

# From Rhetoric to Rights

Second Shadow Report  
to the United Nations  
Committee on the  
Rights of the Child

2006

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United Nations Committee on the  
Rights of the Child

Children's Rights Alliance

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This report follows the structure of the reporting requirements of the UN Committee on the Rights of the Child.

Children's quotations and artwork in this report are taken from material created for *Our Lives, Our Realities - A Report to the United Nations Committee on the Rights of the Child by Children Living in Ireland*, published by the Children's Rights Alliance, 2006.

★ Denotes a topic which was raised as an area of concern in the *Concluding Observations*

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# Preface

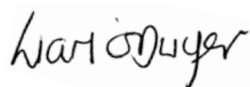
*From Rhetoric to Rights* is a snapshot of the challenges and issues facing Irish children today. It represents the views of the members of the Children's Rights Alliance – eighty non-governmental organisations who work with and for children throughout Ireland.

The report is a critical review of the progress made by the Irish Government in implementing the UN Convention on the Rights of the Child and has been prepared as a submission to the UN Committee on the Rights of the Child which will examine Ireland's Second Report under the Convention in September 2006. *From Rhetoric to Rights* was submitted to the UN Committee in March 2006, along with another Alliance report, *Our Voices, Our Realities*, which captures the voices of children and young people living in Ireland.

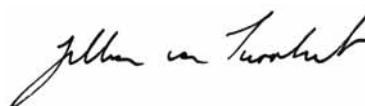
Since the UN Committee's examination of Ireland's First Report, which took place in 1998, this country has experienced significant economic and social change. Children's lives have improved in many ways as a result of increased prosperity and developments in services. Yet despite this, growing up in Ireland is *not* a positive experience for many of our children. One child in ten lives in poverty. Traveller children live on the roadside without running water or electricity. Fifty thousand children live in overcrowded or unsuitable accommodation awaiting social housing. Despite the rights they hold as citizens, Irish children have been deported with their migrant parents. Abuse and neglect are experienced by many children and support services are slow in responding to their needs. The potential of many children is stunted by educational disadvantage and by inadequate play and recreational facilities.

This report shows that the Government and Irish society as a whole have failed to comprehend just how short childhood is. Children's needs are immediate. However, policy responses to children's issues often convey little sense of urgency or appreciation that childhood does not stand still while yet another strategy is developed or expert working group convened. In the eight years since the last UN Committee examination, a generation of children have lived out their childhood: during this time we have made only limited progress towards creating a society where all children are truly respected, listened to and enabled to develop to their full potential.

The UN Convention on the Rights of the Child does not enumerate privileges which adults may choose to grant to children – it states the rights that children are entitled to *now*. The principles and provisions of the Convention must be made real in Ireland. The Convention must be integrated into our domestic law and its requirements reflected in appropriate and adequately resourced policies and services. We have heard the rhetoric: now it is time for action.



Liam O'Dwyer  
Chairperson  
Children's Rights Alliance



Jillian van Turnhout  
Chief Executive  
Children's Rights Alliance





# Key Recommendations

## 1. Constitution

- Hold a referendum without delay to amend the Constitution to give express recognition to children's rights.
- After constitutional change is secured, bring in a comprehensive Children's Rights Act to enumerate the rights set out in the UN Convention on the Rights of the Child.

## 2. Reform of the legal system

- Establish and adequately resource an independent, national Guardian *ad Litem* service and bring into force the necessary legislative provisions to ensure all children are heard in their own right in court and administrative hearings that directly affect them.
- Reform the family law system in the best interests of the child, moving the system from an adversarial to an inquisitorial model.

## 3. Child protection

- Put the *Children First* Guidelines for reporting child abuse on a statutory basis.
- Ban corporal punishment within the family and in care settings.

## 4. Child poverty

- Address increasing inequalities and ensure that children are enabled to grow up free from poverty; introduce a new social welfare payment for children in low-income families, both in and out of work.
- Build quality social and affordable housing for families with children; ensure that emergency accommodation for families with children is appropriate to their needs.

## 5. Asylum and migration issues

- End discriminatory practices in the standard of care provided to separated children seeking asylum; put in place an equitable and appropriate alternative to direct provision for asylum-seeking families with children.
- Recognise all child-specific forms of persecution as grounds for refugee status or complementary protection.
- Provide Irish children who were *de facto* deported with appropriate citizenship documentation to enable them to exercise their constitutional rights; uphold the right of Irish children of migrant parents to family reunification.

## 6. Supporting children and families in crisis

- Provide multi-disciplinary teams of professionals to deliver preventive and therapeutic services, moving the emphasis away from crisis intervention.
- Ensure social services are adequate to meet statutory obligations to children, and establish a seven-day, twenty-four hour social work service for children at risk.

## 7. Youth justice

Implement in full the Children Act, 2001 and abandon legislative proposals that would weaken the original Act.

## 8. Health

- Provide full medical cards (free healthcare) for all children living in low-income families.
- Develop a range of appropriate prevention, early intervention and treatment supports and services for children and young people with mental health difficulties.
- Implement the recommendations of the Reports of the Strategic Task Force on Alcohol and establish a National Alcohol Control Centre to ensure their implementation.
- Implement the recommendations regarding children of the Report of the National Task Force on Obesity.

## 9. Education

- Develop an integrated, universal, high-quality early childhood care and education system.
- Adequately fund primary and second-level education to ensure the education rights of all children, giving priority to addressing educational disadvantage, reducing class size, modernising school buildings, and providing tools for enrichment such as sports equipment, musical instruments and computers.
- Fully resource and staff the National Educational Welfare Service to address absenteeism and early school leaving.
- Support the establishment of multi-denominational and non-denominational schools.

## 10. Travellers

- Create sustainable change for Travellers by implementing all Government commitments regarding Traveller accommodation, health and education.

## Tools for making rights real

For the purpose of implementing the above recommendations, the Alliance calls on the Government to adopt tools for making rights real. These include:

### Rights-Based

- Ensure all legislation, policies and services are in compliance with the UN Convention on the Rights of the Child.
- Involve children as true partners in the development of policies and services at national and local level, in line with Article 12 of the Convention.
- Conduct a national awareness campaign to inform children about their rights, and take steps to empower children to exercise their rights, as enshrined in the Convention.
- Inform the public and decision-makers of Ireland's obligations to children under the Convention.

### Structural

- Grant the Minister for Children explicit right to attend all Cabinet meetings.
- Provide the leadership and resources necessary to enable the Office of the Minister for Children to effectively coordinate policies and services for children.
- Build evaluation and review mechanisms into policy to assess whether resources provided are producing positive outcomes for children.
- Systematically collect, analyse and publicise data on all aspects of children and young people's lives.

Children should be given a right to a proper home, protected from drugs and violence, and equal opportunity to achieve goals in life.

(David, age 17, Dublin)

# Introduction and Overview

## Introduction

1. During the examination of Ireland's First Report<sup>1</sup> to the UN Committee on the Rights of the Child, in January 1998, Committee member Youri Kolosov highlighted Ireland's latent potential to become a model country and international innovator in the field of children's rights. In the eight years which have passed since that examination, Ireland has wrestled with balancing a welfare approach to children with the rights-based approach necessitated by the UN Convention on the Rights of the Child. In some areas, Ireland has aligned itself with international best practice. In other areas, it has been conservative in responding to the Convention's call to empower children as individuals in their own right.
2. The Children's Rights Alliance (hereafter the Alliance) warmly welcomes the opportunity to engage with the monitoring process in relation to the implementation of the UN Convention on the Rights of the Child in Ireland (hereafter the Convention). This Report to the UN Committee is based on consultations with the wide range of non-governmental organisations that make up the Alliance and with practitioners, academics and other professionals with expertise in relation to children's issues.

## Changes since 1998

### Progress on *Concluding Observations*

3. The extent of progress in implementing the *Concluding Observations* issued by the UN

Committee, following its examination of Ireland's First Report, must be viewed in light of the fact that there has been an eight-year interval between Ireland's First and Second Reports. It must also be viewed in the context of the unprecedented economic growth which Ireland has experienced over the last decade, during which time there have been significant surpluses in public finances.

4. It is a matter of disappointment that the *Concluding Observations* were not subject to public debate in the Oireachtas (comprised of Dáil Éireann and Seanad Éireann, Ireland's lower and upper houses of parliament).
5. The most significant advances in relation to the *Concluding Observations* have been the publication of the *National Children's Strategy* (2000),<sup>2</sup> the establishment of the National Children's Office (2001), the establishment of the National Children's Advisory Council (2001), the appointment of an Ombudsman for Children (2004) and the establishment of the Office of Minister for Children (2005) which incorporated the National Children's Office.
6. However, the Alliance wishes to call attention to the fact that although the *National Children's Strategy*, Ireland's main policy framework for children, takes a holistic approach to children's needs it is not rights-based.<sup>3</sup> Neither is it explicitly a strategy for the implementation of the Convention.

### Economic and social change

7. As noted in *Ireland's Second Report to the UN Committee on the Rights of the Child* (hereafter the State Report),<sup>4</sup> the Irish economy has experienced a period of consistent growth since the early 1990s.

Ireland has become one of the wealthiest countries in the world and its per capita income is now above the EU average. This period of sustained growth and economic stability has provided Ireland with greater flexibility in how it chooses to invest its resources and address issues of social equity.

8. According to the latest available statistics, those for 2003, public social expenditure in Ireland in key areas such as social protection and education is lower than the EU average, and significantly below the level in the highest spending countries.<sup>5</sup> The Government's political commitment to making children's rights a reality must be seen within this context.
9. The quality of life for the majority of children in Ireland is high by comparison to many parts of the world. However, despite increased prosperity, significant numbers of children continue to be marginalised within society and to be failed by inadequate government interventions. Particularly troubling is the fact that Ireland continues to have the third highest rate of child poverty among developed countries.<sup>6</sup> One child in ten in Ireland lives in consistent poverty and nearly one in four is at risk of poverty (relative poverty).
10. Increased levels of income to families and increased public expenditure have benefited children. However, in the wake of economic success inequalities in income and wealth have become more pronounced and have led to deepening economic and cultural divisions in Irish society.
11. Economic growth and public investment have been uneven in their geographic distribution. There are pockets or areas of deprivation where overall levels of income

and employment are low, where children face educational disadvantage and have poorer access to play and recreational facilities.

12. Irish society is struggling with some profound social ills, manifested in, for example, increased suicide rates, mental health difficulties, racism, alcohol and drug abuse among both its adult and child populations, as well as a general weakening of community and social cohesion. Increased consumerism, social pressure to attain a certain lifestyle, and a sense of stigma when unable to meet societal expectations, are all features of the current social environment.<sup>7</sup> Additionally, there is considerable negative stereotyping of young people within society and in the media.<sup>8</sup>

#### **Demographic change**

13. The State Report underplays the fact that an increase in inward migration to Ireland over the past ten years has been one of the most striking changes for a country with a history of emigration. Some projections suggest that soon one person in ten living in Ireland will be a foreign national. Since EU expansion in 2004, over one-third of immigrants have been from the ten new member states.<sup>9</sup> During the past decade also there has been a high level of return migration by Irish people who had previously emigrated.<sup>10</sup> The numbers of asylum seekers coming to Ireland increased significantly from the mid-1990s, peaked in 2002 and has since declined.
14. In March 2005, the UN Committee on the Elimination of Racial Discrimination, in its *Concluding Observations* on Ireland's First Report, expressed concern about the level of

racism and discrimination experienced by ethnic minorities in Ireland and urged the Government to take steps to combat this.<sup>11</sup>

15. Another key change within Irish society since 1998 is that one child in three is now born outside of marriage. Furthermore, the number of one-parent households in Ireland has increased by 25% since 1996.<sup>12</sup> Children in these families are disproportionately more likely to be living in or at risk of poverty than the population overall. Approximately 130,000 children are living in one-parent families who are dependent on social welfare as a primary source of income.<sup>13</sup>

## Overarching concerns

### Cross-cutting issues

16. No progress has been made in relation to many of the *Concluding Observations* and these remain as key concerns for the Alliance; they are explored in the body of this Report. However, there are also cross-cutting issues which significantly affect the implementation of the Convention and these are outlined below.

### ★ Rights-based approach

17. There appears to be a resistance on the part of Government to adopting a rights-based approach across all areas of policy, legislation and service provision. The Government seems to perceive that such an approach would impose unsustainable funding obligations. Its reluctance to adopt a rights-based approach was illustrated in its adoption of the *National Children's Strategy* which, while derived from the core principles of the UN Convention, is not rights-based.

18. The Alliance believes that human rights are achieved not merely through increased funding but also through good management of existing funds, detailed needs-analysis, coordination of services, development of and adherence to detailed, objective-based timelines and action plans, the setting, evaluation, and monitoring of targets, and the development of services in partnership with users. The use of the language of rights in law as well the development of a methodology for implementation are fundamental steps towards the achievement of human rights for all children.

### Outstanding commitments

19. Since 1998, the Irish State has made many important commitments to children, including a commitment to reduce child poverty to 2% by 2007 if not eliminate it entirely (*National Anti-Poverty Strategy*).<sup>14</sup> The Government has also committed itself to ensuring that young people stay in school or receive appropriate career training (*Education Welfare Act, 2000*), are treated fairly and appropriately within the criminal justice system (*Children Act, 2001*), are protected from abuse (*Children First guidelines*)<sup>15</sup> and grow up in an inclusive society (*National Action Plan Against Racism, 2005–2008*).<sup>16</sup>
20. Furthermore, under Goal Three of the *National Children's Strategy* there is a commitment to provide quality supports and services for children.
21. In practice, the necessary leadership, resources and administrative structures to effectively implement these commitments have not been forthcoming, leaving them to stand more often as aspirations than reality. In the absence of a rights-based approach,

whereby rights are guaranteed by legislation, the Government has no binding obligation to fulfil these commitments other than that imposed by public accountability.

### **Resources that achieve best results for children**

22. Policy development and implementation in Ireland have been focused on inputs and outputs rather than on real outcomes for children's lives. The fact that resources for children increased substantially between 1998 and 2005 is not in dispute. However, while some of this investment has produced positive outcomes for children, there are many instances where investment has achieved little because it was either targeted inappropriately or proper administrative systems to integrate services on the ground were not in place. There is clear need for a strategic, coordinated approach to investment in children. This issue also ties into the need for better data on children's lives (to gauge total potential demand) and better evaluation systems to monitor effectiveness. Critically, there is a need to link the policy-making process, which assesses the range of children's needs and identifies priorities, with funding commitments. There is also a need for a system to ensure that where pilot schemes are shown to be successful they are then mainstreamed. There is need for a more sustained process of investment, which will allow for planning and growth.

### **★ Services for those at risk**

23. Significant numbers of children in Ireland experience disadvantage, including those living in poverty, early school-leavers, homeless young people, those living with addiction or mental illness (either their own or that of a parent) or those who are part of a disadvantaged ethnic minority. Much

more needs to be done to support these children and their families through comprehensive preventive and early intervention services (rather than crisis intervention only), to coordinate the services targeted at these children, and to ensure that allocated funding produces positive outcomes.

24. *Inappropriate services and placements.* One of the most pointed examples of how the Government's approach to children's services has failed on a wider, systemic level is the use of inappropriate services to treat troubled children – those with mental health or behavioural difficulties, those who are in contact with the criminal justice system and those for whom there are abuse concerns. Because of a lack of adequate planning, investment and coordination in relation to both crisis and preventive services, the line is often blurred between welfare, criminal and health interventions.

25. In this context, the response to the needs of children with complex problems is too often determined by whatever service is available, even if the placement is inappropriate or potentially damaging. For example, children have been inappropriately placed in youth detention centres (when they have not committed a crime) and in adult psychiatric hospitals.

26. In these instances, the lack of adequate specialised and coordinated services, and lack of sufficient commitment to implement the rights of the child at a systemic level, has produced deeply troubling results. Until the Government actively commits itself to fulfil its obligations to children under the Convention by creating sufficient and appropriate welfare, preventive, and rehabilitative services that take into account

children's best interests, these children's rights will continue to be violated.

### **Need for constitutional change**

27. Political and public discourse concerning children in Ireland has tended to focus on protecting their interests rather than on empowering them to be active participants and decision-makers in their own lives, communities and society at large. The status of children in the Irish Constitution, in which the rights of children are subordinate to the rights of the family, as well as the lack of government action to raise public awareness of the rights of children and Ireland's obligations under the Convention, have perpetuated this protectionist attitude.

28. Constitutional recognition of children's rights is fundamental to creating an environment in which children are empowered to exercise the range of their rights. Constitutional status for the key principles of the Convention would also place significant obligations on Government in relation to children, regardless of the ebb and flow of political will.

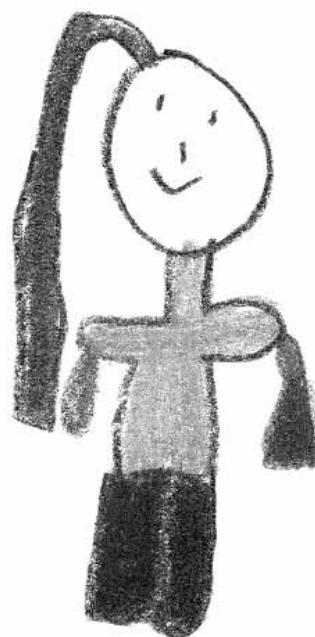
29. The State has confirmed to the international community that it is dedicated to implementing the rights contained in the Convention. The adoption of the principles of the Convention at constitutional level is necessary for the full implementation of its provisions. The Government has, however, taken no action to progress this.

30. Amending the Constitution would require a referendum, the passage of which depends on public assent. A constitutional referendum would therefore need to be preceded by a vigorous public information campaign on the Convention and on

Ireland's international obligation to incorporate its provisions.

31. True progress requires not only constitutional reform: Government has a related obligation to foster societal awareness of children as rights-holders. In order for children's rights to be made real, they must become part of society's vision for itself.

me





Peer pressure is affecting young people in forcing them to grow up faster and faster.

(School Students, age 16-17)

# I. General Measures of Implementation

## Measures taken to harmonise national law and policy with the provisions of the Convention

### ★ Irish Constitution

32. Article 41 of the Constitution of Ireland recognises the marital family as “the natural, primary and fundamental unit group of society... possessing inalienable and imprescriptible rights”. The constitutional status of the family has two main implications for children. First, the current constitutional position often places children’s rights in second place to those of their parents. As a result, child-friendly family law is curtailed in its operation by constitutional limitations. Second, this constitutional provision limits the enactment of certain types of legislation concerning children.

33. Under Ireland’s dualist legal system, international conventions must be integrated into domestic law in order for them to take effect. Ireland has not taken steps to integrate the Convention into domestic law.

34. The Alliance calls for the explicit expression of children’s rights within the Constitution and strongly urges against articulating children’s rights solely in domestic legislation. There is a compelling argument against articulating children’s rights only in legislation without first securing

constitutional change. As the Constitution takes a clear position on children, legislation on its own would be impeded in its function without constitutional change. The approach taken to incorporate the European Convention on Human Rights and Fundamental Freedoms into domestic legislation could not be replicated, due to the existing constitutional blocks to sub-constitutional legislation regarding children.

35. In 1993, during the pivotal Kilkenny Incest Investigation, Catherine McGuinness, Senior Council (later a Supreme Court Judge), observed that: “... the very high emphasis on the rights of the family in the Constitution may consciously or unconsciously be interpreted as giving a higher value to the right of parents than to the rights of children.”<sup>17</sup>

36. In 1996, the Constitution Review Group recommended that an express statement on the rights of children should be included in the Constitution. This proposed amendment enumerated a range of children’s rights and stated that the best interests of the child should be the paramount consideration in all actions concerning children.<sup>18</sup> The Group’s recommendation was endorsed by the Commission on the Family in 1998.<sup>19</sup>

37. In January 2006, the All-Party Oireachtas Committee on the Constitution proposed new, weaker text for an amendment to Article 41 of the Constitution as follows: “All children, irrespective of birth, gender, race or religion, are equal before the law. In all cases, where the welfare of the child so requires, regard shall be had to the best interests of the child.”<sup>20</sup>

38. While the Alliance welcomes the re-statement by the All-Party Committee of the need to improve the constitutional status of children, the amendment it proposes is inadequate. The suggested amendment is a radical departure from the commitment made by the State when it ratified the Convention in 1992 and from the recommendations of various expert groups, including the recommendations of the Kilkenny Incest Investigation (1993), the amendment proposed by the Constitution Review Group (1996) and the *Concluding Observations* of the UN Committee on the Rights of the Child (1998).

39. The first sentence of the proposed amendment merely reinforces the existing constitutional requirement of equality for all citizens contained in Article 40.1<sup>21</sup> and does not improve the specific position of children within the Constitution. The second sentence calls only for “regard” to be had to the child’s best interests, rather than for the best interests to be paramount. Crucially, the proposed amendment requires that an individual child’s welfare be under consideration before the “best interests” provision will apply. The amendment therefore does not provide for the range of children’s rights generally nor does it do so in a systematic manner. The adoption of the All-Party Committee’s proposed amendment would not fulfil the full range of Ireland’s obligations under the Convention.

40. The Alliance submits that constitutional reform is necessary to affirm the child as a full citizen of the State in his or her own right, both within and, when necessary, separate from the context of the family unit. The South African Constitution (1996) stands out as a model of international best

practice in the constitutional recognition of children’s rights.<sup>22</sup> Alternatively, the recommendation of the 1996 Constitution Review Group would also enhance the position of the child in the Irish legal system.

**41. The Alliance calls for a referendum to be held without delay to amend the Constitution to give express recognition to children’s rights.**

**42. After constitutional change is secured, a comprehensive children’s rights act should be introduced, enumerating the rights contained in the UN Convention on the Rights of the Child.**

#### **Legislation, policy and services**

43. No review of national legislation, policies and services has been undertaken to assess compliance with the Convention. The Alliance calls for such a review to be carried out as a matter of priority. The review should focus on legislation, policies, services and administrative schemes which impact both directly and indirectly on children.

