door' approach, which is to be established on a pilot basis with the Health Service Executive (HSE) with the purpose of triaging referrals to specialist services including CAMHS.<sup>56</sup>

48 Mental Health Commission, *Independent Review of the Provision of Child and Adolescent Mental Health Services (CAMHS) in the State by the Inspector of Mental Health Services* (July 2023) 3.

49 *ibid* 6.

50 *ibid* 5.

51 *ibid*.

52 *ibid*.

53 Mental Health Commission, *Independent Review of the provision of Child and Adolescent Mental Health Services (CAMHS) in the State by the Inspector of Mental Health Services* (July 2023).

54 Government of Ireland, *A Vision for Change: Report of the Expert Group on Mental Health Policy* (2006).

55 Department of Health, 'Minister for Mental Health and Older People announces further funding increase for mental health and older persons in Budget 2024' Press Release (12 October 2023) < <https://bitly.ws/3bhkK> > accessed 30 January 2024.

56 *ibid*.

## Out of Hours

*Sharing the Vision* commits to a 'comprehensive specialist mental health out-of-hours response' for children and young people 'in all geographical areas' and 'in addition to current emergency department (ED) services'.<sup>57</sup> To this end, a further €1 million in ring-fenced funding was announced for eating disorder support services in March 2022.<sup>58</sup> Furthermore, *Sharing the Vision* recognises that there should be an out-of-hours service for young people in significant distress across all geographical areas<sup>59</sup> and includes a core commitment to trauma-informed care delivery.<sup>60</sup> These are welcome developments and strengthen the case for ensuring children are supported in age-appropriate and accessible facilities in line with human rights standards<sup>61</sup> and principles of person-centred care.<sup>62</sup>

Official HSE policy is that children should only be placed in adult units when 'all alternative options have been exhausted'.<sup>63</sup> Currently, most children and young people can only access out-of-hours mental health treatment through hospital emergency departments as most CAMHS do not offer this support.<sup>64</sup> As of February 2023, there were no out-of-hours CAMHS teams operating in any of the Community Health Organisations (CHO) areas.<sup>65</sup> This is despite the commitment in the Health Service Executive Service Plan from 2019 to develop a seven day per week CAMHS service.<sup>66</sup>

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57 *ibid.*

58 Department of Health, 'Minister Butler announces ring-fenced funding for eating disorder supports' (March 2022) < <http://bit.ly/3HWyyym> > accessed 30 January 2024.

59 Department of Health, *Sharing the Vision: A Mental Health Policy for Everyone* (DOH 2020) 60.

60 *ibid* 17.

61 UN Committee on the Rights of the Child (CRC), General comment No. 15 (2013) the right of the child to the enjoyment of the highest attainable standard of health (art. 24) 1 February 2013 CRC/C/GC/15.

62 The Health Foundation, *Person-centred care made simple What everyone should know about person-centred care* (Health Foundation 2016).

63 Communication received by the Children's Rights Alliance from the Department of Health on 13 December 2023.

64 Mental Health Commission, *Independent Review of the provision of Child and Adolescent Mental Health Services (CAMHS) in the State by the Inspector of Mental Health Services Interim Report* (January 2023) 17. Note: In July 2021 the Oireachtas Sub-Committee on Mental Health called for the State to develop access to critical mental health services and a 24/7 emergency mental health service "as a matter of priority"; see Oireachtas Sub-Committee on Mental Health, 'Interim Report on Covid-19 and its effect on Mental Health Services in the Community' (2021) 11, 13 <<https://bit.ly/3Ad3dVs>> accessed 30 January 2024.

65 Communication received by the Children's Rights Alliance from the Department of Health on 13 December 2023.

66 HSE, *National Service Plan 2019* (2019) 41.

In this regard, the Department has stated that in line with recommendation 35 of the *Sharing the Vision Implementation Plan* to 'develop a comprehensive specialist mental health out-of-hours model using a tiered approach', the CAMHS Hubs Model of Care is being tested and piloted across five learning sites and a plan for a tiered out of hours model is being scoped.<sup>67</sup>

Greater attention must be given to the referral pathway for children in need of acute specialist support and the limitations of a nine to five service.

## Update to the Mental Health Act 2001

In July 2021, the *Draft Heads of A Bill to Amend the Mental Health Act 2001* were approved and published by Government. In November 2021, the General Scheme of the Mental Health (Amendment) Bill 2021 went before the Oireachtas Joint Sub-Committee on Mental Health, to undergo pre-legislative scrutiny. It is of particular concern that the admission of children to adult in-patient facilities is expressly included in the General Scheme, albeit there is a provision that requires the Mental Health Commission to be notified of these placements and to put in place rules by which the services should abide in cases where it does happen.<sup>68</sup> While the provision aims to incorporate the current Mental Health Commission Code of Practice into law,<sup>69</sup> it means that for the first time the admission of children into adult units is placed on a statutory footing. This would appear to contradict the Government's commitment to end such practice and would be a retrograde step in the context of a child's right to be treated in age-appropriate settings.<sup>70</sup>

In its *Report on Pre-Legislative Scrutiny of the Draft Heads of A Bill to Amend the Mental Health Act 2001*, the Sub-Committee on Mental Health noted that the General Scheme still allows for the admission of young people under 18 to adult facilities under Head 128, section 128 and stated that it believes this to be

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67 Communication received by the Children's Rights Alliance from the Department of Health on 13 December 2023.

68 Draft Heads of a bill to amend the Mental Health Act 2001, Head 128, s.108.

69 Mental Health Commission, *Code of Practice Relating to Admission of Children under the Mental Health Act 2001: Addendum* (MHC 2009). It calls for the placement of children in adult wards to be phased out by the end of 2011.

70 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 29.



a 'draconian practice which needs to be phased out as a matter of urgency'.<sup>71</sup> It recommended that a prohibition be placed on the placement of children in adult units and that the practice be phased out as a matter of urgency. This should be acknowledged in the proposed legislation and a timeline for the implementation of this recommendation needs to be outlined by the HSE.<sup>72</sup>

## ► **What children and young people need next**

There are several significant barriers to realising the Government commitment to 'work to end the admission of children to adult psychiatric units by increasing in-patient beds as well as examining the model of assigning these beds' given current levels of demand for child in-patient services. These barriers relate to three main areas: investment, workforce development,<sup>73</sup> and referral pathways affected by limited out-of-hours support.<sup>74</sup> Such interdependencies must also be acknowledged if progress is to be made.

Looking beyond investment, a key strand of mental health policy must be to stabilise workforce levels to ensure that mental health services, including in-patient units in particular, can provide appropriate and safe care to service users. Aligned to this, children supported in in-patient units require significant clinical care and advanced expertise, yet 2020 consultant psychiatry numbers in Ireland were less than half the EU average<sup>75</sup> and 75 per cent of CAMHS psychiatrists indicated they were experiencing burnout.<sup>76</sup>

In 2019, the HSE committed to developing a seven-day CAMHS service nationwide<sup>77</sup> yet most CAMHS still only operate from Monday to Friday in standard working hours. This means that children who require significant assistance outside of this timeframe have no option but to continue to seek

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71 Sub-Committee on Mental Health, Report on Pre-Legislative Scrutiny of the Draft Heads of Bill to Amend the Mental Health Act 2001, October 2022, 60.

72 *ibid* 62-63.

73 Mental Health Commission, *Independent Review of the provision of Child and Adolescent Mental Health Services (CAMHS) in the State by the Inspector of Mental Health Services* (July 2023) 8.

74 *ibid* 17.

75 McNicholas F, Sharma S, O'Connor C, et al. *Burnout in consultants in child and adolescent mental health services (CAMHS) in Ireland: a cross-sectional study* (2020) *BMJ Open* 7.

76 *ibid*.

77 Health Service Executive, *National Service Plan 2019* (HSE 2019) 41.

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help through hospital emergency departments.<sup>78</sup> It is necessary now that greater attention is given to the referral pathway for children in need of acute specialist support and the limitations of a nine-to-five service.

*Sharing the Vision* contains recommendations about inter-agency care responses and training for mental health professionals.<sup>79</sup> Implementation is being progressed through the HSE's annual service plans and monitored by the Sharing the Vision Implementation Monitoring Committee.<sup>80</sup> A failure to invest upstream and develop a coordinated multi-agency response to initial presentations of need, risks conditions worsening over time and increased demand on in-patient support units in the long run, including adult units. This may be particularly true for children with additional conditions, such as intellectual disabilities or autism, whose needs can be more challenging to meet in the existing in-patient child units.<sup>81</sup>

To ensure that no more children are placed on adult wards, the Government's attention must focus on addressing systemic health policy issues such as resourcing, the referral pathway, and recruitment and retention of specialist staff. There also needs to be a focus on education pathways to ensure that there are enough people being trained through our third level system to work in this area. Addressing these factors will help to mitigate the risk that children reach crisis point and are unable to be cared for in age-appropriate facilities designed to meet their needs in Ireland.

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78 Mental Health Reform, *Briefing note on delivery of 24/7 community based mental health services* <<https://bit.ly/3Hp7Z3h>> accessed 01 February 2024.

79 Communication received by the Children's Rights Alliance from the Department of Health on 7 January 2022.

80 *ibid.*

81 Department of Health, *Sharing the Vision: A Mental Health Policy for Everyone* (DOH 2020) 56, 61.

## ➔ Recommendations

- ▶ Set a transparent target for increasing child in-patient unit capacity over the course of this Government based on projected levels of demand for acute psychiatric support.
- ▶ Undertake a recruitment drive, to ensure all existing child in-patient units can operate at maximum capacity, and provide enhanced clinical supervision and care for staff working in CAMHS to mitigate the risk of burn-out and staff shortages.
- ▶ Ensure that all adult units which are currently providing in-patient support to children adhere to the CAMHS In-patient Code of Governance through regular service inspections.
- ▶ Revise the General Scheme of the Mental Health (Amendment) Bill 2021 to ensure that the admission of children to adult psychiatric units is recognised as a short-term, transitional measure, rather than a practice placed on a statutory footing.
- ▶ Prioritise the development of a seven-days CAHMS service nationwide.

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# Food Poverty

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Section Grade:

**B**



## The Programme for Government commits to:

Work across government to address food poverty in children and ensure no child goes hungry.

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▶ Progress: **Slow**

Continue to review and expand the rollout of the new Hot School Meals initiative.

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▶ Progress: **Good**

'Food Poverty' receives a 'B', an improvement on last year's 'C+' grade. There has been good progress in the area of food poverty with increased investment in the Hot School Meals Programme and planned further expansion, creating tangible impact on children. There is a need to drive cross-government action to address the issue of 'Holiday Hunger' as this remains a continued area of concern which currently receives little to no support.

## Ireland's duties and responsibilities in international law



The UN Convention on the Rights of the Child (UNCRC) provides that every child has the right to enjoyment of the highest attainable standard of physical health and that governments have an obligation to combat disease and malnutrition through the provision of adequate nutritious food.<sup>1</sup> The Committee on the Rights of the Child has recommended that in implementing this right, providing food in school is 'desirable to ensure all pupils have access to a full meal every day' and recommends that this is combined with education on nutrition and health.<sup>2</sup> The Committee further recommends that this should include the training of teachers in child nutrition and healthy eating habits.<sup>3</sup>

Children also have the right to an adequate standard of living for their physical, mental, spiritual, moral, and social development<sup>4</sup> and States are required to 'take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing'.<sup>5</sup>

Ireland ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1992. As part of its commitments, Ireland agreed to be reviewed every five years on its progress in implementing the rights in the Convention. Ireland was last examined by the Committee on the Rights of the Child in 2023. In its Concluding Observations, the Committee called for policies which ensure all children have an adequate standard of living to be strengthened and that the school meals and programmes that provide access to nutrition are expanded.<sup>6</sup>

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

2 UNCRC General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24) CRC/C/GC/15, para 46.

3 *ibid.*

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

5 *ibid.*

6 UNCRC, 'Concluding Observations Ireland' (2023) UN Doc CRC/C/IRL/CO/5-6, para 35.

The UN International Covenant on Economic, Social and Cultural Rights recognises the right of everyone to an adequate standard of living, including access to adequate and affordable food.<sup>7</sup> Under the UN Sustainable Development Goals (SDGs) the State has committed to 'end hunger and ensure access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious and sufficient food all year round by 2030'.<sup>8</sup>

## ► **What is the context for this commitment?**

### **Food Poverty**

Food poverty is defined as the inability to have an adequate or nutritious diet due to issues of affordability or accessibility.<sup>9</sup> Food poverty is multidimensional; encompassing a lack of access to a nutritionally adequate diet and how this impacts health and social participation.<sup>10</sup>

The latest deprivation statistics for 2022 show an increase in the number of people unable to afford basic goods and services which are considered the norm for society.<sup>11</sup> The report states that 17.7 per cent of the population were experiencing deprivation in 2022, an increase in the 2021 rate of 13.8 per cent.<sup>12</sup> In 2022, the consistent poverty rate for the national population was 5.3 per cent, an increase from 4 per cent in 2021.<sup>13</sup> In terms of food-related deprivation, in 2022, 3.4 per cent of the population were unable to afford a roast once a week, and this increased to 12.1 per cent in families headed by a lone parent.<sup>14</sup> A child in Ireland is five times more likely to be living in poverty if

7 International Covenant on Economic, Social and Cultural Rights (16 December 1966) 993 UNTS 3 (ICESCR) Art 11.

8 United Nations Department of Economic and Social Affairs Disability '#Envision2030 Goal 2: Zero Hunger' <<https://bit.ly/3bhOH2n>> accessed 31 January 2022.

9 Safe Food, *What is the cost of a healthy food basket in 2018?* (Safe Food 2019).

10 *ibid.*

11 Central Statistics Office, *Survey on Income and Living Conditions (SILC): Enforced Deprivation 2022* (CSO 2022).

12 *ibid.*

13 Central Statistics Office, *Survey on Income and Living Conditions (SILC) 2022* (CSO 2023).

14 *ibid.*



they are living in a one-parent household.<sup>15</sup>

Children who grow up experiencing food poverty are often impacted in the long-term.<sup>16</sup> Barnardos reports that of the people who witness children experiencing food poverty first-hand, 74 per cent noted a negative impact on the child's physical development and 70 per cent noticed the negative impact on the child's social and emotional development.<sup>17</sup> Food poverty is also known to affect children's education and their ability to maintain relationships.<sup>18</sup> In their 2023 report on the impact of food poverty on children and their parents, Barnardos found that 21 per cent of parents who said they were worried about food reported that this worry was due to increased food prices.<sup>19</sup> The study surveyed 1,000 adults, 477 of which were parents or guardians with children under the age of 18.<sup>20</sup> They found that 13 per cent of the parents surveyed were always worried about being able to provide enough food in October 2023<sup>21</sup>, which was more than double the number in January 2023.<sup>22</sup>

In Ireland, low-income households need to spend between 13 and 35 per cent of their net income to afford a minimum healthy food basket.<sup>23</sup> As children grow older food costs rise, with the cost of feeding a teenager double that of a pre-school child. A household with a teenager, reliant on social welfare, is required to spend almost a third of their income to meet the cost of a healthy food basket.<sup>24</sup>

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15 UNICEF Innocenti – Global Office of Research and Foresight, *Innocenti Report Card 18: Child Poverty in the Midst of Wealth*, (UNICEF Innocenti 2023) 21.

16 Barnardos, 'Child Food Poverty' 2022 (22 February 2022) <[www.barnardos.ie/news/2022/february/child-food-poverty/](http://www.barnardos.ie/news/2022/february/child-food-poverty/)> accessed 9 January 2024.

17 *ibid.*

18 *ibid.*

19 Coyne Research, *Food Insecurity in Ireland: Impact on Children and their Parents*, (Barnardos 2023) 6.

20 *ibid.* 4.

21 *ibid.* 6.

22 *ibid.* 7.

23 Safe Food, *What is the cost of a healthy food basket in 2020?* (Safe Food 2021).

24 *ibid.*

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**In 2022, 3.7 per cent of the population were unable to afford a roast once a week, and this increased to 12.1 per cent in families headed by a lone parent.**

Rural households are particularly at risk of food poverty; in 2020, the weekly cost of a healthy food basket for a two-parent family with two children living in a rural area was €138.<sup>25</sup> This compared to €121 for the same size family living in an urban area.<sup>26</sup> The lack of access to public transport infrastructure leading to greater car dependency is a further cost that rural households incur.<sup>27</sup>

Increased numbers of families experiencing food poverty and food deprivation must sit within the context of the consistent inflation of food prices over the last three years. In one year alone (2023), member countries of the Organisation for Economic Co-operation and Development (OECD) experienced 'soaring' food prices, with increases of 13 per cent.<sup>28</sup> The World Bank's most recent Food Security Update captured a steady monthly increase in Irish food prices over the first half of 2023.<sup>29</sup> The Central Statistics Office (CSO) noted in their Consumer Price Index report in October 2023, that consumer prices have been steadily increasing since 2021.<sup>30</sup> In 2023, food and non-alcoholic beverages were a category that saw one of the highest rates of price increases, rising by 7 per cent.<sup>31</sup>



**Weekly cost of a healthy food basket for a two parent family with two children in 2020**

**€138**

**RURAL**

**€121**

**URBAN**

25 *ibid.*

26 *ibid.*

27 *ibid.*

28 UNICEF Innocenti – Global Office of Research and Foresight, *Innocenti Report Card 18: Child Poverty in the Midst of Wealth*, (UNICEF Innocenti 2023) 24.

29 The World Bank, *Food Security Update*, (The World Bank 2023) 18.

30 The Central Statistics Office (CSO), *Consumer Price Index October 2023*, (CSO 2023).

31 *ibid.*

Some food staples increased by even more; the price of vegetables rose by 10.8 per cent, pastas and couscous rose by 13.1 per cent, and the price of baby food rose by 9.3 per cent.<sup>32</sup>



The *EU Recommendation on Investing in Children* recommends that States 'invest in prevention, particularly during early childhood years, by putting in place comprehensive policies that combine nutrition, health, education and social measures'.<sup>33</sup> Building on the *Recommendation*, in June 2021, the European Child Guarantee was adopted at EU level. It aims to prevent and combat child poverty and social exclusion by supporting the 27 EU Member States to make efforts to guarantee access to quality key services for children in need. Ireland's *National Action Plan on the Guarantee* published in June 2022, restates the current services, programmes and supports in place across relevant government departments within the scope of the Guarantee, including those that promote healthy eating and the provision of meals in schools.<sup>34</sup>

In response to the issue of food poverty, the Irish government has committed in the *Roadmap for Social Inclusion 2020-2025* to develop a programme of work to explore the drivers of food poverty and to identify mitigating actions.<sup>35</sup> This commitment was reasserted in the mid-term review of the roadmap.<sup>36</sup>

<sup>32</sup> *ibid.*

<sup>33</sup> European Commission, Commission Recommendation: Investing in children: breaking the cycle of disadvantage (Brussels, 20.2.2013 C(2013) 778 final).

<sup>34</sup> Government of Ireland, *EU Child Guarantee Ireland's National Action Plan* (DCEDIY 2022) 38.

<sup>35</sup> Department of Employment Affairs and Social Protection, *Roadmap for Social Inclusion 2020-2025* (DEASP 2020)

<sup>36</sup> Department of Social Protection, *Mid-term Review of the Roadmap for Social Inclusion 2020 –2025*, (DSP 2023).

This will require coordinating activities across a number of government departments. To support this action a Food Poverty Working Group, chaired by Minister for State with responsibility for Social Inclusion, Joe O'Brien TD, was established in April 2021. In November 2023, *Young Ireland: National Policy Framework for Children and Young People 2023-2028* was published. This framework further reaffirms the government's commitment to *Ireland's EU Child Guarantee National Action Plan* along with other policy commitments.<sup>37</sup>

## School Meals

Multi-component interventions are more effective than only providing food to children. Schools are an excellent setting to reach children, teachers, families, and the surrounding community.<sup>38</sup> They provide a social environment where children can access and enjoy food without financial constraints.<sup>39</sup>

The *Evaluation of the School Meals Programme* notes that high levels of hunger amongst children have been associated with poor mental health.<sup>40</sup> Assuming this is the case, if the School Meals Programme is effective at reducing childhood hunger, 'it has the potential to improve children's mental health outcomes'.<sup>41</sup> This is supported by other studies.<sup>42</sup>

The Department of Social Protection (DSP) funds the School Meals Programme. The programme provides funding towards the provision of food through the allocation of a per pupil rate. This includes a cold meal option for breakfast, lunch and dinner, as well as a hot meal option. The objective of the scheme is to provide regular, nutritious food to children to enable them to take full advantage of the education provided to them.<sup>43</sup>

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37 Government of Ireland, *Young Ireland: National Policy Framework for Children and Young People 2023-2028*, (DCEDIY 2023), 2.

38 Healthy Food for All, *A Good Practice Guide to School Food Initiatives* (Healthy Food for All 2009).

39 *ibid.*

40 RSM Ireland, *Evaluation of the School Meals Programme* (DSP 2022) 2.

41 *ibid.*

42 Food Research and Action Centre (FRAC), *The Connections Between Food Insecurity, the Federal Nutrition Programs, and Student Behavior*, (FRAC 2018).

43 Heather Humphries TD, Minister for Employment Affairs and Social Protection, School Meals Programme, Written Answers 14 December 2023 [55945/23].

Budget 2023 allocated €94.4 million for the programme with an additional €14.5 million allocated in February 2023 for a further expansion of the Hot School Meals initiative bringing the total to €108.9 million.<sup>44</sup> This enabled approximately 1,700 schools and organisations to participate in the scheme benefitting 300,000 children.<sup>45</sup>



## ► What has been achieved for children and young people so far?

### Food Poverty

The *Programme for Government* committed to 'work across government to address food poverty in children and ensure no child goes hungry'.<sup>46</sup> The Food Poverty Working Group established by Minister Joe O'Brien T.D. plays an important role in achieving this commitment. The group comprises of representative from across a number of government departments, and representatives from the community and voluntary sector, including the Children's Rights Alliance, Society of St Vincent de Paul, and Crosscare.

The Working Group has progressed a number of actions in 2023 as part of its work. These include the provision of funding to pilot a case worker model to address food poverty and the initiation of research on the prevalence and drivers of food poverty.<sup>47</sup> Such an approach takes a more holistic view by examining the issues in the household that may be contributing to food poverty and how these may be addressed and provides an important step towards addressing the need for long-term sustainable solutions to food

44 *ibid.*

45 *ibid.*

46 Government of Ireland, *Programme for Government, Our Shared Future* (Government Publications 2020) 96.

47 Communication received by the Children's Rights Alliance from the Department of Social Protection 19 December 2023.

poverty. The pilot case worker model is now operational in Cork, Dublin, and Limerick since September 2023 and it will run over the course of 18 months.<sup>48</sup> An evaluation will be produced on its completion.<sup>49</sup> A casework approach to food poverty helps families regain independence.<sup>50</sup>

In 2022 the Department of Social Protection commissioned case study research on the prevalence and drivers of food poverty. The research will examine two case studies; one of a rural area, and another of an urban area.<sup>51</sup> Although children and young people will not be directly consulted as part of this research, it is envisaged that individuals and organisations who do take part will capture the impact of food poverty on the household as a whole (i.e. including its impact on children and young people).<sup>52</sup> The findings will help to inform the work of the Food Poverty Working Group and will include recommendations to assist individuals and families experiencing food poverty.<sup>53</sup> The research is expected to be published in early 2024.<sup>54</sup>

## School Meals

In September 2019, the DSP launched a Hot School Meals pilot which involved 37 primary schools benefitting 6,744 students for the 2019-2020 academic year.<sup>55</sup> The *Programme for Government* has committed to 'continue to review and expand the rollout of the Hot School Meals initiative'.<sup>56</sup> Since then, the government has done significant work in expanding the provision

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48 *ibid.*

49 *ibid.*

50 Yvonne Fleming, 'Making the case for food poverty casework' <https://bit.ly/3vNLAMO> accessed 3 January 2023.

51 Communication received by the Children's Rights Alliance from the Department of Social Protection 19 December 2023.

52 Communication received by the Children's Rights Alliance from the Department of Social Protection 11 November 2022.

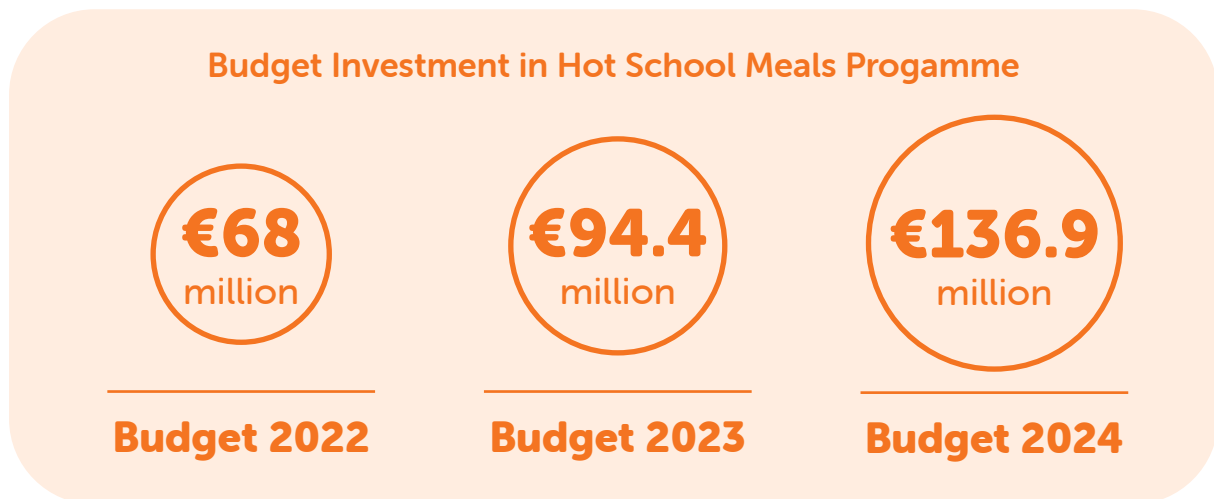
53 *ibid.*

54 Communication received by the Children's Rights Alliance from the Department of Social Protection 19 December 2023.

55 Heather Humphries TD, Minister for Employment Affairs and Social Protection, School Meals Programme, Written Answers 14 July 2020 [15434/20]. All primary schools (over 3,000) were invited to apply with 506 schools registering interest, suggesting high demand for the limited pilot. The schools chosen to participate in the pilot were selected randomly, having regard to geographical spread, numbers enrolled, range of suppliers and the overall budget available.

56 Government of Ireland, *Programme for Government, Our Shared Future* (Government Publications 2020) 96.

of hot school meals with annual increases in budget allocations in Budget 2022 and 2023. Budget 2024 committed to expanding the Hot School Meals Programme to non-DEIS primary schools starting from April 2024 with an increase of €42.5 million in funding.<sup>57</sup> In the 2022-2023 academic year, over 100,000 pupils were eligible to receive hot school meals.<sup>58</sup> A further expansion of Hot School Meals was initiated in 2023 and 900 primary schools responded positively to a call for expressions of interest.



These schools will be able to participate in the initiative from April 2024. This means that over 320,000 children will be eligible to receive Hot Schools Meals over the course of the 2023-2024 academic year.<sup>59</sup>

In 2023, Minister for Social Protection, Heather Humphreys T.D., announced that she has committed to providing a free hot school meal to every school-going child by 2030.<sup>60</sup> The Department is currently working on the development of a school meals programme strategy to deliver this commitment.<sup>61</sup> The Department of Social Protection still has a further five years to expand the programme to all secondary school students, an achievable goal in the context of the thus far successful expansion.

<sup>57</sup> Heather Humphreys TD, Minister for Employment Affairs and Social Protection, School Meals Programme, Written Answers 14 December 2023 [55945/23].

<sup>58</sup> Communication received by the Children's Rights Alliance from the Department of Social Protection 19 December 2023.

<sup>59</sup> *ibid.*

<sup>60</sup> Emma O'Kelly, 'Every schoolchild to receive free daily hot meal from 2030' RTÉ (Dublin, 30 March 2023).

<sup>61</sup> Communication received by the Children's Rights Alliance from the Department of Social Protection 19 December 2023.



The publication of the *Evaluation of the School Meals Programme* in March 2023 examined the effectiveness of the current implementation, and the impacts the programme.<sup>62</sup> Its recommendations included a list of immediate, short to medium-, and long-term actions for the programme's continuous improvement. One recommendation called for 'the immediate expansion of the provision of the Hot School Meals Option to all DEIS primary schools for the academic year 2023-2024',<sup>63</sup> and this has already been achieved.

As of January 2023, there was an increase in the rates of funding for school meals for the first time since 2003. The rate for breakfasts increased by 15 cent, cold lunches by 30 cent, dinners by 60 cent, and hot school meals by 30 cent.<sup>64</sup> This is an average increase of 17 per cent. While these increases are welcome in the context of inflation and the cost-of-living crisis, they may not be enough. In 2022 school meal suppliers warned that the system was at 'breaking point'; since the last time the prices were increased, inflation for the cost of food has increased by at least 33 per cent.<sup>65</sup> A 17 per cent increase in rates is not enough to cover this change.

*First 5*, the whole of government strategy to improve children's early years, commits to addressing food poverty through measures such as piloting a meals programme in Early Learning and Care (ELC) Settings and an evaluation after one year.<sup>66</sup> In November 2022, a pilot scheme to provide meals in early learning and childcare settings was announced by the Minister for Children, Equality, Integration and Youth, Roderic O'Gorman T.D..<sup>67</sup> The pilot scheme focused on areas of concentrated disadvantage and those participating had the support of a dietician to ensure meals are nutritious.<sup>68</sup> The results of an evaluation of the pilot, which will include consultation with children, will help to inform the development of a DEIS-type model for early

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62 RSM Ireland, *Evaluation of the School Meals Programme* (DSP 2022) 1.

63 *ibid.* 120.

64 *ibid.*

65 Carl O'Brien, 'It's at breaking point': Thousands of pupils risk losing school meals', *The Irish Times* (Dublin 21 December 2022).

66 Department of Children, Equality, Disability, Integration and Youth, *First 5: Annual Implementation Report 2021/2022* (2023) 92.

67 Department of Children, Equality, Disability, Integration and Youth, 'Minister O'Gorman announces new scheme to pilot the provision of hot meals to children in early learning and childcare settings', Press Release, 22 November 2022.

68 *ibid.*

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meals for the first  
time since 2003.**

learning and childcare settings.<sup>69</sup> The *First 5 Annual Implementation Report* published in 2023 reported that there is a delay in the complete roll out of this commitment.<sup>70</sup> However, the new *Implementation Report 2023-2025* has committed to funding meals for children in ELC services and targeting this funding at services in disadvantaged communities.<sup>71</sup>

## ► **What children and young people need next**

In terms of the commitment to drive cross-government action on tackling food poverty, there is much more to be achieved. Since the establishment of the Working Group on Food Poverty in April 2021, there has been little tangible progress. In 2022, the main achievements of the group were the publication of the mapping report highlighting the various schemes, initiatives and programmes delivered across government departments to address food poverty<sup>72</sup>, along with securing funding in Budget 2023 to fund the pilot case worker model to address food poverty. In 2023, the Food Poverty Working Group prioritised work on the research on the prevalence and drivers of food poverty, and the launch of the pilot food poverty case worker programme.<sup>73</sup> While the research will provide an important evidence base going forward to drive change, its publication is still outstanding. Beyond the work of the Department of Social Protection and the Department of Children, Equality, Disability, Integration and Youth there is a lack of clarity about how other government departments are tackling the issue of food poverty. There is an opportunity to drive cross-government action on the issue of holiday hunger by bringing these two departments and others together to identify innovative solutions across communities.

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69 *ibid.*

70 *ibid.*

71 Department of Children, Equality, Disability, Integration and Youth, *First 5: Implementation Plan 2023-2025*, (DCEDIY 2023) 50.

72 Department of Social Protection, 'Food poverty Government programmes, schemes and supports' (DSP 2022) <https://bit.ly/3OgXILM> accessed 24 January 2024.

73 Communication received by the Children's Rights Alliance from the Department of Social Protection 19 December 2023.

The Department of Social Protection's evaluation of the school meals programme highlights that school meals play an important role in alleviating parental stress around food poverty.<sup>74</sup> This comes at a time when a survey of parents showed increased worry about providing children with sufficient food.<sup>75</sup> In 2024, it is expected that all primary schools, both DEIS and non-DEIS, which have expressed interest in the Hot School Meals Programme, will be able to implement it;<sup>76</sup> this is a substantial achievement. It is essential that this expansion of the programme continues to DEIS and subsequently non-DEIS secondary schools to ensure that no child in Ireland goes hungry.

The important role played by school meals means that when children are not in school, and not receiving school meals during mid-term, Christmas, Easter, and Summer breaks, their risk of food poverty or 'Holiday Hunger' increases. The need to tackle holiday hunger is highlighted in the school meals evaluation which states that the issue has been exacerbated with the cost-of-living crisis and other societal issues.<sup>77</sup> The report proposed two recommendations regarding food poverty; the first, to be undertaken between 2023 and 2025, is to extend a modified version of the school meals programme beyond the school term.<sup>78</sup> The second is to examine how Holiday Hunger can best be addressed through further research into the issue.<sup>79</sup> As part of the Department's work on the school meal programme strategy, the issue of Holiday Hunger will be examined.<sup>80</sup> The evaluation of the school meals programme<sup>81</sup> and the Department of Social Protection acknowledge that tackling Holiday Hunger will require a cross-government response and that any solution must align with the work of the Food Poverty Working Group.<sup>82</sup>

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74 RSM Ireland, *Evaluation of the School Meals Programme* (DSP 2022) 71.

75 *ibid.*

76 Heather Humphries TD, Minister for Employment Affairs and Social Protection, School Meals Programme, Written Answers 14 December 2023 [55945/23].

77 RSM Ireland, *Evaluation of the School Meals Programme* (DSP 2022) 4.

78 *ibid.* 7.

79 *ibid.* 122.

80 Communication received by the Children's Rights Alliance from the Department of Social Protection 19 December 2023.

81 *ibid.*

82 91 Communication received by the Children's Rights Alliance from the Department of Social Protection 19 December 2023

## ➔ Recommendations

- ▶ Publish the research on the prevalence and drivers of food poverty in urban and rural areas.
- ▶ Using the mapping exercise currently being undertaken by the Food Poverty Working Group led by the Department of Social Protection and the research on the drivers of food poverty, develop a national action plan to tackle food poverty with a view to associated plans being put in place at local level.
- ▶ Fund and develop a pilot initiative for the expansion of school meals during holiday time by leveraging existing community infrastructure, and relationships between schools and summer camps.
- ▶ Publish the school meals programme strategy which will outline the implementation plan for the provision of universal hot school meals by 2030 and the roll-out of a holiday hunger initiative.
- ▶ Publish an action plan and timeline on the recommendations outlined in the school meals evaluation report.

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# Public Health Obesity Act

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Section Grade:

**D-**



## The Programme for Government commits to:

Work with key stakeholders to introduce a Public Health Obesity Act, including examining restrictions on promotion and advertising aimed at children.

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▶ Progress: **Slow**

'Public Health Obesity Act' receives a 'D-' grade, which is a decrease from the 'D' grade awarded last year. There has been no movement on the development of the legislation. The only progress has been the development of a joint EU monitoring Protocol, and certain provisions in the Online Safety and Media Regulation Act 2022 which permit Coimisiún na Meán to set up codes to regulate the advertisement of particular foods or beverages containing fat, trans-fatty acids, salts or sugars to children and young people.

## Ireland's duties and responsibilities in international law



Every child has the right to enjoyment of the highest attainable standard of physical health and governments have an obligation to combat disease and malnutrition through the provision of adequate nutritious food.<sup>1</sup> Children also have the right to an adequate standard of living for their physical, mental, spiritual, moral, and social development<sup>2</sup> and States are required to 'take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing'.<sup>3</sup>

The UN Special Rapporteur on the Right to Food has highlighted five priority actions to combat obesity: regulating the sale of 'junk food'; restricting the advertising of 'junk food'; overhauling agricultural subsidies to make healthier foods cheaper than less healthy alternatives; taxing unhealthy products; and supporting local food production so that consumers have access to healthy, fresh and nutritious food.<sup>4</sup>

The International Covenant on Economic, Social and Cultural Rights recognises the right of everyone to an adequate standard of living, including access to adequate and affordable food.<sup>5</sup> By becoming parties to international treaties, States assume obligations and duties under international law to respect, protect, and fulfil human rights. The obligation to protect requires measures to prevent third parties from interfering with the right to health of children and 'violations can come from omissions, such as the failure to regulate the activities of corporations to prevent them from violating the right to health of

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

2 *ibid* Art 27.

3 *ibid*.

4 Human Rights Council, *Report submitted by the Special Rapporteur on the right to food, Olivier De Schutter* (2012) UN Doc A/HRC/19/59, 17–18.

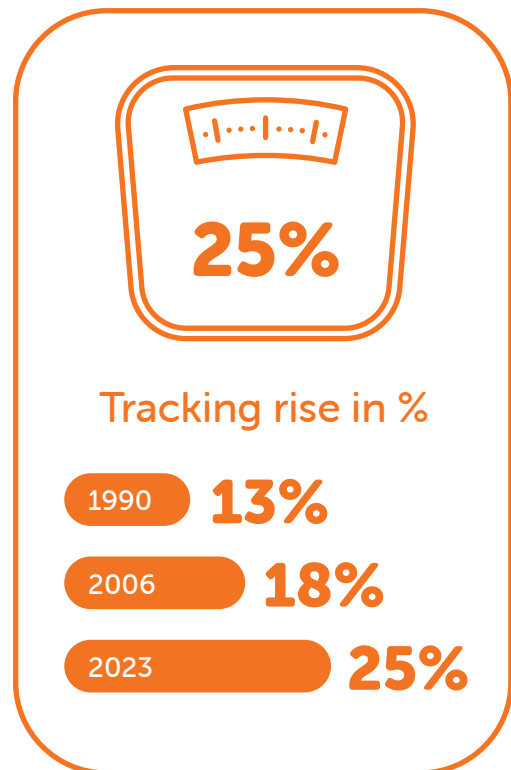
5 International Covenant on Economic, Social and Cultural Rights (16 December 1966) 993 UNTS 3 (ICESCR) Art 11.



others, and the failure to protect consumers'.<sup>6</sup> Under the UN Sustainable Development Goals (SDGs) the State has committed to 'end hunger and ensure access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious and sufficient food all year round by 2030'.<sup>7</sup>

## ► What is the context for this commitment?

Almost one quarter of young people in Ireland are overweight or obese,<sup>8</sup> a significant increase in prevalence compared to the 18 per cent of young people overweight or obese in 2006 and 13 per cent in 1990.<sup>9</sup> The World Health Organisation (WHO) reported in May 2022 that not a single Member State of the European Region is currently on track to reach the target of halting the rise in obesity by 2025.<sup>10</sup> Early studies from a number of European states indicate a rise in overweight and obesity prevalence, and/or mean Body Mass Index (BMI) in children during the Covid-19 pandemic, along with associated decreases in physical activity and increases in the consumption of high fat, salt and sugar (HFSS) foods.<sup>11</sup>



6 Statement by the UN Special Rapporteur on the right to health on the adoption of front-of-package warning labelling to tackle NCDs 27 July 2020, <<https://bit.ly/3YCqIWN>> accessed 25 January 2024.

7 UN, Sustainable Development Goals <<https://bit.ly/3sgsUyW>> accessed 25 January 2024.

8 A Moore Heslin, A O'Donnell, L Kehoe, et al., 'Adolescent overweight and obesity in Ireland – Trends and sociodemographic associations between 1990 and 2020' *Pediatric Obesity* 2023 18(2) 1.

9 *ibid.* See also: Healthy Ireland, *The Childhood Obesity Surveillance Initiative (COSI) in the Republic of Ireland* (DOH 2020).

10 World Health Organisation, *European Regional Obesity Report* (WHO 2022) 21.

11 *ibid.* 16.

The experience of overweight and obesity occurs in children and adults at all levels of the socio-economic spectrum and spans all social classes.<sup>12</sup> However, the incidence for children is strongly related to the socio-economic status of their parents.<sup>13</sup> An assessment of the link between socioeconomic status and the prevalence of overweight and obesity among 120,000 six to nine-year-olds from 24 Member States in the WHO region found that lower parental education is a strong driver of overweight and obesity in children, particularly in higher income countries.<sup>14</sup>

In Ireland, while four per cent of three-year-olds from professional or managerial headed households were classified as overweight and obese, this figure was more than double for the children whose parents had never worked.<sup>15</sup> In 2016, when children's BMI was measured at age nine, and again at 13 years, *Growing Up in Ireland* data found that children in lower socio-economic groups not only experience higher overweight and obesity rates than their more advantaged peers, but their experience is also more profound.<sup>16</sup> This means they are more likely to exceed BMI thresholds, and they are more likely to experience persistent overweight or obesity. This particularly impacts girls.<sup>17</sup> This suggests that social inequality-related overweight and obesity deepens into childhood and becomes more entrenched and more gendered. Similar findings have been reported across Europe.<sup>18</sup>

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12 A Moore Heslin, A O'Donnell, L Kehoe, et al., 'Adolescent overweight and obesity in Ireland – Trends and sociodemographic associations between 1990 and 2020' *Pediatric Obesity* 2023 18(2) 6-7. See also: L Howe, 'Childhood overweight: socio-economic inequalities and consequences for later cardiovascular health, Longitudinal and Life Course Studies', 2013 Volume 4 Issue 1, 4 – 16; Samantha Doyle, et al, 'Caring for Obese Children- A change in Paradigm' 2017 *Irish Medical Journal*, 4.

13 World Health Organisation, *European Regional Obesity Report* (WHO 2022) 26-50.

14 M Buoncristiano, J Williams, P Simmonds, E Nurk, W Ahrens, P Nardone et al., 'Socioeconomic inequalities in overweight and obesity among 6- to 9-year-old children in 24 countries from the World Health Organization European region' *Obes Rev* 2021 22(suppl 6).

15 *Growing Up in Ireland, Key Findings: Infant Cohort (At 3 Years) No. 4 Children's Physical Growth from Birth to Age 3* (DCYA 2013).

16 David Madden, *Childhood obesity and maternal education in Ireland*, Geary WP2016/14 (UCD Geary Institute for Public Policy Discussion Paper Series 2016).

17 *ibid.*

18 World Health Organisation, *European Regional Obesity Report* (WHO 2022), 33. This 2021 cross-sectional assessment of the association between overweight and obesity prevalence and socioeconomic position among more than 120,000 children aged 6–9 years from 24 Member States in the WHO European Region found lower parental education to be a strong driver of unhealthy body weight in children, particularly in high-income countries.



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Obesity has been described as 'one of the most stigmatising and least socially acceptable conditions in childhood'.<sup>19</sup> It can affect children's social and emotional health, and their quality of life. Children can be bullied and experience negative stereotypes, discrimination, and social marginalisation due to their weight.<sup>20</sup> In 2022, results from an Economic & Social Research Institute (ESRI) longitudinal study tracking the changing social lives of nine-year-olds found that engagement in daily sport and physical exercise has decreased by almost a quarter among nine-year-olds between the 1998 and 2008 cohort. Furthermore, while there has been a threefold increase in those that never participate in such activities.<sup>21</sup> Additionally, there was much lower engagement among girls than boys, among children with disabilities, and children from a migrant background. Involvement was also less among children from households experiencing financial strain or living in rented accommodation.<sup>22</sup>

The World Health Organisation affirms the child's right to health as a governing principle and strategy to act on behalf of the child to reduce the risk of obesity.<sup>23</sup> The UN Special Rapporteur on the Right to Food has highlighted five priority actions to combat obesity: regulating the sale of 'junk food'; restricting the advertising of 'junk food'; overhauling agricultural subsidies to make healthier foods cheaper than less healthy alternatives; taxing unhealthy products; and supporting local food production so that consumers have access to healthy, fresh and nutritious food.<sup>24</sup> Play spaces and facilities at a local level have a significant role to play in the recreational lives of children and young people and consideration needs to be given to safety, age-friendly design, and family-friendly and equitable access.<sup>25</sup>

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19 K Sahoo, et al, 'Childhood obesity: causes and consequences', *Family Med Prim Care*. 2015 Apr-Jun; 4(2): 187–192.

20 *ibid.*

21 Economic & Social Research Institute, *The Changing Social Worlds of Nine-Year Olds* (ESRI 2022) 46.

22 *ibid.*

23 World Health Organisation, *Report of the Commission on Ending Childhood Obesity* (WHO 2016) 8.

24 Human Rights Council, 'Report submitted by the Special Rapporteur on the right to food, Olivier De Schutter' (2012) UN Doc A/HRC/19/59, 17–18.

25 CB Woods, C Powell, JA Saunders, W O'Brien, MH Murphy, C Duff, O Farmer, A Johnston, S Connolly, and S Belton, *The Children's Sport Participation and Physical Activity Study 2018* (CSPPA 2018).

Advertising influences how much children eat<sup>26</sup> and can lead to them 'pestering' parents to buy unhealthy products.<sup>27</sup> At 18 months, children have the ability to recognise brands, with preschool children demonstrating preferences for branded products.<sup>28</sup> Marketing is closely linked to a globalisation of unhealthy behaviours that influence nutrition opportunities, driven by rapidly expanding international trade. This leads to diets that are higher in processed foods and saturated fats, salt and sugar, and lower in fibre, vitamins and minerals than the traditional diets they replace.<sup>29</sup> The processed food industry, 'has been successful in blocking governmental and societal efforts for implementing food policies for obesity prevention', through lobbying for voluntary codes and making public commitments to which they do not adhere.<sup>30</sup> This has contributed to poor global progress on obesity prevention. The UN Special Rapporteur on the Right to Health has called for front-of-package warning labelling regulations to tackle the increase in non-communicable diseases which are highly rooted in overweight, obesity and unhealthy diets.<sup>31</sup> In line with this approach, a recent study from the ESRI has demonstrated that consumers purchased healthier snack foods when Nutri-Score labels were applied to products and also, when there was a higher proportion of healthier foods to choose from. Nutritional labelling continues to have an influence on decisions even when the market changes.<sup>32</sup>

In 2018, the Joint Oireachtas Committee on Children and Youth Affairs recommended the introduction of a statutory code for the advertising and marketing of food and non-alcoholic beverages in the context of

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26 E Boyland, et al, 'Advertising as a cue to consume: a systematic review and meta-analysis of the effects of acute exposure to unhealthy food and non-alcoholic beverage advertising on intake in children and adults', *The American Journal of Clinical Nutrition*, Volume 103, Issue 2, 1 February 2016, 519–533.

27 G Hastings et al, *The extent, nature and effects of food promotion to children: a review of the evidence* (WHO 2006); L McDermott et al, 'International food advertising, pester power and its effects' (2015) *International Journal of Advertising*, 25:4, 513-539.

28 TN Robinson et al, 'Effects of Fast-Food Branding on Young Children's Taste Preference' *Arch Pediatr Adolesc Med.* (2007) 161(8), 792–797.

29 A Rhyll Demaio et al, 'Decade of action on nutrition: our window to act on the double burden of malnutrition' (2017) *BMJ Glob Health*, 3.

30 B Swinburn et al, 'Strengthening of accountability systems to create healthy food environments and reduce global obesity' *The Lancet* 2015; 385: 2534–45.

31 Office of the High Commissioner for Human Rights, *Statement by the UN Special Rapporteur on the Right to Health on the adoption of front-of-package warning labelling to tackle NCDs*, 27 July 2020 <<https://bit.ly/3YCqIWN>> accessed 25 January 2024.

32 Economic Social & Research Institute, *Assessing the Impact of Nutri-Score Labelling and Product Availability on Consumer Choice* (ESRI 2022) ESRI Working Paper No.736, 18.

non-broadcast media. They also called for an independent monitoring body to be established as a matter of priority to monitor compliance and the effectiveness of the *Voluntary Codes of Practice*.<sup>33</sup> The Joint Oireachtas Committee on Children and Youth Affairs has similarly recommended that digital marketing aimed at children by the food and drinks industries be appropriately regulated to reduce its influence on their eating habits.<sup>34</sup> This Committee also called for advertising on school grounds to be banned.<sup>35</sup>

## ► What has been achieved for children and young people so far?

The *Programme for Government* commits to 'work with key stakeholders to introduce a Public Health Obesity Act, including examining restrictions on promotion and advertising aimed at children'.<sup>36</sup> However, there is currently no timeline in place for the development of a Public Health Obesity Bill.<sup>37</sup> A *Healthy Weight for Ireland: Obesity Policy and Action Plan 2016–2025* (OPAP) focuses on prevention of obesity to increase the number of people in Ireland with a healthy weight.<sup>38</sup> The Policy contains a commitment to 'develop, implement and evaluate a code of practice for food and beverages promotion, marketing and sponsorship'.<sup>39</sup> The OPAP also commits to the development, implementation, and evaluation of calorie posting legislation<sup>40</sup> as well as the development and implementation of a nutrition policy and action plan.<sup>41</sup> The review of the OPAP was published in December 2022<sup>42</sup> alongside an evaluation of the OPAP undertaken by the Centre for Health and Diet Research, University College Cork for the Department of Health.<sup>43</sup>

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33 Joint Oireachtas Committee on Children and Youth Affairs, *Report on Tackling Childhood Obesity* (Houses of the Oireachtas, 2018) 7.

34 *ibid* 16.

35 *ibid*.

36 Government of Ireland, *Programme for Government, Our Shared Future* (Government Publications 2020) 46.

37 Minister for State for the Department of Health, Hildegard Naughton T.D. Dáil Debates, Written Answers, Department of Health, Obesity Levels, 8 March 2023 [11718/23].

38 Department of Health, *A Healthy Weight for Ireland: Obesity Policy and Action Plan 2016–2025* (Stationery Office 2016).

39 *ibid* Action 3.2.

40 *ibid* Action 2.2.

41 *ibid* Action 5.2.

42 Department of Health, *Review of the Obesity Policy & Action Plan 2016-2025*, November 2022.

43 Communication received by the Children's Rights Alliance from the Department of Health, 24 November 2022.

In February 2018, the Department of Health launched the *Non-Broadcast Advertising and Marketing of Food and Non-Alcoholic Beverages, including Sponsorship and Retail Product Placement: Voluntary Codes of Practice*.<sup>44</sup> The voluntary nature of the codes means that they allow for self-regulation, which may not sufficiently reduce the advertising of unhealthy foods, nor reduce children's exposure to this type of advertising.<sup>45</sup> The Advertising Standards Authority of Ireland (ASAI) has revised its

Code of Standards by incorporating provisions of the Voluntary Codes of Practice in relation to the advertisement of HFSS products.<sup>46</sup> Restrictions on the advertisement of such products came into effect on 1 December 2021. They include a ban on advertising HFSS products by any medium where more than half of the audience is under 15, a ban on promotions or competitions targeted at children in non-broadcast media, and a ban on advertising in locations primarily used by children.<sup>47</sup> Since December 2022, commercial sponsorship of activities or events targeted towards children involving HFSS food have been prohibited.<sup>48</sup> The ASAI will be able to receive complaints on these new provisions. However, the ASAI operates a system of self-regulation, is financed by the advertising industry, and is 'not a law enforcement body'.<sup>49</sup>



**Under 15**

**Restrictions on the advertisement include a ban on advertising HFSS products by any medium where more than half of the audience is under 15.**

44 Healthy Ireland, *No-Broadcast Media Advertising and Marketing of Food and Non-Alcoholic Beverages, including Sponsorship and Retail Product Placement: Voluntary Codes of Practice* (Department of Health 2018).

45 S Galbraith-Emami and T Lobstein 'The impact of initiatives to limit the advertising of food and beverage products to children: a systemic review' (2013) 14 *Obesity Reviews* 960 – 74.

46 Communication received by the Children's Rights Alliance from the Department of Health on 22 December 2021. The ASAI Code 'covers commercial marketing communications and sales promotions in all media in Ireland including digital web, social, mobile, in-game ads, influencer marketing (user-generated commercial content), print, outdoor, radio, TV, leaflets/brochures, SMS/MMS, cinema, and direct marketing.'