**44. The Alliance calls on the Government to ensure that all existing and future legislation, policies and services are in compliance with the UN Convention on the Rights of the Child.**

## **Mechanisms for coordinating policies and monitoring the implementation of the Convention**

### **★ National Children’s Strategy**

45. The Alliance welcomes the publication of the *National Children’s Strategy* (2000). Progress in implementing the ten-year

Strategy has been mixed, with positive developments made in the area of enabling the voice of the child to be heard in public policy-making (Goal One) and research (Goal Two). However, significant difficulties persist in relation to data collection and analysis (Goal Two) and, above all, in the provision of quality supports and services (Goal Three). Mid-way through the implementation period for the Strategy, it is evident that the Government has failed to take sufficient action to fulfil the commitments under Goal Three.

46. It has already been noted that the Strategy is not rights-based. A further key weakness is that the Strategy does not have an implementation plan with prioritised, timed and costed actions to be taken to achieve its objectives. Moreover, the Strategy is not linked to specific budgetary allocations.
47. The Alliance urges the Government to fully implement the *National Children's Strategy* in the remaining five years of the Strategy's lifetime. In addition, the Alliance urges the Government to prepare a second national strategy for the period 2010 onwards, which should be explicitly a plan for the implementation of the UN Convention in Ireland.

#### ★ **Coordination across departments**

48. There are now structures at a systemic level (the Cabinet Committee on Children, the Minister of State for Children, the Office of Minister for Children and the National Children's Advisory Council) that have the potential to drive a coherent and cohesive approach to policies and services for children.
49. Despite the commendable development of these structures, the fragmentation of

responsibility for children's services and policy remains a key weakness.

Responsibility for children's affairs at national level is divided between several government departments. The key departments are: Health and Children; Education and Science; Social and Family Affairs; Justice, Equality and Law Reform. The various departments all too often work independently of one another, which results in an inconsistent policy approach and a lack of coordination at the level of budgetary allocation and service delivery. The fragmentation of responsibility also leads to a lack of accountability.

50. There was considerable concern that the National Children's Office (in place between 2001 and 2005) which was established to coordinate the implementation of the *National Children's Strategy*, was not granted sufficient authority or funding to enforce its remit, in particular in relation to Goal Three (the provision of quality supports and services).<sup>23</sup> In practice, individual government departments retained responsibility for implementing the Strategy in their particular areas of concern.
51. The functions of the National Children's Office were subsumed into the Office of Minister for Children, which was established in December 2005, and is a unit within the Department of Health and Children. The Office of the Minister for Children brings together the functions of the National Children's Office, along with policy development and some programme implementation in relation to early childhood, child protection and youth justice. While the Alliance welcomes this development, it waits to see whether the new Office will be vested with sufficient powers and resources to be a central driver

for the implementation of the Convention and of the *National Children's Strategy* and for the coordination of policies.

52. Under new arrangements, the Minister for Children although a Minister of State,<sup>24</sup> is being invited to attend Cabinet meetings. While this is to be welcomed, the fact remains that the Minister is not automatically entitled to attend the meetings and does not have a vote at Cabinet. The extent of the Minister's influence over children's issues which are the primary responsibility of other departments remains unclear. A key measure of the effectiveness of the new Office will be whether it is able to achieve substantial progress in implementing the *National Children's Strategy*.

**53. The Alliance calls for the further strengthening of the powers of the Minister for Children including the explicit right to attend all Cabinet meetings. The Office of the Minister for Children should be adequately resourced so as to enable it carry out its remit in full.**

**54. The Alliance calls on the Government to provide the leadership and resources necessary to enable the Office of the Minister for Children to effectively coordinate policies and services for children.**

55. The Alliance recommends that a review of the effectiveness of the new Office should take place two years on from the date of its establishment.

### **Social Partnership**

56. A significant driver of policy-making and implementation in Ireland is the Social

Partnership structure, which brings together Government, business and employers' organisations, trade unions, agriculture and farming organisations, and the community and voluntary sector. The interests of children and young people are represented through the involvement of NGOs, in particular two national coalitions of organisations concerned with the rights and welfare of children and young people – the Children's Rights Alliance and the National Youth Council of Ireland.

### ★ **Data collection and analysis**

57. There is a significant link between data and information systems and appropriately targeted public policy, and investment that produces positive outcomes. Goal Two of the *National Children's Strategy* states: "Children's lives will be better understood; their lives will benefit from evaluation, research and information on their needs, rights and the effectiveness of service."<sup>25</sup>
58. Following on from the creation of the National Children's Office, additional research into children's lives was undertaken or supported by the Office. A particularly important development is the Government commitment to institute a national longitudinal study. However, the commissioning of this has taken a considerable length of time and the study has yet to begin.
59. There is still no comprehensive mechanism for, or overarching strategic approach to, generating, collecting, analysing and coordinating data on all aspects of children's lives. Many areas of children's lives in Ireland have not been the subject of any research and basic statistics on many key issues are not gathered.<sup>26</sup>

60. There are limited but important sources of official information where the child is the unit of enquiry, but, in general, statistical data collection is focused on adults.<sup>27</sup> Even where data in relation to children exists, that information is rarely disaggregated and is often not easily accessible. For example, while there is some data on the number of children in need of health and social support services, it is not extracted from more general data and made available in an accessible format to the public.

61. There is also a significant data gap regarding children at risk, such as homeless children, sexually-exploited children, Traveller children, asylum-seeking children, children from ethnic minorities and children in conflict with the law.

62. The lack of systematic data on children and their needs hinders the targeting of investment in social services. Furthermore, the absence of baseline measures means there is no way to evaluate the impact of investment on children's lives or to systematically identify areas where further resources are needed.

63. *Qualitative data.* Very little qualitative research has been undertaken into children's daily lives in Ireland and their relationships with others. This applies to all children, not just to those requiring family support or state intervention. Qualitative data is needed on, among other areas, children's lifestyles, parental activities with children, quality of child-parent relationships, parenting style, contact with non-resident parents, contact with grandparents and wider kinship networks.<sup>28</sup>

64. *Exchequer Budget.* The annual national budget is not disaggregated to show the proportion of the budget devoted to expenditure on services for children, including health, welfare and education. Nor is information available on steps taken to ensure that all national, regional and local authorities are guided by the best interests of children in their budgetary decisions and that they give due regard to children in their policy-making.

65. The Alliance recommends that a critical and systematic examination of existing and required data sources take place. This will necessitate close working between the Office of Minister for Children, government departments and other data collection agencies.

**66. The Alliance calls for the establishment of a comprehensive system for generating, collating, analysing and publicising data on all aspects of children's lives.**

**67. The Alliance calls for evaluation and review mechanisms to be built into policy to assess whether resources provided are producing positive outcomes for children.**

#### **Child well-being indicators**

68. A set of child well-being indicators was developed by the National Children's Office, in consultation with a wide range of interest groups, and published in 2005.<sup>29</sup> The indicators are to be used as the basis for a report, *The State of the Nation's Children*, to be published every two years.

69. A potential weakness of this approach is that the set of indicators is not fully comprehensive – for example, it omits key areas such as quality in early childhood education and care, and children's involvement in the arts. Moreover, it is not flexible, since new indicators cannot be added as this would be incompatible with the research methodology. For The State of the Nation's Children report to be comprehensive, it will be necessary to add material beyond what is covered by the well-being indicators. This is particularly important given the rapid social change that Ireland is experiencing.

## Measures taken to make the principles and provisions of the Convention widely known

### ★ Awareness of the Convention

70. Awareness of the UN Convention on the Rights of the Child among children is generally low and there have been few initiatives in this area.<sup>30</sup> Awareness among the public at large is also considered to be low, although no formal evaluation has been undertaken.

71. To raise awareness of the Convention, the Government undertook a wide distribution of the *National Children's Strategy* which included the text of the Convention. While there have been some isolated initiatives,<sup>31</sup> generally targeted at second-level pupils, there has been no national awareness-raising campaign to inform children of their rights.

72. Within the evolving statutory structures (namely, the Office of Minister for Children and Office of Ombudsman for Children) there is a need for clarity as to which

agency is primarily responsible for promoting awareness of the Convention and for monitoring progress in this regard.

**73. The Alliance calls for periodic public awareness campaigns on the UN Convention on the Rights of the Child.**

**74. The Alliance also calls for a comprehensive programme to ensure that all children have the opportunity to learn about and understand their rights as enshrined in the Convention.**

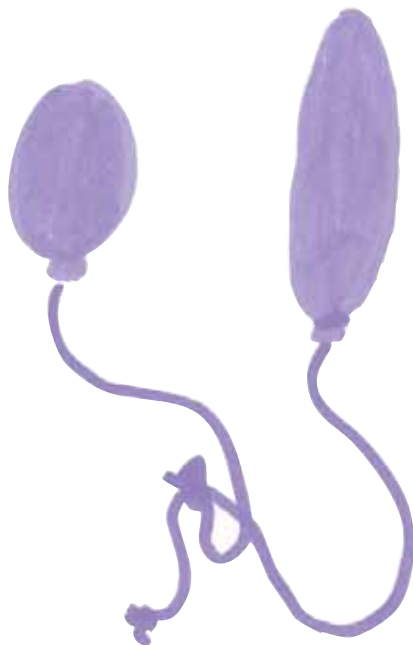
75. The holding of a referendum to give express recognition to the rights of children in the Constitution would be a significant opportunity to raise awareness of the Convention and its provisions; the Alliance urges, therefore, that such a referendum be preceded by a comprehensive public information campaign.

76. *Professionals working with children.* There continues to be a widespread lack of awareness of the Convention among professionals working with children due to the absence of formal education in relation to its provisions in pre-qualification and in-service training programmes.

77. The Alliance urges the Government to ensure that education on children's rights is integrated into all training curricula and to ensure that information on the Convention is made available to all those working with children, particularly health service professionals, teachers, early childhood workers, social workers, legal professionals, the judiciary and Gardaí. In addition, policy and decision-makers must be made aware of Ireland's obligations to children under the Convention.

## ★ Publicising of the Second National Report of Ireland

78. The process of reporting to the UN Committee is not widely publicised by the State. Ireland's *First State Report* (1996) and the *Concluding Observations* of the UN Committee (1998) were not made widely available to the public and are not available in the Irish language. Although the State consulted with members of the NGO sector while preparing its Second State Report, it did not invite submissions from the wider public.





**Most adults don't respect the views  
of young people.**

(Melanie, age 17, Waterford)

## II. Definition of the Child

### ★ Age of criminal responsibility

79. The section of the Children Act, 2001 raising the age of criminal responsibility from seven, as it currently stands, to twelve years has not yet been commenced. The Government has now stated its intention to bring this provision into force, but at the same time it proposes to introduce new legislation which would allow the age of criminal responsibility for serious crimes – rape, aggravated sexual assault, murder or manslaughter – to be set at ten years.

**80. The Alliance calls on the Government, as a matter of urgency, to raise the age of criminal responsibility from seven years to twelve years, as provided for in the Children Act, 2001, and to abandon its proposal to amend the legislation to set ten as the age of criminal responsibility for serious offences.**

### Age of sexual consent

81. Although *Children First: National Guidelines for the Protection and Welfare of Children* indicates that the age of sexual consent is seventeen, the Attorney General's interpretation of the law is that the legal age for sexual consent is fifteen for males and seventeen for females. This divergence in interpretation needs to be examined and the age of sexual consent clarified.

82. An additional problem is that the criminal law does not distinguish between underage sexual activity that is consensual and underage sexual activity that is abusive. This issue needs to be addressed.

83. Both young people and service providers are unclear as to what action a service provider should or must take in situations of consensual underage sexual activity. Young people will be reluctant to approach service providers about sexual health issues if they fear that there is a possibility their situation may be reported to social services as abusive. There is a need to clarify the legal position so that young people are not deterred from approaching service providers about sexual health issues and so that professionals have guidance as to when it is appropriate to report underage sexual activity.

**84. The Alliance calls for the age of sexual consent to be clarified.**

### Age of medical consent

85. The age of consent for surgical, medical and dental treatment is set at sixteen years by section 23 of the Non-Fatal Offences Against the Person Act, 1997.

86. Section 2 of the Mental Health Act, 2001, however, raises the age of consent for mental health treatment from sixteen to eighteen years (this section has yet to be commenced). This is inconsistent with the Non-Fatal Offences Against the Person Act, 1997.

**87. The Alliance calls for the Mental Health Act, 2001 to be amended so that children of 16 and 17 years are presumed to have capacity to consent to, or refuse, psychiatric treatment.**

**Bad things: People mocking you for the way you talk, Being called 'knacker'; Don't get to learn nothing about your culture...**

(Young Travellers, age 15–17, Dublin)

# III. General Principles

## Non-discrimination (Article 2)

### Racism

88. The UN Committee on the Elimination of all Forms of Racial Discrimination has expressed concern about the levels of racism, prejudice, stereotyping and xenophobia in Ireland.<sup>32</sup> The Alliance is deeply concerned about the short-term and long-term impact of these attitudes on ethnic minority children and Irish society as a whole.

89. The Alliance welcomes the publication of the *National Action Plan Against Racism, 2005-2008*.<sup>33</sup> The test of whether Ireland is serious about tackling racism will be the level of resourcing provided for the measures outlined in this Plan.

90. Early childhood provision and school are key settings for fostering inclusion and interculturalism and should be central to the implementation of the *National Action Plan Against Racism*.<sup>34</sup>

91. In addition, there is a need to invest in anti-discrimination and anti-racism training for those involved in the delivery of public services to ensure equal opportunities in key services including social welfare, health, education, housing and accommodation.

**92. The Alliance calls on the Government to provide real political leadership to combat racism and discrimination and to implement the *National Action Plan Against Racism*.**

### Habitual Residency Condition for the Child Benefit payment

93. Prior to 2004, Child Benefit was paid in respect of each child resident in the country, regardless of family income. As a response to EU enlargement on 1 May 2004, the Government instituted a two-year 'habitual residency condition' for entitlement to Child Benefit and social assistance payments.<sup>35</sup> This action breached EU legislation and in November 2005 Ireland was forced to reinstate the entitlement to the Child Benefit payment to workers from the European Economic Area (EEA).<sup>36</sup> In addition, the Government chose to extend this entitlement to non-EEA workers with children resident in Ireland.

94. While this reinstatement is to be welcomed, the principle of universal entitlement to Child Benefit for every child living in Ireland has not been restored, as the Government chose not to reinstate entitlement to the children of asylum-seekers. Between May 2004 and January 2005, 1,400 children of asylum seekers have been denied this payment. Asylum seeking families are significantly affected by this policy decision since they are not allowed to work, and as part of the 'direct provision' system are provided with only a small weekly cash allowance.

95. The denial of Child Benefit to asylum-seeker families has reduced their weekly income by at least 40%, and possibly as much as 70%, depending on the number of children and whether the family unit includes one or two parents. As a result, families have a wholly inadequate income to cover basic day-to-day expenses not met under the direct provision system (basic food and accommodation). The only option open to families is to apply under the Supplementary

Welfare Allowance system for 'exceptional needs payments' to cover necessities such as clothing, over-the-counter medicines and supplementary food. It is at the discretion of the Community Welfare Officer whether assistance will be granted.

**96. The Alliance calls for the reinstatement of the principle of universal entitlement to the Child Benefit payment for all children living in Ireland.**

97. In addition, the impact on families of the habitual residency condition regarding social assistance payments should be reviewed.

## **Best interests of the child (Article 3)**

### **Irish children of migrant parents**

98. From 1922 to 2005, under Irish law, all children born in Ireland were entitled to Irish citizenship at birth.<sup>37</sup>

99. Until 2003, migrant parents of Irish-born children could apply for residency in Ireland on the basis of the citizenship rights of their children. Parents had no automatic right to residency, but the practice was that most parents were granted residency.<sup>38</sup> On 23 January 2003, in a case that challenged a refusal of residency, the Supreme Court confirmed that there was no automatic right to residency for the migrant parents of Irish children.<sup>39</sup>

100. On 19 February 2003, the Department of Justice, Equality and Law Reform suspended the procedure whereby migrant parents could apply for residency on the basis of having an Irish child. The Department refused to accept any further residency applications from migrant parents

irrespective of circumstances. Any applications made prior to that date in respect of which no final decision had been reached were returned unprocessed. No alternative means of applying for residency for parents was created.

101. Parents who had lawfully applied for residency in Ireland as parents of Irish children prior to 19 February 2003, were left with no indication as to their status, and ultimately faced deportation. In June 2003, the Minister for Justice began to issue letters of intent to deport these migrant parents under the Immigration Act, 1999. Parents could appeal the decision to deport them by applying for 'humanitarian leave to remain', but there was no specific regard made to the position of their Irish children. By its own admission, the Department of Justice did not employ any child impact assessment when determining if a parent should be deported. Less than 100 cases of humanitarian leave to remain were granted.

102. The Government did not provide any guidelines or advice to parents who received deportation orders on how they might make their case to the Department of Justice so that they and their Irish child could remain in Ireland. The Government turned down several requests to make legal aid available to the parents of these children.

103. Since June 2003, deportations of migrant parents and their children have taken place. In some instances, one parent has been deported leaving the second parent remaining in Ireland. In other cases, deported parents have left their children in Ireland, hoping for a better life for them.

104. It is difficult to quantify the levels of distress caused to the thousands of migrant families resident in Ireland by the Government's retrospective application of its reversal of policy and consequent deportations.
105. *De facto deportations of Irish children.* Up to the end of 2005, at least thirty-eight Irish children had been *de facto* deported with their parents despite their rights as afforded by citizenship. In some cases, Irish immigration authorities provided copies of passports of Irish children directly to foreign embassies for visa purposes, without the consent of their parents.
106. The exact number of Irish children *de facto* deported is not known, as the Department of Justice has not made available statistics on the numbers of Irish children transported on deportation charters with their parents, nor does it keep any contact with Irish children removed from the State in this manner.<sup>40</sup>
107. The Alliance has knowledge of several cases where children and their parents were left destitute on arrival at the country of destination, following which children became gravely ill. When the State removed these Irish children with their parents, it undertook no exercise to ensure that the children had means of proving their identity or Irish citizenship so that they could exercise their rights now and when they are adults.
- 108. The Alliance calls on the Government to ensure that Irish children who were *de facto* deported with their parents are provided with appropriate citizenship documentation and are facilitated to exercise their constitutional rights.**
109. *Irish Born Child 2005 Residency Scheme.* Following a campaign by non-governmental organisations, the Department of Justice announced in December 2004 a procedure whereby parents of Irish children could apply to stay in Ireland on the basis of having an Irish child.<sup>41</sup> The procedure was applicable where a parent had a child born prior to 1 January 2005. One of the qualifying criteria was that the applicant be resident in Ireland. As a result, families who had been deported were unable to apply under the scheme.
110. Parents granted residency under this procedure are entitled to remain in Ireland for an initial period of two years and are permitted to take up employment. It has been indicated that these families will be granted a further three-year permit to remain in Ireland at the expiry of the initial two-year period provided they met certain criteria.
111. The majority of the 17,917 applicants were granted leave to remain.<sup>42</sup> However, the application process required that the migrant parents sign a statutory declaration stating that they were aware that the granting of permission to remain did not give rise to any legitimate expectation to family reunification in cases where family members, including siblings of Irish children, are resident outside the State. The Alliance calls for the right to family life of Irish children to be upheld through family reunification.
112. Although migrant parents of Irish children have been told that they will be allowed to apply for an extension to their residency, the Department of Justice has not yet set down the requirements they must fulfil in order to qualify for an extension. All that is

so far known is that such migrant parents will be required to show that they have not broken the law and that they have made efforts to become economically viable in the State. The Alliance urges that in setting the specific criteria for granting extensions of residency, the rights of children of migrant parents should be a primary consideration.

**113. The Alliance calls for a child impact assessment to be carried out in the assessment of applications by parents of Irish children for residency and family reunification.<sup>43</sup>**

## Right to life, survival and development (Article 6)

### ★ Breastfeeding

114. While progress has been made in the uptake of breastfeeding since 1998, the latest statistics show breastfeeding initiation rates at just over 43%.<sup>44</sup> These rates are still among the lowest in Europe, with the rate in Britain at just over 70% and Sweden at 99%.<sup>45</sup> To have a better picture of the true incidence of breastfeeding – the rates of initiation and duration – there is need for accurate recording of specific infant feeding methods at various developmental stages.

115. The publication of *Breastfeeding in Ireland: A Five Year Strategic Action Plan* and the appointment of a National Breastfeeding Coordinator are welcome.<sup>46</sup> Much more needs to be done to improve rates of breastfeeding and to ensure that mothers are informed of the benefits of breastfeeding and supported to breastfeed their children. Specific attention needs to be given to promoting breastfeeding

among sections of the population who have low breastfeeding rates.

**116. The Alliance calls for the implementation of the *Breastfeeding in Ireland: A Five Year Strategic Action Plan* and the promotion of breastfeeding as being in the best interest of the child.**

117. Asylum seekers in direct provision face particular barriers to breastfeeding, including limited physical space so as to allow privacy, and the constraints of a regime that includes inflexibility in meal times and a lack access to food between meals. The Alliance urges that the *Infant Feeding Guidelines for Direct Provision Centres in Ireland* be fully implemented.

### Infant mortality rates

118. The infant mortality rate per 1,000 live births is 5 in Ireland, which is higher than the average of the EU15 countries of 4.3 infant deaths (Finland and Sweden have rates of 3.2) and also of the EU25 countries with an average of 4.6 deaths.<sup>47</sup>

119. There are differentials in infant mortality rates according to social class and membership of vulnerable groups. For example, a 2001 study found that infant mortality among asylum seekers and refugees was considerably higher than among infants born to Irish mothers.<sup>48</sup> The infant mortality rate among Traveller children is two and a half times that for the settled population.<sup>49</sup>

**120. The Alliance calls for policy and associated targets to be mapped out to reduce the disparity in infant mortality rates.**

## Respect for the views of the child (Article 12)

### ★ Children's participation in policy-making

121. The Government has made commendable strides in facilitating the voice of children in public policy-making, as outlined in the State Report. The Alliance welcomes the establishment of new mechanisms at national and local level for young people to express their views (Comhairle na nÓg, Dáil na nÓg and Coiste na dTeachtaí). The publication in 2005 of guidelines on children's participation (*Young Voices: Guidelines on how to Involve Children and Young People in your Work*) was an important development.<sup>50</sup>

122. However, the practice of hearing young voices is still at an early stage of development in Ireland. Until it is widely accepted that children have a right to speak for themselves, opportunities for children to speak on their own behalf will remain sporadic.