47 Advertising Standards Authority of Ireland, *Section 8: Food and Non-Alcoholic Beverages* (ASAI 2021).

48 Communication received by the Children's Rights Alliance from the Department of Health on 22 December 2021.

49 Advertising Standards Authority of Ireland, *Section 8: Food and Non-Alcoholic Beverages* (ASAI 2021).

The Online Safety and Media Regulation Act 2022 (OSMR), dissolved the Broadcasting Authority of Ireland (BAI) and established a new regulator, Coimisiún na Meán.<sup>50</sup> An Coimisiún has been enabled to make media codes<sup>51</sup> and online safety codes.<sup>52</sup> The Act provides that An Coimisiún, in the context of both the media codes and online services, may prohibit or restrict communications relating to foods or beverages considered by it to be the subject of public concern in respect of the general public health interests of children; in particular, foods or beverages containing fat, trans-fatty acids, salts or sugars.<sup>53</sup> When creating the code, An Coimisiún may consult with the relevant public health authorities.<sup>54</sup>

The draft of the first online safety code was published on 8 December 2023.<sup>55</sup> An Coimisiún provides accompanying guidance with the first draft online safety code which states that in relation to commercial communications relating to HFSS foods, it 'strongly encourages [video-sharing platform service] providers to engage with non-statutory regulatory measures in place for the promotion of foods high in fat, salt and sugar.'<sup>56</sup> The first draft online safety code does not contain any measures in relation to HFSS marketing. It is important to highlight that while An Coimisiún has the power to make media codes, it is not obliged to do so in the Act.<sup>57</sup>

Ireland has engaged with other European Union (EU) countries for the last three years on a joint action called 'Best-ReMaP' and co-led on a work package called 'Best practices in reducing marketing of unhealthy food products to children and adolescents.'<sup>58</sup>

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50 Communication received by the Children's Rights Alliance from the Department of Health on 24 November 2022. See also Chapter 15 of this Report Card.

51 Media codes apply to protect the interest of the audience, in particular where communications relate to matters likely to be of direct or indirect interest to children and the general public health interests of children.

52 Online safety codes may make provision to ensure service providers take measures to make their communications to children appropriate to protect the interests of the child.

53 Online Safety and Media Regulation Act 2022, s46N(7).

54 *ibid* s46N(8).

55 Coimisiún na Meán, 'Coimisiún na Meán opens public consultation on Ireland's first Online Safety Code' Press Release (8 December 2023) < <https://bitly.ws/3azTk> > accessed 4 January 2024.

56 Coimisiún na Meán, Consultation Document – Online Safety, 71.

57 Online Safety and Media Regulation Act 2022, s46N.

58 Communication received by the Children's Rights Alliance from the Department of Health on 1 December 2023.



This work included the development of an EU-wide harmonised and comprehensive monitoring protocol for reducing unhealthy food marketing to children.<sup>59</sup> Work on this action commenced in October 2020 and concluded in September 2023.<sup>60</sup> As part of this work, Ireland worked with other EU countries on developing guidance for an EU-wide Code of Practice to reduce marketing of unhealthy food to children, and on developing, testing and adapting protocols to monitor unhealthy food marketing to children, with a particular focus on digital marketing.<sup>61</sup> Piloting of the draft EU-WHO Monitoring Protocol ran between May 2022 and July 2023.<sup>62</sup> Importantly, the new Harmonised EU Framework for Action for Marketing Regulation on how the EU and its member states can protect children from harmful food marketing specifically cites implementing a child rights-based approach as a key action.<sup>63</sup>

## ► **What children and young people need next**

While there has been no movement in 2023 towards the introduction of a Public Health Obesity Act, other important measures have been taken which will aid in the development of a Public Health Obesity Bill. The conclusion of the EU Framework for Action under the 'Best Re-MaP' is welcome as it delivers a European-wide monitoring protocol and technical guidance to implement best practices when restricting marketing of unhealthy foods to children.<sup>64</sup> In relation to advertising, the inclusion of measures which enable An Coimisiún to prohibit or restrict communications relating to foods or beverages considered by it to be the subject of public concern in respect of the general public health interests of children in the Online Safety and Media Regulation Act, is welcome. The first draft online safety code does not contain any measures in relation to HFSS marketing. It is essential that Coimisiún na Meán utilise their legislative powers and prohibit or restrict communications directed at children in relation to HFSS foods.

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59 *ibid.*

60 *ibid.*

61 Communication received by the Children's Rights Alliance from the Department of Health on 22 December 2021.

62 Communication received by the Children's Rights Alliance from the Department of Health on 1 December 2023.

63 *ibid.*

64 *ibid.*

Priority should be given to commencing work on the development a Public Health Obesity Bill in 2024 to ensure that this commitment is fulfilled during the government's term in office. Progress made to date has only been on advertising while the commitment is to introduce more wide-ranging legislation which includes the regulation of advertising.

### **Recommendations**

- ▶ Prioritise the preparatory work and publish the proposed Public Health Obesity Bill in 2024.
- ▶ Ensure Coimisiún na Meán utilises its legislative powers to prohibit or restrict communications directed at children in relation to HFSS foods.

**10**

# **Family Homelessness**

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**Section Grade:**

**D-**



## The Programme for Government commits to:

We will focus our efforts on reducing the number of homeless families and individuals and work with local authorities and housing agencies to support them into long-term sustainable accommodation.

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▶ Progress: **Limited**

'Family Homelessness' receives a 'D-' grade, the same grade as last year. In 2023 there was an increase of 307 families and 531 children living in emergency accommodation bringing total numbers to 1,916 and 3,962 respectively by the end of December. The current number of children living in emergency accommodation is at the highest level since data collection began in 2014. Of the families who presented as homeless, almost 50 per cent were prevented from entering emergency accommodation in 2023. In the six-month period of the moratorium on evictions, family homelessness increased by two per cent. In the six months after the lifting of the eviction ban, the number of families in emergency accommodation rose by almost 10 per cent. In the Dublin region, fewer exits to tenancies have been noted as the main driver of the increase in homelessness (rather than an increase in presentations).

## Ireland's duties and responsibilities in international law



Under Article 27 of the UN Convention on the Rights of the Child (UNCRC) all children have the right to a decent standard of living that is good enough to meet their physical and social needs and support their development. In cases where parents or carers are unable to provide this, the State must assist by providing 'material assistance and support programmes particularly with regard to nutrition, clothing and housing'.<sup>1</sup> The UN Committee on Economic, Social and Cultural Rights is clear that the right to housing applies to everyone and must be accessible and affordable to all. The right is only fulfilled if the property is habitable, offers security of tenure and has provision of facilities essential for health, security, comfort and nutrition.<sup>2</sup>

The right to housing also comes with a duty to monitor the numbers of people who are homeless and those at increased risk of being disadvantaged with regard to housing.<sup>3</sup> States then have a responsibility to prevent and address homelessness by, for example, increasing housing infrastructure.<sup>4</sup>

Aligned to this, States bear responsibility under Article 16 of the UNCRC to protect the child's private, family and home life. Given that homelessness deprives families of their own personal space, State failure to address homelessness through providing appropriate housing could be considered an interference with the child's right to privacy, as well as the right to a decent standard of living.

Ireland committed to promote, protect and respect children's rights when it ratified the UNCRC in 1992. As part of this, Ireland agreed to be reviewed every five years on its progress in implementing the rights

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

2 UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 4 on the Right to Adequate Housing (Art 11(1) of the Covenant)' (1991) UN Doc E/1992/23, para 8.

3 *ibid* para 13.

4 UN & Habitat, *The Right to Adequate Housing*, Factsheet No 21/Rev. 1 (Office of the High Commissioner for Human Rights, 2014) 34.

in the Convention. Ireland was last examined by the Committee on the Rights of the Child in 2023. In its Concluding Observations, the Committee urged Ireland to 'address the root causes of homelessness among children'.<sup>5</sup> In addition, the Committee called for the phasing out of emergency accommodation and an increase in the supply of long-term social housing.<sup>6</sup>

## ► What is the context for this commitment?

The human right to adequate housing is derived from the right to an adequate standard of living.<sup>7</sup> The denial of a child's right to an adequate standard of living, including the right to adequate housing, can have a significant adverse impact on their development and wellbeing.<sup>8</sup> Global evidence reviews have found that homelessness in children and young people is associated with multiple negative physical, mental, and behavioural health outcomes, with the duration of homelessness compounding and elevating the risk of adverse outcomes.<sup>9</sup> Children who experience homelessness are also more likely to have developmental and learning delays as well as poorer academic attainment.<sup>10</sup> Although the right to housing is absolute and should be accessible to all, there is significant discrimination in the housing market, with one parent families, people with disabilities, and people from lower socio-economic backgrounds facing high levels of discrimination in access to housing.<sup>11</sup>

There are many routes into homelessness, including lack of affordable housing, poverty, unsupported mental illness, and for women and children

5 UNCRRC, 'Concluding Observations Ireland' (2023) UN Doc CRC/C/IRL/CO/5-6, para 35.

6 *ibid.*

7 UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 4 on the Right to Adequate Housing (Art 11(1) of the Covenant)' (1991) UN Doc E/1992/23 para 1.

8 Royal College of Physicians in Ireland, *The Impact of Homelessness and Inadequate Housing on Children's Health*, (RCPI 2019).

9 Laura E Gultekin et al, 'Health risks and outcomes of homelessness in school-age children and youth: a scoping review of the literature' (2020) *Journal of School Nursing* 36(1) 10– 18.

10 Saskia D'Sa et al, 'The psychological impact of childhood homelessness—a literature review' (2020) *Irish Journal of Medical Science*.

11 H Russell et al, *Monitoring Adequate Housing in Ireland* (ESRI 2021).

in particular, experience of domestic abuse.<sup>12</sup> Since 2014, child and family homelessness had been rising rapidly but this trend abated somewhat towards the end of 2019, only for it to increase again and continue to rise from the end of 2021.<sup>13</sup> One parent families have a lower rate of homeownership, and a higher rate of occupancy in both the private rental and local authority sectors.<sup>14</sup> These families are also likely to have more affordability issues and experience housing deprivation, such as an inability to heat their home.<sup>15</sup>

Traveller families face significant barriers to accessing their right to housing and are at greater risk of experiencing homelessness than settled families.<sup>16</sup> Homeless Traveller and Roma families, and refugee families, require consideration both in relation to emergency accommodation and long-term social housing. Travellers are more likely to be homeless than the general population, with some Travellers experiencing difficulty in accessing emergency accommodation and high levels of hidden homelessness and overcrowding among Traveller families.<sup>17</sup> In one study by Focus Ireland, Traveller families represented a disproportionate number of homeless families - they made up seven per cent of homeless families while making up less than one per cent of the general population.<sup>18</sup>

Key drivers of homelessness in the Irish context include rising rents, insecurity of tenure, and associated evictions.<sup>19</sup> Families who cannot afford market rents can avail of the Rent Supplement<sup>20</sup> or Housing Assistance Payment (HAP).<sup>21</sup> While the Rent Supplement and HAP are important supports in terms of affordability, many prospective and current tenants face discrimination

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12 C Sullivan & L Olsen, 'Common ground, complementary approaches: adapting the Housing First model for domestic violence survivors' (2016) *Housing and Society* 43:3, 182-194.

13 See Department of Housing, Local Government and Heritage, *Homelessness Data* <https://bit.ly/3GErals> and Focus Ireland, *Knowledge Hub: Latest Figures*, <https://bit.ly/3Z7s33f>, accessed 3 January 2024.

14 H Russell et al, *Monitoring Adequate Housing in Ireland* (ESRI 2021).

15 *ibid*

16 Independent Expert Group on behalf of the Minister of the Department of Housing, Planning and Local Government, *Traveller Accommodation Expert Review* (DHPLG 2019).

17 *ibid*.

18 A Long et al, *Family Homelessness in Dublin: Causes, Housing Histories, and Finding a Home* (Focus Ireland 2019) 24.

19 R Hearne, *Housing Shock: The Irish Housing Crisis and How to Solve It* (Policy Press 2020).

20 Citizens Information, 'Rent Supplement', <https://bit.ly/42fl3lU> accessed 29 January 2024.

21 Citizens Information, 'Housing Assistance Payment', <https://bit.ly/3Ufnjsj> accessed 29 January 2024.

from landlords who refuse to accept them as a means of rent payment.<sup>22</sup> Discrimination<sup>23</sup> based on the use of these supports is prohibited under the Equal Status Acts.<sup>24</sup> The Workplace Relations Commission (WRC) received 329 complaints from tenants between 2017 and 2020, who say they have experienced such discrimination.<sup>25</sup> Rent limits for HAP are set out in regulations published in 2017.<sup>26</sup> To address the insufficiency of the HAP limits, local authorities previously had the discretion to increase the standard rent limits by 20 per cent in order to secure accommodation. In July 2022, the discretion rate was increased from 20 per cent to 35 per cent along with an extension of the rate paid for a couple to single adult households.<sup>27</sup> While this is a welcome measure, it relates to discretionary practice and the HAP limits have not increased since 2017 despite substantial increases in market rents during this period.<sup>28</sup> Charities working with vulnerable families have highlighted increased risk of poverty and homelessness as a prominent impact resulting from paying "top-ups" on their rent.<sup>29</sup>

Evidence highlights that people of minority ethnicities in Ireland experience significant discrimination in accessing housing, with Black Irish people three and a half times more likely to experience discrimination than White Irish people, and they are more likely to be represented among the homeless population.<sup>30</sup> Ethnic groups such as Travellers, Asian and Black minorities are more likely to live in overcrowded accommodation compared to other groups.<sup>31</sup>

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22 Threshold, *HAP and Rent Supplement Discrimination* (Threshold 2021).

23 Based on nine grounds -gender, marital status, family status, sexual orientation, religion, age, disability, race and membership of the Traveller community. Equal Status Act, 2000.

24 On 1 January 2016, the Equality (Miscellaneous Provisions) Act 2015 introduced "housing assistance" as a new discriminatory ground. This means that discrimination in the provision of accommodation or related service and amenities against people in receipt of rent supplement, HAP or other social welfare payments is prohibited. Further information is available at Irish Human Rights and Equality Commission, 'Housing Assistance Payment' <<https://bit.ly/3rr3rnR>> accessed 4 February 2022.

25 Threshold, *HAP and Rent Supplement Discrimination* (Threshold 2021).

26 S.I. No. 56/2017 - Housing Assistance Payment (Amendment) Regulations 2017.

27 Communication received from the Department of Housing, Local Government and Heritage on 12 January 2024..

28 Daft.ie, *The Daft.ie Rental Price Report - An analysis of recent trends in the Irish residential rental market 2023 Q3*, 8 <https://bit.ly/3UpPxR8> accessed 29 January 2024.

29 Society of St Vincent de Paul, 'SVP Observations on the Homelessness-related aspects of the Housing Act', (SVP 2023).

30 R Grotti et al, *Discrimination and Inequality in Housing in Ireland* (IHREC and ESRI 2018) 72-73.

31 H Russell et al, *Monitoring Adequate Housing in Ireland* (ESRI 2021) 129.





**Evidence highlights  
that people of minority  
ethnicities in Ireland  
experience significant  
discrimination in  
accessing housing.**

Migrant groups are also likely to have housing affordability issues.<sup>32</sup> Given the housing crisis, those with refugee status and people granted leave to remain are finding it difficult to leave Direct Provision.<sup>33</sup>

The Department of Housing, Local Government and Heritage has confirmed that ministerial directions remain in place that ensure HAP recipients, should they so choose, can avail of a move to other forms of social housing support through a transfer list.<sup>34</sup> Recipients should get full credit for the time they spent on the waiting list and be placed on the transfer list with no less favourable terms than if they had remained on the main social housing waiting list.<sup>35</sup> From 2014 to June 2023, 18,673 households transferred from HAP to other forms of social housing support.<sup>36</sup> Of this number, 2,272 transferred in the first half of 2023.<sup>37</sup>

A review of the international evidence suggests affordable rents and legal protections for tenancy rights are key components of effective homelessness prevention strategies.<sup>38</sup> Rights-based policy analysis highlights that an over-reliance on HAP as a primary mechanism to access housing support, means the private rental market bears the primary responsibility for addressing homelessness.<sup>39</sup>

## ► **What has been achieved for children and young people so far?**

Each month the Department of Housing, Local Government and Heritage publish a report on the number of people living in emergency accommodation. The report includes a breakdown of the number of

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32 *ibid.* 76.

33 Minister for Children, Equality, Disability, Integration and Youth, Roderic O'Gorman TD, Dail Debates, Written Answers, *Direct Provision System*, 7 November 2023 [47745/23].

34 Communication received from the Department of Housing, Local Government and Heritage on 12 January 2024.

35 *ibid.*

36 *ibid.*

37 *ibid.*

38 Niall Pleace, *Preventing Homelessness: A Review of the International Evidence* (Simon Communities of Ireland 2019) 7.

39 R Hearne & M Murphy, 'An absence of rights: Homeless families and social housing marketisation in Ireland' (2018) *Administration* 66(2) 27-28.

children and families (including the proportion of one-parent families) in this type of accommodation. In 2023, the number of children living in emergency accommodation increased almost every month and by December, 3,962 children were recorded as living in such accommodation.<sup>40</sup> The current number of children living in emergency accommodation is at the highest level since data collection began in 2014.



### Number of children living in Emergency Accommodation (2020 to 2023)

	2020	2021	2022	2023
January	3,574	2,326	2,563	3,431
April	3,073	2,193	2,944	3,594
June	2,653	2,167	3,071	3,765
September	2,583	2,344	3,342	3,904
<b>December</b>	<b>2,327</b>	<b>2,451</b>	<b>3,442</b>	<b>3,962</b>

Source: Department of Housing, Local Government and Heritage *Homelessness data* (2020, 2021, 2022 and 2023).<sup>41</sup>

At the end of 2023, there were 1,916 families living in emergency accommodation.<sup>42</sup> This was an increase of 322 families compared to December 2022. Throughout 2023, over half of the families living in emergency accommodation were headed by a lone parent, a disproportionate figure given the total number of such families in the population.<sup>43</sup>

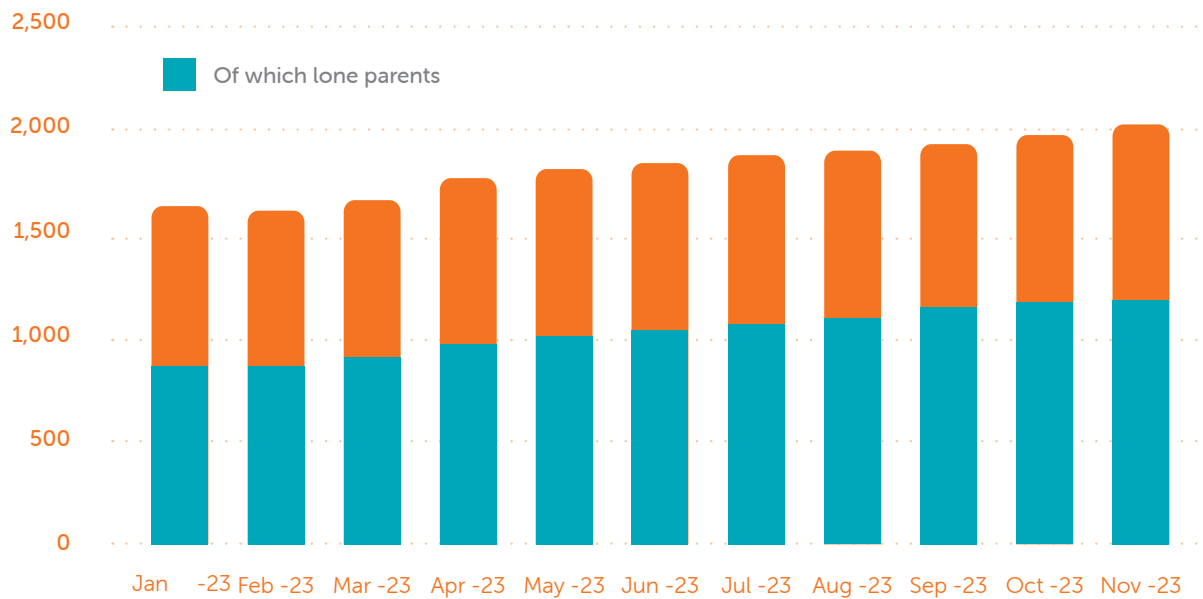
40 Department of Housing, Local Government and Heritage, *Homeless Report December 2023* (DHLGH 2024).

41 Department of Housing, Local Government and Heritage, 'Homelessness Data' <<https://bit.ly/3op7UCh>> accessed 1 February 2022.

42 Department of Housing, Local Government and Heritage, *Homeless Report December 2023* (2024 DHLGH).

43 CSO, *Census of Population 2022 Profile 3 - Households, Families and Childcare*, (CSO 2023).

## Number of families living in homeless accommodation in 2023



The publication of the government's strategy, *Housing for All*, in September 2021 had the potential to address the underlying causes of homelessness. The strategy makes an explicit commitment to eradicate homelessness by 2030, in line with the Government's signing of the *Lisbon Declaration on the European Platform on Combatting Homelessness*.<sup>44</sup> Specific targeted measures are included for those with complex needs.<sup>45</sup> However, aside from two actions (3.16 and 3.18), there is little specific focus on children and in particular, there is a lack of a dedicated actions to tackle family homelessness. The Strategy recognises the importance of early intervention initiatives and the role of family support services, both in terms of preventing homelessness and in providing a pathway to exit emergency accommodation.<sup>46</sup>

*Housing for All* contains a commitment to prevent entry into homelessness and to help those who are homeless to exit into sustained tenancies.<sup>47</sup> In 2023, 3,264 families presented for emergency accommodation nationally,<sup>48</sup> which

44 Department of Housing, Local Government and Heritage, *Housing for All* (Government of Ireland 2021) <<https://bit.ly/3CyJoXq>> accessed 4 February 2022, 51.

45 *ibid.*

46 *ibid.*

47 *ibid.*

48 Department of Housing, Local Government and Heritage, *Homeless Quarterly Progress Report Quarter 4 2023* (2024 DHLGH).

represented an increase of 530 families compared to 2022.<sup>49</sup> Of these families, 1,624 were prevented from entering such accommodation in 2023,<sup>50</sup> an increase of 515 compared to 2022.<sup>51</sup>

By the end of 2023, 927 families had exited emergency accommodation,<sup>52</sup> 17 fewer than 2022.<sup>53</sup> Despite the large number of families prevented from entering emergency accommodation, and the number of exits, 843 families were living in emergency accommodation for more than 12 months<sup>54</sup> at the end of 2023, 339 more than at the end of 2022.<sup>55</sup>

### Family Homelessness in 2022 and 2023

	2022	2023
Families presenting as homeless	2,734	3,264
<i>Of which number of families prevented from entering emergency accommodation</i>	1,109	1,624
Families leaving emergency accommodation	944	927
Families living in emergency accommodation for more than 12 months at the end of the year	504	843

**Family presentations, preventions, exits and living (for greater than 12 months) in emergency accommodation.**

Source: Department of Housing, Local Government and Heritage, *Homeless Quarterly Reports 2022 and 2023* (DHLGH 2022, 2023).

Official statistics published by the Department of Housing, Local Government and Heritage only give a limited view of the prevalence of homelessness in

49 Department of Housing, Local Government and Heritage, *Homeless Quarterly Progress Report Quarter 4 2022* (2023 DHLGH).

50 Department of Housing, Local Government and Heritage, *Homeless Quarterly Progress Report Quarter 4 2023* (2024 DHLGH).

51 Department of Housing, Local Government and Heritage, *Homeless Quarterly Progress Report Quarter 4 2022* (2023 DHLGH).

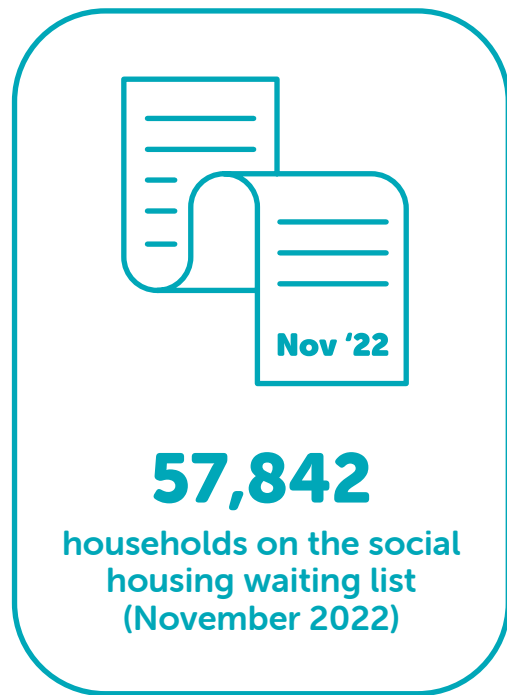
52 Department of Housing, Local Government and Heritage, *Homeless Quarterly Progress Report Quarter 4 2023* (2024 DHLGH).

53 Department of Housing, Local Government and Heritage, *Homeless Quarterly Progress Report Quarter 4 2022* (2023 DHLGH).

54 Department of Housing, Local Government and Heritage, *Homeless Quarterly Progress Report Quarter 4 2023* (2024 DHLGH).

55 Department of Housing, Local Government and Heritage, *Homeless Quarterly Progress Report Quarter 4 2022* (2023 DHLGH).

Ireland given the specific remit of this department.<sup>56</sup> They do not include families that are homeless but are accommodated in own-door accommodation or transitional housing. Nor do they include women and children in domestic violence refuges, or people who have been granted asylum or some other form of protection but cannot find accommodation outside the Direct Provision system. While these figures are collected and monitored by other agencies, they are not included in the monthly reported data published by the Department and people in these types of accommodation are not categorised as homeless. Families who have had to leave their home and are 'couch-surfing' or relying on friends or family for emergency assistance are also not captured in the official monthly statistics. Some insights on the number of those staying with families is provided for in the Social Housing Assessment. There were 57,842 households on the social housing waiting list in November 2022, 37 per cent of which were living with their parents, relatives and/or friends.<sup>57</sup>



## Reducing the number of homeless families

Prior to the publication of the *Programme for Government* in June 2020, a number of measures were introduced in response to the Covid-19 pandemic. The impact of these measures saw a significant decrease in the number of children living in emergency accommodation by the end of 2020, and this trend continued into 2021.<sup>58</sup> However, as the numbers began to increase once again, homeless organisations linked this trend reversal to the discontinuation of the pandemic measures, along with an inability to tackle the structural

56 Colette Bennett 'Rebuilding Ireland for Everyone: A review of the government's housing strategy for young and old' in Brigid Reynolds and Sean Healy (eds) *The Challenges of Success: Addressing population growth in Ireland* (Social Justice Ireland 2019).

57 Housing Agency, *Summary of Social Housing Assessments 2022* (Housing Agency 2023).

58 Department of Housing, Local Government and Heritage, 'Homelessness Data' <<https://bit.ly/3op7UCh>> accessed 3 January 2024. For a visual representation see Focus Ireland, 'Latest Figures on Homelessness in Ireland (Family)' <<https://bit.ly/36cayol>> accessed 3 January 2024.

causes of the homelessness.<sup>59</sup> The progress achieved in reducing the number of families living in emergency accommodation in 2020 shows that it is possible to end family homelessness once the correct and dedicated policies and actions are put in place.

In 2022, with the numbers in emergency accommodation on the rise once more, the Government introduced two new measures to address this challenge. The first of these addresses the insufficiency of the HAP limits by giving local authorities the discretion to increase the standard rent limits by 35 per cent from July 2022 (this was previously 20 per cent).<sup>60</sup> Prior to the introduction of this increase, evidence indicated that not all households who would benefit from accessing a higher rate of HAP are actually receiving it.<sup>61</sup> Furthermore, in September 2022, there were no properties available to rent within the standard HAP limits for any household type, and just 35 were available within the new discretionary rates.<sup>62</sup> There was a slight improvement twelve months later when there were three properties to rent within the standard HAP rate and 24 within the discretionary limits.<sup>63</sup> Separately, a review of the discretion (up to 50 per cent) applied to Homeless HAP tenancies in Dublin is being undertaken by the Housing Agency in conjunction with the Department.<sup>64</sup>

A second measure was initiated at the end of October 2022 when the government introduced legislation that would allow for a temporary ban on 'no fault evictions'. Under the Residential Tenancies (Deferment of Termination Dates of Certain Tenancies) Act 2022, 'no fault' tenancy terminations will be deferred until after 31 March 2023.<sup>65</sup> However, the Minister for Housing confirmed the end of the moratorium on evictions on the 7 March 2023 and

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59 Focus Ireland, 'Homeless numbers increase to 8728 as Focus Ireland calls for a reintroduction of eviction bans and rent freezes due to recent Covid-19 restrictions' (28 August 2020) <<https://bit.ly/2DWsqZV>> accessed 4 February 2022.

60 Housing Assistance Payment (Amendment) Regulations 2022, S.I. No. 342 of 2022.

61 Threshold and Society of St Vincent de Paul, *The Housing Assistance Payment (HAP): Making the Right Impact?* (Threshold and SVP 2019) 11-16.

62 Simon Communities of Ireland *Locked Out of the Market* (Simon Communities 2022).

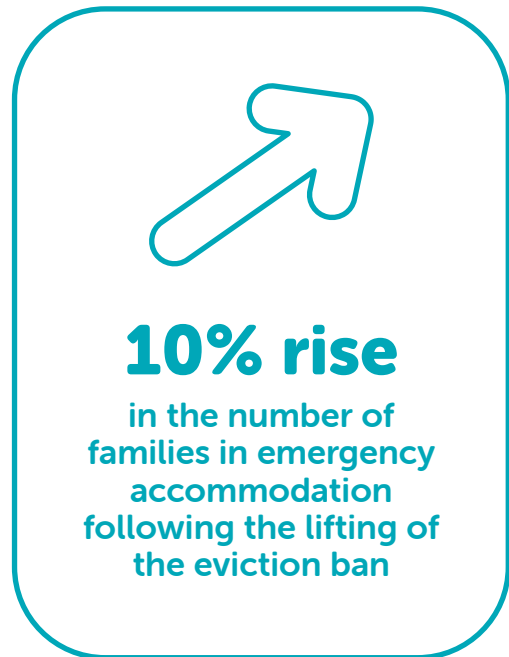
63 Simon Communities of Ireland *Locked Out of the Market Study in September 2023 The Gap between HAP Limits and Market Rents* (Simon Communities 2023).

64 Communications received from the Department of Housing, Local Government and Heritage on 12 January 2024.

65 Residential Tenancies (Deferment of Termination Dates of Certain Tenancies) Act 2022.

announced that he would bring forward a number of measures to further support private rented sector tenants.<sup>66</sup> This includes the offer of first refusal to tenants in instances where the landlord has put the property up for sale as well as work to develop a cost rental model for those at risk of homelessness not in receipt of social housing supports.<sup>67</sup> The Tenant-in-Situ acquisition scheme was expanded in 2023, from a target of 200 to 1500. In 2023, 1,700 households were prevented from becoming homeless. This scheme has been continued into 2024, with a

further target of 1,500 properties to be acquired. The overall impact is that the number of families prevented from entering emergency accommodation increased by 96% in Quarter 4 compared to Quarter 3 2023 with a year-on-year increase of 116.6 per cent.<sup>68</sup> An examination of the Department of Housing's homelessness data highlights that over the six month period of the ban, family homelessness remained fairly steady and increased by just 2 per cent.<sup>69</sup> In the six months following the lifting of the moratorium on evictions, the number of families in emergency accommodation rose at a quicker pace of almost 10 per cent.<sup>70</sup>



The quarterly data on exits from emergency accommodation and the numbers prevented from entering such accommodation through the creation of a tenancy, provide important insights on overall trends.<sup>71</sup> By the end of

66 Department of Housing, Local Government and Heritage, 'Minister O'Brien announces additional measures to increase supply of social homes as winter eviction ban is phased out', 7 March 2023.

67 *ibid.*

68 Communications received from the Department of Housing, Local Government and Heritage 9 February 2024.

69 Simon Communities of Ireland Locked Out of the Market Study in September 2023 The Gap between HAP Limits and Market Rents (Simon Communities 2023).

70 Department of Housing, Local Government and Heritage, 'Homelessness Data' <<https://bit.ly/3op7UCh>> accessed 3 January 2024.

71 The data does not disaggregate what situations this referred to. Threshold provides further details regarding its homeless prevention work on a quarterly basis which may provide further insight into such situations. See for example, Threshold, Quarterly Impact Report, Q4 2022 (Threshold 2023).



September 2021, there was a total of 4,043 exits and preventions, of which 72 per cent were to the private rented sector. In the same period in 2022, there were 3,782 preventions and exits. However, the proportion exiting to the private rental market had fallen to 58 per cent.<sup>72</sup>

Overall, in 2023, just under one-third of exits from emergency accommodation were to the private rental market.<sup>73</sup>

However, conversely, the proportion of exits to local authority lettings has increased and may show an opening-up of this tenure type for exits from homeless accommodation.<sup>74</sup> This would be a positive development as this tenure is more sustainable with a lower risk of returning to homeless accommodation.

The table below illustrates the exacerbation of the issue of supply in the private rental sector in 2023.

<b>Exits from Emergency Accommodation</b>								
	<b>Q1 2022</b>	<b>Q2 2022</b>	<b>Q3 2022</b>	<b>Q4 2022</b>	<b>Q1 2023</b>	<b>Q2 2023</b>	<b>Q3 2023</b>	<b>Q4 2023</b>
<b>Private Rental Sector</b>	51%	42%	39%	28%	34%	39%	28%	27%
<b>Local Authority lettings</b>	27%	34%	40%	39%	36%	32%	44%	39%

Source: Department of Housing, Local Government and Heritage, *Homeless Quarterly Reports 2022 and 2023* (DHLGH 2022, 2023).

The Dublin Region Homeless Executive (DRHE) recorded six exits from emergency accommodation to HAP tenancies in October 2022, noting that this was the lowest number in five years at least.<sup>75</sup> By June 2023, the situation

<sup>72</sup> Department of Housing, Local Government and Heritage, *Homeless Quarterly Progress Report for Q3 2022* (DHLGH 2022).

<sup>73</sup> Department of Housing, Local Government and Heritage, *Homeless Quarterly Progress Reports 2023* (DHLGH 2023).

<sup>74</sup> Department of Housing, Local Government and Heritage, *Homeless Quarterly Progress Report for Q3 2023* (DHLGH 2023).

<sup>75</sup> Dublin Regional Homeless Executive, *Monthly Report to Dublin City Councillors on Homelessness* (DRHE January 2023).

had marginally improved when 14 families exited homeless accommodation to HAP tenancies.<sup>76</sup> At the end of the first half of 2023, the average number of exits to tenancies each month was 30. This was lower to previous years when the monthly average was 33 in 2022, 57 in 2021, 94 in 2020, and 95 in 2019.<sup>77</sup> In November 2023, the DRHE noted that fewer exits to tenancies has been the main driver of the increase in homelessness in the Dublin region (rather than an increase in presentations).<sup>78</sup>

There has been a sustained contraction of the private rental market with considerably fewer properties available to rent. In November 2022 there were just 1,087 homes available nationwide<sup>79</sup> in comparison, to 4,150 properties available two years previously in November 2020, the highest number since 2011.<sup>80</sup> The latest data indicates that while supply remains low, there are some improvements with 1,800 properties available to rent in November 2023.<sup>81</sup>

## Targeted supports for families experiencing homelessness

Organisations working with families experiencing homelessness have identified a need for targeted interventions for children living in emergency accommodation.<sup>82</sup> Notably, two Joint Committees in the Houses of the Oireachtas have also called for increased supports for children living in such circumstances, including the appointment of child support workers.<sup>83</sup> These interventions could provide tailored support to help children and their families

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76 Dublin Regional Homeless Executive, *Monthly Report to Dublin City Councillors on Homelessness* (DRHE June 2023).

77 *ibid.*

78 Dublin Region Homeless Executive, *Monthly Report on Homelessness in the Dublin Region* (DRHE November 2023).

79 Daft.ie, *The Daft.ie Rental Price Report* (Daft.ie 2021).

80 Ronan Lyons, 'The Daft.ie Rental Price Report: An analysis of recent trends in the Irish rental market 2020 Q3' <<https://bit.ly/2YkA86I>> accessed 4 February, 19.

81 Daft.ie, *The Daft.ie Rental Price Report: : An analysis of recent trends in the Irish residential rental market 2023 Q3'* (Daft.ie 2023).

82 Barnardos, Submission to the Joint Oireachtas Committee on Children and Youth Affairs on the impact of homelessness on children (Barnardos 2019) <https://bit.ly/49bKVm1> accessed 29 January 2024; Focus Ireland, 'Submission to the Department of Children, Equality, Disability, Integration and Youth on the EU Child Guarantee' <https://bit.ly/42iT85F> accessed 29 January 2024.

83 Joint Committee on Children and Youth Affairs, 'Report on the Impact of Homelessness on Children' (Houses of the Oireachtas 2019) and Joint Committee on Housing, Planning & Local Government, 'Family and Child Homelessness' (Houses of the Oireachtas 2019).

deal with the trauma of homelessness and/or the challenges that they faced before becoming homeless, or in some instances both of these contexts.<sup>84</sup> Such interventions can help children to address some of the negative impacts of homelessness along with helping to reduce the pressure and stress on parents.<sup>85</sup>

## **Work with local authorities and housing agencies to support families into long-term sustainable accommodation**

Policy on family homelessness has focused on ensuring that families receive initial support in facilities specifically designed to meet their needs, rather than generic emergency accommodation. This has led to the establishment of 'family hubs' that have onsite cooking and laundry facilities for families, with access to support staff and some activities for children. In December 2022, there were 36 family hubs in operation nationally providing 870 units of family accommodation.<sup>86</sup> The vast majority of this type of accommodation was located in Dublin (27 hubs), with two hubs each in Kildare and Galway and one each in Clare, Cork, Limerick, Louth and Meath.<sup>87</sup> It is intended that additional family hubs will be operational in the future.<sup>88</sup>

While family hubs are an important first response, and research with children and parents living in family hubs suggests several problems, including a lack of space and privacy.<sup>89</sup> Families who are placed in this type of accommodation are provided with access to a support team whose main aim is to exit them from homelessness into appropriate accommodation as soon as possible.<sup>90</sup> In recognition of the scale of the housing crisis in Ireland, Budget 2024 committed over €5 billion to capital housing funding with the aim of delivering

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84 Focus Ireland, 'Submission to the Department of Children, Equality, Disability, Integration and Youth on the EU Child Guarantee' <https://bit.ly/42iT85F> accessed 29 January 2024.

85 Focus Ireland, 'Submission to the Department of Children, Equality, Disability, Integration and Youth on the EU Child Guarantee' <https://bit.ly/42iT85F> accessed 29 January 2024.

86 Communication received by the Children's Rights Alliance from the Department of Housing, Local Government Heritage on 12 January 2024 .

87 *ibid* .

88 *ibid*.

89 Ombudsman for Children's Office, *No Place Like Home: Children's views and experiences of living in Family Hubs* (OCO 2019) 14.

90 Communication received by the Children's Rights Alliance from the Department of Housing, Local Government Heritage on 22 February 2023.

9,300 homes in 2024.<sup>91</sup> An allocation of €242 million has been provided for homeless services.<sup>92</sup> Funding for HAP of €525 million will support the existing 58,000 households accessing this scheme and a further 8,800 new tenancies.<sup>93</sup>

In Budget 2023, a new Rent Tax Credit was introduced to support private renters. This will be available from 2022 to 2025 and is for 20 per cent of yearly rent payment up to a maximum of €500 for an individual or €1,000 for a jointly assessed couple.<sup>94</sup> Budget 2024 increased the renters tax credit to €750.<sup>95</sup> However, as families availing of the HAP are in receipt of a social housing support, they will not be eligible to claim this. This is a real concern given that HAP tenancies are the most common pathway out of homelessness.

## Traveller Accommodation

The Ombudsman for Children's Office (OCO) published an investigative report, *No End in Site*, in 2021 which found serious and significant failings on the part of a local authority in relation to a Traveller halting site. The OCO highlighted the abject failure of the local authority to consider the best interests of children, living on the site, including those with additional needs.<sup>96</sup> In December 2022, an update published by the OCO found that overall living conditions have improved for many children and significant work has taken place to implement the report's recommendations.<sup>97</sup>

The previous Government published a *Traveller Accommodation Expert Review* report in 2019<sup>98</sup> and a Programme Board was subsequently

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91 Department of Housing, Local Government and Heritage, 'Housing budget package of nearly €7 billion announced', Press Release, 10 October 2023.

92 *ibid.*

93 *ibid.*

94 Citizens Information, 'Rent Tax Credit' <https://bit.ly/3XjhjMZ>, accessed 7 February 2022.

95 Department of Housing, Local Government and Heritage, 'Housing budget package of nearly €7 billion announced', Press Release, 10 October 2023.

96 Ombudsman for Children, *No End in Site* (OCO 2021).

97 Ombudsman for Children, *No End in Site: One Year On* (OCO 2022).

98 Independent Expert Group on behalf of the Minister of the Department of Housing, Planning and Local Government, *Traveller Accommodation Expert Review* (DHPLG 2019).

established to oversee its implementation.<sup>99</sup> As part of the Programme Board's ongoing work programmes research on the issue of homelessness amongst the Traveller community remains under consideration. A representative from the National Traveller Accommodation Consultative Committee has been nominated to the National Homeless Action Committee.<sup>100</sup> This work will include consideration of the recommendation to commission research to better understand homelessness in the Traveller population.<sup>101</sup>

There are some signs of progress, with 2020 being the first year since 2014 that the allocated funding provided for Traveller-specific accommodation was fully drawn.<sup>102</sup> Since then, the budget allocation has continued to rise, including a €2.5 million increase in 2022. The 2022 budget allocation of €18 million was spent in full along with an additional €2.6 million.<sup>103</sup> A further increase in 2023 saw the capital budget rise to €20 million.<sup>104</sup> This combined with €5.8 million in Local Property Tax and a supplementary estimate of €4 million has meant a draw-down of €29.8 million in 2023.<sup>105</sup> In Budget 2024, €21 million has been allocated to Traveller-specific accommodation.<sup>106</sup> However, this should be seen in the context of the Expert Review which recommends a review to consider restoring funding to levels prior to 2008, when the yearly Traveller accommodation budget was €40 million.<sup>107</sup>

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99 Communication received by the Children's Rights Alliance Department of Housing, Local Government and Heritage on 28 January 2022 and 8 December 2022. The Board is comprised of two Traveller representatives, two County and City Management Association (CCMA) representatives, two representatives from the Department of Housing, Local Government and Heritage and is independently chaired by the Chair of the National Traveller Accommodation Consultative Committee (NTACC). The Board has met on a total of ten occasions.

100 Communication received by the Children's Rights Alliance from the Department of Housing, Local Government and Heritage on 12 January 2024.

101 Communication received by the Children's Rights Alliance from the Department of Housing, Local Government and Heritage on 13 January 2021.

102 *ibid*; Kitty Holland, 'Almost €15m spent on Traveller housing, the largest annual spend in decades' *The Irish Times*, 23 December 2020.

103 Communication received by the Children's Rights Alliance from the Department of Housing, Local Government and Heritage on 23 February 2023.

104 *ibid*.

105 Communication received by the Children's Rights Alliance from the Department of Housing, Local Government and Heritage on 9 February 2024.

106 Department of Housing, Local Government and Heritage, 'Housing budget package of nearly €7 billion announced', Press Release, 10 October 2023.

107 Communication received by the Children's Rights Alliance from the Irish Traveller Movement on 12 November 2022.

Roma families face similar barriers and their particular housing needs must receive careful consideration as well. Since the pandemic began there have been reports that it is increasingly difficult to accommodate homeless Roma families in emergency accommodation, if they were not already registered in PASS (Pathway Accommodation and Support System) and this has exacerbated with time.<sup>108</sup> Furthermore, one of the qualifying criteria for the allocation of social housing is employment,<sup>109</sup> but given that national needs assessments suggest that just 17 per cent of Roma are employed,<sup>110</sup> most Roma will be ineligible for social housing support.

The Department of Housing, Local Government and Heritage continues to meet on a monthly basis with the local authority concerned, to progress the recommendations set out by the OCO.<sup>111</sup> The Department granted Stage 2 approval for the redevelopment of this Halting Site in January 2024 for a budget provision of €17.9 million.<sup>112</sup> The Minister for Housing, Local Government and Heritage established a Commission on Housing tasked with examining a wide range of issues including maintaining a sustainable housing supply, the role of Approved Housing Bodies in providing housing and the quality and cost of housing.<sup>113</sup> The Commission has also examined the issue of a referendum on housing.<sup>114</sup> A report titled 'Referendum Report & Proposed Wording for an Amendment to the Constitution' was submitted to the Minister for Housing in August 2023.<sup>115</sup> Separately, a minority report, from two Members of the Commission, was submitted in November to the Minister.<sup>116</sup> There is no update on when either of these reports will be published.<sup>117</sup>

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108 Communication received by the Children Rights Alliance from Pavee Point on 16 October 2020.

109 Department of Housing, Local Government and Heritage, 'Circular Housing 41/2012 - Access to Social Housing Supports for non-Irish nationals' <<https://bit.ly/3oLnUSj>> accessed 4 February 2022.

110 Pavee Point & Department of Justice and Equality, *Roma in Ireland: A National Needs Assessment* (Pavee Point 2018) 75.

111 Communication from the Department of Housing, Local Government and Heritage on 12 January 2024.

112 Communications received from the Department of Housing, Local Government and Heritage 9 February 2024.

113 Government of Ireland, *Expressions of interest sought re appointment as Member of the Commission on Housing*, (Government of Ireland 2022).

114 Government of Ireland, *Expressions of interest sought re appointment as Member of the Commission on Housing*, (Government of Ireland 2022).

115 Communication from the Department of Housing, Local Government and Heritage on 12 January 2024.

116 *ibid.*

117 *ibid.*

## ► What children and young people need next

Given the increase in the number of families living in emergency accommodation and the scarcity of properties available to support their exit, the number of children impacted by homelessness continues to rise. It is critical, therefore, that the government provide tailored support to these children to mitigate against the trauma they will experience.<sup>118</sup> Child Support Workers are a vital link and can refer families to further specialist therapeutic supports.<sup>119</sup> They work directly with children and, by extension, this work can help to alleviate parental pressure and stress.<sup>120</sup>

Long-term and durable solutions to the homeless crisis requires rethinking the current approach of the marketisation of social housing, and the effectiveness of the HAP model – particularly when it is not keeping pace with market value – to support low-income families at risk of homelessness. Sustainable and durable progress is needed on homelessness prevention. This requires development of adequate housing supply, affordable rents backed by strong legal protections for tenants, and ancillary rapid-rehousing services for those families who have already become homeless.<sup>121</sup> Unless there is a cohesive policy at a strategic level that recognises and mitigates the multi-faceted drivers of family homelessness, many children will continue to experience insecure or inadequate housing, with wide-ranging adverse impacts on their health and development.<sup>122</sup>

Independent analysis based on population rates estimates that to meet housing demand, 34,000 new dwellings must be built each year over the next decade.<sup>123</sup> The availability of a sufficient supply of adequate and affordable housing with security of tenure is critical in responding to homelessness.

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118 Joint Committee on Children and Youth Affairs, 'Report on the Impact of Homelessness on Children' (Houses of the Oireachtas 2019).

119 *ibid.*

120 Focus Ireland, 'Submission to the Department of Children, Equality, Disability, Integration and Youth on the EU Child Guarantee' <https://bit.ly/42iT85F> accessed 29 January 2024.

121 Niall Pleace *Preventing Homelessness: A Review of the International Evidence* (Simon Communities of Ireland 2019) 7.

122 Amy Clair, 'Housing: an Under-Explored Influence on Children's Well-Being and Becoming' (2019) *Child Indicators Research* 12:609–626.

123 T Conefrey and D Staunton, 'Population Change and Housing Demand in Ireland', *Central Bank of Ireland Economic Letter*, Vol. 2019, No. 14 (Central Bank of Ireland 2019).

Without the availability of this, preventative actions and other responses will have limited or no impact.<sup>124</sup>

## ➔ Recommendations

- ▶ Ensure that every child living in homeless accommodation has a child and family support worker to help them to navigate the challenges they face in this situation.
- ▶ Invest in homeless prevention services to support families from becoming homeless. Aligned to this, consider introducing legislative measures that increase tenancy rights and introduce measures to secure long terms tenancies.
- ▶ Introduce legislation which would require housing authorities to regard the best interests of the child as primary, and to protect and assist families, including by providing them with safe accommodation.
- ▶ Prioritise building social housing and meeting the target of building an average of 10,000 homes each year as outlined in *Housing for All*.
- ▶ Commit to a date for the referendum on the right to housing.

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<sup>124</sup> Baptista, Isabel, et al. *From Rebuilding Ireland to Housing for All: international and Irish lessons for tackling homelessness*. (COPE Galway, Focus Ireland, JCFJ, Mercy Law, Simon Communities of Ireland, and SVP 2022).



**11**

# Youth Homelessness

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Section Grade:

**B-**



## The Programme for Government commits to:

### Develop a National Youth Homelessness Strategy

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▶ Progress: **Steady**

'Youth Homelessness' receives a 'B-' grade, down from a 'B' grade last year. The Youth Homelessness Strategy remained a key priority for the National Homeless Action Committee (NHAC) in 2023. Despite a comprehensive plan to tackle youth homelessness, the number of young people living in emergency accommodation continued to rise in 2023. There was an increase of 158 individuals living in emergency accommodation in December compared to January. The development of the strategy included a strong participation element with young people who have experienced youth homelessness. The implementation of the strategy could be strengthened by creating meaningful mechanisms for young people's participation.

## Ireland's duties and responsibilities under international law



The UN Convention on the Rights of the Child (UNCRC) is clear that all children have the right to a decent standard of living<sup>1</sup> and to be safeguarded from any form of abuse.<sup>2</sup> In cases like youth homelessness, where the child is without an obvious caregiver, the State should provide the child with such protection and care as is necessary for their wellbeing.<sup>3</sup> Social policy and practice should reflect a Government commitment to meeting child protection rights, and housing is recognised as an area which can have significant bearing on the prevention of violence to children.<sup>4</sup> The UN Committee on the Rights of the Child is also clear that homeless adolescents are particularly vulnerable to experience institutional and interpersonal violence and that States must provide special protections to these children to mitigate risk of abuse and exploitation.<sup>5</sup>

The Committee is clear that interventions into youth homelessness are most beneficial when the children are active partners in assessing needs and devising solutions, rather than being passive beneficiaries.<sup>6</sup> Authorities and decision-makers should recognise that children living on the streets, while vulnerable, can also be highly resilient,<sup>7</sup> and they must consider children's views.<sup>8</sup>

Ireland committed to promote, protect, and respect children's rights when it ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1992. As part of this, Ireland agreed to be reviewed every five years on its progress in implementing the rights in the

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

2 *ibid* Art 19.

3 UNCRC, General Comment No. 13 (2011) on the right of the child to freedom from all forms of violence, CRC/C/GC/13, para 35.

4 *ibid* para 43.

5 UNCRC, General Comment No. 4 (2003) Adolescent health and development in the context of the Convention on the Rights of the Child, CRC/GC/2003/4, para 23, 36.

6 UNCRC, General Comment No. 21 (2017) on children in street situations, CRC/C/GC/21, para 33.

7 *ibid* para 28.

8 *ibid* para 45.

Convention. Ireland was last examined by the Committee on the Rights of the Child in 2023. In its Concluding Observations, the Committee calls on the Irish State to expand access to aftercare for children experiencing homelessness and provide opportunities for young people leaving care to live independently.<sup>9</sup>

## ► What is the context for this commitment?

The UN Special Rapporteur on the Right to Housing has argued that elimination of youth homelessness is a top human rights priority.<sup>10</sup> In responding to the issue of youth homelessness, a rights-based approach needs to be deployed which recognises young people experiencing homelessness as equal partners and respects their views.<sup>11</sup>

In 2020, the UN Human Rights Council called on States 'to take positive measures with a view to prevent and eliminate homelessness by adopting and implementing laws, administrative orders, cross-sectional strategies and programmes at all levels that are, among others, gender-, age- and disability-responsive and based on international human rights law'.<sup>12</sup> At each stage, it is vital that all stakeholders are alert and responsive to the particular needs of different groups of young people who may have differing routes into homelessness and unique experiences of it.

Evidence suggests that children and young people have a different pathway into homelessness than adults and that they have their own distinct needs. Therefore, prevention and responses to youth homelessness should be considered separately to broader homelessness strategies.<sup>13</sup> Irish research into youth homelessness found that family circumstances were the main driver

9 UNCRRC, 'Concluding Observations Ireland' (2023) UN Doc CRC/C/IRL/CO/5-6, para 27

10 Canada Without Poverty, *A Way Home, Youth Rights! Right Now! Ending Youth Homelessness: A Human Rights Guide*, (Canada Observatory on Homelessness (Canada Observatory on Homelessness, 2016) 4.

11 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRRC) Art 12.

12 UN General Assembly, Resolution adopted by the Human Rights Council on 19 June 2020 43/14. Adequate housing as a component of the right to an adequate standard of living, and the right to non-discrimination in this context (2020) UN Doc A/HRC/RES/43/14, para 1(j).