123. Much more needs to be done in the areas of education, awareness-raising and training so that all those who work with and for children can develop an understanding of the requirements of Article 12, and an appreciation of the diverse possibilities for progressing its implementation.

124. An issue of particular importance is enabling children from disadvantaged and marginalised communities to have meaningful participation in all fora. The involvement of these children requires additional measures, such as staff training and supports for the child, including finance, transport, interpretation and a

range of personal supports to ensure they have the opportunity to fully participate.

**125. The Alliance calls on the Government to widen and promote opportunities for children and young people to participate in decision-making at local and national level.**

126. On a wider political level, the Alliance urges the Government to lower the voting age from eighteen to sixteen years.<sup>51</sup> The Alliance sees this as an important step towards encouraging young people's political participation at an early age and fostering active citizenship.

### ★ School councils

127. All second-level schools are obliged by the Education Act, 1998 to encourage the establishment of a school council. The Alliance commends the work that was carried out by the National Children's Office to support the establishment of schools councils and to improve the quality of existing councils.

128. As school councils are a key vehicle for children's participation as well as a way of educating children about their rights, the existing legislation should be amended to require all schools (both primary and second-level) to establish school councils.<sup>52</sup>

129. Furthermore, all schools should be encouraged to strive for best practice in relation to the quality and effectiveness of councils. In this regard, the recommendations of the 2005 report, *Second Level Student Councils in Ireland: A Study of Enablers, Barriers and Supports*, should be followed.<sup>53</sup>



## ★ Ombudsman for Children

130. The Alliance welcomes the establishment of the Office of Ombudsman for Children in 2004.

131. However, the Ombudsman for Children Act, 2002 excludes the Office from hearing complaints in cases involving children in prison or other places where children are detained following a court order (other than detention schools).<sup>54</sup> The exclusion of children in detention is particularly worrying given the absence of clear legislative guidelines on what may or may not constitute a place of detention and on the type of regime that should operate in a place of detention.

132. The Office of Ombudsman for Children is also excluded from hearing complaints taken in the administration of the law relating to asylum, immigration, naturalisation and citizenship.<sup>55</sup> The Alliance supports the call by the Office for clarity on the extent of this exclusion, and commends the narrow interpretation of the exclusion being adopted by the Office.

133. The Alliance is also disappointed that, unlike other Offices of Ombudsman for Children in Europe, and unlike the Irish Human Rights Commission, the Ombudsman cannot undertake the role of *amicus curiae* in court cases that may have a significant impact on child law.<sup>56</sup>

**134. The Alliance calls for the Ombudsman for Children Act, 2002 to be amended to ensure that all children can avail of the complaints function of the Office of the Ombudsman for Children, and for the Office to be empowered to take an *amicus curiae* role in court cases.**

## ★ Guardian *ad Litem*

135. *Private law.* In the case of private family law proceedings, the provisions of the Children Act, 1997, which allow for the appointment of a Guardian *ad Litem*, have not yet been commenced.<sup>57</sup> This is of considerable concern since it means that children have no mechanism to voice their opinion in relation to family law proceedings affecting them. This is a particular problem in highly contentious custody and access cases.

136. Ireland has not ratified the European Convention on the Exercise of Children's Rights, which the State signed in 1996. The Alliance urges that this European Convention be ratified as a matter of priority to ensure that, *inter alia*, the voice of children can be heard in family law proceedings affecting them.

**137. The Alliance calls for the provisions of the Children Act, 1997 enabling the appointment of a Guardian *ad Litem* in contentious private law proceedings to be brought into force.**

138. *Public law.* There is legislative provision for the appointment of a Guardian *ad Litem* for children in legal proceedings involving the public authorities, such as care proceedings and child protection cases. However, the appointment of a Guardian is not automatic: the decision is at the discretion of the judge. Moreover, where it is deemed necessary to appoint a separate legal representative for the child the court cannot retain the services of a Guardian *ad Litem* for that child.

139. In addition to these limitations, there are significant concerns regarding the operation of the Guardian *ad Litem* service in public

law. The NGO sector currently provides Guardian *ad Litem* services; this work is significantly under-funded. There is little data on the cases where Guardians *ad Litem* have been appointed, and therefore it is difficult to assess the present situation, other than through anecdotal evidence. There is need for a national database on the extent and circumstances of the use of the services of Guardians *ad Litem*.

140. There is currently no statutory guidance as to the role and functions of the Guardian *ad Litem* in either public or private law.<sup>58</sup> Additionally, there are no guidelines within public law to aid the court in deciding when to appoint a Guardian *ad Litem* or who may serve as one.<sup>59</sup> Such guidelines need to be put in place as a matter of urgency.

141. *National Guardian ad Litem service.* There is need for a single Guardian *ad Litem* service, available to all children involved in either public or private legal proceedings. This service should be centrally funded and regulated, with effective mechanisms for monitoring, accountability, and adherence to best practice standards.

**142. The Alliance calls for the establishment of an independent, national Guardian *ad Litem* service, encompassing both private and public law.**



Children in Ireland may be given more freedom than those in some country, but things such as freedom to make our own decisions in life or to decide our religion are still made for us ...

(Colm, age 16, Dublin)

# IV. Civil Rights and Freedoms

## Name and nationality (Article 7)

### Citizenship Referendum

143. In a referendum held in June 2004, a constitutional amendment was passed which ended the constitutional right to citizenship for all children born on the island of Ireland.
144. Following on from the referendum, the Irish Nationality and Citizenship Act, 2004 provided that as of 1 January 2005 citizenship by birth would be restricted to children of Irish citizens and children born to non-Irish national parents who could prove that they had a genuine link to Ireland (evidenced by being resident legally in Ireland for three out of the four years immediately before the birth of the child).<sup>60</sup> Asylum seekers and students from countries outside the European Economic Area would not be permitted to claim the time spent in Ireland as the basis for citizenship rights for their children.
145. While the long-term impact of the legislative change remains unclear, what is apparent is that a second class of children born in Ireland has been created who are not entitled to the rights of citizenship. Prior to the referendum being held, no child impact review was undertaken to assess the implications of the proposed constitutional change for children's rights. The Alliance urges the Government to conduct a comprehensive child impact review to assess the potential long-term impact on

children of the Irish Nationality and Citizenship Act, 2004.

146. As already noted (para. 107), the Alliance is concerned that when Irish children were *de facto* deported with their migrant parents the State did not undertake an exercise to ensure that the children had a means of proving their identity or Irish citizenship so that they could exercise their rights now and when they are adults.

## Preservation of identity (Article 8)

### ★ Birth registration

147. Children of married parents are registered under both the father's name and the mother's maiden name, and children of parents who are not married are registered under the mother's name with the registration of the father's name being optional. Some parents are unclear about the implications of registering the father's name on a child's birth certificate, where the parents are not married.<sup>61</sup>
148. The Alliance is concerned about the lack of measures to encourage the registration of the father's name on his child's birth certificate. This impedes a child's rights under Articles 7 and 8 of the Convention to have their identity (which includes family relations) preserved and to know their parents.
149. In some hospitals, a two-tier system operates whereby children born to married parents can be registered in hospital and those born to unmarried parents are required to go to the Registrar's Office. In other hospitals, registrars are in place to facilitate unmarried parents. The Alliance

recommends that all hospitals provide registrar facilities to ensure that all births, regardless of the marital status of the parents, can be registered in hospital.

**150. The Alliance calls for the introduction of legislation to require the registration of both parents' names on their child's birth certificate, except where this is demonstrably not in the best interests of the child.**

151. The legislative change should be accompanied by a public information campaign.

## Freedom of thought, conscience and religion (Article 14)

152. Parents may exempt their children from the religious education portion of the school curriculum; however young people themselves cannot exercise this right independently.

## Protection of privacy (Article 16)

153. The Alliance commends measures taken to protect the identity and privacy of children in proceedings that arise when there are child protection concerns.<sup>62</sup>

154. Media coverage of the personal lives of adults sometimes includes information that pertains specifically to their children, thus breaching their privacy. There is need for adequate regulation to ensure that media stories do not breach the privacy rights of children.

155. *School.* Little attention has been paid to furthering the right of young people to privacy in schools. Anecdotal evidence suggests that this is an issue of considerable concern to young people. Currently, there are no regulations governing privacy in schools, leaving unregulated issues such as the circumstances under which school officials may search students' belongings or undertake testing of students to establish if they are using illicit drugs.

156. *Youth Justice.* The anonymity of children being prosecuted in the Children Court is protected. However, this protection is not extended to children prosecuted in higher courts.

**157. The Alliance calls for section 93 of the Children Act, 2001 to be amended to extend the anonymity afforded to children appearing before the Children Court to other courts.**

## Access to appropriate information (Article 17)

### Access to age-appropriate information and services

158. There is a need for improved access to age-appropriate information on children's rights and entitlements, including how to access these entitlements and where complaints may be made or redress sought if dissatisfied.

159. *Availability of child-friendly services.* Access by children, particularly teenagers, to health and other public services can be inhibited by the absence of an age-appropriate approach. There is a need for adolescent-oriented health services to be developed.<sup>63</sup>

160. *Permission to access.* There is a legal age of consent for surgical, medical and mental health treatment. However, there are no guidelines in relation to the practical implementation of this legal age of consent, covering, for example, the issue of confidentiality and the circumstances under which children can access services without parental permission.

161. Guidelines, training and awareness-raising are needed to address complex issues such as a teenager seeking medical attention for a sexually transmitted infection or seeking a prescription for oral contraception.

162. Since legally children require parental permission to access counselling services, there is concern that those experiencing difficulties at home may be unable to access counselling without securing permission from their parents.

163. *Sexual Health Education.* The Alliance is concerned that young people do not have sufficient access to information on sexual health.<sup>64</sup> Sex education is taught through the curriculum in second-level schools. However, research has shown that as pupils get older an increasingly full school schedule is the biggest obstacle to the successful implementation of Social, Personal and Health Education (SPHE) curriculum.<sup>65</sup> Additionally, the teaching of sex education is discretionary and non-standardised,<sup>66</sup> and parents can exempt their children from the sexual health education element of the curriculum. The Alliance recommends that age-appropriate, school-based interpersonal relationship education, including sex education, should be extended to all primary and second-level schools.



Nobody ask anything about how I live or am dealing with my problems... most of the time I just walk around in the city doing nothing at all, also, staying in-doors, I think a lot which is not good.

(Robert, age 17, Young Person in Care)

# V. Family Environment and Alternative Care

## Parental responsibilities (Article 18, paras. 1-2)

### Early childhood

164. The benefits to young children of being cared for at home by their parents, particularly in the first year of life, are documented in research.<sup>67</sup> The Alliance welcomes the introduction of a quarterly payment for families with children under six years, announced in the December 2005. The Alliance also welcomes the commitment to extend paid maternity leave to twenty-six weeks by March 2007.<sup>68</sup> However, parental leave (which can be taken by either parent) is unpaid and paternity leave is not recognised in employment law.<sup>69</sup>

165. The Alliance recommends the introduction of paid parental leave for six months following the expiration of paid maternity leave (to cover the first year of the child's life) and for a right to two weeks paid paternity leave.

166. The Alliance encourages the Government to put in place policies to support the capacity and skills of parents who care for their children at home, in line with the recommendations of the 1998 *Final Report of the Commission on the Family*.<sup>70</sup>

### Family support services

167. The Alliance welcomes progress in the area of family support since 1998, including the

establishment of the Family Support Agency.<sup>71</sup>

168. As in other areas concerning children, family support services lack an integrated structure and a strategic, child-focused approach. The availability of services varies greatly across the country. Responsibility for services is split between two agencies: the Health Service Executive is responsible for services for individual families at risk and the Department of Social and Family Affairs is responsible for general, community-based family support services. Seven other government departments also have responsibility for certain programmes for families and children.<sup>72</sup> The Government relies on community groups to provide many family services. However, this sector is under-resourced and under-supported to deal with the range of issues it confronts.

169. A comprehensive audit of all support services for families and children provided by both the Health Service Executive (HSE) and the Department of Social and Family Affairs is needed to identify where services are being provided and where there are gaps, and to assess the quality of services. The Alliance recommends that such an audit should be the basis for the development of a comprehensive 'support services strategy', to meet the needs of vulnerable children and families and those with special needs.

170. Both new and existing services, whether provided by the statutory or voluntary sectors, will require significant additional resources if they are to be universally available and provide targeted supports for families at-risk.



171. The 'support services strategy' should provide for the evaluation of outcomes of family support services and for the mainstreaming of examples of best practice.

172. In addition, child protection and anti-poverty strategies need to be more integrated into family support services. For anti-poverty strategies to be effective, structures need to be put in place to allow parents and children to be involved in the implementation and evaluation processes.

**173. The Alliance calls for a strategic, integrated approach to family support and early intervention coordinated by the new Office of Minister for Children.**

#### **Prevention versus crisis intervention**

174. A key issue which a 'support services strategy' will have to address is the fact that, at present, the capacity and focus of social services is limited to crisis intervention and child protection. The result is that preventive and support services are seriously underdeveloped.

**175. The Alliance calls for the provision of multi-disciplinary professional teams to provide preventive and therapeutic services, to move the emphasis away from crisis intervention.**

176. To ensure services are operating at full capacity and to maximise their effectiveness, current difficulties in recruiting and retaining qualified and experienced staff must be addressed, through providing workers with adequate in-service support, supervision and training.

177. In addition, management, administrative and operational deficiencies must be

overcome. These weaknesses are highlighted in difficulties experienced in contacting HSE social work staff to report child abuse.

178. There is no central collation of waiting lists for social work assessment. However, anecdotal evidence points to significant delays in securing an assessment for a child deemed to be at risk or suspected of having been abused. In addition, the speed and level of support with which social services respond to vulnerable children is considered to be inadequate, particular in relation to counselling for those who have been abused.

**179. The Alliance calls on the Health Service Executive to ensure that its social work service is adequate to meet its statutory obligations to children.**

180. *Twenty-four hour social work service.* HSE social work services are not available outside office hours, with the exception of a service for homeless children in Dublin on weekdays.<sup>73</sup> The absence of a general out-of-hours social work service is delaying implementation of youth justice diversionary provisions under the Children Act, 2001.

**181. The Alliance calls for the immediate establishment of a seven-day, twenty-four-hour social work service for children at risk.**

#### **Children as carers**

182. Little is known about the circumstances of children caring for disabled or ill family members, although evidence suggests that the number is, at a minimum, approximately 3,000 and possibly much higher.<sup>74</sup> Despite this, the role of child

carers is frequently overlooked. The issue of young carers is tied to the broader issue of inadequate service provision and care supports for families living with disabilities and illness.<sup>75</sup>

183. Further research is needed on the support needs of young carers so that appropriate policy and home-based services and supports may be made available to them and their families.<sup>76</sup>

## Separation from parents (Article 9)

### Family law system

184. There has been an increase in marital and partnership breakdown in Ireland over the past ten years. There is need for further development of services specifically for children to help them cope with the emotional upheaval of family separation or divorce.

185. Ireland has an adversarial family law system, unlike the inquisitorial model operating in the civil law systems of other European countries.<sup>77</sup> This adversarial system does not adequately protect the rights of children whose parents are going through separation or divorce proceedings. The legislative provisions which allow for the appointment of Guardian *ad Litem* have not yet been commenced. Family law hearings are conducted *in camera*, hence evaluation of the operation of family law is difficult.

**186. The Alliance calls for reform of the family law system, to take into account the best interest of the child and to move the system from an adversarial to an inquisitorial model in line with European best practice.**

### Support services

187. In line with international best practice, provision of counselling for children in families going through separation and divorce should be placed on a legislative basis.

188. Following separation, families often need additional supports to facilitate children in having ongoing contact with their non-custodial parent. In Ireland, services of this kind, such as supportive access facilities, are seriously lacking. There appears to be a strong trend historically in the courts towards granting mothers full custody.

**189. The Alliance calls for children's contact with non-custodial parents to be facilitated through the development of a range of support services, including access centres.**

### Access to both parents (unmarried fathers)

190. As already noted, in Ireland one child in three is born outside marriage. Despite the enactment of the Status of Children Act, 1987 the rights of the child born outside marriage in relation to his or her father continue to be relatively weak. At present, unmarried mothers have automatic sole guardianship rights over a child while unmarried fathers have no automatic rights.

191. Unmarried couples may choose to sign a statutory agreement for joint guardianship of their child. Information and awareness-raising are required to encourage more unmarried parents to sign a Joint Guardianship Agreement in the best interests of their child.

192. An issue which needs to be addressed is the lack of a Central Register of Joint Guardianship Agreements. If such an

Agreement is lost or is disputed there is no means of proving its existence.<sup>78</sup>

193. Unmarried fathers may seek to establish guardianship rights through the courts. A review of existing legislation and practice in this area should be undertaken to examine how best to protect the rights of the child to know and to be cared for by both parents.

**194. The Alliance calls for additional measures to ensure that the child's right to know and to be cared for by both parents is respected.**

195. There is also an absence of data and research on children born outside marriage, particularly in areas such as the involvement of fathers from the time of birth and over the course of their children's lives.<sup>79</sup>

## Family reunification (Article 10)

196. *Irish children of migrant parents.* Under the Irish Born Child Residency Scheme which operated in 2005, migrant parents of Irish children were required to sign a statutory declaration stating that they were aware that the granting of permission to remain did not give rise to any legitimate expectation to family reunification in cases where family members, including siblings of Irish children, were resident outside the State. This violates the rights of the Irish child, their siblings, and parents to family life.

**197. The Alliance calls for the right to family life of Irish children to be upheld through family reunification.**

198. *Separated children seeking asylum.*

Separated children who are granted refugee status are eligible for family reunification with their parents, but they are not entitled to family reunification with siblings.

## Children deprived of their family environment (Article 20)

199. In 2003, there were 4,699 children in care in Ireland. Of these, 80% were in foster care, 10% in children's residential centres and a small proportion in high-support and secure units.<sup>80</sup>

200. Statistics show that, in the majority of cases, the primary reason children are taken into care is 'neglect'.<sup>81</sup> Families in these circumstances are often experiencing serious difficulties such as poverty, homelessness, addiction and mental illness. The problems faced by these families require a range of supports and services, which should focus on enabling parents to care for their children. Informal support networks such as the community and extended family should also be recognised and utilised in the best interests of children.

201. For families whose children have been taken into care, more needs to be done to empower parents to become partners with social services, where this would be beneficial for their children. The facilitation of regular access visits is critical and for this to take place adequate levels of support and staffing are essential. Ultimately, if children in care are to have the possibility of returning to live at home, intensive supports must be provided to their families.

**202. The Alliance calls for community-based services and facilities to support children and families where there is a risk of a child being placed in care.**

**Social Services Inspectorate**

203. The Alliance welcomes the establishment of the Social Services Inspectorate in 1999 and commends the work of the Inspectorate to date in raising standards for children in care.

204. The Inspectorate now also covers children in foster care, a welcome extension of its role.

205. To ensure the protection of all children not in family care, the remit of the Inspectorate should be extended to include all services for children out of home, including voluntary services and services for separated children seeking asylum, children with disabilities, children in direct provision, children within the youth justice system and children in contact with homeless services. The Inspectorate will need to be fully resourced to undertake this remit.

**206. The Alliance calls for the Social Services Inspectorate to be established on an independent, statutory basis and for its remit to be expanded.**

207. The Alliance also recommends that the *National Standards for Children's Residential Centres*, be extended to services for children with disabilities.<sup>82</sup> These Standards govern other forms of residential care and the Child Care Act, 2001 provides that they can be applied to centres for children with disabilities. However, this provision has not been implemented.

**Foster care**

208. The majority of children in care in Ireland live in foster homes. Research has shown that the Irish foster care system is making a positive impact on children's lives.<sup>83</sup> The Department of Health and Children has drawn up *National Standards for Foster Care*.<sup>84</sup> However, there has been limited implementation of these. Additional resources, better coordination and changes in attitude are required for their full implementation.

209. Difficulties within the foster care system include: an absence of compulsory periodic training for and review of foster carers; a need for relatives who are foster carers to be assessed for suitability within three months of placement and to receive the same training as other foster carers, and a need for the number of inspectors of foster care homes to be increased. There is also a need for anti-racism and cultural awareness training for families who foster migrant and Traveller children.

**Residential care**

210. Progress has been made in recent years in the development of community-based residential units to cater for a range of children's needs. This process should be continued to ensure that residential care with appropriate levels of therapeutic and other supports is available to young people. Interagency cooperation and financial resources are required to ensure that all children have timely care plan reviews.

211. *Supported lodgings*. Supported lodgings arrangements were originally intended for older teenagers making the transition to living on their own. As such, they provide a very low level of supervision. However, anecdotal evidence suggests that there are

instances where young children have been placed in these arrangements when there has been no other residential care available for them. There is a need for standards and admissions criteria for supported lodgings and for carers to be appropriately assessed, supported and trained.

212. *Special Care Units.* Under the Children Act, 2001 children can be detained by court order in Special Care Units for a period of up to six months with the possibility of an unlimited extension. Orders are made in circumstances where “the behaviour of the child is such that it poses a real and substantial risk to his or her health, safety, development or welfare, and the child requires special care”.<sup>85</sup> However, the legislation does not define these circumstances.

213. Given the lack of clear criteria for the granting of a Special Care Order, there is a danger that, as a means of accessing suitable accommodation for a child, his or her behaviour may be defined in terms that will allow for the court to grant an Order and detain the child. Furthermore, the child is not entitled to legal representation at the hearing or reviews.

**214. The Alliance calls for State-funded legal representation to be provided for all children subject to Special Care Orders.**

#### **Private services**

215. Private profit-making companies are used by the Health Service Executive for the placement of children. The Alliance is concerned about this development, which can be seen as a failure of the health authorities to ensure an adequate public service for children in need of care. This development occurred without any review

of existing provision or examination of alternative ways of meeting shortfalls in services. The Alliance recommends an immediate review of the use of private companies to provide residential and foster care services.

#### **Aftercare**

216. Young people with care experience are significantly more disadvantaged in terms of education, income and employment. One study found that 68% of young people had experienced homelessness two years after leaving HSE care, and 65% of young people who had been in a youth justice centre had spent time in prison during the two years after leaving detention.<sup>86</sup>

217. The Child Care Act, 1991 provides for the preparation of a ‘leaving care’ plan for children in care, beginning at the age of sixteen. The Act also enables, but does not require, the provision, for those leaving care, of aftercare support from age eighteen up to the age of twenty-one or until they have completed their education.