13 FEANTSA, *European Framework for Defining Youth Homelessness* (FEANTSA 2019) 4 <https://bit.ly/3waLNJa> accessed 2 February 2024.

of homelessness amongst young people.<sup>14</sup> Children and young people can become homeless for many different reasons, including experience of poverty, family conflict or abuse,<sup>15</sup> lack of acceptance and support for sexual or gender identity,<sup>16</sup> or experience of leaving state care.<sup>17</sup>

An evaluation of the previous youth homelessness strategy found that a cohesive and coordinated strategy should be accompanied by appropriate prevention and early intervention services given the important role these play for children and young people who are at risk of homelessness or who are already homeless.<sup>18</sup>

The *Programme for Government* commits to develop a new *Youth Homelessness Strategy* with a related commitment to 'ensure that aftercare and transition plans and protocols are developed for vulnerable homeless people or those at risk of homelessness leaving hospital, state care, foster care, prison, or other state settings'.<sup>19</sup> The independent evaluation of the 2001 *Youth Homelessness Strategy* found that there should have been greater consideration of the needs of minority groups, such as Travellers, ethnic groups, and LGBT (Lesbian, Gay, Bisexual, Transgender) youth groups.<sup>20</sup> Building on this, 2020 research highlights that LGBTI+ young people in Ireland face similar risks of homelessness when compared to their heterosexual and cis-gendered peers,<sup>21</sup> such as leaving care, family breakdown, and the shortage of affordable accommodation. In addition, the experience of coming out and/or transitioning can also be a trigger for homelessness.<sup>22</sup>

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14 C Bairéad and M Norris, *Youth Homelessness in the Dublin Region: A profile of young, single emergency accommodation users in 2016, 2017 and 2018* (Focus Ireland 2020).

15 L Embleton et al, 'Causes of Child and Youth Homelessness in Developed and Developing Countries: A Systematic Review and Meta-analysis' (2016) *JAMA Paediatrics* 170(5).

16 A Quilty et al, *A Qualitative Study of LGBTQI+ Youth Homelessness in Ireland* (Focus Ireland and Belong To 2020).

17 J Dixon et al, *Futures for Careleavers: A Consultation on Outcomes and Aftercare for Young People Leaving Care in Ireland* (Focus Ireland 2018).

18 S Denyer et al, *Every Child a Home A review of the implementation of the Youth Homelessness Strategy* (DCYA 2013) 4-6.

19 Government of Ireland, *Programme for Government, Our Shared Future* (Government Publications 2020) 55.

20 S Denyer et al, *Every Child a Home A review of the implementation of the Youth Homelessness Strategy* (DCYA 2013) 4-6.

21 A person whose gender identity and gender expression is aligned with the sex observed and recorded at birth'. A Quilty and M Norris *A Qualitative Study of LGBTQI+ Youth Homelessness in Ireland* (Focus Ireland 2020) 9

22 *ibid*, 57.

In 2022, accommodation was the main presenting issue which children in care and young people with care experience<sup>23</sup> contacted Empowering People in Care (EPIC) for assistance. Overall, there was an 18 per cent reduction in the number of cases presenting, with the main issue being accommodation. However, there was an increase in the number of cases where homelessness is the main presenting issue.<sup>24</sup>

Eligibility thresholds for aftercare plans mean that some young people who could benefit from support do not qualify. Since 1 September 2017, young people leaving care at age 18 have the right to an aftercare plan prepared by Tusla, which provides assistance including arrangements for accommodation for young people up to the age of 21 who have been in care.<sup>25</sup> However, only children who have spent 12 months in the care of the State between the ages of 13 to 18 are eligible for this.<sup>26</sup> Therefore, while older adolescents who experience a family breakdown at age 17 may receive housing support from Tusla under Section 5 of the Child Care Act 1991<sup>27</sup>, they will not meet the 12-month eligibility threshold for aftercare, meaning no support can be provided to them after they turn 18.

## ► **What has been achieved for children and young people so far?**

In 2023, the number of young people between the ages of 18-and 24-years experiencing homelessness rose from 1,423 in January to 1,581 in December.<sup>28</sup>

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23 Section 5 of the Child Care Act 1991 provides that where a child under 18 is homeless without their family, and Tusla, the Child and Family Agency is satisfied that there is no accommodation available for the child that they 'can reasonably occupy', then Tusla has responsibility to take the child into care and provide accommodation for them. While in some cases the family issues which led to the child becoming homeless can be resolved swiftly through Tusla intervention, in other cases, the conflict may be protracted.

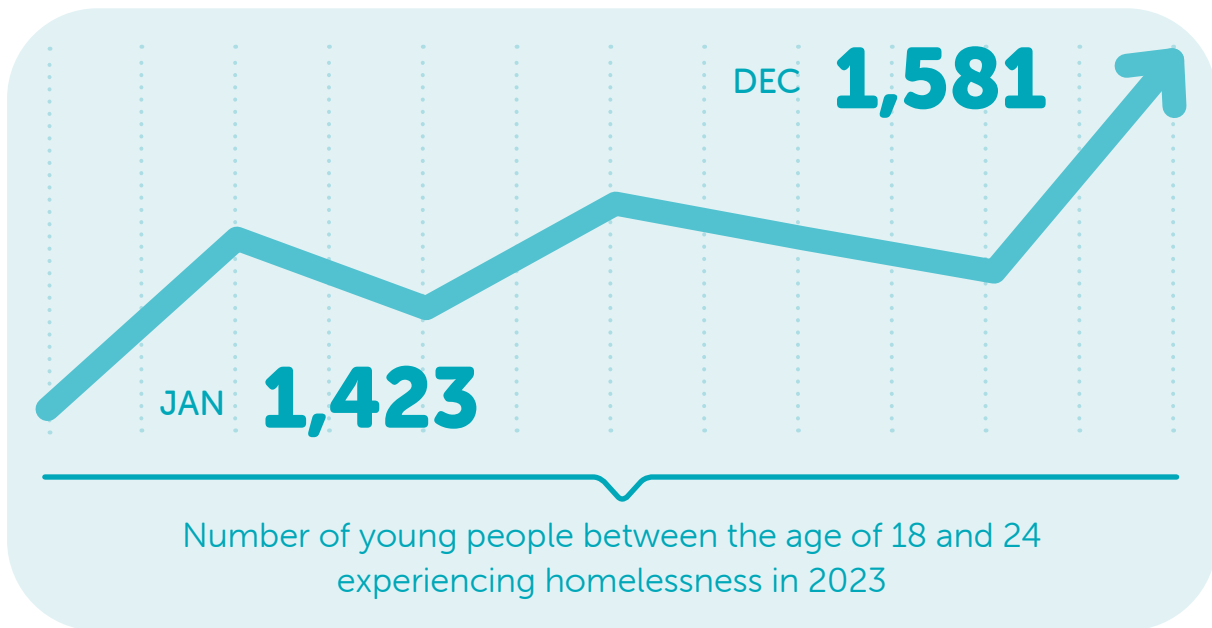
24 EPIC, *National Advocacy Service Report*, (EPIC 2023).

25 Communication received by Children's Rights Alliance from the Department of Housing, Local Government and Heritage on 13 November 2020.

26 Tusla, 'What are Aftercare Services?' <https://bit.ly/3HAWRlo> accessed 26 January 2024.

27 Child Care Act 1991, S.5.

28 Department of Housing, Local Government and Heritage, *Homeless Data* (DHLGH 2023 & 2024).



In 2022, there was a more pronounced increase with an additional 276 young people counted as living in emergency accommodation between January (1,111) and December (1,387).<sup>29</sup> This data is based solely on those accessing emergency accommodation.

*Housing for All - A New Housing Plan for Ireland*, the Government's housing policy until 2030, recognises the importance of supporting young people at risk of becoming homeless through strategic interventions which can help avoid a cycle of longer-term homelessness.<sup>30</sup>

On 9 November 2022, the Government published the *Youth Homelessness Strategy 2023-2025*. The development of the *Strategy* included consultations with young people who have experience of homelessness.<sup>31</sup> Throughout the various aspects of the consultation process a number of key themes emerged. These broadly fit under three headings – causes of youth homelessness; how best to support young people experiencing homelessness and; how best to support young people exiting homelessness.<sup>32</sup>

<sup>29</sup> Department of Housing, Local Government and Heritage, *Homeless Data* (DHLGH 2022 & 2023).

<sup>30</sup> *ibid.*

<sup>31</sup> A total of 25 young people, between 19 and 26 years engaged in the consultation process. Nine of those consulted were from the Traveller community. Communication received by the Children's Rights Alliance from the Department of Housing, Local Government and Heritage on 8 December 2022.

<sup>32</sup> Communication received by the Children's Rights Alliance from the Department of Housing, Local Government and Heritage on 8 December 2022.

Drawing on the results of these consultations the *Strategy* seeks to address these issues across three Strategic Aims:

- 1. Prevent Young People Entering Homelessness**
- 2. Improve the Experiences of Young People in Emergency Accommodation**
- 3. Assist Young People Exiting Homelessness**

Across these three aims, 27 actions have been outlined with ownership assigned to relevant stakeholders, such as government departments, local authorities and statutory agencies.

The *Strategy* commits to piloting a housing-centred approach to addressing youth homelessness.<sup>33</sup> The *Supported Housing for Youth* initiative is 'a housing-centred solution' which will provide 'a flexible level of supports' for young people experiencing homelessness.<sup>34</sup> The model draws on both international best practice and existing responses in the national context. This includes the *Housing First for Youth* model and the *Limerick Youth Housing initiative*.<sup>35</sup>

The *Strategy* identifies specific actions for target groups such as Travellers, members of the LGBTI+ community, care leavers, disabled people and individuals leaving prison services.<sup>36</sup> This includes actions related to establishing dedicated emergency accommodation that promotes an inclusive ethos that supports young people from both the LGBTI+ and Traveller communities.<sup>37</sup> There are separate actions aimed at supporting young people from the Traveller community. This includes the provision of additional supports to assist young Travellers at risk of homelessness and the inclusion of specific actions to tackle youth homelessness in Traveller Accommodation Programmes.<sup>38</sup>

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<sup>33</sup> *ibid.*

<sup>34</sup> *ibid.*

<sup>35</sup> *ibid.*

<sup>36</sup> Communication received by the Children's Rights Alliance from the Department of Housing, Local Government and Heritage on 8 December 2022.

<sup>37</sup> Government of Ireland, *Housing for All - Youth Homelessness Strategy 2023-2025*(DHLGH 2022) 83.

<sup>38</sup> *ibid.*



Actions to support young people with disabilities include reviewing the availability of mental health supports for those in emergency accommodation under Strategic Aim 1.<sup>39</sup>

The finalisation of Tusla's *Strategic Plan for Aftercare 2023-2025* is identified as a priority action in the *Strategy*<sup>40</sup> and this was published in 2023.<sup>41</sup> The *Strategic Plan* notes that Tusla will continue to engage with the Department of Housing, Local Government and Heritage on the *Youth Homeless Strategy* in order to access accommodation and housing dedicated to young people with care experience.<sup>42</sup> Another action in the *Strategy* provides for a review and update to the relevant Housing Circular which outlines the Protocol on Young People Leaving State Care.<sup>43</sup> This includes ensuring that the provision of dedicated units for care leavers is monitored in the Housing Delivery Action Plan.<sup>44</sup>

Reflecting the direction set out in *Housing for All, the National Homeless Action Committee (NHAC)* was established following its publication.<sup>45</sup> NHAC subsumed the scope of the High-Level Homelessness Taskforce.<sup>46</sup> This latter group inputted into the development of the *Youth Homelessness Strategy*. In 2023, its key priority areas were the actions contained in the strategy as well as homelessness prevention.<sup>47</sup>

In order to oversee the implementation of the *National Youth Homelessness Strategy*, a Steering Group was established in 2023.<sup>48</sup> Membership of the Committee includes individuals who have a role in addressing youth

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39 *ibid.*

40 *ibid.*

41 Tusla, *Strategic Plan on Aftercare Services for Young Adults*, (TUSLA 2023).

42 Tusla, *Strategic Plan on Aftercare Services for Young Adults*, (TUSLA 2023), 43.

43 *ibid.*

44 *ibid.*

45 Communication received by the Children's Rights Alliance from the Department of Housing, Local Government and Heritage, 28 January 2022.

46 *ibid.*

47 Communication received by the Children's Rights Alliance from the Department of Housing, Local Government and Heritage, 12 January 2024.

48 *ibid.*

homelessness as well as representatives from the youth sector.<sup>49</sup> There is no individual rights holder (i.e. young person with experience of homelessness) on this Committee.<sup>50</sup> There were two stakeholder consultation events in 2023 on the implementation of specific actions in the *Strategy*.<sup>51</sup> Of the 27 actions contained in the *Strategy*, we have been informed that 20 have been progressed with the remaining seven expected to commence in Quarter One 2024.<sup>52</sup> However, there is no further information about what actions have been commenced and at what stage of completion they are at. An implementation plan has been developed by the Youth Homelessness Strategy Steering Group.<sup>53</sup> This plan sets out how, when and by whom the actions contained in the *Strategy* will be delivered.<sup>54</sup>

Key priority actions to be undertaken in 2024 include the development of the pilot housing-centred intervention for young people experiencing homelessness.<sup>55</sup> The pilot will enable 20 young people to move out of homeless emergency accommodation.<sup>56</sup> This group of young people will live in their own accommodation and have access to wraparound supports.<sup>57</sup> Additional work for 2024 will include progressing further consultations with young people on specific actions in the *Strategy*.<sup>58</sup> The Department is currently engaging with the National Participation Office and other stakeholders to progress this with the intention of setting up a small working group in the first quarter of 2024 to look at the next steps.<sup>59</sup>

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49 Membership includes representatives from the Department of Housing, Local Government and Heritage, Department of Children, Equality, Disability, Integration and Youth, Tusla, the HSE, two local authorities the Housing Agency and and NGO. Communications received by the Children's Rights Alliance from the Department of Housing, Local Government and Heritage 9 February 2024.

50 Communication received by the Children's Rights Alliance from Focus Ireland, 24 January 2024.

51 Communication received by the Children's Rights Alliance from the Department of Housing, Local Government and Heritage, 12 January 2024.

52 *ibid.*

53 *ibid.*

54 *ibid.*

55 *ibid.*

56 *ibid.*

57 *ibid.*

58 *ibid.*

59 *ibid.*

## ► What children and young people need next

As the number of young people experiencing youth homelessness continues to rise, it is critical that the implementation of the *Youth Homelessness Strategy* remains a priority issue for NHAC. It is clear that governance structures to oversee the implementation of the *Strategy* have been established and that a means of tracking progress has been developed. However, the implementation plan has not yet been published and it is unclear whether the actions being undertaken are having the desired effect, or whether there has been a time lag between their implementation and impact on the ground. This makes it difficult to analyse whether the actions have been effective.

The participation of young people who have experienced homelessness was strongly evident in the development of the *Strategy*. It is welcome that work is underway to progress further consultations with young people on specific actions in the *Strategy*. Consideration could be given to how this can be further be built upon and strengthened.

The *Strategy* is strongly underpinned by an understanding of the reasons why certain groups of children and young people are at heightened risk of homelessness and clearly identifies actions for particularly vulnerable groups. All public bodies charged with implementation of the *Strategy* must be clear on their obligation under the Public Sector Equality and Human Rights Duty 'to eliminate discrimination, promote equality of opportunity and protect the human rights of those to whom they provide services and staff when carrying out their daily work.'<sup>60</sup>

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60 Irish Human Rights and Equality Commission, *Implementing the Public Sector Equality and Human Rights Duty* (IHREC 2019) 2.

## ➔ **Recommendations**

- ▶ Publish the implementation plan developed by the Youth Homelessness Strategy Steering Group. The implementation plan should be tracked via a published annual report. In the first instance, publish the annual report for 2023, which was the first full year of operation.
- ▶ Identify ways that young people can participate in a meaningful way with the monitoring and oversight of the *Strategy's* implementation.

**12**

# Children in Direct Provision

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Section Grade:

**D**



## The Programme for Government commits to:

Ending the Direct Provision system and replacing it with a new international protection accommodation policy centred on a not-for-profit approach.

We will:

Publish a White Paper by the end of 2020, informed by the recommendations of the Expert Group, which will set out how this new system will be structured and the steps to achieving it.

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▶ Progress: **Complete**

In the short term, act on interim recommendations from the Chair of the Expert Group to improve conditions for asylum seekers currently living in the system. This includes vulnerability assessments, the right to work, the ability to apply for drivers' licences and bank accounts, an independent inspection process, measures to reduce the length of time in processing decisions, mental health services and the training of managers of Direct Provision Centres.

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▶ Progress: **Limited**

Implement the measures identified by the Expert Group to ensure that international protection applications are dealt with and brought to finality as quickly as possible, while always ensuring fair procedure and a human rights-based approach.

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▶ Progress: **Some**

'Children in Direct Provision' receives a 'D' this year, the same as last year. There continues to be an unprecedented increase in the number of people seeking refuge in both International Protection Accommodation Services (IPAS) and emergency accommodation provision as a direct result of the war in Ukraine. This has led in some circumstances to a deterioration in standards for children and young people seeking asylum. Children have been placed in emergency accommodation centres that are often unsuitable and are not subject to the National Standards. However, it is welcome that Budget 2024 has provided €4.7 million for a new Child Payment for children in Direct Provision and key measures relating to children in the *White Paper* have been implemented, including increased funding for the Children and Young People's Services Committees (CYPSC), and an additional allocation of 17 family support workers. It is also welcome that a Principal Officer has been appointed within the Department focusing on child protection, vulnerable people and welfare, with a team to support the work.

## Ireland's duties and responsibilities under international law



The UN Convention on the Rights of the Child (UNCRC) requires States to assist all children seeking refugee status and ensure they can access the full range of convention rights including rights to health, housing, education and an adequate standard of living.<sup>1</sup> Ancillary to this, States are also obligated to pay particular attention to children experiencing trauma by giving appropriate protection and the special support necessary for recovery under Article 39. These rights apply to children who enter Ireland with their families and unaccompanied asylum-seeking children. Article 20 recognises that States have a duty to provide care and protection to children who are separated from their families. The Committee on the Rights of the Child is clear that equal standards of protection must be provided to every child under 18, infants and adolescents alike, and that child protection and welfare actors should take primary responsibility for children in the context of international migration.<sup>2</sup> Reception conditions for those awaiting status determination must provide adequate space and privacy for children and their families.<sup>3</sup>

Ireland's progress in meeting these Convention rights was last examined by the Committee on the Rights of the Child in 2023. The Committee made a number of recommendations, including that Ireland 'prioritise measures to phase out the direct provision system by 2024, including through clearly defined targets, timelines and sufficient resources, in line with the recommendations of the expert group on direct provision'.<sup>4</sup>

The Committee further recommended that child-friendly vulnerability assessments should be undertaken for all unaccompanied minors, applications for legal residency processed efficiently, and that children

1 UN Convention on the Rights of the Child, A/ RES/44/25 (20 November 1989) Art 22.

2 Committee on the Rights of the Child and Committee on the Protection of the Rights of all Migrant Workers Joint General Comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return CMW/C/GC/4-CRC/C/GC/23 para 3 and para 13.

3 *ibid* para 50.

4 UNCRC, 'Concluding Observations Ireland' (2023) UN Doc CRC/C/IRL/CO/5-6, para 40.



seeking asylum should have access to social services including social protection, education, and housing.<sup>5</sup>

National guidelines on ensuring the rights of unaccompanied children should be developed, and the Committee recommends that a review of the system of family reunification should be undertaken.<sup>6</sup> In relation to an adequate standard of living, the Committee calls for a child-rights approach in addressing poverty, with a particular focus on refugee children, and that an assessment is undertaken of the impact of the habitual residence condition and that social welfare payments are amended accordingly to 'ensure that policies do not have a discriminatory effect on such children'.<sup>7</sup>

## ► What is the context for this commitment?

The system of Direct Provision for accommodating those seeking international protection was introduced in Ireland in April 2000. There has been a substantial increase in the number of people seeking international protection since the Russian invasion of Ukraine in February 2022<sup>8</sup>. In December 2023, approximately one in every five people in international protection was a child, with 5,590 children in the system<sup>9</sup> compared to 3,580 children in the same period last year.<sup>10</sup> Alongside this, there have been increases in those seeking protection due to the war in Ukraine. As of December 2023, over 100,000 Ukrainian



5 *ibid.*

6 *ibid.*

7 UNCRC, 'Concluding Observations Ireland' (2023) UN Doc CRC/C/IRL/CO/5-6, para 35.

8 Those fleeing the Russian invasion of Ukraine are beneficiaries of temporary protection (not international protection applicants) and thus are separate from the IPAS system.

9 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth on 8 December 2023.

10 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth on 22 November 2022.

refugees have arrived in Ireland,<sup>11</sup> with over 27,212 of those being children and young people in October 2023.<sup>12</sup> This marks a significant increase on the over 70,000 Ukrainian refugees and international protection applicants accommodated as of December 2022 and the 75,000 international protection applicants accommodated in 2021.<sup>13</sup> Those seeking asylum from Ukraine are granted temporary protection under the EU Temporary Protection Directive, which was activated by the EU Council in March 2022.<sup>14</sup> The process for granting temporary protection to Ukrainians (known as Beneficiaries of Temporary Protection) is completely separate from the Direct Provision system.<sup>15</sup> Beneficiaries of Temporary Protection have immediate access to the labour market, accommodation, and social welfare for as long as the Temporary Protection Directive is activated, which is currently until March 2024.<sup>16</sup>

Increased oversight and the provision of clear recommendations led to reform of the system in the years prior to the *Programme for Government* commitment. A single procedure for status determination was introduced in 2016, aimed at reducing the length of time applicants spend in Direct Provision;<sup>17</sup> the extension of the right to work in 2017;<sup>18</sup> the transposition of the EU Recast Reception Conditions Directive<sup>19</sup> into Irish law in 2018, setting out binding minimum standards for reception conditions, including rights

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11 Minister for Children, Equality, Disability, Integration and Youth, Roderic O’Gorman TD, Dáil Debates, Written Answers, White Papers, 7 December 2023 [54315/23].

12 Central Statistics Office, ‘Arrivals from Ukraine in Ireland Series 11’ < <https://bitly.ws/3dal4> > accessed 16 January 2024.

13 Minister for Equality, Disability, Integration and Youth, Roderic O’Gorman TD, Dáil Debates, Written Answers, Ukraine War, 13 December 2022 [61915/22].

14 Council of the European Union, *Council Implementing Decision (EU) 2022/382 OF 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of the Directive 2001/55/EC, and having the effect of introducing temporary protection* (2022) OJ L71/1.

15 Department of Justice, ‘Temporary Protection’ < <https://bitly.ws/3dalh> > accessed 01 February 2024.

16 *ibid.*

17 The International Protection Act 2015 was commenced on 31 December 2015.

18 Department of Justice, ‘Ministers Flanagan and Stanton announce enhanced access to the labour market for asylum seekers’ (27 June 2018) < <https://bit.ly/3iZ5xVB> > accessed 4 February 2022. The change in policy occurred because of the Supreme Court decision in *NVH v Minister for Justice* [2018] 1 IR 246, where it was held that the absolute prohibition on the right to work for protection seekers, where there was no temporal limit, was contrary to the applicant’s constitutional rights.

19 European Commission, ‘Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of application for international protection (recast)’ OJEU L180/96.

relating to healthcare, accommodation, employment and education;<sup>20</sup> the development of the 2019 *National Standards for accommodation offered to people in the protection process* (The *National Standards*),<sup>21</sup> which aim to standardise the quality of care in all accommodation centres irrespective of location,<sup>22</sup> and an increase in the residents' weekly allowance to €38.80 per adult and €29.80 per child in 2019.<sup>23</sup>

Both the transposition of the EU Recast Reception Conditions Directive into Irish law and the introduction of the *National Standards* were crucial steps towards enabling policy reform through a rights-based approach. The *National Standards* address the rights and needs of children through, for example, the requirement to provide families with own-door accommodation, dedicated space for educational activities, access to cooking facilities, and age-appropriate information and engagement with children on matters affecting them.<sup>24</sup> Across all areas, service providers are also obliged to act in the best interests of the child in line with the UNCRC.<sup>25</sup> The *National Standards* have the ability to improve quality, challenge underperformance and provide oversight and will help to ensure that there is uniformity in service provision.<sup>26</sup> The Health Information and Quality Authority (HIQA) is the inspection body. The *National Standards* only apply to IPAS centres and not to emergency centres.

## IPAS Accommodation

As of December 2023, there are 2,222 children in IPAS accommodation centres, and 50 are at the National Reception Centre.<sup>27</sup>

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20 European Communities (Reception Conditions) Regulations 2018, SI 230/2018.

21 Department of Justice and Equality, *National Standards for accommodation offered to people in the protection process* (DOJE 2019).

22 *ibid.*

23 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth on 18 January 2021.

24 Department of Justice and Equality, *National Standards for accommodation offered to people in the protection process* (Department of Justice and Equality 2019) see Theme 4: Accommodation; Standard 4.6; Standard 6.1.9; Theme 5: Food, Cooking and Catering Facilities.

25 UN Convention on the Rights of the Child, A/ RES/44/25 (20 November 1989) Art 3.

26 Michele Clarke, *Briefing Paper on the Inspection of Direct Provision* (Department of Justice and Equality 2015) 7.

27 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth on 8 December 2023.

The average length of stay in IPAS accommodation for children is 22 months.<sup>28</sup> It is important to note in this context that a large number of those living in IPAS Direct Provision Centres, which are subject to *National Standards*, have already been granted refugee status, subsidiary protection or permission to remain<sup>29</sup> and cannot find accommodation to move on. This, alongside the increase in the number of people seeking asylum, has led to an increase in the number of emergency centres providing accommodation.

The *National Standards*,<sup>30</sup> in place from 2021, are now included in new or renewed contracts with IPAS accommodation providers as contractual obligations that must be met. The *White Paper* indicates that HIQA will continue to monitor existing centres against the agreed standards as the system transitions, but its expertise will be sought to develop a new and robust inspections system for the new model.<sup>31</sup> In November 2021, the Department of Health and the Department of Children, Equality, Disability, Integration and Youth entered into a formal relationship with HIQA for the purpose of conducting the preparatory work needed to ensure HIQA assumed its monitoring role in 2022.<sup>32</sup>

## Emergency Accommodation

The use of emergency accommodation remains a key area of concern as outlined in the Day Report.<sup>33</sup> Ending the use of emergency beds was originally targeted for the end of 2022. As of December 2023, there are 200 emergency accommodation centres and three temporary tented accommodations (in which no children are accommodated).<sup>34</sup>

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28 *ibid.*

29 Minister for Children, Equality, Disability, Integration and Youth, Roderic O’Gorman TD, Written Answers, Direct Provision System, 12 December 2023 [55437/23] [55438/23].

30 Department of Justice and Equality, *National Standards for accommodation offered to people in the protection process* (DOJE 2019).

31 Government of Ireland, *A White Paper to End Direct Provision and to Establish a New International Protection Support Service* (Government Publications 2021) 66.