218. There is need for a national aftercare service for all young people leaving care, with flexibility as to the ending of this support, depending on individual circumstances. This service should include not only young people leaving residential and foster homes but also those leaving detention schools and centres and separated children seeking asylum. The service should be capable of identifying those young people in need of particular supports and assisting them to access appropriate services.

219. The Alliance calls for the introduction of a statutory right for all children leaving care to aftercare supports, and the introduction of a formal, national aftercare system for all young people leaving care.

## Abuse and neglect (Article 19), including physical and psychological recovery and social reintegration (Article 39)

### ★ Adoption (Article 21)

220. The Alliance welcomes the preparation of new adoption and guardianship legislation and urges that this be proceeded with as speedily as possible.

221. Current adoption legislation does not comply with the standards set down in the 1993 Hague Convention.<sup>87</sup> Irish law offers a weak level of protection in cases of inter-country adoptions in comparison to that afforded in domestic adoptions. This is of concern, particularly as Ireland has a high number of inter-country adoptions compared to other European countries that have ratified the Hague Convention.

222. New adoption legislation should include provision for a Guardian *ad Litem* to be appointed to represent the interests of the child in all cases where there is a conflict between the rights of the birth mother and the wishes of adoptive parents.<sup>88</sup>

223. The Alliance calls for the reform of adoption legislation, in line with the requirements of the Hague Convention.

### ★ Child abuse

224. Since 1998 there has been significant public debate about the issue of child abuse, and in particular child sexual abuse. This debate has followed several high-profile cases of familial and extra-familial abuse. In December 2005, the findings of an inquiry into clerical sexual abuse in the diocese of Ferns was published, which documents the inadequate response by authorities to a series of abuse cases. The Commission to Inquire Into Child Abuse is continuing its investigation into institutional child abuse and other investigations into clerical sexual abuse are in progress.

225. Reports of abuse have engendered public outrage regarding the failure to adequately respond to allegations, to support victims and to protect children from abuse. Even though the Government has taken action in response to the issue of child abuse, the reality is that guidelines for the reporting of child abuse are still not enshrined in legislation; there can be difficulties in contacting HSE staff to report child abuse; there are significant delays in accessing assessment and counselling services for victims; a system for vetting prospective workers has not yet been fully implemented, and preventive services are insufficient and uncoordinated.

### Child abuse guidelines

226. In 1999 non-statutory guidelines on procedures for preventing child abuse and for responding to allegations and suspicions of abuse, *Children First: National Guidelines*

for the Protection and Welfare of Children (hereafter *Children First* Guidelines) were introduced. Specific guidelines were subsequently published for the education, youth work and sport sectors.

227. The Alliance welcomes the announcement in December 2005 of a national review of compliance with the *Children First* Guidelines.

228. The need for such a review is evident. Although the Guidelines have been in place since 1999 and are national policy, their implementation has been sporadic and *ad hoc*, differing from region to region, with variations in the working relationship between statutory and non-statutory bodies. Some areas are currently not operating the *Children First* Guidelines due to a lack of resources and a lack of capacity.

229. An issue of particular concern is that, since the reporting guidelines in *Children First* have not been placed on a statutory basis, allegations and suspicions of child abuse may not be reported, thus posing the risk of further abuse occurring.

**230. The Alliance calls for the *Children First* Guidelines on reporting child abuse to be put on a statutory basis.<sup>89</sup>**

231. The inadequate implementation of the *Children First* Guidelines has continued despite the fact that there have already been two independent government-commissioned reviews of the Guidelines.<sup>90</sup> The Alliance strongly supports the recommendations made in these reports, including:

- Clearly delineated departmental responsibilities and inter-departmental working arrangements for rolling out the

*Children First* Guidelines;

- Improved structures to promote inter-agency cooperation at national, regional and local level;
- Clear, independent monitoring of progress towards realising the core objectives of the Guidelines rather than simply compliance with procedures;
- A public education campaign to highlight child protection as a key national issue.

232. The Alliance welcomes the acknowledgement in the State Report that professional training in the *Children First* Guidelines is a problem and urges the Government to implement a plan of action to provide such training for all professionals and volunteers who have contact with children.

### **Child abuse prevention**

233. In December 2005, the Government announced a commitment to launch a nationwide awareness campaign on child sexual abuse. This initiative is welcome.

234. However, there is still no comprehensive national strategy for the prevention of child abuse in all its forms. As well as the guidelines for child protection, there are programmes and services to address child abuse, such as the Family Support Unit and various Springboard initiatives, but there is often a lack of coordination between these services.

**235. The Alliance calls for the development of a national child abuse prevention strategy.**

236. A national prevention strategy should coordinate existing services, support social workers, and address neglect, bullying, and

domestic violence. Such a strategy should also promote positive parenting and community awareness of child abuse.

237. A specific issue which the strategy should address is inappropriate sexualised behaviour by children. An adequate therapeutic response to such children is an important part of the prevention of child sexual abuse.

238. A key component of a public campaign on child abuse should be an education campaign targeting children and young people. The 'Stay Safe' programme, the Government's child abuse awareness programme, is not available in up to 20% of primary schools, and parents can exempt their children from it.<sup>91</sup>

**239. The Alliance calls on the Government to ensure that the 'Stay Safe' programme is fully implemented in all primary schools.**

240. Any awareness-raising campaign targeting children and young people should highlight the availability of a non-directive listening service run through the NGO sector.<sup>92</sup>

#### **Garda vetting (Police checks)**

241. The Alliance welcomes the establishment of the Garda Central Vetting Unit to provide a police check for employees and volunteers who are working with or have access to children. However, this service has not yet been fully implemented. The system will need to be adequately resourced so that it can fulfil its ambitious remit. There should be regular assessments of progress in implementing the vetting system.

242. The Alliance would like to see the vetting procedure enhanced along the lines of the

system in Northern Ireland (which checks for disciplinary procedures and other forms of 'soft information' as well as criminal convictions).<sup>93</sup> Furthermore, retrospective vetting is needed in respect of employees and volunteers for whom vetting was not available at the time of their recruitment.

243. Currently, background checks cannot be carried out using records from other jurisdictions. There is also no way in which parents or young people can receive confirmation that groups or organisations have a vetting policy.

**244. The Alliance calls for an enhanced system of Garda Vetting to be placed on a statutory basis.**

#### **★ Corporal punishment within the family**

245. The ban on corporal punishment of children has not been extended to actions by parents and those in care settings.<sup>94</sup> Following a collective complaint brought by the World Organisation Against Torture (OMCT), the Council of Europe ruled in 2005 that Ireland's common law 'reasonable chastisement' defence is in violation of Article 17 of the Revised European Social Charter.<sup>95</sup>

246. The Government has made a commitment to introduce legislation according to 'developing social standards',<sup>96</sup> but no draft legislation, nor timeline for its introduction, has been proposed.

247. The Alliance notes that the constitutional status of the family would not be an impediment to the introduction of legislation against corporal punishment.



**248. The Alliance calls for legislation to be introduced without delay to prohibit corporal punishment within the family and in care settings.**

**Child death**

249. In recent years, there have been several high-profile instances of filicide – the killing of a child by a parent. At least eighteen children have been killed by their parents between 2000 and 2006.

250. Where a child who is in the care or custody of the State or is known to the Health Service Executive dies, there is no automatic review of the circumstances of the death of the child.<sup>97</sup>

251. The Alliance urges that an independent expert panel, a Child Death Review Committee, be established. This Committee should examine the circumstances surrounding filicide deaths, other deaths of children in suspicious circumstances and all deaths of children who die while in the care or custody of the State. The purpose of the Committee would be to assess if lessons relating to prevention and intervention can be learnt, and to make recommendations, if any, on changes to policies and practices that may help prevent such tragedies in the future.

**Domestic violence**

252. The State's response to domestic violence focuses on children mainly within the context of the family. The Alliance considers that the response should also include the provision of specific support services for children affected by domestic violence.

253. The Alliance recommends the implementation on a national level of the

recommendations made in *Listen to Me! Children's Experience of Domestic Violence*.<sup>98</sup> The report highlights the need for an expanded and coordinated approach to statutory and community-based child protection, and for services that can deliver timely supports to halt and ameliorate the detrimental effects of living with violence. It calls for a single service to oversee and make connections between different agencies that may or may not have a direct focus on domestic violence, and the further development of the role of An Garda Síochána and of schools. It also draws attention to the need for awareness raising initiatives directed towards service providers and the general public.

**Child protection concerns for migrant children**

254. *Registration of migrant children.* There is no system of registering and tracking migrant children other than as dependants of their parents. The Alliance recommends that all migrant children be registered at their point of entry to the country, and tracked through official documentation.

255. *Deportation proceedings.* Children (including Irish children of migrant parents) have been separated from their parents while deportation orders have been carried out. This has raised serious child protection issues when the whereabouts and safety of a child has not been determined prior to the deportation of their parent/s.<sup>99</sup>

256. Guidelines are needed to ensure that trauma experienced by children during deportation proceedings is minimised and that child protection issues are fully taken into consideration.

257. *Female genital mutilation.* There is currently no specific legal protection against female genital mutilation (FGM).<sup>100</sup> Neither is there specific legislation to protect a child from being removed from Ireland to have the procedure carried out overseas. The Alliance strongly urges that legislation to address these issues be introduced. Education and awareness-raising among relevant service providers (Gardaí, teachers and medical personnel) and within communities where FGM may be practised should accompany the process of legislative change.



## Girl being chased by a dog

(Jimmy, Traveller, age 7, Dublin)

**It is easy to get drink and drugs for under aged people.**

(Melanie, age 17, Waterford)

**I don't like to seeing needles or rubbish on the ground... in school I would like better footballs and a better yard and a better pitch.**

(Patrick, age 11, Dublin)

# VI. Basic Health and Welfare

## Children with disabilities (Article 23)

258. There have been some significant advances in relation to the issue of disability since 1998, including the establishment of the National Disability Authority, and an improvement in the provision of services for children with disabilities.
259. In addition, there have been legislative developments, with the enactment of the Equal Status Act, 1999 (which outlaws discrimination on the grounds of disability); the Education of Persons with Special Educational Needs Act, 2004, and the Disability Act, 2005.
260. Despite the strong arguments made during the preparation of the new legislation, neither the Education of Persons with Special Educational Needs Act, 2004 nor the Disability Act, 2005 is rights based.
261. The Education of Persons with Special Educational Needs Act, 2004 focuses primarily on addressing children's needs within the education system. The Disability Act, 2005 does not make specific provisions in relation to children. Thus there is no comprehensive legislation to ensure that children with disabilities have the right to access to a full range of health, social and educational services.
262. The implementation of the Education of Persons with Special Educational Needs Act,

2004 is taking place in the absence of protocols to guide the coordination of different services. Decisions are made within the context of constrained resources and inadequate therapeutic services. The implementation of care plans is often hindered by delays in the provision of specialised equipment and supports which have been deemed necessary to enable a child to reach his or her full potential.

**263. The Alliance calls for the enactment of comprehensive, rights-based legislation to address the needs of children with disabilities, and for adequate resources for the implementation of this legislation.**

### Young children with severe developmental delay

264. Approximately 230 to 250 children from birth to age four are affected by severe developmental delay in any given year.<sup>101</sup> Government support for these children has historically been low on the basis that they may not live much beyond early childhood.
265. In theory, all young children with severe developmental delay qualify for a medical card on the basis of medical need. In practice, however, these children can be and have been refused a medical card if their parents do not meet the income eligibility criteria.<sup>102</sup> In addition, children with severe developmental delay fall into the gap between acute hospital services and the services for those with a learning disability.<sup>103</sup>
266. There is need for the provision of medical cards to all young children with severe developmental delay on the basis of medical need.

## Health and health services (Article 24)

### Implementation of Government policy

267. The Government has made a range of commitments regarding health services for children. These include its commitments under the National Health Strategy to conduct a review of paediatric services and to disaggregate the data obtained by age group, location, distance from services and type of illness, and also to develop guidelines for the care of children in hospital.<sup>104</sup> Under the *National Children's Strategy*, there is a commitment to conduct empirical research into the health needs of children, and under the *National Play Policy* a commitment to fully resource hospital play specialists.<sup>105</sup> Moreover, under the Primary Care Strategy, significant commitments were made in relation to the development and enhancement of primary care services.<sup>106</sup>

268. However, the reality is that the implementation of these commitments has been slow and in some cases totally absent.

### 269. The Alliance calls for comprehensive, rights-based legislation to address children's health needs.

270. This legislation should affirm the child's right to quality services and supports and should give statutory force to existing Government commitments.

### Discriminatory access to health services

★ 271. Ireland has a two-tier health system based on ability to pay for both general and specialist services. Families on a low income who do not have a medical card (a means-tested entitlement which gives

access free of charge to all medical services) may find themselves unable to afford basic medical or dental care.

272. Those children whose parents are unable to pay for specialist services in the private sector can experience lengthy delays in accessing public services. These services include hospital outpatient and inpatient care, orthodontic and optical services, and speech and language therapy. Such delays may seriously impede children's development.<sup>107</sup> There are also waiting lists for children to be assessed so they can get onto the official waiting lists.<sup>108</sup> One of the key data gaps in child health is statistics on waiting time for assessment for services and hospital treatment.<sup>109</sup>

### 273. The Alliance calls for an end to the two-tier system of access to healthcare.

274. *Medical card entitlement.* The medical card entitles families on low incomes, and children with a long-term illness or disability, to GP services, prescribed medicines and hospital services free of charge.

275. In the National Health Strategy (2001) the Government made a commitment to provide an additional 200,000 medical cards. There was no progress towards meeting this commitment by January 2005.<sup>110</sup> The Government then announced that it would introduce only 30,000 medical cards. At the same time, it announced that it would introduce a new form of entitlement, the GP-only medical card, for 200,000 individuals.

276. The introduction of GP-only cards is to be welcomed in so far as it will increase access to healthcare for children. However, the

entitlement clearly does not comprehensively meet the healthcare needs of children and families on modest incomes. For many such families, the costs of paying for prescription medicines and hospital charges will still be prohibitively expensive.

277. The failure to carry through on the commitment to increase the number of full medical cards must be seen in a context of increasing fees for GP visits, increased charges for public hospital services and higher payment thresholds for money-back on medicines under the Drug Refund Scheme. It must also be seen within the context of the potentially serious short and long-term implications for children of delayed or restricted access to primary health care services.

**278. The Alliance calls for the provision of full free health care (medical cards) to all children living in low-income families.**

279. The income eligibility criteria for entitlement to a medical card are stringent. The Alliance recommends a review of the criteria to ensure that all children in low-income families have access to primary health care and to hospital services. It also recommends a review of the process for renewal of medical cards where these have been granted because a child has a long-term illness or disability rather than on the basis of family income.<sup>111</sup>

280. In 2002, the Chief Medical Officer of the Department of Health and Children, citing the connection between poverty and ill-health and the importance of eliminating financial obstacles to medical treatment for children, called for the provision of free health care to all children.<sup>112</sup>

**281. The Alliance calls for the phased implementation of free health care for children, starting with children under six years.**

282. *Hospital services.* Long waiting times for outpatient and inpatient treatment in public hospitals are one of the most disturbing features of the Irish healthcare system. The National Treatment Purchase Fund<sup>113</sup> has had an impact on reducing waiting times for those relying on public hospital services. There is a need for awareness to be raised among parents about the Fund to ensure that they can access it.

283. A feature of the Fund is that patients, including children, may be sent abroad for certain treatments and procedures. Whilst acknowledging that the scheme was a response to an urgent need, the Alliance holds that accessing hospital treatment should not necessitate having to travel abroad, except for services that are of such a specialised nature that they could not reasonably be provided in Ireland.

284. The operation of the National Treatment Purchase Fund raises questions about the allocation of resources within the hospital services, and the balance between public and private provision. The Fund should be reviewed within the context of reforming the two-tier system of access to healthcare.

### **Adequacy and quality of services**

285. In many cases, the provision and quality of health and related services are inadequate. There is concern among NGOs that resources for children's healthcare are not provided in a strategic, targeted and coordinated manner involving long-term planning and investment. As there is currently no assessment of services and no

systematic gathering of data on children's health care needs, it is not clear where and what further resources are needed.

**286. The Alliance calls for the undertaking without delay of the comprehensive review of paediatric services promised in the National Health Strategy.<sup>114</sup>**

287. The provision and quality of services vary greatly between regions. As many of the most specialised services are concentrated in Dublin, there is a need for supports for parents and children from other parts of the country who are accessing these services.

288. *Coordination.* Coordination between the statutory sector and the community and voluntary sector is often weak, even though there is a heavy reliance on the NGO sector to provide a range of services and supports. An important initiative in this area in the recent years has been the HSE 'Programme of Action for Children' which aims to facilitate a coordinated and integrated approach to the delivery of a range of child health and child care projects. This Programme should be supported to continue its work. In addition, the Voluntary Activity Units within the Department of Health and Children and the Health Service Executive need to be strengthened.

289. *Age appropriate services.* Many aspects of the health service are not child-friendly.<sup>115</sup> There are very few health services provided specifically for adolescents. Teenagers between the ages of sixteen and eighteen are treated almost exclusively through adult services. In 2001, the National Conjoint Child Health Committee recommended the

development of an adolescent-friendly health service.<sup>116</sup>

290. *Ensuring quality services.* There are no statutory guidelines regarding the quality of service that must be provided to children in the health services.

**291. The Alliance calls for the introduction of statutory guidelines for quality within children's health services.**

292. The guidelines should be developed in consultation with children, their families and the community and voluntary sector.

293. *Advocacy.* There is also need for increased professional supports (especially social work services) for families whose children are using the health services, particularly hospital services. In addition, there is need for an independent advocacy service to support parents of sick children, particularly those with a chronic illness. Advocacy services have not been provided on a comprehensive basis, even though the need for these was recognised in the National Health Strategy.

294. *Translation services.* There is insufficient provision of professionally qualified interpreters within the health service. Migrant children sometimes have to translate for their parents. There is need for more interpreters (available in person rather than by telephone) and for interpreters to receive specific training for working with children.

## Children in hospital

295. Each year 250,000 children attend Irish hospitals, 100,000 for an overnight stay or longer,<sup>117</sup> and more than 50,000 children under four years of age are admitted to hospital. Of these young children, 87% are admitted through Accident and Emergency departments.
296. Anecdotal evidence suggests that there are particular difficulties in providing age-appropriate facilities in hospitals due to a shortage of beds for children. Where there are children's wards in general hospitals, these cater for all age groups from babies to adolescents. Children are not separated from adults in most Accident and Emergency departments in general hospitals.
297. *Cost.* There are significant ongoing costs incurred by families with chronically ill children who have to attend or stay in hospital, such as overnight stays for parents and transport costs. Additionally, there are regional variations in these costs depending on how far families live from treatment facilities, most of which are located in Dublin.<sup>118</sup>
298. *Guidelines.* The Alliance urges the Health Service Executive to draw up guidelines and protocols for the care of children in hospital, as promised in the National Health Strategy. These guidelines should be based on the Charter of the European Association for Children in Hospital.
299. *'Social admissions' to hospital.* Practitioners working in healthcare, homelessness and care services concur that hospitals are still being used from time to time as emergency accommodation for children at risk.<sup>119</sup> Not only is this inappropriate for the children

concerned but it also means the occupancy of children's hospital beds, of which there is a shortage.

## Therapeutic supports

300. Although the Government has invested substantial additional funding in therapeutic services, the investment has not always been effective because these services are not well coordinated, often due to an absence of guidelines for therapists, and because there are no quality standards. Furthermore, increased funding allocations to these services have not fully taken into account the effects of inflation.
301. Improvements in the provision of therapeutic services must be seen against a backdrop of a continuing shortage of speech and language therapists, occupational therapists, physiotherapists and clinical and educational psychologists. While accurate information is limited, there is some indication that waiting lists for assessments for speech and language therapy, for example, may be up to three years.<sup>120</sup>
302. An area of particular concern is the lack of counselling services for children, including those who have experienced abuse or domestic violence. In some instances, children who have been identified as having been abused must wait several months for counselling.
- 303. The Alliance calls for a planned approach to the provision of an adequate level of therapeutic services for children throughout the country.**
304. To achieve the level of service required there is a particular need to plan for the training, recruitment and retention of staff and for



the professional management of the service as a whole.

### ★ **Teenage pregnancy and sexual health**

305. Teenage fertility rates have increased steadily since 1999 with 18.8 live births per 1,000 in the fifteen to nineteen age group, which is above the average teenage fertility rate for the fifteen EU member states prior to enlargement (13.64) but lower than the UK (27.34).<sup>121</sup>

306. More than 1,000 teenagers were diagnosed with sexually transmitted diseases in 2004.<sup>122</sup> The rate of sexually transmitted infections has increased dramatically since 1995, with young women between the ages of sixteen and nineteen being particularly at risk.<sup>123</sup>

307. There are no adolescent-specific reproductive and sexual health services. Echoing the 2005 *Concluding Observations* of the UN CEDAW Committee, the Alliance recommends that a national network of youth-friendly sexual health services be established.<sup>124</sup>

**308. The Alliance calls for a national sexual health education campaign targeting young people to be undertaken.**<sup>125</sup>

### ★ **Mental health**

309. Nearly 200,000 children in Ireland suffer some level of mental distress. One child in ten suffers from mental illness severe enough to cause some level of impairment, and one in fifty suffers severe and disabling mental illness. Despite this incidence of mental ill health, there has been historic inaction in this area by Government and chronic under-funding of services.

310. From 1997 to 2003 – a period of significant

increase in health spending – expenditure on mental health services as a percentage of overall health expenditure fell by almost half. Ireland spends around 7% of its health services budget on mental health, whereas in England and Wales, expenditure is around 13%.<sup>126</sup>

311. *Legislation.* The Mental Health Act, 2001 provides the legislative basis for the development of mental health services, including those for children and young people. The Act requires significant changes to current service provision. However, it has not been fully commenced. For example, the provision relating to involuntary detention in psychiatric hospitals has yet to come into force and it is not clear when it will be commenced.

312. *Policy Development.* The Alliance welcomes the recommendations contained in *A Vision for Change: the Report of the Expert Group on Mental Health Policy* (2006) regarding the development of a comprehensive system of mental health care for children and adolescents.