32 Communication received by the Children’s Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth on 18 January 2022.

33 Government of Ireland, *Report of the Advisory Group on the Provision of Support Including Accommodation to Persons in the International Protection Process* (September 2020).

34 DCEDIY, ‘IPAS Weekly Accommodation and Arrivals Statistics 3 December 2023’ < <https://bitly.ws/3daEL> > accessed 14 February 2024.



**As of December  
2023, there are 3,318  
children in temporary  
accommodation, over  
double the amount  
of the previous year.**

As of December 2023, there are 3,318 children in temporary accommodation, over double the amount of the previous year.<sup>35</sup>

Emergency centres are not subject to the *National Standards*, however they are subject to the *Guidelines for Temporary Accommodation in Existing Buildings – Single Persons and Family Type Accommodation*<sup>36</sup> which was revised<sup>37</sup> to include all those seeking temporary accommodation, not just Ukrainians, in June 2023. The guidelines contain standards to be followed for the structural condition, sanitation, heating facilities, food preparation and storage, ventilation and lighting, fire safety, and building control regulations to be followed by accommodation providers.<sup>38</sup>

Both IPAS accommodation centres and emergency accommodation centres fall within the meaning of a relevant service provider for the purposes of the *Child First Act 2015*<sup>39</sup> and are required to provide child safeguarding statements<sup>40</sup> which may be inspected by Tusla for their compliance with the Child First Act.<sup>41</sup>

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35 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth on 8 December 2023.

36 Government of Ireland, *Guidelines for Temporary Accommodation in Existing Buildings – Single Persons & Family Type Accommodation* May 2022 (Revised June 2023 and Updated October 2023).

37 The revised version comes into effect for projects which are commencing design phase after 16<sup>th</sup> June 2023.

38 Government of Ireland, *Guidelines for Temporary Accommodation in Existing Buildings – Single Persons & Family Type Accommodation* May 2022 (Revised June 2023 and Updated October 2023).

39 Children First Act 2015, Part 2 s8.

40 *ibid*, s10-12.

41 *ibid*, s11(5)(b)(ii); Child and Family Agency Act 2013, s2.

## International Protection Accommodation Service (IPAS) Accommodation Centres

- ▶ 2,222 children living in IPAS centres and 50 children at the National Reception Centre.<sup>42</sup>
- ▶ The *National Standards for accommodation offered to people in the protection process (The National Standards)*<sup>43</sup> apply.
- ▶ HIQA carries out inspections.
- ▶ 49 IPAS centres.<sup>44</sup>
- ▶ One National Reception Centre.<sup>45</sup>
- ▶ Many living in IPAS accommodation have already been granted refugee status, subsidiary protection or permission to remain.<sup>46</sup>
- ▶ IPAS Accommodation Centres are required to provide a Child Safeguarding Statement,<sup>47</sup> and Tusla is empowered to carry out compliance checks on the statement.<sup>48</sup>

## Emergency Accommodation Centres

- ▶ 3,318 children living in emergency centres.<sup>49</sup>
- ▶ The *National Standards* do not apply.
- ▶ The *Guidelines for Temporary Accommodation in Existing Buildings – Single Persons and Family Type Accommodation*<sup>50</sup> apply.
- ▶ No independent inspections carried out.
- ▶ 200 emergency centres.<sup>51</sup>
- ▶ Three temporary tented accommodation centres.<sup>52</sup> (No children are based in these centres)
- ▶ Emergency Accommodation Centres are required to provide a Child Safeguarding Statement,<sup>53</sup> and Tusla is empowered to carry out compliance checks on the statement.<sup>54</sup>

42 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth on 8 December 2023.

43 Department of Justice and Equality, *National Standards for accommodation offered to people in the protection process* (DOJE 2019).

44 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth on 13 February 2024.

45 *ibid.*

46 *ibid.*

47 Children First Act 2015, Part 2, s10-12.

48 *ibid.*, s11(5)(b)(ii); Child and Family Agency Act 2013, s2.

49 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth on 8 December 2023.

50 Government of Ireland, *Guidelines for Temporary Accommodation in Existing Buildings – Single Persons & Family Type Accommodation* May 2022 (Revised June 2023 and Updated October 2023).

51 DCEDIY, 'IPAS Weekly Accommodation and Arrivals Statistics 3 December 2023' < <https://bitly.ws/3daEL> > accessed 14 February 2024

52 Ombudsman for Children's Office, *Special Report: Safety & Welfare of Children in Direct Provision* (October 2023) Appendix II, 8.

53 Children First Act 2015, Part 2, s10-12.

54 *ibid.*, s11(5)(b)(ii); Child and Family Agency Act 2013, s2.

## Child Protection and Welfare

Tusla, in its role as the Child and Family Agency for the State, supports and promotes the development, welfare and protection of children.<sup>55</sup> Part of this role includes 'providing for the protection and care of children in circumstances where their parents have not given, or are unlikely to be able to give, adequate protection and care'.<sup>56</sup> Under the *Children First Act 2015*, relevant service providers must undertake an assessment of harm to children availing of their service and prepare a child safeguarding statement.<sup>57</sup> IPAS and emergency accommodation centres are relevant services for the purpose of the Act.<sup>58</sup> Under the *Children First Act*, the Child and Family Agency can request a provider to provide them with a copy of their child safeguarding statement.<sup>59</sup> Where a provider fails to do so, Tusla can serve the provider with a notice of non-compliance.<sup>60</sup> When a notice of non-compliance is served, then the details of the provider are entered on a register of non-compliance maintained by Tusla.<sup>61</sup>

Tusla's Child Safeguarding Statement Compliance Unit (CSSU) conducted a child safeguarding statement (CSS) sector compliance review, published in August 2023, to assess the compliance of 38 designated accommodation centres with the requirements of the *Children First Act 2015*.<sup>62</sup> The review found that the CSSs of the reviewed providers required some development, and amendments to the statements were required in a significant majority.<sup>63</sup> Almost 80 per cent of CSSs were non-compliant on first review.<sup>64</sup> While many service providers achieved statutory compliance by the end of the review, the CSSU expressed concern over the depth of understanding that service providers had in respect of implementation of the CSS and noted that there are no powers of compellability or enforcement in respect of ensuring

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55 Child and Family Agency Act 2013, s8 (1)(b).

56 *ibid*, (2).

57 Children First Act 2015 s11.

58 *ibid*, Part 2.

59 *ibid*, section 11(5)(b)(ii)

60 *ibid*, section 12 (6).

61 *ibid*, Section 13.

62 Tusla Child Safeguarding Statement Compliance Unit, *Child Safeguarding Statement Sector Compliance Review: International Protection Accommodation Centres (IPAS) (2023)* 3.

63 *ibid*.

64 *ibid* 7.



standards, nor is there a requirement for providers to demonstrate that they are effectively implementing the CSS.<sup>65</sup> The CSSU recommended that IPAS centres consider commonly occurring areas of CSS non-compliance, such as safeguarding procedures, CSS implementation, relevant persons, and risk assessments.<sup>66</sup> It also recommended that IPAS centres liaise with training and information support services such as the Department of Children, Equality, Disability, Integration and Youth's IPAS Social Work Department or Tusla's Children First Information Advice Service in order to strengthen the implementation of safeguarding policies in the CSS, because 'the CSS is only as effective as the extent to which it is implemented.'<sup>67</sup>

## Unaccompanied Minors

There has been a significant increase in 2023 in the number of separated children and unaccompanied minors seeking international protection who are supported by Tusla. Since the beginning of 2023 to November 2023, Tusla received referrals of 1,080 separated children<sup>68</sup> seeking international protection.<sup>69</sup> This is almost double the number of referrals from the previous year.<sup>70</sup> At the end of November 2023, 318 children were in the care of Tusla seeking international protection.<sup>71</sup> Tusla has received an increased funding allocation in Budget 2024 of €44 million to support separated children seeking international protection.<sup>72</sup>

The *White Paper* commits to prioritising the protection applications of unaccompanied minors and aims to provide a final instance decision to young

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65 *ibid* 3.

66 *ibid* 4.

67 *ibid* 3-4.

68 This figure includes Ukrainian refugees who are beneficiaries of temporary protection and outside of the IPAS system.

69 Communication received by the Children's Rights Alliance from Tusla – SCSIP Summary Data November 2023.

70 CSO, IPAS and Tusla, *Separated Children Seeking International Protection* (SCSIP KPI) 28 November 2022.

71 Communication received by the Children's Rights Alliance from Tusla – SCSIP Summary Data November 2023.

72 Department of Children, Equality, Disability, Integration and Youth, 'Minister O'Gorman welcomes substantial investment under Budget 2024' < <https://bitly.ws/3daJl> > accessed 16 January 2024.

people before they turn 18.<sup>73</sup> This will be a marked improvement to the current situation, where young people transfer into Direct Provision when they turn 18. The *White Paper* tackles the unsuitable elements of Direct Provision for children, but it must be noted that transferring to overnight accommodation from foster care or dedicated residential accommodation will be particularly challenging for young people who are in Ireland alone.

Safeguarding issues for unaccompanied minors were particularly acute in 2023. In July 2023, HIQA published a report on care provided by Tusla to separated children. The service was found to be non-compliant across 10 areas, and the highest risk rating was given in eight areas, including timely and effective action not being taken to protect children, reports of child protection concerns not being assessed in line with *Children First* and best available evidence, and the service not performing its functions in accordance with relevant legislation, regulations, and policies and standards to protect children.<sup>74</sup>

However, the report also noted that data provided by the Separate Children Seeking International Protection Team prior to the inspection showed that there had been a large number of referrals to the team in 2022 resulting from the war in Ukraine as well as increased migration patterns which placed additional capacity pressures on the service.<sup>75</sup> In September 2023, an internal Tusla report criticised its care of separated/unaccompanied children, stating that there was a lack of oversight in its management of reports to the guards of suspected abuse of unaccompanied children and that Tusla 'could not be assured it was notifying Gardaí "in a timely manner" of suspected sexual or physical abuse of underage refugees and asylum seekers'.<sup>76</sup>

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73 Government of Ireland, *A White Paper to End Direct Provision and to Establish a New International Protection Support Service* (Government Publications 2021) 61.

74 HIQA, *Report of an Inspection of a Child Protection and Welfare Service: Separated Children Seeking International Protection 28 February – 2 March 2023* (2023) 58-59.

75 *ibid* 11.

76 Jack Power, 'Internal report criticises Tusla care of unaccompanied child refugees' *Irish Times* 01 September 2023, < <https://bitly.ws/3daL5> > accessed 17 January 2024.

## ► What has been achieved for children and young people so far?

The Government has committed, during its five-year term, to end the Direct Provision system and replace it with a new international protection accommodation policy. To achieve this, it has made specific commitments which are examined in detail in the following paragraphs.

### White Paper to End Direct Provision

In February 2021, the Government published *A White Paper to End Direct Provision and to Establish a New International Protection Support Service*.<sup>77</sup> The *White Paper* sets out the Government's approach to fulfilling its commitment in the *Programme for Government* to end Direct Provision and to replace it with a new international protection accommodation policy, centred on a not-for-profit approach. The *White Paper* was informed by the work of the Dr Catherine Day Advisory Group which demonstrated how the current model could be ended and replaced with a new, more cost-effective model.<sup>78</sup> This new model proposes a two-phase approach to accommodating applicants for international protection.

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<sup>77</sup> Government of Ireland, *A White Paper to End Direct Provision and to Establish a New International Protection Support Service* (Government Publications 2021).

<sup>78</sup> Department of Children, Equality, Disability, Integration and Youth, 'Minister O'Gorman and Minister McEntee publish the report by the Advisory Group on Direct Provision and announce a reduction in the waiting period for international protection applicants to access work' (21 October 2020) <<https://bit.ly/3pnMDKu>> accessed 4 February 2022.

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**Phase 1**

- ▶ Vulnerability Assessments will be carried out to determine accommodation and service needs and help define suitable supported pathways for the most vulnerable.<sup>79</sup>
- ▶ Applicants will be initially accommodated in a reception and integration centre for four months before moving on to own-door accommodation for families, and own-room for single people, with specific tailored accommodation for those with identified vulnerabilities.<sup>80</sup>
- ▶ There will be a focus on identifying needs and linking applicants to appropriate services using an approach that seeks to encourage integration.<sup>81</sup>
- ▶ Accommodation will be State-owned and managed by not-for-profit organisations on the State's behalf.<sup>82</sup>

**Phase 2**

- ▶ All accommodation will be own-door and self-contained units and will be situated within the community.<sup>83</sup>
- ▶ Not-for-profit organisations will provide supports for vulnerable people on a contractual basis, with the Department of Children, Equality, Disability, Integration and Youth to facilitate such services at a particular location.<sup>84</sup>
- ▶ Applicants and their families will have the right to access mainstream services, such as education and health.<sup>85</sup>
- ▶ Access to further intensive English language supports will be provided.<sup>86</sup>
- ▶ Applicants will receive an income support payment at a similar rate to the Supplementary Welfare Allowance if they have not yet entered employment.
- ▶ Applicants with children will also receive a child support payment.<sup>87</sup>

*Cont. on next page*

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79 Government of Ireland, *A White Paper to End Direct Provision and to Establish a New International Protection Support Service* (Government Publications 2021) 29.

80 *ibid* 28.

81 *ibid*.

82 *ibid* 92.

83 *ibid*.

84 *ibid*.

85 *ibid* 30.

86 *ibid* 53.

87 *ibid* 30.

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## Phase 1

- ▶ Applicants will be provided with information about the international protection process and the services available to them, including access to the Legal Aid Board, the health service, educational supports, childcare, employment, and English language orientation programmes.<sup>88</sup>
- ▶ Applicants will be offered a health assessment with a particular focus on the needs of children.<sup>89</sup> Applicants will also be eligible for an Irish drivers' licence.<sup>90</sup>

## Phase 2

- ▶ Applicants will be entitled to access employment if they do not receive a first instance decision within six months of applying for protection.<sup>91</sup>
  - ▶ In Phase 1 and Phase 2, Children and Young People's Service Committees (CYPSCs) will ensure that there is a specific focus on the needs of children, young people, and their families in the International Protection Accommodation settings, with the input of Tusla in the key areas of provision, to include Prevention, Partnership, Family Support and Educational Support Services.<sup>92</sup>
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With 5,590 children living in Direct Provision,<sup>93</sup> any plans to transform their lives must start with the system built around them. It is welcome that key measures for children contained in the *White Paper* have been introduced and implemented including the introduction of a child payment, increased funding for CYPSCs, and an additional allocation of family support workers. It is also welcome that a Principal Officer has been appointed within the Department focusing on child protection, vulnerable people and welfare, with a team to support the work.

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88 *ibid* 28.

89 *ibid* 29.

90 *ibid*.

91 *ibid*.

92 *ibid*.

93 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth on 8 December 2023.

## ► Implementation of Measures under the White Paper in Relation to Children

### International Protection Child Payment

Children in Direct Provision currently receive a Daily Expense Allowance (DEA) weekly payment of €29.80.<sup>94</sup> Historically, the rate of the DEA has been significantly lower than other social welfare payments for children and has remained unchanged since 2019, despite increases being applied to the Increase for a Qualified Child (IQC)<sup>95</sup> and a separate rate being established for under and over 12s.<sup>96</sup> The *White Paper* committed to the introduction of a monthly International Protection Child Payment, which would be provided at the same rate as Child Benefit,<sup>97</sup> as they move into phase two accommodation.<sup>98</sup> At phase two, parents would also be eligible to apply for a means-tested International Protection Payment, which would be aligned with the rate of the Supplementary Welfare Allowance.<sup>99</sup> This has yet to happen. While families in Direct Provision can also access the annual Back to School Clothing and Footwear Allowance Scheme and the Exceptional Needs Payment Scheme,<sup>100</sup> children living in Direct Provision system do not have access to child benefit payment given to all children habitually resident in the State.

The Vincentian MESL Research Centre published a working paper in May 2023 on the Minimum Essential Standard of Living (MESL) costs for families in Direct Provision. This desk-based research exercise found that the income supports provided to each individual family member living in Direct Provision accommodation are inadequate to meet their estimated MESL needs. A

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94 Citizen's Information, Direct Provision System <<http://bit.ly/3S3dydD>> accessed 2 February 2023.

95 A social welfare payment is made up of a weekly payment called a personal rate. Parents may also get an extra amount for their child called an Increase for a Qualified Child (IQC) if they are getting certain payments and the child meets certain conditions.

96 Citizen's Information, *Budgets* <<https://bit.ly/3LNBjdj>> accessed 9 May 2023.

97 Government of Ireland, *A White Paper to End Direct Provision and to Establish a New International Protection Support Service* (Government Publications 2021) 64-65.

98 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth on 18 January 2022.

99 Government of Ireland, *A White Paper to End Direct Provision and to Establish a New International Protection Support Service* (Government Publications 2021) 30, 64-65.

100 Citizen's Information, *Budgets* <<https://bit.ly/3LNBjdj>> accessed 9 May 2023.



**The lack of an adequate income means that children living in Direct Provision inevitably face a childhood severely compromised by poverty.**

comparison between the current income supports and the expenditure needed for a Minimum Essential Standard of Living shows a weekly shortfall for a one-parent family with two children (one in secondary and one in primary school) of €117.50 and this rises to €140.37 for a two-parent family.<sup>101</sup> The lack of an adequate income means that children living in Direct Provision inevitably face a childhood severely compromised by poverty. Simple activities most children take for granted, like playing sports or going to the cinema with friends, are miles out of reach, creating a major barrier to community integration.

Minister Roderic O’Gorman T.D. secured €4.7 million in Budget 2024 for a new Child Payment for children in Direct Provision.<sup>102</sup> The Children’s Rights Alliance understands that this will be implemented in quarter one of 2024,<sup>103</sup> and it marks an important step forward in dealing with child poverty for children in the protection process.

## Children and Young People’s Service Committees & Family Support Workers

In International Protection Accommodation, Children and Young People’s Services Committees (CYPSCs) play a role in ensuring there is a focus on the needs of families, through the creation of an action plan for the coordination and provision of services and supports from CYPSC member organisations to applicants and their families.<sup>104</sup> €1.3 million has been provided for CYPSCs to work with families living in international protection<sup>105</sup>. It is welcome that each CYPSC will ensure that there is a focus on the needs of children and their families and provide support to asylum-seeking children and young people,

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101 Vincentian MESL Research Centre, Estimating the MESL costs for families in Direct Provision (Vincentian MESL Research Centre 2023).

102 Department of an Taoiseach, *Breaking the Cycle: New Measures in Budget 2024 to Reduce Child Poverty and Promote Well-being* (November 2023) 7.

103 Communication received by the Children’s Rights Alliance from the Programme Board to oversee the transition for the new International Protection Support Service on 25 January 2024.

104 Government of Ireland, *A White Paper to End Direct Provision and to Establish a New International Protection Support Service* (Government Publications 2021) 60-61; Communication received by the Children’s Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth on 18 January 2022.

105 Department of Children, Equality, Disability Integration and Youth, ‘Minister O’Gorman announces new funding for Children’s and Young People’s Services to support International Protection Applicants’ Press Release 16 June 2023 < <https://bitly.ws/3dcuk> > accessed 14 February 2024.



both within and outside the work of the CYPSCs.<sup>106</sup> It is welcome also that 17 family support workers have been provided for to work with families living in International Protection.<sup>107</sup>

## Accommodation

The ownership and acquisition model was approved by Minister Roderic O'Gorman T.D. in January 2022,<sup>108</sup> which relates to the acquisition and ownership of properties by the State for the provision of IPAS accommodation. Under the *White Paper*, in Phase One applicants for international protection are to be accommodated in an accommodation centre. In Phase Two, after four months, applicants who have not received a positive first-instance decision or are appealing are to transition from an accommodation centre to a house, apartment, or own-room in an apartment building.<sup>109</sup> Thirty seven properties have been purchased under the ownership and acquisition model as of December 2023.<sup>110</sup> Approved Housing Bodies (AHBs) have been commissioned to operationalise these properties and they will be delivered on a phased basis over the next few months.<sup>111</sup>

In Budget 2024, €409 million was allocated to international protection accommodation.<sup>112</sup> The Department of Children, Equality, Disability, Integration and Youth have stated that modular housing will be provided for people whose application for Temporary Protection has been successful.<sup>113</sup> Greater investment in the provision of own-door accommodation is needed

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106 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth on 18 January 2022.

107 Communication received by the Children's Rights Alliance from the Programme Board to oversee the transition for the new International Protection Support Service on 25 January 2024.

108 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth on 22 November 2022.

109 Government of Ireland, *A White Paper to End Direct Provision and to Establish a New International Protection Support Service* (Government Publications 2021) 30, 42-43.

110 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth on 13 February 2024.

111 Minister for Children, Equality, Disability, Integration and Youth, Roderic O'Gorman TD, Written Answers, Departmental Correspondence, 7 November 2023 [47591/23].

112 Department of Children, Equality, Disability, Integration and Youth, 'Minister O'Gorman welcomes substantial investment under Budget 2024' < <https://bitly.ws/3daJl> > accessed 16 January 2024.

113 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth on 22 November 2022.

to ensure the phasing out of emergency accommodation in line with the *White Paper* commitment.<sup>114</sup>

## IPAS Accommodation

Ahead of commencing inspections of all permanent centres, HIQA has completed pilot inspections of three state-owned IPAS centres to better inform the inspection process.<sup>115</sup> The Department have stated that HIQA's role will apply to all accommodation centres contracted by IPAS (which excludes emergency centres).<sup>116</sup> On 18 December 2023, HIQA were granted the authority to carry out inspections of IPAS accommodation centres.<sup>117</sup> It is important to reiterate that while emergency centres accommodate the majority of children in the system, they are not subject to the standards and are not inspected.

## Emergency Accommodation

The Irish Refugee Council conducted focus groups and surveyed a total of 259 families and children living in Direct Provision in October 2023.<sup>118</sup> Participants described conditions of overcrowding in the accommodation, families sharing limited space, and a lack of privacy.<sup>119</sup> There is limited access to shared facilities such as toilets, showers, and kitchens, particularly during peak hours, and in some accommodation those who were consulted described a single toilet being used by those in as many as 14 rooms, with the shower and toilet in the same room.<sup>120</sup> This is especially challenging for young children who 'find themselves having to wait for long periods of time to use the toilet, and

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114 Government of Ireland, *A White Paper to End Direct Provision and to Establish a New International Protection Support Service* (Government Publications 2021) 85.

115 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth on 8 December 2023.

116 Ombudsman for Children's Office, *Special Report: Safety & Welfare of Children in Direct Provision* (October 2023) 10.

117 European Communities (Reception Conditions) (Amendment) Regulations 2023 S.I. No. 649 of 2023.

118 Irish Refugee Council, *Living in International Protection Accommodation: Exploring the Experiences of Families and Children in Direct Provision* (2023).

119 *ibid* 30.

120 *ibid*.

this leads to accidents.<sup>121</sup> One accommodation had a single stovetop for 80 residents.<sup>122</sup> In such conditions, the right to private and family life cannot be exercised. Inadequate heating (especially in winter), lack of adequate nutrition, and the inaccessibility of buildings with several floors without elevators were also described.<sup>123</sup> Participants consistently expressed that there was a lack of space for children to play and that when children are off school in the summer months, many faced periods of confinement, as some centres did not allow people to leave their rooms.<sup>124</sup>

It is of particular concern that in April 2021, an investigation by the Ombudsman for Children's Office found that child protection obligations are 'less robust' in Temporary Emergency Accommodation Centres than in other International Protection Accommodation Services (IPAS).<sup>125</sup> The Ombudsman's Office renewed these concerns in October 2023 with the release of a Special Report on the safety and welfare of children in Direct Provision.<sup>126</sup> In relation to accommodation, the Ombudsman was not satisfied with the government's response to its recommendation that 'IPAS cease the use of commercial hotels and plan for accommodation capacity pressures.'<sup>127</sup>

## Reforecast White Paper

The Department of Children, Equality, Disability, Integration and Youth established a Transition Team to advance the implementation of the *White Paper*, which is overseen by a Programme Board and an External Advisory Committee.<sup>128</sup> The group is working on a reforecast of the *White Paper* in light of the current IPAS context.

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121 *ibid.*

122 *Ibid* 34.

123 *ibid* 30.

124 Irish Refugee Council, *Living in International Protection Accommodation: Exploring the Experiences of Families and Children in Direct Provision* (2023) 37.

125 Ombudsman for Children's Office, *Safety & Welfare of Children in Direct Provision – An Investigation by the Ombudsman for Children's Office* (OCO 2021) 13.

126 Ombudsman for Children's Office, *Special Report: Safety & Welfare of Children in Direct Provision* (October 2023).

127 *ibid* 3.

128 Communication received by the Children's Rights Alliance from the Department of Children, Equality, Disability, Integration and Youth on 18 January 2022.

With the numbers of recently arrived international protection applicants without any State accommodation reaching unprecedented levels in January 2024, as 601 people were left without shelter,<sup>129</sup> it is important that the Government take immediate action. In this regard, in July 2023, the External Advisory Group (EAG)<sup>130</sup> on Ending Direct Provision highlighted that the Government did not follow the recommendation from its November 2022 report to build two reception integration centres by the end of May 2023 using emergency powers to accelerate the process.<sup>131</sup> The EAG reiterated this call and recommended that six reception integration centres should be made ready for occupation by the end of 2024.<sup>132</sup>

The Department has stated that the revised approach will focus on state-owned, permanent accommodation to build an appropriate system. However, it acknowledges the need for a blended approach of both commercial and private providers.<sup>133</sup> It also recognises that the proposals for a revised approach will 'take time' and the current system will continue 'for the foreseeable future,' and the accommodation offered in some instances will not be fully in line with the *White Paper*.<sup>134</sup>

## ► What children and young people need next

In 2016, the Committee on the Rights of the Child made specific recommendations with respect to ensuring that 'all refugee accommodation centres' were subject to independent inspection.<sup>135</sup> Progress on this recommendation has been slow and there have been

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129 Laura Fletcher, 'UN concerned over asylum seekers without State shelter' RTE News 16 January 2024, < <https://bitly.ws/3daMk> > accessed 16 January 2024.

130 The External Advisory Group on Ending Direct Provision was established in 2021 as part of a series of recommendations made in the White Paper on Ending Direct Provision. It advises on reforecasting the White Paper based on recent events and its membership comprises: Catherine Day, David Donoghue and Lorcan Sirr.

131 C Day, D Donoghue, L Sirr, *Report No.2 from the External Advisory Group on Ending Direct Provision* (July 2023) 4.

132 *ibid.*

133 Ombudsman for Children's Office, *Special Report: Safety & Welfare of Children in Direct Provision* (October 2023) 9.