313. The Report highlights the importance of mental health promotion and primary prevention and recommends specific school-based programmes at primary and second level, the extension of SPHE to include senior cycle and the provision of programmes for young people who leave school early.<sup>127</sup> It calls for clear links between mental health services and primary medical care and community care services so as to respond to the needs of children at risk of mental health problems. It proposes a new structure for specialised mental health care services, which should be based in 'community mental health centres', be comprised of a range of supports delivered

by multidisciplinary teams, include day hospitals and sufficient in-patient places and be available in all parts of the country.<sup>128</sup> The Report also recommends that young people who are using mental health services, and their carers, should be facilitated in giving feedback on their experiences with a view to influencing future policy.<sup>129</sup>

314. The Alliance urges the Government to proceed without delay to implement the recommendations of the Expert Group.
315. *Inadequate Services.* The urgency of implementing the recommendations of the Expert Group's Report is highlighted by the significant gaps in psychiatric services for children and adolescents which are evident in a range of areas. For example, sixteen and seventeen year-olds continue to be treated through adult services, despite the provisions of the Mental Health Act, 2001 and the recommendations of the *Second Report of the Review Group on Child and Adolescent Psychiatric Services*. Dedicated mental health services for adolescents are virtually non-existent. There is also inequitable distribution of child mental health services across the country and insufficient in-patient facilities.<sup>130</sup>
316. *Inappropriate placements.* Young people who have psychiatric, emotional or behavioural difficulties (and who may be exhibiting challenging behaviour) are sometimes held in inappropriate settings due to a lack of specialised services suitable for their needs. They may, for example, be held in children's detention schools and centres (even though they have not committed a crime), in adult prisons or in adult psychiatric hospitals.<sup>131</sup> In particular cases, young people have been sent outside

Ireland to access specialised services.<sup>132</sup>

317. The lack of appropriate and timely therapeutic interventions has led to situations where children come before the courts with extreme behavioural difficulties and in need of secure care. These children may not have committed a crime; the court process is often a last resort to secure appropriate services and supports.
318. The Alliance urges that action be taken to identify children at risk and to respond to their needs at an earlier point in their lives, to avoid a deterioration of behaviour to crisis point.

**319. The Alliance calls for the creation of appropriate preventive, early intervention and treatment services for children with mental health difficulties.**

320. *Asylum-seeking children.* The inadequacy of mental health services for asylum-seeking children is of concern.<sup>133</sup> There is only one psychologist employed to work specifically with the child asylum-seeking population, with consequent waiting lists.<sup>134</sup>
321. In addition to acute mental health services, there is a need for preventive support services for asylum-seeking children, which would include leisure and extra-curricular activities, after-school services and crèches.<sup>135</sup> Ideally, these would be integrated into community-based services but direct provision policies make this difficult.

**Bullying**

322. There is increasing concern about the incidence of bullying among children. In a study in 1997, 31% of primary level students and 16% of second-level students

reported having been bullied at some point, with 23% at risk of suffering ill-effects from bullying.<sup>136</sup> Anti-bullying policies in schools are critically important.<sup>137</sup> Although most schools do have anti-bullying policies, few have consulted children in their development, and their effectiveness varies. Additionally, there is no strategy to combat bullying outside of school.<sup>138</sup>

**323. The Alliance calls for the development of a national strategy to combat bullying during childhood. This should be developed in partnership with children.**

#### ★ Suicide

324. Ireland has the fifth highest rate of recorded suicide among young people in the EU.<sup>139</sup> Suicide is the most common cause of death in young men aged fifteen to twenty-four. Suicide rates have increased 70% among this group since 1990.<sup>140</sup> There is also increasing concern about the incidence of deliberate self-harm, in particular among girls aged fifteen to nineteen.<sup>141</sup>

325. The Alliance is alarmed at the inadequate response to many young people presenting at hospital Accident and Emergency departments, following incidents which indicate suicidal tendencies or suicide attempts. Often children and young people are placed in ordinary wards without specialised treatment.<sup>142</sup>

326. The publication of the ten-year *National Strategy for Action on Suicide Prevention*<sup>143</sup> and the establishment of the National Office for Suicide Prevention are welcome developments.

327. The Alliance urges the Government to put in place resources to fully implement the

Strategy. Effective implementation will require both action by individual departments and agencies and collaboration between them. Particularly important will be the development of comprehensive and adolescent-friendly mental health services, improved guidance and counselling services for young people both in and out of school, and education and awareness-raising within schools.

328. The Alliance is concerned about the connection between underage substance misuse (including alcohol and other drugs) and suicide in Ireland.<sup>144</sup> The Alliance supports the implementation of the recommendations made in the *Second Report* of the Strategic Task Force on Alcohol (2004) to address the link between alcohol abuse and suicide.<sup>145</sup>

#### ★ Alcohol

329. Alcohol abuse is a significant social problem in Ireland. A 2002 study of drinking habits in a number of European countries showed that adults in Ireland had the highest reported consumption per drinker and the highest level of binge drinking.<sup>146</sup> A conservative estimate of the financial cost of alcohol-related harm in Ireland in 2003 put this at €2.65 billion, equivalent to 2.6% of GNP.<sup>147</sup>

330. Given this societal context, alcohol consumption by children and young people is a major issue. The *European School Survey Project on Alcohol and Other Drugs* (ESPAD), conducted in 1995, 1999, and 2003, shows disturbing patterns of alcohol use in Irish sixteen year-olds compared to the rest of Europe. The studies consistently show that Irish young people drink more, binge drink more often and are more often drunk.<sup>148</sup> As well as the harmful effects of their own

consumption patterns, children in Ireland are also affected by the widespread harmful use of alcohol by parents, other family members and other drinkers.

331. At policy level, there has been considerable attention given to the issue of alcohol over the past decade. *A National Alcohol Policy* was published by the Government in 1996.<sup>149</sup> In 2001, the Government signed up to the *WHO Declaration on Young People and Alcohol* (adopted in Stockholm on 21 February 2001). The Strategic Task Force on Alcohol established by the Government in 2002 issued two reports (2002 and 2004),<sup>150</sup> and in July 2004 the Oireachtas All Party Committee on Children and Young People issued a report on alcohol misuse by young people.<sup>151</sup>
332. There is consensus in these and other policy documents about the key measures that need to be taken to address the harm caused to young people by alcohol. These include: reducing children's access to alcohol; restricting the promotion of alcohol; raising awareness of the potential harmful effects of alcohol; creating early intervention programmes; developing youth appropriate treatment services; providing alcohol-free social opportunities for young people; conducting research into the effects of alcohol on children's lives, and enabling children's voices to be heard in developing programmes and policies in this area.
333. However, the Government has taken little initiative to implement such measures and in some instances has taken action that is in a contrary direction, notably by provisions that have led to the more liberal availability of alcohol – for example, by extending the opening hours of licensed premises, and

allowing a significant increase in off-license (take-away) alcohol outlets.

334. *Advertising.* In 2003, the Government adopted as policy the curbing of advertising and other forms of marketing of alcohol and agreed that draft legislation to provide for this should be prepared. However, this policy was abandoned in 2005.<sup>152</sup> Instead, the Government agreed to allow the drinks and advertising industries and the broadcast media to introduce a Voluntary Code in relation to alcohol advertising. Under this, advertisements for alcohol are not permitted on any television programme specifically aimed at children, and are not permitted to be broadcast on any television or radio programme where more than 33% of the audience are children. The Code also bans the placement of outdoor advertising for alcohol in the vicinity of primary and second-level schools, but not from other locations where it can be seen by large numbers of children – for example, on public transport.
335. This Voluntary Code clearly fails to safeguard the right of all children to be protected from potentially harmful influences on their health. The provisions in the Code in relation to the broadcast media, for example, represent an acceptance that children will be exposed to alcohol advertising. Some television programmes – notably live coverage of major sports events – have substantial numbers of children among their viewers but since these children would not represent 33% of the audience they are not protected by the Code.

336. Overall, the Alliance believes that the Government has shown little political leadership in relation to the issue of alcohol. Only very limited progress has been made towards achieving the key targets outlined in the *WHO Declaration on Young People and Alcohol*, which were to be met by 2006. Ireland is far from recognising a core principle of that Declaration: "All children and adolescents have the right to grow up in an environment protected from the negative consequences of alcohol consumption and, to the extent possible, from the promotion of alcoholic beverages." Moreover, there is considerable concern that the Government's approach to the issue of alcohol is in contravention of the Declaration statement that: "Public health policies concerning alcohol need to be formulated by public health interests, without interference from commercial interests."

337. The Alliance recommends that there should be immediate action by Government to implement the comprehensive range of policies required to address the unhealthy and harmful patterns of alcohol consumption among young people in Ireland. However, it emphasises that policies and programmes aimed specifically at young people must be accompanied by initiatives and campaigns designed to change the role of alcohol in Irish society as a whole and to break the perceived connection between alcohol use and social success.

**338. The Alliance calls for the full implementation of the recommendations of the Reports of the Strategic Task Force on Alcohol and for the establishment of a National Alcohol Control Centre with responsibility for ensuring the implementation of policy in relation to alcohol.**

**339. The Alliance calls for legislative change to ban the advertising of any alcohol product on the broadcast media before 10 p.m. and to ban all outdoor advertising of alcohol.**

★ **Drug Abuse (Article 33)**

340. No data is available to indicate the number of young people in Ireland who have significant drug problems.<sup>153</sup> There has been a reduction in the numbers of young people under eighteen presenting for addiction treatment in Dublin since 1998. However, numbers outside Dublin have increased.<sup>154</sup>

341. Although there has been significant policy development in this area,<sup>155</sup> the full implementation of the *National Drugs Strategy 2001–2008*, as well as of the recommendations of its Mid-term Review and the Quality Standards in the Drug Education Training Project, remain outstanding.

342. There is need for more adolescent outpatient and inpatient treatment services. The inpatient service provided by the Drug Treatment Centre Board targets only those in extreme need. The first multidisciplinary outpatient specialist adolescent addiction team, established by the HSE, will serve 120 to 150 young people per year nationally with current resources. Anecdotal evidence from practitioners working in this area

indicates that the number of young people needing treatment is far greater than covered by this level of provision.<sup>156</sup>

343. Mainstream family support services are not equipped to deal with drug issues and specialist addiction services do not have a family support focus. Policy development and training are needed to maximise the potential benefits of the effective linking of these two services.

### Smoking

344. Overall in the adult population, the incidence of smoking has declined. The Government has introduced several measures to combat smoking, including the very successful workplace smoking ban (which covers hotels and bars), and the raising of the legal age for the purchase of cigarettes to eighteen years.

345. However, in a 2002 national survey, 17% of boys and 20% of girls reported that they were current smokers.<sup>157</sup>

346. The *National Health Promotion Strategy, 2000-2005*<sup>158</sup> recognises that levels of smoking among young people are cause for concern, particularly among lower socio-economic groups. However, the Strategy does not outline a plan of action to combat the worrying levels of smoking among young people.

347. The Alliance urges the Government to continue in its commendable efforts to combat smoking, in particular, through implementing the recommendations of the *Report of the Tobacco Free Policy Review Group* (2000).<sup>159</sup> These recommendations include limiting availability of vending machines, developing programmes for child smokers and increasing the tax on

cigarettes. The Alliance also recommends a total ban on tobacco advertising.

### Healthy eating

348. Obesity has become a significant health problem within Irish society with some 300,000 children currently estimated to be either overweight or obese.<sup>160</sup> The commissioning of the National Task Force on Obesity, which issued its Report in 2005, indicates a move to more integrated approaches to this issue. However, there are still discrepancies within the Government's policy approach to obesity. For example, although there is a new physical education curriculum, many primary schools cannot implement it because they do not have adequate facilities. Furthermore, physical activity is prohibited in many school playgrounds because of a fear of insurance claims for injury.

349. Despite the concern about the relationship between the consumption of junk food and the incidence of obesity, the Children's Advertising Code 2004, issued by the Broadcasting Commission of Ireland, failed to ban the advertising of junk food, even though there were calls to do so. The Alliance urges the Commission to adopt this measure following its review of the Code, due to take place in 2006.

**350. The Alliance calls for the full implementation of the recommendations relating to children contained in the report of the National Task Force on Obesity.**

351. Sufficient funding will need to be allocated for this purpose. The Alliance also recommends that proper physical education equipment and facilities be provided in schools.

## Standard of living (Articles 27, paras. 1-3)

### ★ Child poverty and social exclusion

352. The latest official figures – those for 2004 – show that in Ireland 100,000 children under eighteen years (one in ten) were living in consistent poverty.<sup>161</sup> Furthermore, 230,000 children, nearly one in four, were ‘at risk’ of experiencing poverty (in other words were experiencing relative poverty).<sup>162</sup>

353. The official method of measuring the incidence of poverty nationally, the EU Survey on Income and Living Conditions (EU-SILC), defines children as those under fifteen years of age. While statistics on poverty in relation to those under eighteen years have been made available, such information is not automatically provided by the survey and there are methodological difficulties in producing it. The Alliance recommends that official poverty figures be made available for children under eighteen years to enable progress in tackling child poverty to be monitored.

354. Ireland’s economic success has played a significant part in reducing poverty among children.<sup>163</sup> However, while the Irish population overall has become more affluent, research indicates that there is a significant minority whose lives have not been improved by the employment-based strategies adopted by the Government.<sup>164</sup> Their income position relative to the rest of society has deteriorated, largely because improvements in social welfare rates have lagged behind the increase in incomes.

355. Deprivation levels are greatest among one-parent families, families where parents are unemployed, engaged in low-paid employment, ill or disabled, and in families

with three or more children. Homeless children experience deep levels of poverty. Traveller and asylum-seeking families are also particularly at risk of experiencing poverty.

**356. The Alliance calls for real leadership by Government to address the increasing inequalities evident in Irish society and to ensure that children are enabled to grow up free from poverty.**

357. Child Benefit (a monthly payment for all families except those seeking asylum) has risen significantly since 1998. However, Child Dependant Allowances (paid weekly to families receiving social welfare payments) have remained unchanged since 1994 and thus represents a declining share of these families’ incomes. Parents in employment but on low earnings may qualify for Family Income Supplement but there is widespread lack of awareness of this provision and consequently a low take-up.

358. There is no single, targeted second-tier payment for all families who are on a low income, irrespective of their employment status. The Government has commissioned an exploratory study on the options for creating a targeted support payment that would be available both to families on a low income from employment and to those on social welfare. The Alliance strongly believes that the introduction of such a payment is key to reducing child poverty.

**359. The Alliance calls for an increase in the rate of social welfare payments available to families with children.**

**360. The Alliance calls for the introduction of a targeted payment for low-income families, regardless of employment status.**

361. More also needs to be done to include children experiencing poverty and social exclusion and their families as equal partners in the development of policies and services targeting disadvantage.

362. *One-parent families.* The incidence of deprivation is substantially higher among one-parent families.<sup>165</sup> Almost 130,000 children live in one-parent families who are primarily dependent on social welfare; high numbers of these families are on local authority waiting lists for social housing. The level of social welfare provided is insufficient for these families to have a decent standard of living, yet taking up employment, unless it is well paid, may not improve their financial circumstances, due to the cost of childcare and the possible loss of health care entitlements, income and housing assistance.

**363. The Alliance calls for a range of measures to address child poverty among one-parent families, including income and employment supports, and greater supports for transition from welfare to work.**

### ★ Homelessness and housing

364. *Homelessness.* Homelessness in Ireland is less visible than in many countries as those out of home are usually offered temporary or emergency accommodation, often in bed and breakfast accommodation. The Health Service Executive 'Out of Hours Service' was used by 342 young people during 2003. Statistics on homelessness from the March 2005 assessments of housing need are not

yet available. The 2002 assessment showed that there were 1,405 children in families who were homeless, of whom 1,140 were in Dublin. Most children who were homeless with their families were under the age of twelve years and over half were under five years.<sup>166</sup>

365. The bed and breakfast accommodation (B&B) offered to homeless families generally involves an entire family living in one small room with all of their belongings, and having to share cooking, washing and bathroom facilities and without space for children to play. Families are also usually required to vacate the B&B during the day. In addition, families are often moved from one B&B to another, which may involve children either moving to another school (and needing to buy a new uniform and books) or travelling further to school. Children in B&B accommodation find it difficult to develop and maintain friendships due to frequent moves, not being able to, or being embarrassed to, invite friends into the accommodation, which in any case usually lacks play facilities.<sup>167</sup>

366. The Government has made a commitment to eliminate the use of bed and breakfast accommodation other than for emergencies and short-term use. However, in April 2004, there were 170 children of ninety-nine families living in B&Bs. In 2004, it was estimated that the average length of stay was six to twelve months.<sup>168</sup>

**367. The Alliance calls for a commitment to provide emergency accommodation for families that is appropriate for the needs of parents and children.**



368. *Housing need.* An assessment of housing need carried out in March 2005 showed that 43,684 households required social housing, a drop of 9.8% from the previous assessment in 2002.<sup>169</sup> A detailed breakdown of the 2005 assessment is not yet available; analysis of the 2002 count showed that 70% of households on the waiting lists for social housing included children, and that this represented at least 50,000 children waiting for housing.<sup>170</sup>

369. Detailed analysis of the 2002 figures also revealed that 25% of households on the housing list had been waiting for more than three years and a further 14% for two to three years.<sup>171</sup> Families on the waiting list are living in accommodation that is overcrowded and/or unsuitable. In some instances, several families live in accommodation suitable for only one household. Comprehensive research needs to be undertaken on the housing circumstances of those awaiting social housing.

370. In 2002, the majority of children (30,826) on the waiting lists were in one-parent families; at that time, over 20% of one-parent households with children under eighteen were on the waiting list for social housing, as compared to 2% of two-parent families.<sup>172</sup>

371. *Social housing.* Given the extent of housing need, the Alliance urges the Government to give a clear commitment to implementing the December 2004 recommendation of the National Economic and Social Council in relation to social housing. This called for an additional 73,000 units of new social housing to be provided between 2005 and 2012, a yearly increase of over 9,100 net.<sup>173</sup> Targets should be set for the number of

houses to be provided each year for families with children.

372. The quality of some existing social housing is poor, with children at risk from dampness, overcrowding, unsafe infrastructure and poor neighbourhoods.<sup>174</sup> The Alliance urges the Government to ensure that all social housing provides quality accommodation for families.

373. *Affordable housing.* Since 1994, house prices in Ireland have increased dramatically, particularly in the Dublin area. For example, between 1994 and 2004, the average price of a new house rose by 243% nationally and by 296% in Dublin. House prices have risen seven times faster than the consumer price index, and even though average earnings have risen significantly they have been far outpaced by house prices increases.<sup>175</sup> The result is that many families on moderate incomes are no longer able to purchase a home. The Alliance urges the Government to increase the supply of 'affordable housing' for purchase by families with children and to amalgamate the existing affordable housing schemes into a single First Home scheme, as recommended by the National Economic and Social Council.<sup>176</sup>

**374. The Alliance calls for sufficient high quality social and affordable housing for families with children.**



(Oisin, age 7, Co. Waterford)

Extra curricular activities should be encouraged and should be part of your entry into college, so that all aspects of a young person's talent are counted – not just the pressure there is to succeed academically.

There are not a lot of facilities for young people. A lot of young people binge drink out of boredom; especially for young people in more rural areas – it's very difficult.

(School Students, age 16-17)

# VII. Education, Leisure and Cultural Activities

## Education, including vocational training and guidance and Aims of education (Articles 28 and 29)

375. *Government spending on education.*

Spending on primary and second-level education in Ireland increased at only half the rate of economic growth in the period of peak economic growth from 1995–2002. Ireland fell in ranking from nineteenth to twenty-first out of twenty-seven OECD countries for education spending.<sup>177</sup> The ratio of non-teaching staff to teaching staff in Irish primary and second-level schools is significantly lower than that in other OECD countries, while class sizes in both sectors are significantly higher.<sup>178</sup>

### Early childhood education and care

376. Historically Ireland has provided limited state support for early childhood education and care (ECEC) relative to other developed countries.<sup>179</sup>

377. The Alliance strongly endorses the recommendations of the 2005 National Economic and Social Forum (NESF) Report on Early Childhood Care and Education, which was produced following broad consultation.<sup>180</sup> The Report is driven by the holistic rights and needs of the developing child and sets out a comprehensive range of

policy recommendations in relation to early childhood.

378. Although the Alliance welcomes the announcement in December 2005 of the *National Childcare Investment Programme 2006–2010*, it is disappointed that the Government did not use the occasion of a new programme to implement the NESF report's recommendations, which would have moved the focus more explicitly to quality provision for children.

379. The Alliance welcomes the placement of responsibility for the *National Childcare Investment Programme* and for early childhood policy under the new Office of Minister for Children. Early childhood education and care policy has historically been driven by the gender equality agenda and the educational disadvantage agenda.<sup>181</sup> The *National Childcare Investment Programme*, building as it does on existing policies, should not be limited in this way.

380. The Alliance encourages the Government to develop one coherent policy response towards early childhood education and care, driven by the child's rights to development, care, education, health and wellbeing, and play. Such a policy would provide education and care supports for children cared for by family and those cared for outside the home.

381. *Quality.* Research highlights that children benefit from high quality ECEC. The provision of such quality services requires investment in services and staff training. Supports for parents and children must place the best interest of children at the centre. The establishment of the Centre for Early Childhood Development and Education (CECDE) in 2001 was an

important development in supporting quality in ECEC. The embryonic infrastructure for the development of an ECEC sector should be sufficiently resourced to meet the increasing demand for high quality early childhood services.

**382. The Alliance calls for one year of free early childhood education for all children in the year prior to attending school.**

383. The Alliance also urges the Government to invest in targeted supports for children experiencing disadvantage or those with special needs. Representative bodies and advocacy groups should be consulted in the development of targeted responses.

384. *Registration and Inspection.* A fundamental part of providing quality ECEC services is a well-developed system of registration and inspection.

385. In Ireland, there is no system of registration for early childhood settings; providers are only required to notify the authorities that they are in operation. Within this notification system, new early childhood settings must give twenty-eight days notice of their intention to open. There is no system for registration and inspection prior to their opening.

386. The present system represents a very weak form of regulation, particularly in view of the number of children attending the wide variety of early childhood settings.

**387. The Alliance calls for a comprehensive system of registration for childcare and after-school care service providers.**

388. Only minimal regulations are provided by the *Preschool Regulations* (1996), and these are limited in their remit.<sup>182</sup> The Regulations are currently under review. The Alliance urges that the revised regulations be published without delay. New regulations should reflect the changing environment in Ireland and broaden the remit of the inspection teams to include educational as well as health and safety dimensions. The regulations should also address the qualifications required of those working in ECEC.

389. A single system of inspection should be established and resourced to inspect and provide support for all early childhood settings.<sup>183</sup>

390. *Staff registration and qualifications.* The level of qualification and training of those working with young children directly impacts on the quality of provision. Currently there are no requirements for childcare workers outside the home or for childminders in the home to have any qualifications or to be on a central register.

391. The Alliance recommends that a registration system for all childcare workers be put in place. This system should be adequately resourced to ensure implementation within five years. The registration system should require childcare workers to have certain qualifications by a specified date after the registration system comes into operation.

392. The Alliance also recommends that training programmes be developed and supported for those working in this area.

### **Primary and second-level education**

393. Historically, there has been serious under-funding of primary school education. This

under-funding impacts not only on the level of infrastructure and materials to implement the curriculum but also on the availability of equipment – musical instruments, sports equipment and computers – to help children explore the range of their abilities.<sup>184</sup> In this sense, Irish schools are poorly equipped by comparison to other developed countries.

394. *School buildings.* Although progress has been made in improving the infrastructure of many schools, a substantial number of school buildings remain dilapidated, some with poor sanitary conditions and dangerous electrical wiring.<sup>185</sup> The Alliance welcomes the five-year Schools Building and Modernisation Programme 2005–2009 but urges the Government to establish a mechanism, involving key stakeholders, to monitor the implementation of the Programme.

**395. The Alliance calls for the under-funding of schools to be addressed to ensure the education rights of all children, giving priority to modernising school buildings, and providing tools for enrichment such as sports equipment, musical instruments and computers.**

396. *Class size.* The Alliance welcomes Government measures to reduce class size.<sup>186</sup> However, the average class size at primary level is still 24.2. While the Government has made a commitment to reducing class size below twenty for pupils under nine years, currently two-thirds of all pupils are in classes of larger size than this. Almost one-quarter of second-level pupils (30,000) are in classes of thirty or more.

397. Class size has a significant effect on the quality of education for children in Ireland.

The Alliance urges the Government to reduce class size to below twenty students per class in all primary schools. At second level, specific measures should be taken to reduce class sizes, particularly in the core subject areas of mathematics and English language.

**398. The Alliance calls for action to reduce class sizes in primary and second-level schools.**

★ **Discriminatory access to education**

399. Equality of access to, participation in and benefit from education continues to be problematic for many children.<sup>187</sup> Nearly one pupil in five leaves school without attaining a Leaving Certificate. One child in ten leaves primary school with serious literacy problems,<sup>188</sup> rising to one child in three from disadvantaged communities.<sup>189</sup>

400. The Alliance broadly welcomes Government policy development in this area.<sup>190</sup> In particular, the publication of *DEIS (Delivering Equality of Opportunity in Schools): An Action Plan for Educational Inclusion* signals a recognition of the need for greater commitment to address educational disadvantage.

401. Much work is needed to provide greater coordination and integration of service provision, resourcing, and policy development in the area of educational disadvantage, with less emphasis on the development of once-off initiatives or pilot projects.<sup>191</sup> Moreover, there is a need for additional training and guidelines for teachers and school staff to enable them to work in partnership with children and their parents in poverty to combat early school-leaving.

402. *Costs of education.* Despite the fact that there are no fees for public primary and second-level schools, the cost of education to families is significant. Families must pay for books, uniforms, school costs such as art materials, music classes and compulsory extra-curricular classes such as swimming.<sup>192</sup> In addition, it is the established practice in many schools to require parents to pay a 'voluntary contribution' to supplement the state funding provided.<sup>193</sup>

403. Many parents find the costs of education burdensome, in particular at the beginning of the school year and at entry to second-level. This can impact negatively on children's participation in education.

404. A Back to School Clothing and Footwear Allowance is available at the start of the school year but the level of the payment is such that it meets only part of the costs and, in addition, the eligibility is strictly means-tested.

405. To ensure that children's participation in education is not hindered by costs, there is a need for in-school supports such as book rental and school meals schemes, and an increase in the Back to School Clothing and Footwear Allowance to adequate levels.

**406. The Alliance calls for measures to ensure children's participation in school is not hindered by the costs involved.**

407. *School Meals Scheme.* Although there is a School Meals Scheme available for disadvantaged pupils, only a small proportion of schools offer a substantial hot meal as opposed to a snack. The Alliance recommends that the School Meals Scheme provide a substantial hot dinner to all students in schools with disadvantaged

status so no child goes through the school-day hungry.

408. *Absenteeism.* Although considerable policy attention has been paid to reducing absenteeism, this remains at a significant level in both the primary and second-level sectors. The problem is more acute in areas of disadvantage where almost one student in five misses more than twenty days of school per year.<sup>194</sup>

409. School attendance is tracked by the Department of Education and Science and the National Educational Welfare Board. At primary level, data is not automatically collected on individual pupils' attendance.<sup>195</sup> Preliminary work has been done on developing a database but this has not yet been completed.

410. As there is no system of tracking the transfer of children from primary to second-level school, the numbers who drop out at this stage are unknown. It is estimated that up to 1,000 children annually do not transfer from primary to second-level school. This is of grave concern given the vulnerability of such children.

411. At second level, the Department of Education and Science holds a database that identifies individual pupils and tracks their transition from year to year. However, one limitation of the database is that there is no automatic indication when a pupil has dropped out of school in the middle of the year.<sup>196</sup>

412. The Alliance urges that the database for primary level children be completed without delay and that this database should link to the one already in existence at second level. The databases should track school

attendance and give a comprehensive picture of the overall primary and second-level populations. It should automatically identify instances of early school-leaving and trigger the provision of supports and services.

413. *Early school leaving.* Dropping out of school before the legal leaving age of sixteen continues to be a significant problem in Ireland and of deep concern to the Alliance. Almost 15% of young people leave school before completing the final state examination (Leaving Certificate), and 3% leave with no formal qualification at all.<sup>197</sup> High levels of early school leaving are concentrated in low-income communities and particularly among boys. Leaving school early and/or without any qualifications is significantly associated with lower employment opportunities and lifetime earnings.

414. The Alliance is concerned about the insufficient resourcing and staffing levels of the National Educational Welfare Service, which aims to combat absenteeism and early school leaving.<sup>198</sup>

**415. The Alliance calls for the National Educational Welfare Service to be staffed and resourced to enable it to carry out its remit in full.**

### **Multi-denominational education**

416. Ninety-nine per cent of Irish primary schools are under the management of a religious body.<sup>199</sup> Nearly all of these schools are publicly funded by the State but privately owned by the religious bodies. This system of education is unique to Ireland, is underpinned by constitutional provisions (Articles 42 and 44) and leads to a significant lack of educational choice.

417. In March 2005, the UN Committee on the Elimination of Racial Discrimination (UN CERD) emphasised the intersectionality of religious and racial discrimination and recommended that the State actively promote the establishment of multi-denominational and non-denominational schools.<sup>200</sup> The implementation of this recommendation would require dedicated State support for the development of new non-denominational and multi-denominational schools: currently there is no such provision. Re-structuring of the education system is needed to ensure that the cultural and religious rights of all students are vindicated.

**418. The Alliance calls for the implementation of the recommendation of the UN CERD that the State promote the establishment of multi-denominational and non-denominational schools.**

419. The Equal Status Act, 2000 allows schools which are under religious management (but receiving state funding) to give preference to children on the basis of religion. The implications of this policy, in light of the inadequate provision of publicly funded multi-denominational and non-denominational schools, should be examined to ensure that no child is denied a place in a local, publicly-funded school, due to their religious affiliation.

420. *Guidelines.* In 2005, the Department of Education and Science issued *Intercultural Education in the Primary School: Guidelines for Schools*. An implementation plan for the guidelines needs to be put in place.

421. A major weakness of the guidelines is that they do not cover the religious education curriculum as this is the preserve of the



religious bodies that manage the schools and is not regulated by the State.

422. There is a need to ensure that, within denominational schools, appropriate and sensitive alternative arrangements are made in all cases for children who are not taking part in religious education classes.

423. The Alliance urges the Department of Education and Science to consider introducing for all schools an ethics curriculum that explores ethical issues as well as different religious and cultural practices.<sup>201</sup>

### ★ Human rights education

424. Human rights education is included in the Social, Personal and Health Education curriculum at primary level and in the Civic Social and Political Education curriculum at second level. However, within these curricula, the human rights elements are optional. Furthermore, teachers are not trained or supported in the teaching of human rights.

425. Although an evaluation of human rights education has been undertaken by the Department of Education and Science, the report on this has not been made public. The Alliance is concerned that human rights education, which is linked to the exercise of rights within the school environment, is severely neglected.

426. The Alliance recommends the undertaking of a comprehensive human rights audit of the education system.<sup>202</sup> It also recommends the development and resourcing of a plan of action to implement the World Programme for Human Rights Education.<sup>203</sup>

### Migrant children

427. Legally, all children, irrespective of their or their parents' citizenship or residency status, are entitled to access the education system. In practice, supports provided by the State to ensure that migrant children can benefit from the school curricula are inadequate.

428. There are particular difficulties regarding the provision of language and cultural supports. Children in schools whose first language is not English are offered support through the Language Support Teacher Service. The provision of this service depends on the number of students in the school in need of English language support: students are offered a fixed number of learning support hours and a school must have a minimum of fourteen students in need to qualify for a Language Support Teacher. An individual student is entitled to a maximum of two years language support.<sup>204</sup> The Alliance recommends that a review of all aspects of the service be undertaken with a view to enhancing provision.

429. The issue of racism in schools and among school children also warrants attention.<sup>205</sup> The Department of Education and Science has yet to appoint an internal coordinator for the Department's responsibilities under the *National Action Plan against Racism*.

430. *Deportations.* There have been instances where Gardaí have entered school grounds to remove children for the purposes of deportation. The Alliance condemns this practice, which has been formally criticised by school principals, teachers' unions and other education bodies.<sup>206</sup>

### Education for children with disabilities

431. *Coordination.* Even though the Education for Persons with Special Educational Needs Act, 2004 provides for coordination

between the Health Service Executive and the Department of Education and Science, in practice coordination is problematic.<sup>207</sup> Section 16 of the Act provides for Liaison Officers between the Department and the HSE to be appointed, but this section has not yet been commenced.

432. *Supports.* Under the Act, there is no guaranteed entitlement to therapy or supports within schools for children with disabilities. Since special needs equipment belongs to the school rather than to the child, children moving from primary to second-level schools need to re-apply for their supports. Further training is needed for teachers working with children with disabilities, both in mainstream and specialised schools.<sup>208</sup>
433. *Early school leaving.* The incidence of early school leaving among children with disabilities is significantly higher than the average. More than 21% of fifteen year-olds with a physical disability have left school, compared to 6% of non-disabled young people.<sup>209</sup>
434. *School accessibility.* While the principle of inclusion is now much more widely accepted, the infrastructure to make this real is inadequate. In a study of principals of second-level schools, 83% indicated that they consider their schools to be inaccessible to children with disabilities.<sup>210</sup>
435. *Resourcing.* In the Budget announced in December 2004, the Government allocated €900 million as multi-annual investment in disability services for the following five years. However, it is not clear what proportion of this funding is specifically earmarked for children. The increase in funding must be seen within the context of

the historic under-funding of this sector.<sup>211</sup> Figures on the numbers providing and receiving services indicate that the additional funding will be spread thinly. The Alliance urges that the specific needs of children be adequately considered in the allocation of additional funding and that resources be targeted towards the regions most in need.

436. *Disability Policy.* It should be noted that the Department of Education and Science is not one of the six departments required, under section 31 of the Disability Act, 2005, to have a sectoral plan showing how it will address key disability issues. This omission should be reviewed.
437. *Autism and autistic spectrum disorders.* There are few educational services for children with autism and autistic spectrum disorders. Existing educational services are funded on a pilot project basis by the Department of Health and Children. The under-provision of appropriate education services is highlighted by the fact that in recent years over one hundred families have begun court proceedings against the Department of Education and Science, in an effort to secure appropriate educational services for their children. Considerable sums of state money have been spent defending the Department in these actions.<sup>212</sup>
438. Specialist mental health services for children with autism and autistic spectrum disorders are also inadequate and those that are available are not always accessible.
439. The Alliance strongly encourages the Government to adopt a comprehensive, integrated approach to the educational, family support and health needs of children

with autism.<sup>213</sup> Of particular importance are comprehensive and coordinated early intervention and assessment services.<sup>214</sup>

### **Young parents and educational attainment**

440. In 2004, 654 children were born to mothers under the age of eighteen.<sup>215</sup> One of the biggest challenges facing teenage parents in Ireland is completing their education while taking care of their children.<sup>216</sup> They face a higher risk of early school leaving and consequently of being confined to low paid employment or dependence on social welfare payments.

441. The Irish Government has recognised the need to support young parents to remain in or return to education.<sup>217</sup> However, there is no national, integrated strategy on this issue covering all forms of education, including vocational and further education. Moreover, there are no official protocols or guidelines for school authorities in relation to responding to the needs of pregnant or parenting teenagers.

442. There are a few state-aided projects to support teenage parents, but they meet the needs of only a small percentage of the teenage parent population.

443. The Alliance advocates the development of an integrated, national strategy to enable teenage parents to complete their education. Specifically, it recommends that projects supporting teenage parents be fully resourced on a multi-annual basis; that childcare funding be available to all teenage parents in education; and that 'second chance' schemes be re-evaluated to accommodate the needs of teenage parents who wish to return to education.

### **National Educational Psychological Service**

444. The National Educational Psychological Service (NEPS) aims to provide an educational psychological service to school students experiencing educational difficulties. Its remit extends to addressing emotional difficulties which impact on pupils' performance and behaviour in school, and supporting teachers in responding to school-based difficulties.<sup>218</sup>

445. The number of psychologists employed by the NEPS is insufficient to meet current demand for assessment of need and this has led to unacceptable delays.<sup>219</sup> More than half of primary schools and a quarter of second-level schools do not have access to the NEPS. Furthermore, the service is only available to a fixed quota of students per school, with the school deciding which students are most in need of an assessment.<sup>220</sup> The only other option is to refer the child to private psychological services, which means that access is dependent on parents' ability to pay for private treatment.

446. There are also insufficient guidance counsellors in schools to provide support for students in need of less intensive assistance.<sup>221</sup>

**447. The Alliance calls for the adequate provision of State funded psychological services for children within the school setting.**

### **★ Non-formal education**

448. Even though the Government has recognised the importance of the non-formal education sector in combating educational disadvantage and early school-leaving,<sup>222</sup> it has not put in place adequate resources to enable the sector fulfil its

potential role. For example, a lack of sufficient resources means that the National Educational Welfare Service must focus predominantly on addressing early school-leaving, and so its envisaged role in promoting non-traditional forms of education such as vocational training is not fulfilled.

449. Although, the National Educational Welfare Board has responsibility for the continuing education of young people aged sixteen and seventeen who leave school to take up employment, no progress has been made in relation to this part of its remit. The Alliance urges that the Board be adequately resourced to carry out its remit in full.

450. There has also been a lack of adequate funding to implement both the Youth Work Act, 2001 and the *National Youth Work Development Plan*.

**451. The Alliance calls for the full implementation of the *National Youth Work Development Plan*.**

#### **After-school care**

452. With more parents working outside the home, there is a trend towards the provision of after-school services for children. There are no guidelines or regulations as to how after-school services should be provided. The Alliance recommends that after-school provision be supported to provide balanced opportunities for free play, creative activities and sports, as well as homework and other academic work.

453. The Alliance also recommends that training programmes be developed and supported for those working in the provision of after-school care.

## **Leisure, recreation and cultural activities (Article 31)**

### **Play and recreation**

454. Children and young people continually raise the issue of play and recreation as a key concern. The level of provision of play and recreation facilities is poor by comparison to that of other developed countries.

455. *Play*. The Alliance welcomes *Ready Steady Play! the National Play Policy* and the advances that have been made through its implementation, including the establishment of the National Play Resource Centre. The development of the Policy through extensive consultation with children set a standard for best practice in including children in policy development, which the Alliance hopes will become the norm.

456. Historically, investment in this area has been low with the result that the provision of facilities has been inadequate. While the National Play Policy and its accompanying funding is an important advance, it is also making up for a considerable deficit in this area.

457. There have been some difficulties at local level with implementation of the National Play Policy.<sup>223</sup> To date, less than 20% of local authorities have produced a local play policy, as is required by the national policy.<sup>224</sup>

458. The Alliance supports an evaluation of the provision of resources under the National Play Policy to assess whether these resources have produced the best outcomes for children. Some funds have been provided to develop playgrounds and skate parks, but it is not clear that the provision of these resources has been well coordinated.

459. There has been marked resistance on the part of some residents' groups to the construction of playgrounds for children on the basis of an argument that they may become a gathering place for people engaging in anti-social behaviour.<sup>225</sup>
460. *Recreation.* The Alliance welcomes the development of a National Recreation Policy for teenagers, particularly the proposal that 'hanging out' and a wide variety of activities other than sport will be recognised and provided for. However, the Alliance is concerned that the proposed introduction of Anti-Social Behaviour Orders would be at odds with acceptance of 'hanging out'.
461. The Alliance urges that the National Play Policy and the forthcoming National Recreation Policy for teenagers be integrated with the Government's approach to combating obesity and underage drinking.
462. *Physical activity and sport.* There are significant discrepancies in the Government's policy approach towards play and recreation and obesity. Notably, the recommendations regarding children's level of physical activity in the report of the National Task Force on Obesity pertain solely to physical activity in the school setting. A more integrated approach to the promotion of a healthy lifestyle among children is needed, including funding increased provision of play and recreational opportunities involving physical activity outside of schools.
463. A 2002 survey showed that overall only 48% of Irish children reported exercising four or more times a week, and 12% exercised less than weekly. Involvement in exercise decreases as children grow older:
- exercising four times a week or more fell from 59% of ten to eleven year olds to 35% of those aged fifteen to seventeen. There is a significant gender divide in relation to participation in exercise: more boys than girls report exercising more than four times a week (59% as against 38%) and more girls than boys exercise less than once a weekly (14% as against 8%). The gender gap in participation increases considerably with age, so that only 25% of girls aged fifteen to seventeen exercise more than four times a week, as against 48% of boys.<sup>226</sup> Adequate and non-discriminatory levels of funding and resources are needed to ensure that girls are enabled to participate in sports and other physical activities, including dance, on an equal basis.
464. *Children experiencing disadvantage.* The lack of facilities, particularly recreational facilities, is most pronounced for children experiencing socio-economic disadvantage. The inadequacy of provision can be linked to both societal reservations about providing facilities (with a perception of increased insurance risk and anti-social behaviour) and a lack of targeted funding for areas experiencing disadvantage. The Alliance welcomes Government-level efforts to involve young people in the creation of facilities and urges that this approach be required at local level.
465. Children with disabilities also face additional barriers in accessing play, recreation and sporting facilities. Likewise, children living in non-mainstream accommodation face particular challenges. Space, facilities and opportunities for play are needed in direct provision centres for asylum seekers and in emergency accommodation for children out of home.

Many halting sites for Travellers, including Government-provided sites, do not have safe areas for children to play. In fact, many of these sites are situated near busy roads, power lines, rubbish dumps, industrial parks and railways.

**466. The Alliance calls for the full implementation throughout the country of the National Play Policy and the forthcoming National Recreation Policy.**

### Arts and culture

467. *Strategic focus.* The Alliance welcomes the inclusion in the Arts Council's strategy, *Partnership for the Arts*, of a goal for young people's participation.<sup>227</sup> However, the Alliance is disappointed that the document does not articulate a specific, coherent, strategy to facilitate children's participation in the arts and to coordinate initiatives and pilot projects. Neither is there recognition of the importance of combating cultural disadvantage as part of addressing child poverty, nor a commitment to prioritise children in disadvantaged areas where there are fewer cultural resources. The Alliance is also concerned that there is no strategy to support, develop and coordinate arts initiatives for children provided by the community and voluntary sector.

468. *Infrastructure.* A 2004 survey of children and young people identified the lack of publicly-funded cultural facilities as the main barrier to children and young people's participation in the arts.<sup>228</sup> The Alliance urges the Government to commit funding towards developing new cultural facilities and activities for children and young people, and towards promoting their involvement in mainstream cultural activities. The availability of funding for

local-level projects is particularly important.

**469. The Alliance calls for the development, in partnership with children, of a national strategy for children and young people's participation in the arts.**

### Public space

470. There has been a trend towards privatisation of public space in Ireland<sup>229</sup> and a reduction in outdoor public space for play, recreation, the arts, and cultural activities.

This is a particular problem within residential areas in and around most cities, where the demand for housing development is reducing, and in many cases eliminating, space for children to play.<sup>230</sup>

471. The Alliance also notes with concern a trend within society that stereotypes children, particularly teenagers, playing outdoors as a nuisance or a threat.