134 *ibid.*

135 UNCRC 'Concluding observations on the combined third and fourth periodic reports of Ireland' 29 January 2016 UN Doc CRC/C/IRL/CO/3-4 para 66.

concerning developments in the child protection space in direct provision accommodation in 2023.

Emergency Accommodation Centres are generally an unsuitable form of accommodation for asylum-seekers, particularly children. The continued increase in this form of accommodation in the past year is of concern. It is essential that the Government continues to increase system capacity during the transition period outlined in the *White Paper* to guarantee that this type of accommodation is phased out permanently. Renewed investment in own-door accommodation in line with the provisions of the *White Paper* should be prioritised. Moreover, recognising that increases in numbers of asylum seekers may lead to temporary surges in the system, there is a need to develop standards for temporary settings.

Key measures were implemented under the *White Paper* in relation to children in 2023. These included the introduction of a child payment, increased funding for CYPSCs, and an additional allocation of 17 family support workers. It is welcome that € 4.7 million was allocated in Budget 2024 for a new Child Benefit Payment for children in Direct Provision, however it has not yet been implemented. Given that children in Direct Provision were the only group of children in successive budgets to have not received any additional support to tackle the increased cost of living, it is essential that the new Child Payment is implemented without delay.

## ➔ **Recommendations:**

- ▶ Introduce the International Protection Child Payment for all children living in the international protection system as a matter of urgency.
- ▶ Put in place standards for emergency accommodation and enable HIQA to inspect Temporary Emergency Accommodation Centres as a matter of urgency.
- ▶ Invest in new own-door accommodation.
- ▶ Publish a reforecast *White Paper* as a matter of priority.

**13**

# Pathways for Undocumented Children

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Section Grade:

**B**



## The Programme for Government commits to:

Create new pathways for long-term undocumented people and their dependents meeting specified criteria to regularise their status within 18 months of the formation of the Government, bearing in mind European Union and Common Travel Area commitments.

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▶ Progress: **Good**

**'Pathways for Undocumented Children' receives a 'B' grade, a decrease on the 'B+' grade awarded last year. The Government Scheme to regularise the status of undocumented people living in Ireland ran for a limited period from January until 31 July 2022. Applications were received in respect of 8,329 people. The scheme was an important breakthrough, and its implementation has shown significant positive results. However, the scheme now needs to be followed up with law reform to create multiple, sustainable pathways for the regularisation of undocumented children.**



## Ireland's duties and responsibilities in international law



Every child has the right to equal treatment irrespective of the status of their parents or guardian.<sup>1</sup> As part of its commitments when signing up to the UN Convention on the Rights of the Child (UNCRC), Ireland agreed to be reviewed every five years on its progress in implementing the rights in the Convention. Ireland was last examined by the Committee on the Rights of the Child in January 2023. The Committee called for a child rights approach in addressing poverty with a particular focus on children of ethnic minority groups and that an assessment is undertaken of the impact of the habitual residence condition.<sup>2</sup> The Committee also called for the amendment of social welfare payments 'to ensure that policies do not have a discriminatory effect on such children'.<sup>3</sup>

### ► What is the context for this commitment?

As of 2021, there were an estimated 15,000 to 17,000 undocumented people living in the State, including 2,000 to 3,000 children.<sup>4</sup> In the latest available data from 2019, the Migrant Rights Centre of Ireland (MRCI) carried out a survey of 108 parents of undocumented children in Ireland which found that 68 per cent of undocumented children had been born in Ireland.<sup>5</sup>



1 UN Convention on the Rights of the Child, A/ RES/44/25 (20 November 1989), Art 2.

2 UNCRC, 'Concluding Observations Ireland' (2023) UN Doc CRC/C/IRL/CO/5-6, para 35.

3 *ibid* para 35.

4 Department of Justice, *Minister McEntee announces new landmark scheme to regularise long-term undocumented migrants* (Press Release 3 December 2021) <<https://bit.ly/3u53QNW>> accessed 30 January 2024.

5 Migrant Rights Centre Ireland 'Growing up undocumented in Ireland' <<https://bit.ly/3sSKYil>> accessed on 30 December 2024.

Of those children born outside Ireland, 78 per cent had been living here for five years or more.<sup>6</sup>

The Platform for International Cooperation on Undocumented Migrants has highlighted that uncertain, precarious or irregular status has negative impacts on the health and well-being of children and young people.<sup>7</sup> In particular, they are at risk of being deported,<sup>8</sup> and their access to further education, training, employment and vital services is restricted.<sup>9</sup> These children are missing key milestones while watching their peers, with whom they are likely to have spent years at school, living 'normal lives' and progressing to an adulthood which will not be stunted or diminished by immigration status.<sup>10</sup> Clear status determination procedures that provide children and young people with a secure and long-term residence status are crucial to ensure the full enjoyment of their rights.

## ► What has been achieved for children and young people so far?

The current *Programme for Government* committed to creating pathways to regularisation for the undocumented and their dependents.<sup>11</sup> In December 2021, the Government approved the scheme to regularise the status of thousands of undocumented persons living in Ireland.<sup>12</sup> Importantly, individuals with expired student permission or those with an existing Deportation Order could apply for the scheme, provided they satisfied the minimum undocumented residence requirement.<sup>13</sup> People with an outstanding application for international protection, who had been in the

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6 *ibid.*

7 Platform for International Cooperation on Undocumented Migrants, *Manual on regularisations for children, young people and families* (PICUM 2018) 6.

8 *ibid.*

9 *ibid.*

10 RTE News, 'Migrant group calls for rights for undocumented children' (3 July 2019) < <https://bit.ly/3cegEIQ> > accessed 30 January 2024.

11 Government of Ireland, *Programme for Government, Our Shared Future* (Government Publications 2020)76.

12 Department of Justice, 'Minister McEntee outlines draft scheme to regularise undocumented migrants to Cabinet' (23 April 2021) <https://bit.ly/3ALEyFQ>> accessed 30 January 2024.

13 Department of Justice, 'Minister McEntee announces new landmark scheme to regularise long-term undocumented migrants' (3 December 2021) < <https://bit.ly/3u53QNW>> accessed 30 January 2024.

asylum process for at least two years, were also eligible to apply for the scheme.<sup>14</sup> The scheme did not create any rights to family reunification with family members who were not already residing in Ireland.<sup>15</sup>

The scheme opened for online applications in January 2022 for a limited period, closing on 31 July 2022.<sup>16</sup> The Department of Justice had 6,548 applications in respect of 8,329 people under the scheme.<sup>17</sup> 1,126 children and young people were submitted as a part of 894 family applications.<sup>18</sup> As of January 2024, a total of 6,485 permissions have been granted under the scheme.<sup>19</sup> Additionally, the International Protection strand of the Regularisation Scheme, which closed on 7 August 2022, recorded 3,250 applications up to September 2023, with 1,608 (49.5 per cent) successful decisions issued and an additional 1,109 (34 per cent) granted an equivalent permission by the International Protection Office.<sup>20</sup> A further 446 applications were ineligible and 307 applications were withdrawn.<sup>21</sup>

Section 35(b) of the Employment Permits (Amendment) Act 2014, which is yet to be commenced, would allow for children under the age of 16 to register with the Garda National Immigration Bureau.<sup>22</sup> The Department of Justice have stated that the modalities involved in the extension of a registration requirement to children will be addressed in the implementation work this year on the Commission on the Future of Policing in Ireland.<sup>23</sup> Providing for registration for children will ensure their effective participation in any future potential regularisation schemes and would fulfil the Government's commitment to introduce registration for children in 2022, as contained in the 2017-2020 *Migrant Integration Strategy*.<sup>24</sup>

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14 *ibid.*

15 *ibid.*

16 Communication received by the Children's Rights Alliance from the Department of Justice on 07 December 2022.

17 Communication received by the Children's Rights Alliance from the Department of Justice on 25 January 2024.

18 *ibid.*

19 *ibid.*

20 *ibid.*

21 *ibid.*

22 The Employment Permits (Amendment) Act 2014, s35(b).

23 Communication received by the Children's Rights Alliance from the Department of Justice on 25 January 2024.

24 Department of Justice, *Migrant Integration Strategy 2017-2020*, (DOJ 2017).

## ► What children and young people need next

The Committee on the Rights of the Child made recommendations in respect of the regularisation of undocumented children in 2016.<sup>25</sup> In particular, the Committee urged Ireland to adopt a comprehensive legal framework that is in accordance with international human rights law standards to address the needs of migrant children and to take measures to ensure that children in irregular migration situations are provided with independent legal advice and timely clarifications on their migration status.<sup>26</sup>

While the Regularisation Scheme for Long-term Undocumented Migrants in Ireland was a very positive development which enabled 8,329 undocumented people to apply to have their status regularised, it was a once-off opportunity available for just six months. The scheme regularised only one cohort of undocumented children and young people in Ireland and contained no plans for alternative pathways to regularisation nor any permanent mechanism to address the long-term issue of other undocumented children and young people growing up in Ireland who fell outside the scope of the scheme.

The *Programme for Government* commits to the creation of multiple “new pathways” for long-term undocumented people and their families to regularise their status.<sup>27</sup> This commitment demands a comprehensive approach to the issue of regularisation that is not limited to a single one-off scheme. The learnings from this scheme should be noted and used to inform the development of further, more permanent pathways for regularisation. Additionally, ensuring children can register with the Garda National Immigration Bureau needs to be prioritised so that they may be able to effectively participate in any future regularisation schemes.

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25 UNCRC ‘Concluding observations on the combined third and fourth periodic reports of Ireland’ 29 January 2016 UN Doc CRC/C/IRL/CO/3-4 para 68.

26 *ibid* para 67.

27 Government of Ireland, *Programme for Government, Our Shared Future* (Government Publications 2020) 76.

## ➔ **Recommendations**

- ▶ Bring forward necessary legislation to advance multiple sustainable pathways for the regularisation of undocumented children, and not just a once-off time bound scheme.
- ▶ Prioritise the introduction of Irish Residence Permit cards for persons under the age of 16.
- ▶ Commence section 35(b) of the Employment Permits (Amendment) Act 2014 which would allow for children under the age of 16 to register with the Garda National Immigration Bureau.

**14**

# Child Safety Online

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Section Grade:

**A**



## The Programme for Government commits to:

Enact the Online Safety and Media Regulation Bill.

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▶ Progress: **Complete**

Establish an Online Safety Commissioner.

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▶ Progress: **Complete**

Child Safety Online received an 'A' grade, which is the same as the 'A' grade awarded last year. In 2022, the Online Safety and Media Regulation Act, which provides for an Online Safety Commissioner, came into force. The Online Safety Commissioner was appointed in January 2023 and Coimisiún na Meán commenced its duties in February 2023. The first draft Online Safety Code for Video-Sharing Platform Services was published, and a new Youth Advisory Committee was established in December 2023 to inform the development of the online safety work of the new Coimisiún na Meán.

## Ireland's duties and responsibilities in international law



All children have the right to be protected from abuse, neglect and sexual exploitation.<sup>1</sup> The UN Committee on the Rights of the Child has noted that '[t]he digital environment is becoming increasingly important across most aspects of children's lives, including during times of crisis, as societal functions, including education, government services and commerce, progressively come to rely upon digital technologies. It affords new opportunities for the realization of children's rights, but also poses the risks of their violation or abuse.'<sup>2</sup>

The Committee recommended in its 2021 General Comment 25 that 'States parties should ensure that appropriate and effective remedial judicial and non-judicial mechanisms for the violation of children's rights relating to the digital environment are widely known and readily available to all children and their representatives'.<sup>3</sup> The Committee also recommended that 'States parties should review relevant laws and policies to ensure that children are protected against economic, sexual and other forms of exploitation and that their rights with regard to work in the digital environment and related opportunities for remuneration are protected'.<sup>4</sup>

Ireland committed to promote, protect and respect children's rights when it ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1992. As part of this commitment, Ireland agreed to be reviewed every five years on its progress in implementing the rights in the Convention. Ireland was last examined by the Committee in January 2023. In its Concluding Observations, the Committee referred directly to General Comment 25 and recommended that the Irish State further develop measures to promote digital inclusion and protect the rights and safety of children in the digital environment through regulations and safeguarding policies and through the mandate of the Online Safety

1 UN Convention on the Rights of the Child, A/ RES/44/25 (20 November 1989) Arts 19 and 34.

2 UN Committee on the Rights of the Child, General Comment no 25 (2021) on children's rights in relation to the digital environment, CRC/C/GC/25, para 3.

3 *ibid* para 44.

4 *ibid* para 113.



Commissioner and individual complaints mechanism.<sup>5</sup> The Committee also recommended that laws on the digital environment protect children from harmful content including through the implementation of the Online Safety and Media Regulation Act.<sup>6</sup> In relation to digital literacy, the Committee recommended that the State continue to take measures to enhance the skills of children, teachers and families in the area of digital literacy.<sup>7</sup>

In 2018, the Council of Europe published its Recommendation, *Guidelines to Respect, Protect and Fulfil the Rights of the Child in the Digital Environment* which recommends that States oblige businesses to meet their responsibilities by requiring them to implement measures and 'encourage them to co-operate' with the State and other stakeholders, including children.<sup>8</sup> It further recommends that Member States should ensure that a child's right to an effective remedy under the European Convention of Human Rights<sup>9</sup> is respected and protected when their rights have been infringed online.<sup>10</sup> Guidance is given on what constitutes an effective remedy and it includes inquiry, explanation, reply, correction, proceedings, immediate removal of unlawful content, apology, reinstatement, reconnection and compensation.<sup>11</sup> Importantly, it provides that the process should be speedy, child-friendly and provide the appropriate redress.<sup>12</sup>

## ► What is the context for this commitment?

Results from a *National Survey of Children, their Parents and Adults regarding Online Safety*, conducted between December 2019 and October 2020, found that 62 per cent of children and young people in Ireland, aged nine to 17 years,

5 UNCRRC, 'Concluding Observations Ireland' (2023) UN Doc CRC/C/IRL/CO/5-6, para 22.

6 *ibid.*

7 *ibid.*

8 Council of Europe, 'Recommendation CM/Rec(2018)7 of the Committee of Ministers to Member States on Guidelines to respect, protect and fulfil the rights of the child in the digital environment' (COE 2018) 11.

9 European Convention on Human Rights Art 6 and 19.

10 Council of Europe, 'Recommendation CM/Rec(2018)7 of the Committee of Ministers to Member States on Guidelines to respect, protect and fulfil the rights of the child in the digital environment' (COE 2018) 24.

11 *ibid.*

12 *ibid.*

use social media.<sup>13</sup> This rises to 90 per cent of 15 to 17 year olds.<sup>14</sup> While the online world brings unparalleled opportunity to children to learn, create, connect and socialise, it also brings unparalleled risk, including the loss of personal data, exposure to harmful content, cyberbullying, negative impacts on health and well-being, online grooming and extortion. In 2023, CyberSafeKids reported that a quarter of all children have seen or experienced something online in the last year that bothered them, with almost one third of those children having kept it to themselves rather than report it to their parents or someone else.<sup>15</sup>



In 2018, the Council of Europe published its Recommendation, *Guidelines to Respect, Protect and Fulfil the Rights of the Child in the Digital Environment* and noted that the online world is reshaping children's lives in many ways, resulting in 'opportunities for and risks to their well-being and enjoyment of human rights.'<sup>16</sup> Recognising that businesses have a responsibility to respect children's rights,<sup>17</sup> the Council of Europe recommends that States require businesses to meet their responsibilities by compelling them to implement measures and 'encourage them to co-operate' with the State and other stakeholders, including children.<sup>18</sup> A key proposal of these *Guidelines* is that, in relation to the processing of children's personal data, States should require relevant stakeholders to implement safety by design, privacy by design and privacy by default measures, taking into account the best interests of the child.<sup>19</sup>

13 National Advisory Council for Online Safety, *Report of a National Survey of Children, their Parents and Adults regarding Online Safety 2021* (2021) 8.

14 *ibid.*

15 CyberSafeKids, *Keeping Kids Safer Online – Trends and Usage Report Academic Year 2022-2023* (2023) 6.

16 Council of Europe, '*Recommendation CM/Rec(2018)7 of the Committee of Ministers to Member States on Guidelines to respect, protect and fulfil the rights of the child in the digital environment*' (COE 2018) 10.

17 UN Committee on the Rights of the Child, General Comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights CRC/C/GC/16.

18 Council of Europe, '*Recommendation CM/Rec(2018)7 of the Committee of Ministers to Member States on Guidelines to respect, protect and fulfil the rights of the child in the digital environment*' (COE 2018) 11.

19 *ibid.* 23.

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**In 2022, CyberSafeKids reported that 1/4 of all children have seen or experienced something online in the last year that bothered them, with almost 1/3 of those having kept it to themselves rather than report it to their parents or someone else.**

The Council of Europe recommends that Member States should ensure that a child's right to an effective remedy under the European Convention on Human Rights<sup>20</sup> is respected and protected when their rights have been infringed online.<sup>21</sup> This means that States are required to make provision for 'known, accessible, affordable, and child-friendly avenues through which children, as well as their parents or legal representatives, may submit complaints and seek remedies'.<sup>22</sup> Importantly, it provides that the process should be speedy, child-friendly and provide the appropriate redress.<sup>23</sup>

In 2022, the EU Digital Services Act (DSA) recommended that providers of online platforms used by children and young people 'should take appropriate and proportionate measures to protect minors'.<sup>24</sup> The Act gives examples of such measures including platforms designing online interfaces 'with the highest level of privacy, safety and security for minors by default where appropriate or adopting standards for protection of minors, or participating in codes of conduct for protecting minors'.<sup>25</sup> It also stated that consideration should be given to best practice such as the EU Commission's *A Digital Decade for children and youth: the new European Strategy for a better internet for kids* (BIK+).<sup>26</sup> The *BIK+ Strategy*, adopted in May 2022, proposes actions around three key pillars: to provide safe digital experiences to protect children from harmful content and improve their wellbeing online, to develop the digital empowerment of all children and to encourage active participation respecting children by giving them a say on the digital environment.<sup>27</sup> As part of this, from 2023 the Commission will 'facilitate the design of a comprehensive EU code of conduct on age-appropriate design building on the framework of the DSA, by 2024'.<sup>28</sup>

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20 European Convention of Human Rights Art 6 and 13.

21 Council of Europe, '*Recommendation CM/Rec(2018)7 of the Committee of Ministers to Member States on Guidelines to respect, protect and fulfil the rights of the child in the digital environment*' (COE 2018) 24.

22 *ibid.*

23 *ibid.*

24 Regulation 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act), 71.

25 *ibid.*

26 *ibid.*

27 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions, *A Digital Decade for children and youth: the new European strategy for a better internet for kids* (BIK+), Brussels 11.5.2022 COM(2022) 212, 9.

28 *ibid.*

## ► What has been achieved for children and young people so far?

The *Programme for Government* committed to enacting the Online Safety and Media Regulation Bill and establish an 'Online Safety Commissioner'. Following a public consultation, the General Scheme of the Online Safety and Media Regulation Bill was first published in January 2020.<sup>29</sup> An updated General Scheme was published in December 2020. The Online Safety and Media Regulation Bill 2022 passed through the houses of the Oireachtas in November and was signed into law by President Michael D. Higgins on 10 December 2022. The Act provides for the establishment of a new Media Commission and sets out a number of functions of the Commission in relation to online safety.

On 17 January 2023, Minister Catherine Martin announced the appointment of the Executive Chairperson and Commissioners to Coimisiún na Meán.<sup>30</sup> Niamh Hodnett commenced her duties as the Online Safety Commissioner in mid-February 2023.<sup>31</sup>

Budget 2022 provided for €5.5 million in funding for the establishment of Coimisiún na Meán and the appointment of the Online Safety Commissioner,<sup>32</sup> while €7.5 million was provided in Budget 2023 to support the initial establishment of the Commission.<sup>33</sup> For 2024, the existing functions of Coimisiún na Meán, including its online safety functions, are to be funded by an industry levy to be put in place by Coimisiún na Meán.<sup>34</sup> In addition to this, as part of Budget 2024, over €6 million has been provided to support the

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29 General Scheme of the Online Safety & Media Regulation Bill.

30 Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, 'Minister Martin announces forthcoming appointment of Executive Chairperson and Commissioners in Coimisiún na Meán' (17 January 2023) <<http://bit.ly/3x9h0dl>> accessed 25 January 2024.

31 *ibid.*

32 Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, 'Budget 2022: A powerful programme of supports for the department's sectors' (13 October 2021) <<http://bit.ly/40HEkML>> accessed 25 January 2024.

33 Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, 'Ministers Martin and Chambers announce details of Budget 2023 for the Department of Tourism Culture, Arts, Gaeltacht, Sport and Media' (28 September 2022) <<http://bit.ly/3lcjPAn>> accessed 25 January 2024.

34 Communication received by the Children's Rights Alliance from the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media on 8 December 2023.

implementation of the Digital Services Coordinator function of Coimisiún na Meán under the EU's Digital Services Act during its first year of operation.<sup>35</sup>

Under the Act, the Commission has been tasked with the development of binding online safety codes that will require designated online service providers to take steps to minimise the availability of harmful online content and the associated risks arising out of the availability and exposure to this content.<sup>36</sup> To enforce these codes, the Commission has the power to require a designated online service to provide it with information on its compliance with an online safety code, over any set period or periods of time.<sup>37</sup> In September 2023, Coimisiún na Meán designated video sharing platforms as a category of services to which online safety codes may be applied.<sup>38</sup> Subsequently, in December 2023, Coimisiún na Meán specifically designated certain platforms as video-sharing platform services.<sup>39</sup>

The draft of the first Online Safety Code and statutory guidelines for the regulation of certain Video-Sharing Platform Services (VSPS) was published for public consultation on 8 December 2023.<sup>40</sup> It is welcome that there is a focus on children throughout the Code and that the definition of regulated content harmful to children includes content 'consisting of realistic representations of, or of the effects of, gross or gratuitous violence or acts of cruelty'.<sup>41</sup> It is important that this is retained in the final Code as consultations with children and young people have shown that they are most disturbed by violent content online.<sup>42</sup> The draft Code does not provide a prescriptive regime to platforms for online safety, instead it is permissive to the designated platforms, not setting standards or baselines but allowing the platforms to

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35 *ibid.*

36 Online Safety and Media Regulation Act 2022, s139K(2)(a).

37 *ibid* s139O(1).

38 Communication received by the Children's Rights Alliance from the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media on 25 January 2024.

39 Coimisiún na Meán, Designation Notices, < <https://bitly.ws/3aA62> > accessed 12 January 2024. The platforms covered are: Facebook, Instagram, LinkedIn, Pinterest, Reddit, TikTok, Tumblr, Udemy, X and Youtube.

40 Coimisiún na Meán, 'Coimisiún na Meán opens public consultation on Ireland's first Online Safety Code' Press Release (8 December 2023) < <https://bitly.ws/3azTk> > accessed 4 January 2024.

41 Coimisiún na Meán, Draft Online Safety Code, section 10.

42 EU Kids Online 'EU Kids Online 2020: Survey results from 19 countries' < <https://www.lse.ac.uk/media-and-communications/research/research-projects/eu-kids-online/eu-kids-online-2020> > accessed 4 September 2023, 142,149,151.

do that themselves, including terms and conditions,<sup>43</sup> content rating,<sup>44</sup> and age verification<sup>45</sup> measures. The Code does not identify a consistent flagging system, instead leaving it to the discretion of each platform.<sup>46</sup> There are no timelines or processes included which all the platforms must observe.<sup>47</sup> The matters raised in 'Supplementary Provision' - safety by design, safety supports, and a recommender system - are all essential elements of the structures needed to protect children and young people online. We welcome the Commission's intention to regulate these topics. However, it is disappointing that these elements, in particular safety by design, will not be included in the Code. Many of the digital services children and young people use are not designed to protect their rights or meet their needs.<sup>48</sup> Research from the 5Rights Foundation found that 'designed into digital services and products are putting children at risk' with designers tasked with 'optimising products and services for three primary purposes, all geared towards revenue generation'.<sup>49</sup>

The Act provides for the establishment of a Youth Advisory Committee by the Commission.<sup>50</sup> In relation to education, Coimisiún na Meán has the power to 'encourage research, promote or endorse educational initiatives and activities and co-operate for that purpose with educational bodies'.<sup>51</sup> Coimisiún na Meán's new Youth Advisory Committee was established in 2023 and will inform the final version of the first Online Safety Code. Nine young people under the age of 25 from nine



43 Coimisiún na Meán, *Consultation Document – Online Safety* (2023) 15-16.

44 *ibid* 53.

45 *ibid* 17.

46 Coimisiún na Meán, *Draft Online Safety Code*, section 11.

47 *ibid*.

48 5Rights Foundation, 'Design of Service' <<https://bitly.ws/3bmGG>> accessed 31 January 2024.

49 5Rights Foundation, *September 2021 Pathways: A Summary Key findings and recommendations from Pathways: How digital design puts Children at Risk* (2021) 7.

50 *Online Safety and Media Regulation Act 2022*, s19(9) – (12).

51 *ibid* s7(3)(g).

different organisations<sup>52</sup> have been chosen to act on the Commission's Youth Advisory Committee.<sup>53</sup>

The inclusion of an individual complaints mechanism in the Act marks a breakthrough change in how children and young people will be protected online, placing a responsibility on platforms to make their services a safer space for children. Work has not yet commenced on establishing the mechanism as in line with the recommendations from the Expert Group on the individual complaints mechanism. The mechanism recommends that Coimisiún na Meán first develop online safety codes regarding standards in complaints handling and monitor compliance over a twelve-month period to assess which areas need most urgently to be tackled via the individual complaints mechanism.<sup>54</sup>

## ► **What children and young people need next**

The enactment of the Online Safety and Media Regulation Act is a landmark occasion that has the potential to put an end to the age of self-regulation by big tech and social media giants, and create true accountability in the online space. The particular emphasis on the educational remit of the Commission, the rights of children and young people, and the safety and protection of children within the legislation is warmly welcomed. The provision for an individual complaints mechanism within the Act will take a firm stand against the illegal and harmful content we know is prevalent online that platforms have struggled to address adequately, and ensures a level of oversight and accountability so that all complainants, and in particular vulnerable children and young people, have an accessible solution when online services and platforms fail to protect them. It is necessary now to establish an individual complaints mechanism as provided for within the Act as a matter of priority in order to ensure children's rights online are protected.

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52 BeLong To, the Children's Rights Alliance, CyberSafeKids, the Irish Traveller Movement, the ISPCC, the National Parents Council, the National Youth Council of Ireland, Spunout and Webwise.