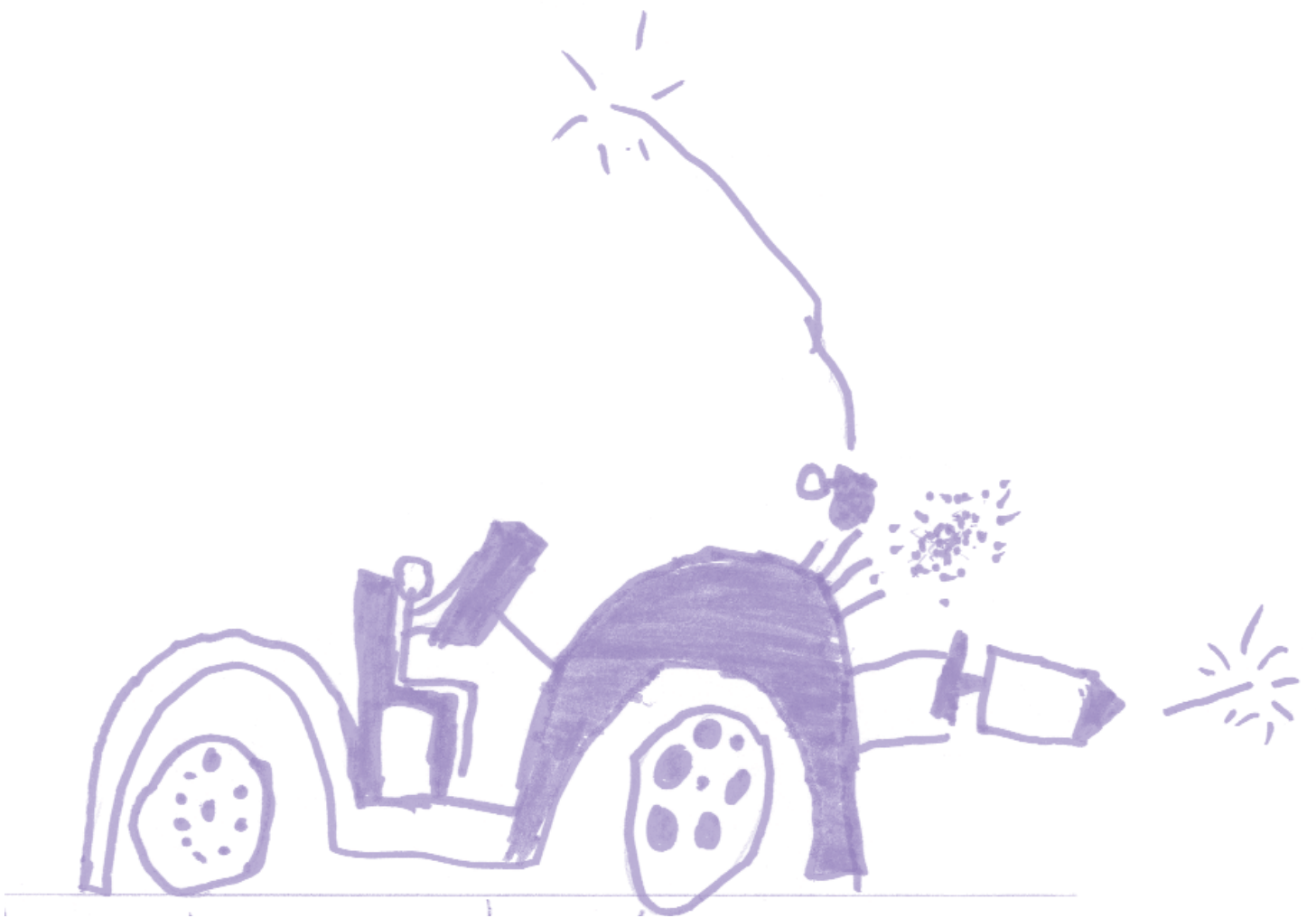
472. There is a need for a child-centred perspective to be adopted in all planning and for more outdoor public spaces to be preserved and created for children. The planning of residential areas should provide safe and direct walking and cycling routes between housing estates and adjacent amenities. The forthcoming National Recreation Policy is an opportunity to address these concerns.

473. There is need to promote the development of dynamic communities which are inclusive of children, for example, through the UNICEF 'Child Friendly Cities' initiative. This work should be integrated with policy in relation to tackling obesity and promoting a healthy lifestyle.

## Transport and planning

474. Ireland has a high incidence of road-related child death and injury relative to many other European countries: for example, the age standardised mortality rates for children aged 0-14 between 1996 and 2000 were 3.61 per 100,000 compared to 2.31 per 100,000 in Sweden. In that period, 6,045 children under fifteen were killed or injured on Irish roads.<sup>231</sup>
475. The 'Safer Routes to School' programme should be extended to all schools to ensure the development of safer routes between residential areas and schools for walkers and cyclists. In addition, the quality and availability of school transport should be addressed as a matter of priority to ensure the safety of children.
476. The Alliance urges the adoption of international best practice in relation to traffic calming measures, such as introducing and strictly enforcing speed limits of 30kph in residential areas, providing safe cycling routes and promoting the 'walking school bus' initiative.<sup>232</sup> The absence of footpaths and the poor quality of roads in rural areas needs to be addressed.
477. More generally, planning for the provision of transport services has not taken into account the specific access and safety needs of children and young people. For example, it is unclear how the €34 billion *Transport 21* Plan announced by the Government in 2005 will improve the services available to children or encourage walking and bicycle usage by children.
478. Outside Dublin and other major cities, public transport is limited; in fact, in many rural areas there is little or no public transport, placing rural young people at a significant disadvantage. This is, in part, a result of poor spatial planning permitting one-off housing, low-density housing estates and ribbon development, all of which are very difficult to service with public transport.
479. Even where public transport is available, its cost may be prohibitive for some young people. The Alliance recommends that child fares for public transport apply to everyone up to the age of eighteen years.
480. The lack of independent access to transport can inhibit young people's ability to avail of public services, after-school activities and recreational and cultural facilities.

**481. The Alliance calls for a child-centred and child safety perspective to be adopted in transport and planning policy, and for the introduction of measures to improve walking and cycling routes, and access to public transport for children.**



(Seán, age 8, Co. Wexford)



We do not like the asylum process. It takes too long. We think it is inhumane to deport people after five years in the country. We are worried about being deported when we become 18. Our stories are not believed. They try to catch us out and our credibility is questioned. If they do not think our story is credible, then we do not get status, and then they say we lied so we do not get humanitarian leave to remain either. What about article 12, why do they not listen to our voices, to our story and believe us and take us seriously.

(Young asylum seekers, Dublin)

# VIII. Special Protection Measures

## Children in situations of emergency

### Refugee Children (Article 22)

#### Asylum system

482. The Government has made a commitment to publish an Immigration and Residency Bill in 2006. It is has indicated that the Bill will reform existing procedures for processing asylum applications, bringing them more in line with those of other countries in the European Union.

483. At present, applications for asylum are assessed solely on the grounds for protection set down in the Geneva Conventions. There is an appeals process and if an appeal fails, an asylum seeker may apply for humanitarian leave to remain, which is at the discretion of the Minister for Justice, Equality and Law Reform.<sup>233</sup> In practice, there is little protection for those fleeing conditions, potentially violent, not covered by the Geneva Conventions.

484. The Government has indicated that the Immigration and Residency Bill will propose a "single procedure for protection", where asylum seekers would be assessed for refugee status under the Geneva Conventions and "complementary protection" for circumstances that do not fit the strict criteria of the Geneva Conventions.<sup>234</sup>

**485. The Alliance calls on the Government to recognise all grounds for seeking protection, including child-specific forms of persecution and the fact of being a separated child, as a basis for refugee status or complementary protection, with first assessment made under the Geneva Conventions.**

#### Separated children seeking asylum

486. The total number of documented cases of separated children in Ireland was thirty-two in 1999 and by May 2005 it had risen to 4,200.<sup>235</sup> Of these, approximately 70% were aged fourteen or over at the time of entry. The number of separated children in State care at any one time is approximately 200.

487. *Asylum system.* Separated children face a series of distinct challenges within the asylum system. An issue of concern to the Alliance is that separated children do not receive independent representation during the asylum process.<sup>236</sup> In the *National Children's Strategy*, the Government made a commitment to provide a Guardian *ad Litem* for all separated children.<sup>237</sup> This commitment has not been met. Separated children have access to neither a Guardian *ad Litem* nor an independent legal representative.

**488. The Alliance calls for each separated child seeking asylum to be assigned a Guardian *ad Litem* to represent his or her best interests during the asylum process.**

489. The HSE assesses the circumstances of each separated child and decides whether or not an application for asylum should be made on their behalf. In instances where an

application is not made, the child remains in a legal limbo: they have no legal status or identity papers, and it is unclear what will happen when they reach eighteen years. The legal position of such children must be addressed as a matter of priority. If the child is deemed to have protection needs which do not meet grounds for refugee status under the Geneva Conventions, he or she should be entitled to apply for "complementary protection".

490. Separated children on whose behalf an application for asylum has been made by the HSE have an asylum interview one month later. The Alliance considers that this timescale should be extended when extra time is needed by a vulnerable child to prepare for the interview.<sup>238</sup>

491. *Accommodation and Services.* Over the past ten years serious challenges have been experienced in providing services for separated children seeking asylum. This has led to an inadequate provision of care, social supports and accommodation, for example, moving children at short notice from one hostel to another. Services have improved somewhat in recent times and the Alliance urges the State to now raise the level of care to internationally accepted standards.

492. The majority of separated children seeking asylum are reunited with family, and the remainder are placed in hostel or residential care.<sup>239</sup>

493. There is concern that, in some instances, there is inadequate investigation to verify the identity of people who present as family members and with whom separated children are united. Where a separated child is united with a family member there

is no follow-up by social services to that placement. The Alliance suggests that these children should be visited by a social worker shortly after their placement, and again within three months.

494. *Hostel care.* Separated children living in hostel accommodation do not receive Child Benefit: instead they are paid the adult asylum seeker direct provision payment, which at €19.10 per week is considerably lower than the rate of Child Benefit which is €150 per month.

495. The *National Children's Strategy* commits the Government to treating separated children in accordance with international best practice. However, the reality is that the accommodation and level of care<sup>240</sup> provided for separated children is not of a standard equal to that provided to other children in HSE care under the Child Care Act, 1991.<sup>241</sup>

496. The hostel care provided for separated children is in private unregistered accommodation, not covered by the *National Standards for Children's Residential Centres*, which includes access to internal and external complaints systems. The enforcement of these standards would make a significant difference to the quality of care experienced by separated children.

**497. The Alliance calls for the accommodation for separated children seeking asylum to be registered and covered by the *National Standards for Children's Residential Centres*.**

498. Of particular concern is the fact that social work staff are not available to separated children 'out of hours', i.e. overnight and at weekends. The Alliance urges that, as part

of the introduction of an out-of-hours social work service, priority be given to the provision of twenty-four hour cover for separated children seeking asylum.

499. The inadequate level of support and supervision for these vulnerable young people has a detrimental effect on their mental and physical health and educational attainment. These children, the majority of whom are adolescents, are at risk of engaging in unsafe sexual behaviour and drug and alcohol abuse and are at particularly high risk of sexual exploitation.
500. Given the vulnerability of these children, the Alliance suggests that a small group home model might be adopted for their care. Staff working with separated children should be required to have care training, as is the case for staff working with other children in care. In addition, further efforts should be made to integrate separated children into the population at large.

**501. The Alliance calls for Ireland to conform to the requirements of the *Statement of Good Practice of the Separated Children in Europe Programme*.<sup>242</sup>**

502. *'Aged Out' Minors*: Separated children who are unsuccessful in their application for asylum receive a deportation notice once they turn eighteen. At present, there are approximately 250 'aged out' minors (unsuccessful asylum seekers over 18 years) seeking leave to remain. These young people have been in Ireland for several years (some for more than five years) waiting for a final decision on their application for leave to remain. They have attended school here and become integrated into Irish society. The majority of these young people do not have any family

members remaining in their country of origin. All their support systems are in Ireland.<sup>243</sup> The unique situation of these young people requires a response that is humane and compassionate and fully respects their rights.

★ **Asylum-seeker children within families**

503. *Social welfare and housing*. Under the 'direct provision' system, introduced in April 2000, the Irish Government houses asylum-seeker families in shared, hostel-type accommodation centres throughout the country.<sup>244</sup> Of those living in direct provision centres, 30% are under eighteen, and 17% are under four years of age.<sup>245</sup> Some families have to live in direct provision accommodation for significant periods.<sup>246</sup>
504. Families in direct provision centres are provided with food and lodging and a cash payment of €19.10 per adult and €9.60 per child per week. Since asylum seekers are not allowed to take up paid work,<sup>247</sup> the direct provision payment must cover all personal items beyond housing, food, and medical care, including basics such as toiletries and transport costs. The payment is grossly inadequate given the high cost of living in Ireland. The direct provision payment has remained the same since it was introduced, even though other social welfare payments have increased incrementally.
505. *Medical Costs*. Asylum seekers are entitled to a medical card. However, the fact that their income from the 'direct provision' social welfare payment is so low means that they may not have sufficient money to purchase even relatively inexpensive non-prescription medication.<sup>248</sup>

506. The UN CERD Committee has expressed concern about the implications of the policy of dispersal and direct provision for asylum seekers.<sup>249</sup>

507. The policy has a detrimental impact on children's development for many reasons, including:

- Many hostels and bed and breakfasts are chronically overcrowded and there is usually very little space or facilities for children to play. Particularly for teenagers, the lack of privacy is a serious problem.
- Asylum seekers in direct provision are not allowed to cook for themselves, and the food provided is often nutritionally inadequate and culturally unsuitable. This is a particular problem for young children;
- Many children have to translate for their parents within hostels due to a lack of translation facilities.
- Children's education is disrupted by transfers between different direct provision centres.<sup>250</sup>
- Direct provision also isolates asylum-seeking families and separated children from the majority population and is a significant barrier to social inclusion for children.

**508. The Alliance calls on the Government to put in place an equitable and appropriate alternative to the direct provision system for asylum-seeking families.**

**509. As an interim measure, the Alliance calls on the Government to raise the direct provision payment.**

## Children involved in the system of administration of juvenile justice (Article 40, 37 (a) (b)-(d))

### ★ Youth justice policy developments

510. In 2005, a Youth Justice Service was established. Although part of the Department of Justice, Equality and Law Reform, the Service is located within the Office of the Minister for Children. The establishment of the Service is welcome, as is the commitment to draw up a Youth Justice Strategy. The Alliance urges that this Strategy should be the basis for a consistent child-focused and rights-based national policy on youth justice, in line with the Convention and other international standards in this area.<sup>251</sup>

511. The Children Act, 2001 provides a modern framework for the youth justice system. However, many key provisions of the Act have not been commenced, including removing children from adult prisons and places of detention, and enabling the courts to divert a child charged with an offence to the HSE on the basis of need.

512. The principle that detention shall be a measure of last resort underlies the Children Act, 2001. However, to date only two of the ten community sanctions provided for in the Act have been implemented, leaving the courts with few sentencing alternatives to detention. The remaining community sanctions should be introduced without delay. In addition, there needs to be a programme of sustained investment in a range of community-based prevention, early intervention and rehabilitative services.

### **Amendments to the Children Act, 2001**

513. The Criminal Justice Bill, 2004 currently before the Oireachtas includes a number of amendments to the Children Act, 2001. Some of the amendments aim to simplify the implementation of the Act and these are to be welcomed. The Alliance is, however, concerned that other proposed amendments will weaken the Act.

514. *Age of criminal responsibility.* The provision in the Children Act, 2001 to raise the age of criminal responsibility from seven to twelve years has not been commenced and so the age remains at seven years. The provision to raise the age to twelve is due to be commenced within three months of the passage and signing into law of the Criminal Justice Bill, 2004. The Criminal Justice Bill, 2004 proposes to amend the Children Act, 2001 to allow children over ten years to be prosecuted for serious crimes, including rape, aggravated sexual assault, murder or manslaughter. The Bill also proposes the abolition of the rule of *doli incapax*, and its replacement with a provision that the Director of Public Prosecutions consent to take action with respect to charges against children under fourteen years. The Alliance urges the Government to abandon these proposals and to proceed, without further delay, to raise the age of criminal responsibility to twelve years in all circumstances.

515. *Anti-Social Behaviour Orders.* The Bill also introduces Anti-Social Behaviour Orders (ASBOs). These would apply after the preventive measures of the Children Act, 2001 (including a diversion scheme and family conferences) had been exhausted. ASBOs would be granted for non-criminal 'anti-social' behaviour, but the breach of one would be a criminal offence incurring

sanctions, which could include detention. The introduction of ASBOs applying to children from the age of twelve years will lead to a widening of the remit of the criminal justice system and will contravene commitments made by the State to use detention as a last resort. To enable the implementation of Anti-Social Behaviour Orders, the Criminal Justice Bill proposes to remove or restrict a child's right to privacy under the Children Act, 2001. The Alliance is opposed to the introduction of ASBOs and calls for this proposal to be withdrawn.

516. *Garda Diversion Programme.* The Bill extends the Garda Diversion Programme (by which children are not prosecuted but are diverted to a police-led diversion scheme) to children from the age of ten who are involved in anti-social, rather than criminal, behaviour. This represents a serious extension of Garda powers, would widen the net of the criminal justice system, and may ultimately undermine what has been a hugely successful programme.

517. *Detention of children.* The Criminal Justice Bill also proposes to repeal section 185 of the Children Act, 2001 (establishing an Inspector of Children Detention Schools) which was never commenced, and to replace it with inspection by an "authorised person" ("who shall have a proven expertise in inspecting residential accommodation for children") appointed by the Minister for Justice, Equality and Law Reform. The proposed amendment narrows the focus of the inspection process and is a serious weakening of the Children Act, 2001.

**518. The Alliance calls for immediate implementation of the Children Act, 2001 and for the abandonment of legislative proposals that weaken the original Act, including the introduction of Anti-Social Behaviour Orders for children.**

519. *Detention with adults.* The continued detention of children in adult prisons and places of detention is a breach of the Convention. Considerable concern exists that the rights of children in detention in St. Patrick's Institution (which accommodates young people between sixteen and twenty-one years), including their right to education and to protection from all forms of harm, are not adequately safeguarded.

**520. The Alliance calls for immediate removal of all children from adult prisons and places of detention, including St. Patrick's Institution, as provided for in Part 10 of the Children Act, 2001.**

521. *Court System.* The court system needs to be reformed to address the current delays and improve its efficiency in meeting the needs and rights of the attending children, including the child's right to have their identity protected.<sup>252</sup>

522. *Complaints.* A Garda Síochána Ombudsman Commission was established in 2006 to investigate complaints against the Gardai from members of the public. The Alliance urges the Commission to put in place systems to ensure that its services are accessible to children. This would include the provision of liaison officers and ensuring that its complaints procedures are made age-appropriate and accessible to children and young people.

## **Children in situations of exploitation, including physical and psychological recovery and social reintegration**

### **Economic exploitation of children, including child labour (Article 23)**

523. The current complement of thirty-one staff in the Labour Inspectorate is inadequate to ensure compliance with the State's employment legislation. The Alliance recommends that a youth employment unit be created and adequately staffed within the Labour Inspectorate. Although there is a Government commitment under the Social Partnership Agreement to evaluate compliance with the Protection of Young Persons (Employment) Act, 1996, the monitoring committee established under the Act has not met since 2002.

### **Sexual exploitation and sexual abuse (Article 34)**

524. *Commercial sexual exploitation.* Figures are not available for the number of child victims of prostitution or child pornography although there is anecdotal evidence of the existence of these problems in Ireland. Research is needed so that services for child victims of commercial sexual exploitation can be developed and funded accordingly. The Alliance urges the Government to take appropriate action to achieve its commitments under the Stockholm Declaration and Agenda for Action against Sexual Exploitation of Children.

525. The Alliance calls on the Government to ratify the *Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, which Ireland signed in September 2000.

*States – Ireland Research*, to strengthen the protection for victims of trafficking.<sup>256</sup>

530. The Alliance calls on the Government to implement further anti-trafficking legislation as a matter of urgency.

## Sale, trafficking and abduction (Article 35)

526. The Alliance is deeply concerned about the incidence of separated children seeking asylum being reported missing from their HSE care placement. Since 2001, over 250 separated children have gone missing from their care placement.<sup>253</sup> There is concern that the weak level of safeguards in relation to reunification of separated children with family members may be exploited by traffickers.

527. In addition, anecdotal evidence suggests that a number of separated children seeking asylum have gone missing within the first twenty-four hours of entering the country. Although children may disappear from their hostel placements because they have been unofficially reunited with a family member, there is concern that many, if not most, of the children go missing for other reasons. There were up to forty ongoing investigations into possible trafficking as of June 2005.<sup>254</sup> Little public and political attention has been paid to this issue.

528. The Alliance supports the July 2005 UN CEDAW Committee recommendation that the State adopt and implement a comprehensive strategy to combat trafficking.<sup>255</sup>

529. The Alliance supports the recommendations of the study, *Trafficking in Unaccompanied Minors in the European Union Members*

531. The Alliance urges the Government to sign the Council of Europe Convention on Action Against Trafficking in Human Beings, which was adopted in 2005.

532. The Alliance believes that, in addition to further legislative protection, therapeutic and rehabilitative support services for victims need to be developed.<sup>257</sup> Critical among these measures is the provision of safe accommodation for the victims of trafficking. The current level of supervision in hostel accommodation or dormitory accommodation in reception centres is inadequate for the purpose of protecting children who have been victims of trafficking.

533. All decisions regarding victims must be made in the best interests of the child; this may include the granting of residency in Ireland.

534. The Alliance also supports the ongoing training of immigration officials at airports to identify victims of trafficking.<sup>258</sup>

## Children belonging to a minority or an indigenous group (Article 30)

### ★ Traveller children

535. There are around 12,000 children in Ireland's Traveller community.<sup>259</sup> The daily reality of life for many Traveller children is that they face huge barriers – discrimination, poverty,



inadequate and inappropriate accommodation and serious difficulties in accessing appropriate education, health and social services – which significantly impact on their development and their right to equal treatment.

536. *Traveller ethnic status.* The Government has refused to accord the Traveller community the status of an ethnic group.<sup>260</sup> This is despite the fact that the ethnic identity of the Irish Traveller community has been recognised by UK courts<sup>261</sup> and international bodies. The Government's position on Traveller ethnicity has been criticised by the Irish Human Rights Commission, the Equality Authority and the National Consultative Committee on Racism and Interculturalism.

537. In 2005 the UN Committee on the Elimination of Racial Discrimination encouraged the State to work towards recognising Travellers as an ethnic group<sup>262</sup> and called on the State to improve access to education, health and accommodation suitable to the Traveller lifestyle.<sup>263</sup>

### **538. The Alliance calls for the recognition of Travellers as an ethnic group.**

539. This will provide the basis upon which to mainstream Traveller-appropriate policy and services for children. The Alliance also encourages the universal Traveller-proofing of policy, legislation and services.

540. The Alliance strongly recommends that the Traveller cultural identity be recognised and supported in early childhood settings, schools and in the media.<sup>264</sup>

541. *Accommodation.*<sup>265</sup> It is estimated that over 2,000 Traveller children within 750 families live in caravans on the roadside without

basic facilities such as running water, electricity, regular refuse collection, toilets, baths and showers, fire precautions or safe play areas.