53 Coimisiún na Meán, 'Coimisiún na Meán holds first meeting of Youth Advisory Committee' 19 December 2023, < <https://bitly.ws/3aPiB> > accessed 25 January 2024.

54 *ibid* 24.





**The inclusion of an individual complaints mechanism in the OSMR Act marks a break-through change in how children and young people will be protected online, placing a responsibility on platforms to make their services safer.**

The creation of the Youth Advisory Committee and its opportunity to input into the first draft Online Safety Code is an important and positive step in including young people as co-creators of the online regulatory space. The establishment of Coimisiún na Meán and its prompt and thorough approach to the development of the first draft Online Safety Code is welcomed as a first step in the regulation of VSPS. In finalising the Code, consideration should be given to strengthening the Code to ensure it contains a robust, standardised system with baselines for the designated platforms to meet. In particular, minimum baselines should be set for age verification, terms and conditions, and content rating measures. It is disappointing that safety by design will not be included in the code which is a missed opportunity to embed the principle of safety by design into the Irish regulatory framework.

It must now be ensured that the Online Safety Commissioner continues to be adequately resourced, with appropriate ring-fenced funding and staffing.

### ➔ **Recommendations:**

- ▶ Ensure the Online Safety Commissioner is adequately resourced to implement the different aspects of the legislation.
- ▶ Ensure the first *Online Safety Code* contains a robust, standardised system with baselines for the designated platforms to meet. In particular, minimum baselines should be set for age verification, terms and conditions, and content rating measures.
- ▶ Strengthen the Code by prescribing a consistent flagging system with timelines and processes for providers to adhere to, rather than leaving these matters to the discretion of each provider.
- ▶ Include measures on safety by design, supports for users, and recommender systems in the first *Online Safety Code*.
- ▶ Establish a robust and effective individual complaints mechanism in 2024.

# 15

# Reform of the Family Law Courts

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Section Grade:

**C-**



## The Programme for Government commits to:

Enact a Family Court Bill to create a new dedicated Family Court within the existing court structure and provide for court procedures that support a less adversarial resolution of disputes.

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▶ Progress: **Slow**

Build a new Family Law Court building in Dublin and ensure that court facilities across the country are suitable for family law hearings so these hearings can be held separately from other cases.

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▶ Progress: **Slow**

Reform of the Family Law Courts receives a 'C-' grade, which is a decrease on the 'C+' grade awarded last year. In November 2022, the Department of Justice published its Family Justice Strategy with the objective of 'changing how the family justice system works for children and families.' In December 2022, the Family Courts Bill 2022 was published. Approval in principle to proceed with the Hammond Lane project was received and an application for planning permission for the new Family Law Courts was lodged in November 2023. While implementation of the Family Justice Strategy has commenced, and there has been some movement on key actions related to children and young people, progress on the Family Courts Bill and the building of a new family court has been slow.

## Ireland's duties and responsibilities in international law



The UN Convention on the Rights of the Child (UNCRC) obliges the State to ensure that the child's best interests are a primary consideration in all actions concerning children, including in courts of law.<sup>1</sup> In examining Ireland's progress under the UNCRC, the Committee on the Rights of the Child expressed concerns at the delays in hearing family law cases and that judges in family law cases are not provided with 'systematic training for dealing with cases concerning children'.<sup>2</sup> The Committee recommended that sufficient resources be provided to train judges hearing family law cases involving children and that these cases 'are prioritised in the court system'.<sup>3</sup>

Ireland committed to promote, protect and respect children's rights when it ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1992. As part of this commitment, Ireland agreed to be reviewed every five years on its progress in implementing the rights in the Convention. Ireland was last examined by the Committee in January 2023. In its Concluding Observations the Committee noted the publication of the Family Court Bill and called on the State to prioritise reform in this area so that proceedings are resolved efficiently in a child-friendly manner.<sup>4</sup> The Committee also called for the resourcing of the Child Care (Amendment) Act 2022 to ensure that children's views and best interests are taken into consideration in child care proceedings.<sup>5</sup>

The Council of Europe's *Guidelines on Child-Friendly Justice* provide that States should ensure that proceedings involving children are dealt with in 'non-intimidating and child-sensitive settings'.<sup>6</sup> The Guidelines recommend that interviewing and waiting rooms for children 'in a child-

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

2 UN Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of Ireland (2016) CRC/C/IRL/CO/3-4, para 47.

3 *ibid* para 48.

4 UNCRC, 'Concluding Observations Ireland' (2023) UN Doc CRC/C/IRL/CO/5-6, para 26.

5 *ibid*.

6 Council of Europe, *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice* (COE 2010) 29.

friendly environment' be provided in court settings.<sup>7</sup> They recommend that children should be familiarised with the Court setting, the layout and the roles and identities of officials ahead of attending proceedings and that Court sessions involving children should be adapted to the child's pace and attention span with planned regular breaks and hearings that are limited in duration.<sup>8</sup> The *Guidelines* also recommend that all proceedings involving children should be heard in a speedy manner and that the urgency principle should be applied.<sup>9</sup> States should establish 'a system of specialised judges and lawyers for children' and 'further develop courts in which both legal and social measures can be taken in favour of children and their families'.<sup>10</sup>

Under Article 42A of the Irish Constitution in all proceedings concerning the guardianship, adoption, custody of or access to a child, the best interests of the child must be a paramount consideration, and their views must be ascertained (if capable of forming their own views) and given due weight having regard to their maturity and age.<sup>11</sup>

## ► What is the context for this commitment?

Ireland does not have a dedicated system for hearing family law proceedings. In Dublin, there are dedicated courts that only hear family law cases. Outside of Dublin, while there are designated family law days, the same courts hear both family law cases and all other legal cases, including criminal law cases, that fall within its jurisdiction.<sup>12</sup> Most child and family proceedings are heard by the District Court, a generalist court of first instance, which also hears criminal, civil, and licensing matters. The District Court comprises of 23 Districts, and different practices have developed in the districts. For example, in child care proceedings, variations have been observed in relation to the type and nature

7 *ibid.*

8 *ibid.*

9 *ibid* 28.

10 *ibid* 33.

11 Bunreacht na hÉireann, Article 42A.

12 Houses of the Oireachtas, Joint Committee on Justice and Equality, *Report on Reform of the Family Law System* (Houses of the Oireachtas 2019) 22.

of the order sought and granted, how the views of the child are heard and the reviews of orders by the court.<sup>13</sup>

The District Court is overworked and under resourced.<sup>14</sup> There can be lengthy waits to secure a date for a hearing and extensive case lists.<sup>15</sup> In some Districts, the list may be up to and over 100 cases for one judge to hear in a single day.<sup>16</sup> This leads to pressure to hear cases quickly or to engage in informal negotiation and can contribute to a lack of privacy and overcrowding.<sup>17</sup>

In 1996, the Law Reform Commission (LRC) published a report on the reform of the Family Law Courts<sup>18</sup> in which it highlighted the issues in the system, including judges dealing with family disputes that do not always have the necessary experience or aptitude.<sup>19</sup> The LRC recommended the establishment of a system of regional family courts at Circuit Court level presided over by a Circuit Court Judge nominated for a period of a least one year 'assigned on the basis of his or her suitability to deal with family law matters'.<sup>20</sup>

Family members are often in disagreement during family law proceedings, and the current physical court environment does not provide them with the necessary space and privacy to deal with very personal and sensitive matters.<sup>21</sup> Judges are making decisions in courts around the country about intimate family issues, often in the same rooms that are used for dealing with other matters, such as criminal law issues.<sup>22</sup>

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13 Carol Coulter, 'Second Interim Report' (Child Care Law Reporting Project 2014); Conor O'Mahony and others, "Representation and Participation in Child Care Proceedings: What about the Voice of the Parents?" (2016) 38(3) *Journal of Social Welfare and Family Law* 302-322; Maria Corbett, 'An Analysis of Child Care Proceedings Through the Lens of the Published District Court Judgments' (2017) 20(1) *Irish Journal of Family Law* 7-14.

14 Maria Corbett, 'Child Care is Crying Out for a Specialist, Separate, Supported and Unified Family Court', *Irish Journal of Family Law* (2022) 25(1) 7.

15 Child Care Law Reporting Project, *Ripe for Reform: An Analytical Review of Three Years of Court Reporting on Child Care Proceedings* (CCLRP, 2021) viii.

16 *ibid* 22.

17 *ibid*.

18 Law Reform Commission, *Report on Family Courts* (LRC 1996).

19 *ibid* ii.

20 *ibid* 22.

21 The Bar of Ireland, *Submission by Council of The Bar of Ireland to the Joint Oireachtas Committee on Justice and Equality on the Reform of the Family Law System* (The Bar of Ireland 2019) 7.

22 Prof. G Shannon, *Eleventh Report of the Special Rapporteur on Child Protection* (DCYA 2018) 72.



**Outside of Dublin,  
while there are  
designated family law  
days, the same courts  
hear both family law  
cases and all other  
legal cases, including  
criminal law cases.**



Notwithstanding that all family law proceedings are subject to the *in camera* rule, a large number of court facilities still lack basic privacy. Generally, there is no special provision made to accommodate children involved in family law proceedings. Children who are present in the Court may witness or experience violence or other upsetting behaviour due to insufficient staffing of Gardaí in courthouses.<sup>23</sup> Research published in 2022 found that there is a 'stark absence' of the voice of infants and young children under six in decision-making processes on contact arrangements for separated families in the Irish context.<sup>24</sup> The Child Law Clinic at UCC note that a lack of clarity and transparency of process results in inconsistent practices in hearing the views of the child in the current system.<sup>25</sup>

## ► What has been achieved for children and young people so far?

### Family Law Court Bill 2022

*The Programme for Government* committed to enact a Family Law Court Bill that will create a new dedicated Family Court and will provide for court procedures that 'support a less adversarial resolution of disputes'.<sup>26</sup> Specialised family court systems are commonplace in most legal systems, though the form can vary from specialist divisions in existing court structures to separate specialist courts.<sup>27</sup>

In September 2020, the Government published the Heads of Bill to provide for the establishment of a District Family Court,<sup>28</sup> a Circuit Family Court<sup>29</sup> and

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23 The Bar of Ireland, *Submission by Council of The Bar of Ireland to the Joint Oireachtas Committee on Justice and Equality on the Reform of the Family Law System* (The Bar of Ireland 2019) 7.

24 S McCaughren, S Holt, A Parkes, S Gregory, 'Research report on guidance on contact time for infants and young children in separated families' (December 2022) 3 < <https://bitly.ws/3aHvM> > accessed 24 January 2024.

25 Child Law Clinic (School of Law UCC), 'The Voice of the Child in Private Family Law Proceedings: A Comparative Review' (August 2023) 35 < <https://bitly.ws/3aHCe> > accessed 24 January 2024.

26 Government of Ireland, *Programme for Government, Our Shared Future*, 85.

27 Consultative Council of European Judges *Opinion (2012) No. 15 of the Consultative Council of European Judges on the Specialisation of Judges* (Council of Europe 2012) < <https://bit.ly/3pkuihB> > accessed 25 January 2024.

28 Family Court Bill General Scheme (September 2020) Head 6.

29 *ibid* Head 11.



**Children who are present in the Court may witness or experience violence or other upsetting behaviour due to insufficient staffing of Gardai in courthouses.**

a Family High Court<sup>30</sup> within existing court structures. The General Scheme of the Family Court Bill was referred to the Joint Oireachtas Committee on Justice for pre-legislative scrutiny,<sup>31</sup> which concluded in December 2021.<sup>32</sup>

The Family Courts Bill 2022 was published in December 2022. It is welcome that the Bill provides that judges appointed to the Family Courts have to be 'a suitable person to deal with matters of family law' by reason of their 'training or experience and temperament'.<sup>33</sup> Equally welcome is the requirement for judges of all levels in the Family Courts to undergo education and training.<sup>34</sup> While barristers and solicitors who work in the area are not also required to undertake such training, the requirement for them to abide by the guiding principles on equal terms as that of the judiciary is a very positive development.<sup>35</sup> Currently in Ireland, most child and family law cases are heard by generalist judges in the general courts system.

The Bill also includes a requirement for judges to have some level of suitability to become a judge in the Family Law Courts and that there will be a requirement to undergo training to ensure that they have the necessary skills for engaging with children and young people.<sup>36</sup> This will, if enacted, implement the provision in the Council of Europe's *Guidelines on Child-Friendly Justice*, which provides that States should establish 'a system of specialised judges and lawyers for children.'<sup>37</sup>

In line with the commitment to construct a separate Family Court Complex at Hammond Lane as set out in the Family Justice Strategy, the Bill provides that sittings of the Court will be held in a different building or room from sittings

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30 *ibid* Head 16.

31 *ibid* Head 16.

32 Joint Oireachtas Committee on Justice, Letter to Minister for Justice Helen McEntee 16 December 2021 <<https://bit.ly/3G2za2g>> accessed 25 January 2024.

33 Family Courts Bill 2022, s15(1).

34 *ibid* s59.

35 *ibid* s8.

36 *ibid* s9(c).

37 Council of Europe, *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice* (COE 2010) 33.

of other matters or be held on different days and at different times.<sup>38</sup> The Bill also provides that sittings will be run as informally as possible, without gowns or wigs.<sup>39</sup> This further reflects the principles of child-friendly justice<sup>40</sup> and will enable more accessible and effective communication with children and young people.

Provision is made in the Bill for the establishment of a Family Law Rules Committee, or in the alternative Family Law sub-committees of existing Rules Committees, which would develop a comprehensive set of overarching rules and practice guidelines.<sup>41</sup> This is a welcome measure to work towards consistency in the new system. The Bill provides for the extension of jurisdiction across all three Family Court Divisions in Judicial Separation, Divorce, and Civil Partnership.<sup>42</sup> This should facilitate non-contentious cases being dealt with in the District Court, with complex or contested Family Law cases to be heard in the higher court jurisdictions.<sup>43</sup> The Family High Court will maintain jurisdiction to hear cases on adoption, child abduction and special care cases, as well as having the jurisdiction to hear cases stated and appeals.<sup>44</sup>

Section 8 of the Bill expanded the guiding principle that the best interests of the child is a primary consideration reflecting Article 3 of the UN Convention on the Rights of the Child and following on from Part V of the Guardianship of Infants Act 1964, as amended by the Children and Family Relationships Act 2015. The Bill provides that all courts, barristers, and solicitors must have the best interests of the child as 'the primary consideration in the conduct of proceedings'.<sup>45</sup> Additionally, the Bill requires that parties to the proceedings shall have regard to the fact that 'the best interests of the child are a primary

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38 This is provided for in Section 10 (inserted section 8C of the Courts (Supplemental Provisions) Act 1961) with respect to the Family High Court; section 25 with respect to the Family Circuit Court and in section 40 (inserted section 26C of the Courts of Justice Act 1953) regarding the Family District Court.

39 Family Courts Bill 2022, s10(6), s24(6), s39(6).

40 Council of Europe, *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice* (COE 2010).

41 Family Courts Bill 2022, s51.

42 Communication received by the Children's Rights Alliance from the Department of Justice on 17 February 2023.

43 Family Courts Bill 2022, ss10, 20, 37.

44 *ibid.*

45 *ibid* s8(2)(a)(i).

consideration in the conduct of the proceedings.<sup>46</sup> The Bill also sets out that when a child is capable of forming their own views, there is an obligation to ensure 'as far as practicable that the views of the child are ascertained and given due weight having regard to the age and maturity of the child.'<sup>47</sup>

The Bill also encourages the facilitation, in so far as is possible, of the parties to proceedings to achieve consensus and to resolve their family law disputes without recourse to the courts as a guiding principle. This includes alternative dispute resolution methods such as mediation.<sup>48</sup>

The Bill is currently at the second stage before the Seanad and has not progressed since December 2022.<sup>49</sup>

## Family Law Court Complex

*The Programme for Government* also committed to constructing a new Family Law Court building in Dublin and to working to ensure that court facilities outside of Dublin are suitable for Family Law hearings.<sup>50</sup> In 2015, it was announced that a site purchased by the Office of Public Works in Hammond Lane, Dublin would be used for building a purpose-built family law complex.

In June 2021, the Courts Services indicated that the Children's Court will not form part of the Hammond Lane site.<sup>51</sup> The commitment in the *Family Justice Strategy 2022-2024* to 'continue work on the Hammond Lane project' is welcome in this regard. The Hammond Lane complex will replace the present facilities for family law in central Dublin at Dolphin House, Chancery Street, Phoenix House and in the Four Courts.<sup>52</sup>

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46 *ibid* s8(4)(a).

47 *ibid* s8(2)(a)(iii).

48 *ibid* s8(2)(b).

49 The Houses of the Oireachtas, Family Courts Bill 2022 (Bill 113 of 2022), < <https://bitly.ws/3aP5F> > accessed 25 January 2024.

50 Government of Ireland, *Programme for Government, Our Shared Future* (Government Publications 2020) 85.

51 Government of Ireland, *Performance Delivery Agreement between the Courts Service and the Department of Justice* (2021).

52 Communication received by the Children's Rights Alliance from the Department of Justice, 1 December 2022.

The projected completion date for the project under an updated high-level programme is late 2027/early 2028.<sup>53</sup> Detailed plans and layouts for the Family Courts building have been prepared by the Office of Public Works (OPW) and include a five-storey over basement building, comprising 19 courtrooms, consultation rooms/spaces, staff and judicial accommodation, space for mediation and domestic violence support services, accommodation for legal practitioners and custody facilities.<sup>54</sup> Approval in principle to proceed with the project was received from the Department of Justice in 2023 and an application for planning permission for the new Family Law Courts was lodged in November 2023.<sup>55</sup>

In developing and designing the new family courts, all stakeholders should be consulted including legal professionals, families and those who work to support them. It is essential that the opportunity to provide a child-friendly environment is not missed. The Council of Europe's *Guidelines on Child-Friendly Justice* should inform the design of the new court building, in particular to ensure that interview and waiting rooms for children are provided 'in a child-friendly environment' in court settings.<sup>56</sup>

A number of courthouses outside of Dublin<sup>57</sup> were refurbished in 2018 to provide 'state of the art' family law court facilities.<sup>58</sup> The updated *National Development Plan (NDP) 2021 – 2030*, published by the current Government in 2021, reiterates the commitment to provide new or refurbished courthouses in regional cities and towns, where facilities remain substandard.<sup>59</sup> The Department has confirmed that a number of sites have been purchased.<sup>60</sup>

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53 *ibid.*

54 Communication received by the Children's Rights Alliance from the Department of Justice on 25 January 2024.

55 *ibid.*

56 Council of Europe, *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice* (COE 2010) 30.

57 In Wexford, Waterford, Letterkenny, Mullingar and Drogheda.

58 Communication received by the Children's Rights Alliance from the Department of Justice, 21 January 2021.

59 Department of Public Expenditure and Reform, *National Development Plan 2021-2030* (Government of Ireland 2021) 153. These include Galway City, Wicklow Town, Portlaoise, Tralee, Roscommon, Naas, Bray, Navan, Swords, Tallaght & Dun Laoghaire.

60 Communication received by the Children's Rights Alliance from the Department of Justice on 25 January 2024. Sites have been purchased for Tralee, Portlaoise and Naas, while progress is also being made on the potential for developing a site in Galway.

## Family Justice Strategy

The Government established a Family Justice Oversight Group in 2020 to agree a high-level vision and medium and long-term objectives for the development of a national family justice system, in parallel with the establishment of a dedicated Family Court structure. In November 2022, the Department of Justice published its *'Family Justice Strategy'*. The Strategy contains a vision of nine goals, including one focused on supporting children with the descriptor of 'ensuring' that the needs of children are at the centre of the family justice system, their voices are heard and considered, and that they are supported in their own individual journey through the system.<sup>61</sup>

Under the Family Justice Strategy, the Department of Justice has committed to, among other things:

- ➔ Develop and pilot mechanisms to enhance hearing the voice of the child in all family justice matters.<sup>62</sup>
- ➔ Produce child-friendly and accessible material to explain family justice judgments and decisions (where appropriate and feasible) tailored to children.<sup>63</sup>
- ➔ Deliver common child-focused training to all professionals working within the family-justice sector.<sup>64</sup>
- ➔ Review the enforcement of child maintenance orders and, if required, identify proposals for reform.<sup>65</sup>
- ➔ Researching how Child Liaison Officers (CLO) are used in other jurisdictions, identifying potential opportunities where a CLO could assist children and their families in the current system and reporting on the outcome.<sup>66</sup> If deemed appropriate, develop role requirements for potential CLOs and implement a pilot demonstration project on a CLO.<sup>67</sup>

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61 Minister for Justice, Helen McEntee TD, Dáil Debates, Written Answers, Legislative Matters, 10 December 2020 [41560/20].

62 Department of Justice, 'Family Justice Strategy 2022 – 2025 (2022), Action 1.1.

63 *ibid* Action 1.2.2.

64 *ibid* Action 2.5.

65 *ibid* Action 1.9.

66 *ibid* Action 4.1.

67 *ibid* Action 4.2.

- ➔ Engage with educational and professional bodies and associations to develop and implement training across professions in core family justice area, e.g. child-centred approach and dispute resolution.<sup>68</sup>

The publication of the Family Justice Strategy is an extremely welcome step as it outlines a much-needed vision for change in our family justice system to ensure that it is one that works for children and families. It is welcome that there is a focus on child-friendly information and Child Liaison Officers. According to the Council of Europe's *Guidelines on Child-Friendly Justice*, children should be promptly provided with information on their rights, the legal system and the procedures involved.<sup>69</sup>

While there is a strong focus on the need to develop child-friendly information and guidelines for professionals within the strategy, it is essential that the Government also look to the physical environment and what improvements are needed. Further consideration also needs to be given on how to ensure that key services are developed to support families going through the courts system.

Under the first year of the Family Justice Strategy, a Policy Review on Parental Alienation was completed, and a new plain English family law information hub was developed by the Courts Service.<sup>70</sup> As part of the service, information is provided on the potential use of mediation in family law, and it also signposts mediation on guardianship, custody, access and maintenance court forms.<sup>71</sup>

The first meeting of the Family Justice Development Forum took place in June 2023 and brought together and consulted NGOs, advocacy groups and other stakeholders on the use of experts within the family justice system, and had a particular focus on children.<sup>72</sup>

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68 *ibid* Action 5.1.3.

69 Council of Europe, *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice* (COE 2010) 20.

70 Minister for Justice, Helen McEntee T.D., Written Answers Departmental Policies, 12 December 2023 [55165/23] [55166/23].

71 Minister for Justice, Helen McEntee T.D., Written Answers Department of Justice and Equality Legislative Reviews, 5 December 2023 [53310/23].

72 Department of Justice, 'Minister McEntee hosts first meeting of Family Justice Development Forum' Press Release 28 June 2023 < <https://bitly.ws/3aP4Y> > accessed 18 January 2024. Communication received by Children's Rights Alliance from Department of Justice 28 June 2023.



The second forum meeting took place in December 2023 and focused on the outcome of the Review of the Enforcement of Child Maintenance Orders and data collection in family law.<sup>73</sup> The Department have confirmed that research on the potential role of a Child Liaison Officer is progressing in-house, and the establishment of the Voice of the Child working group, though delayed to allow for the completion of the review of expert reports, is expected to be set up in early 2024.<sup>74</sup>

## ► **What children and young people need next**

Reform of the Family Law System and the building of the new Family Law Courts are long overdue. It is of concern that the new Family Law Building in Dublin will take a number of years to implement. While it is positive that an overarching completion date of late 2027/early 2028 has been set, a clear timeline is needed for how the building works are going to progress on the new Family Law Complex and how the views of children and young people will inform its development.

The publication of the Family Courts Bill in December 2022 was an important and welcome step, placing the best interests of the child as a primary consideration at the heart of any future legislation and adding much needed clarity and accessibility to the operation of the family law system. It is disappointing that the Bill does not make any reference to the need for solicitors and barristers to undergo specialised training similar to that required of judges in this space. The Council of Europe's *Guidelines on Child-Friendly Justice* provide that States should establish 'a system of specialised judges and lawyers for children'.<sup>75</sup> Consideration needs to be given to requiring specialist training of all professionals working in the family law courts, reflecting child-friendly justice principles and how to communicate with children and young people.

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73 Communication received by the Children's Rights Alliance from the Department of Justice on 12 December 2023.

74 Communication received by the Children's Rights Alliance from the Department of Justice on 25 January 2024.

75 Council of Europe, *Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice* (COE 2010) 33.



**The publication of the Family Justice Strategy outlines a much needed vision for change in our family justice system to ensure that it is one that works for children and families.**

The *Guidelines on Child-Friendly Justice* also provide that services such as family support and other services have a 'role to play in the follow-up of family conflicts, to ensure the best interests of the child'.<sup>76</sup> This reform presents an opportunity to house key ancillary services and agencies under the one roof and develop a new model that will promote an interdisciplinary system, as recommended by the Joint Oireachtas Committee on Justice and Equality.<sup>77</sup> This could mean that family law judges could refer parties to skilled personnel to: draw up parenting plans; carry out assessments such as parenting capacity assessments; implement supervised access orders; and monitor custody and access orders and facilitate their restoration if they break down.<sup>78</sup>

The publication of the Family Justice Strategy in November 2022 provided an important vision for change in the family justice system. Implementation of the Strategy has now begun, however progress has been slow on researching Child Liaison Officer roles which was due to commence in Quarter 2 of 2023.<sup>79</sup> Progress is also slow on the development of protocols and guidance to assist judges when speaking to or interviewing children in family law cases which were due to commence in 2023.

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76 *ibid* para 136.

77 Houses of the Oireachtas, Joint Committee on Justice and Equality, *Report on Reform of the Family Law System* (Houses of the Oireachtas 2019) 43.

78 *ibid*.

79 Department of Justice, 'Family Justice Strategy 2022 – 2025 (2022) 21.

## ➔ Recommendations

- ▶ Include a requirement in the Family Courts Bill for specialist training for all professionals working in the family law courts, including solicitors and barristers, and for this to specifically include training on the mechanisms for meeting with and hearing from children and young people.
- ▶ Ensure that the reforms of the Family Law system and the design of the new Family Law Complex are informed by the Council of Europe's *Guidelines on Child Friendly Justice*.
- ▶ Develop a clear timeline for how the building works are going to progress on the new Family Law Complex and how the views of children and young people will inform its development.
- ▶ Complete research on Child Liaison Officer roles and the potential opportunities for the Irish legal system as a matter of priority.
- ▶ Finalise protocols and guidance to assist judges when speaking to or interviewing children in family law cases as a matter of priority.



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