542. In 1995 the Task Force on the Travelling Community recommended that an additional 3,100 units of accommodation be provided for Travellers by the year 2000 (2,200 units of Traveller specific accommodation and 900 standard and group houses).<sup>266</sup> Up to the end of 2004, 1,124 standard houses and 281 group housing units had been provided; in addition 376 private houses were purchased with the assistance of local authorities. Just 106 halting site units had been provided.<sup>267</sup>

543. Given the failure of local authorities to fully implement the Traveller Accommodation Programmes there is need for a Traveller Accommodation Agency to address the accommodation crisis experienced by the Traveller community.

544. *Eviction.* Under Section 24 of the Criminal Justice (Public Order) Act, 1994, as amended by the Housing (Miscellaneous Provisions) Act, 2002, Gardaí can evict Travellers living on an unauthorised site at any time and without notice, including those awaiting accommodation within local authority areas. If an order is not complied with, the Gardaí can arrest the person(s) without a warrant, which can result in a fine of up to €3,000 or imprisonment for a month and/or confiscation of their caravan.<sup>268</sup>

545. This has an extremely detrimental effect on children who witness their parents being arrested or imprisoned. It can create considerable hardship, especially in cases where a family's caravan has been

confiscated. Since 1998, 1,602 families<sup>269</sup> have been served with eviction notices without being offered alternative accommodation.<sup>270</sup>

546. The Alliance urges the Government to place a moratorium on evictions until progress has been made on delivering accommodation and to assess the impact on children of the criminal trespass sections of the Housing (Miscellaneous Provisions) Act, 2002.

**547. The Alliance calls for appropriate accommodation, including transient accommodation, to be provided for Travellers.**

548. *Health.* Many Traveller children live in conditions that are far below the minimum required for healthy child development,<sup>271</sup> and this is reflected in the disparity between the health of Traveller children and that of 'settled' children. The Alliance welcomes the publication by the Department of Health and Children of *Traveller Health: A National Strategy 2002–2005*<sup>272</sup> but is concerned at the slow pace of implementation.

549. *Education.* The area of education is particularly salient for Travellers given that nearly 45% of Travellers are under sixteen years.<sup>273</sup> Early school-leaving and its associated effects on the individual and the community are crucially important issues for the Traveller community. Leaving school early and/or without qualifications have their roots in poverty, racism and a lack of support for the nomadic lifestyle of Travellers. According to estimates by the National Traveller Education Officer, the retention rate to Junior Certificate for Traveller pupils in the school year

2002–2003 was only 51%; this contrasts with a national retention rate of 94.3%.<sup>274</sup>

550. While statistics on the exclusion of Travellers from school are not available, anecdotal evidence indicates that some Travellers are being refused a place in school.

551. The Alliance seeks the publication of the promised Traveller Education Strategy and its timely implementation. Underlying the implementation of this Strategy should be the promotion of respect for Traveller cultural identity within the education system.<sup>275</sup> There is need for a comprehensive training programme at teacher training level on interculturalism, to include Traveller issues.

552. *Family support and the care system.* A higher percentage of Traveller children than settled children are taken into State care due to a lack of family supports for Travellers, inappropriate accommodation and lack of access to healthcare and education. The commitment in the *Traveller Health Strategy* to put in place measures to identify the number of Traveller children in care and to track these children through the care system has not been carried through. Many Traveller children in the care system are placed with families from the settled community, who may not be trained or supported to promote the Traveller identity of these foster children.

**553. The Alliance calls for strong political leadership to ensure the implementation of key Government commitments to Travellers in relation to accommodation, health and education.**

### Roma children

554. The population of Roma in Ireland is estimated to be between 2,500 and 3,000. However, a lack of statistical data as well as qualitative research on the Roma community in Ireland makes it difficult to locate, target, and identify the needs of Roma children.

555. Roma children are quite visible in Irish cities because of the practice of mothers bringing their children with them to beg on the streets and/or sell magazines. This reality reinforces the stereotype of the Roma community and the social exclusion of these children. Their marginalisation is compounded by low literacy levels, lack of language skills and the experience of historic and systematic discrimination both in their country of origin and in Ireland.<sup>276</sup>

556. Barriers to Roma children's participation in school and educational achievement include: lack of family support for school; parental inability to help with schoolwork; difficulties in obtaining information on children's previous school experiences and/or enrolment, and direct and indirect discrimination. There is a need for a comprehensive Roma Education Policy.

557. Roma girls face particular barriers to accessing education. Many girls are not able to attend schools with uniform policies, as this conflicts with cultural norms regarding dress. Many girls also leave school at an early age, which is the norm in traditional Roma families.<sup>277</sup>

### Irish-speaking children

558. The Alliance welcomes and supports Government efforts to promote the Irish language and traditional culture among children.<sup>278</sup> However, while the

Government aims to foster appreciation of the Irish language and culture, official support for the language focuses mainly on the school setting.

559. The minority of children being raised through the medium of Irish experience barriers to using the language in their dealings with public institutions and services.<sup>279</sup> More could be done to support children for whom Irish is their primary language to access health and social services through the medium of Irish.

560. The provision of Irish language second-level schools is insufficient to cater for the number of children leaving all-Irish primary schools each year. There is also inadequate funding of Irish language youth work organisations.

**In *From Rhetoric to Rights*, the Children's Rights Alliance aimed to capture the state of children's rights in Ireland in 2006, and to highlight key areas of concern and instances where children's rights are being violated. The report also outlines the reforms in legislation, policy and practice that are needed to ensure that children's rights are recognised and respected. The Children's Rights Alliance believes that Ireland has the potential to cherish its children and to make real for all children in Ireland the rights set out in the Convention on the Rights of the Child. The Alliance looks forward to working with the UN Committee on the Rights of the Child and with the Irish Government to make the vision of the Convention a reality in Ireland.**

# Endnotes

## Introduction

- 1 Department of Foreign Affairs (1996) *United Nations Convention on the Rights of the Child: First National Report of Ireland*, Dublin.
- 2 *Our Children: Their Lives, The National Children's Strategy* (2000) Dublin: Stationery Office.
- 3 Nóirín Hayes (2002) *Children's Rights – Whose Right? A Review of Child Policy Development in Ireland*, Dublin: Policy Institute, Trinity College Dublin.
- 4 National Children's Office (2005) *United Nations Convention on the Rights of the Child: Ireland's Second Report to the UN Committee on the Rights of the Child*, Dublin: Stationery Office.
- 5 Lenka Pulpanova (2005) *General Government Expenditure by Function in the EU in 2003*, EUROSTAT ([http://epp.eurostat.cec.eu.int/cache/ITY\\_OFFPUB/KS-NJ-05-028/EN/KS-NJ-05-028-EN.PDF](http://epp.eurostat.cec.eu.int/cache/ITY_OFFPUB/KS-NJ-05-028/EN/KS-NJ-05-028-EN.PDF)). "Highest spending on social protection is in Denmark (25.2% of GDP), Sweden (24.9% of GDP) and Germany (22.5% of GDP), whilst the lowest can be found in Ireland (10.0% of GDP), Lithuania (10.1%), Estonia (10.4%) and Latvia (10.8%)."
- 6 United Nations (2005) *Human Development Report, 2005: International Cooperation at a Crossroads, Aid, Trade and Security in an Unequal World*, New York: United Nations Development Programme.
- 7 Carl O'Brien, "President warns of 'creeping malaise' with economic boom", *The Irish Times*, 9 November 2005.
- 8 Maurice Devlin (2006) *Inequality and the Stereotyping of Young People*, Dublin: Equality Authority and the National Youth Council of Ireland.
- 9 Central Statistics Office (2005) *Population and Migration Estimates April 2005*, Dublin: Central Statistics Office, p. 1.
- 10 *Population and Migration Estimates April 2005*, p. 8.
- 11 UN Committee on the Elimination of all Forms of Racial Discrimination, *Concluding Observations, 14/04/2005*.
- 12 One Parent Family pre-budget submission to Government, 3 October 2005.
- 13 Central Statistics Office (2005) *EU Survey on Income and Living Conditions (EU-SILC) 2004*, Dublin: Central Statistics Office.
- 14 Department of an Taoiseach (2002) *Building an Inclusive Society: Review of the National Anti-Poverty Strategy under the Programme for Prosperity and Fairness*, Dublin: Stationery Office.
- 15 Department of Health and Children (1999) *Children First: National Guidelines for the Protection and Welfare of Children*, Dublin: Stationery Office.
- 16 Department of Justice Equality and Law Reform (2005) *Planning for Diversity: The National Action Plan Against Racism, 2005–2008*, Dublin: Department of Justice Equality and Law Reform.

## I GENERAL MEASURES OF IMPLEMENTATION

- 17 *Kilkenny Incest Investigation: Report presented to Mr. Brendan Howlin TD, Minister for Health by South Eastern Health Board* (1993) Dublin: Stationery Office.
- 18 *Report of the Constitution Review Group* (1996) Dublin: Stationery Office. The Group recommended that: "The proposed reconstituted Article 41 would include an express guarantee of certain rights of the child, which fail to be interpreted by the courts from the concept of 'family life', which might include:
  - a) the right of every child to be registered immediately after birth and to have from birth a name
  - b) the right of every child, as far as practicable, to know his or her parents, subject to the proviso that such right should be subject to regulation by law in the interests of the child
  - c) the right of every child, as far as practicable, to be cared for by his or her parents
  - d) the right to be reared with due regard to his or her welfare
  - e) an express requirement that in all actions concerning children, whether by legislative, judicial or administrative authorities, the best interests of the child shall be the paramount consideration."
- 19 *Strengthening Families for Life, Final Report of the Commission on the Family* (1998) Dublin: Stationery Office.
- 20 The All-Party Oireachtas Committee on the Constitution (2006) *Tenth Progress Report: The Family*, Dublin: Stationery Office, p. 124.
- 21 Article 40.1 states: "All citizens shall, as human persons, be held equal before the law. This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function." *Constitution of Ireland*, Dublin: Stationery Office.
- 22 The South African Constitution (1996), Chapter 2, Clause 28 states: "(1) Every child has the right to a name and a nationality from birth; to family care or parental care, or to appropriate alternative care when removed from the family environment; to basic nutrition, shelter, basic health care services and social services; to be protected from maltreatment, neglect, abuse or degradation; to be protected from exploitative labour practices; not to be required or permitted to perform work or provide services that are inappropriate for a person of that child's age, or place at risk the child's well-

being, education, physical or mental health or spiritual, moral or social development; not to be detained except as a measure of last resort, in which case, in addition to the rights a child enjoys under sections 12 and 35, the child may be detained only for the shortest appropriate period of time, and has the right to be kept separately from detained persons over the age of 18 years, and treated in a manner, and kept in conditions, that take account of the child's age; to have a legal practitioner assigned to the child by the state, and at state expense, in civil proceedings affecting the child, if substantial injustice would otherwise result; and not to be used directly in armed conflict, and to be protected in times of armed conflict. (2) A child's best interests are of paramount importance in every matter concerning the child. (3) In this section 'child' means a person under the age of 18 years."

- 23 Following on from the first *Monitoring Report on the National Children Strategy*, the National Children's Advisory Council made a number of recommendations to the Minister for Children, including that a revised template be developed to seek information from government departments; that departments should identify barriers to the achievement of the objectives of the Strategy; that departments be encouraged to integrate the Strategy into their business plans; that there should be greater awareness of the Strategy at local level and that this might be addressed through the County Development Boards. See National Children's Office (2004) *Annual Report 2003*, Dublin.
- 24 Ministers of State assist Government Ministers in their parliamentary and departmental work.
- 25 *Our Children: Their Lives, National Children's Strategy* (2000) p. 38.
- 26 See Eithne Fitzgerald (2004) *Counting Our Children: An Analysis of Official Data Sources on Children and Childhood in Ireland*, Dublin: Children's Research Centre, Trinity College Dublin. See also Dympna Devine et al (2004) "Time for Children – Time For Change? Children's Rights and Welfare in a Period of Economic Growth in Ireland", in An-Magritt Jensen et al (eds.) *Childhood in Ageing Societies, Country Studies on Children's Welfare and Everyday Life*, Vol. 1, Trondheim: Norwegian Centre for Child Research and Tartu University Press.
- 27 Eithne Fitzgerald (2004) *Counting Our Children: An Analysis of Official Data Sources on Children and Childhood in Ireland*.
- 28 Ibid.
- 29 Sinead Hanafin and Anne-Marie Brooks (2005) *Report on the Development of a National Set of Child Well-Being Indicators in Ireland*, Dublin: National Children's Office. For an inventory of indicators of well-being, see Anne-Marie Brooks and Sinead Hanafin (2005) *Measuring Child Well-Being: An Inventory of Key Indicators, Domains and Indicator Selection Criteria to Support the Development of a National Set of Child Well-Being Indicators*, Dublin: National Children's Office.
- 30 Elaine Harris with Donna Lambe and Niamh Mooney (2004) *My Right to Know: A Study of Irish Children and Young People's Awareness of their Rights, Twelve Years on from Ireland's Ratification of the UN Convention on the Rights of the Child*, Dublin: Irish Society for the Prevention of Cruelty to Children.
- 31 The Children's Rights Alliance received state funding in 1998 to run an awareness-raising programme.

### III GENERAL PRINCIPLES

- 32 UN Committee on the Elimination of all forms of Racial Discrimination: "While noting the continuous efforts undertaken by the State party to combat racial discrimination and related intolerance, the Committee remains concerned that racist and xenophobic incidents and discriminatory attitudes towards ethnic minorities are still encountered in the country. The Committee encourages the State party to continue to combat prejudice and xenophobic stereotyping, especially in the media, and to fight prejudice and discriminatory attitudes. In this context, the Committee recommends that the State party introduce in its criminal law a provision that makes committing an offence with a racist motivation or aim an aggravating circumstance allowing for a more severe punishment." *Concluding Observations, 14/04/2005*.
- 33 *Planning for Diversity: The National Action Plan Against Racism, 2005-2008*.
- 34 Pavee Point (2001) *Éist - Respecting Diversity in Early Childhood Care, Education and Training*, Dublin: Pavee Point.
- 35 Time in the asylum system is counted in the calculation of habitual residency but not until after refugee status has been granted.
- 36 Migrant workers from the European Economic Area are entitled to claim Child Benefit for both their children living in Ireland and their non-resident children.
- 37 One of the provisions of the 1998 Belfast Agreement was that all children born on the island of Ireland, North and South, would be entitled to Irish citizenship. This right was enshrined in the Constitution of Ireland by the Ninth Amendment (1998) and remained in place until the constitutional amendment of June 2004 and the subsequent legislative change which came into force on 1 January 2005.
- 38 In the case of *Fajujonu v. Minister for Justice* [1990] 2 IR 15, the Supreme Court ruled that 1) when a non-Irish national has resided for an appreciable time in Ireland and has become a member of a family in Ireland containing children who are citizens, those children have a constitutional right to the company, care, and parentage of their parents within Ireland; and 2) the Government can force such a family to leave Ireland only, after due and proper consideration, it is satisfied that the interest of the common good and protection of the state and society are so predominate and overwhelming as to justify such an interference with the rights of the family under the Constitution. The case involved a married couple who had lived illegally in Ireland for 8 years and had a daughter who, as a consequence of being born in

- Ireland, was an Irish citizen. Following this case, the practice of the Department of Justice, Equality and Law Reform was to permit parents to request residency, and to grant residency to almost all applicants.
- 39 Lobe & Osayande -v- Minister for Justice, Equality and Law Reform, Judgment of 23 January 2003 IESC 3. In its judgment the Court did affirm, however, that anyone born in Ireland was entitled to Irish citizenship, as had been the case since 1998, and the constitutional rights of the Irish children must be considered regardless of the nationality of their parents.
- 40 "As Irish children are not subject to deportation orders, statistics are not available in respect of the numbers of such children who accompanied their non-national parents when they were being deported or indeed the number of such children left behind in the State following the deportation of their parents." Parliamentary Reply by the Minister for Justice, Equality and Law Reform, 5 October 2004.
- 41 Applications under this scheme could be submitted from 18 January to 31 March 2005.
- 42 17,917 applications were received. As of 31 January 2006, 16,693 applicants had been granted leave to remain for two years. Due to exceptional circumstances, a small number of applicants were granted leave to remain for an initial period of one year only. 1,119 applications were refused.
- 43 The Children's Rights Alliance has developed a model for the carrying out of child impact assessments in such instances. See Carmel Corrigan (2006) *All our Children: Child Impact Assessment for Irish Children of Migrant Parents*, Dublin: Children's Rights Alliance.
- 44 Sheelagh Bonham (2006) *Report on Perinatal Statistics for 2002*, Dublin: ESRI, HIPE and NPRS Unit. In 1993, the percentage of mothers breastfeeding was 33.9%.
- 45 Evelyn Ring, "Breastfeeding advocates look for way to boost Ireland's low rates", *Irish Examiner*, 25 January 2006.
- 46 National Committee on Breastfeeding (2005) *Breastfeeding in Ireland: A Five Year Strategic Action Plan*, Dublin: Department of Health and Children.
- 47 [http://www.cso.ie/releasespublications/documents/other\\_releases/2003/europeanunion.pdf](http://www.cso.ie/releasespublications/documents/other_releases/2003/europeanunion.pdf)
- 48 Savita Lalchandani, Kathryn MacQuillar and Orla Sheil (2001) "Obstetric Profiles and Pregnancy Outcomes of Immigrant Women with Refugee Status", *Irish Medical Journal*, vol. 94, no. 3.
- 49 Infant mortality amongst Traveller children is 18.1 per 1,000 live births. Department of Health and Children (2002) *Traveller Health: A National Strategy, 2002–2005*, Dublin: Department of Health and Children, p. 25.
- 50 National Children's Office, the Children's Rights Alliance and the National Youth Council of Ireland (2005) *Young Voices: Guidelines on how to Involve Children and Young People in Your Work*, Dublin: National Children's Office.
- 51 This was recommended by Dáil na nÓg in 2005, the National Youth Federation Youth Poll and the National Youth Council of Ireland.
- 52 See also Dymrna Devine (2002) "Children's Citizenship and the Structuring of Adult/Child Relations in the Primary School", *Childhood*, vol. 9, no. 3.
- 53 Anna Fiona Keogh and Jean Whyte (2005) *Second Level Student Councils in Ireland: A Study of Enablers, Barriers and Supports*, Dublin: National Children's Office.
- 54 The Ombudsman for Children is excluded from investigating complaints in circumstances where an action is one "taken in the administration of the prisons or other places for the custody or detention of children committed to custody or detention by the Courts other than reformatory schools, or industrial schools, certified under Part IV of the Children Act, 1908". Section 11.1 (e)(iii) of the Ombudsman for Children Act, 2002.
- 55 Section 11.1 (e)(i) of the Ombudsman for Children Act, 2002.
- 56 An *amicus curiae* or 'friend of the court' role allows someone to offer expertise in certain court cases.
- 57 The Children Act, 1997 inserts a new section, section 28, into the Guardianship of Infants Act, 1964.
- 58 Section 26 of the Child Care Act, 1991 does not define the role of the Guardian *ad Litem* or the manner in which he or she should perform his or her duties.
- 59 Geoffrey Shannon (2005) *Child Law*, Dublin: Thomson Round Hall, p. 249; p. 252; p. 248. There is also no central log of Guardians *ad Litem*.

## IV CIVIL RIGHTS AND FREEDOMS

- 60 Citizenship may also be achieved or granted through naturalisation, adoption, by descent from or marriage to an Irish citizen.
- 61 NGOs have noted that some parents mistakenly believe that having the father's name on the birth certificate gives him automatic rights in relation to his child.
- 62 Such proceedings include the State taking a case against an adult in relation to child abuse and the Health Service Executive applying to court to take a child into care.
- 63 National Conjoint Child Health Committee (2001) *Get Connected: Developing an Adolescent Friendly Health Service*.
- 64 Paula Mayock and Tina Byrne (2005) *A Study of Sexual Health Issues, Attitudes and Behaviours: The Views of Early School Leavers*. Dublin: Crisis Pregnancy Agency.
- 65 Social, Personal and Health Education Support Service (2006) *The SPHE Story: An Example of Incremental Change in the School Setting*, Dublin.

- 66 Paula Mayock and Tina Byrne (2005) *A Study of Sexual Health Issues, Attitudes and Behaviours: The Views of Early School Leavers*. There was a general consensus among the young people interviewed in this study that school-based sex education was inadequate and that it failed to address the more difficult aspects of sexuality and sexual health.

## V FAMILY ENVIRONMENT AND ALTERNATIVE CARE

- 67 Susanna Loeb et al (2005) *How Much is Too Much?: The Influence of Pre-school Centers on Children's Development Nationwide*, Cambridge MA: National Bureau of Economic Research (NBER) Working Paper ([www.nber.org/papers/11812](http://www.nber.org/papers/11812)>).
- 68 Female employees are also entitled to take a further 12 weeks' maternity leave, but this leave is not covered by Maternity Benefit, nor are employers obliged to make any payment during this period. This unpaid maternity leave is to be extended to 16 weeks in March 2007.
- 69 Some employers, including the civil service, do provide a period of paid paternity leave for male employees following the birth or adoption of a child; in the civil service, the entitlement is 3 days' paid leave.
- 70 "Support programmes [should be put in place] to enable parents to be the best they can be by giving them practical help with child-rearing and equipping them with the knowledge and skills for parenting." *Strengthening Families for Life: Final Report of the Commission on the Family* (1998), p. 55.
- 71 The Family Support Agency facilitates community-based, voluntary Family Resource Centres, as well as the Springboard projects.
- 72 These Departments are: Education and Science; Justice, Equality and Law Reform; Community, Rural and Gaeltacht Affairs; Agriculture and Food; Enterprise, Trade and Employment; Finance (including the Office of Public Works); Environment, Heritage and Local Government.
- 73 The Crisis Intervention Service for homeless children is available from 6 p.m. to 4 a.m. for children under 12 years of age and from 8 p.m. to 6 a.m. for those aged 12 to 18, Monday to Friday. The day service is available from 9 a.m.
- 74 While there is an absence of statistical data regarding carers under the age of 15, Central Statistics Office data from 2004 indicate that there are 2,996 carers between the ages of 15 and 17 in Ireland. The most recent UK figures indicate that there are between 19,000 and 51,000 carers between the ages of 8 and 17, and figures in Ireland may be comparable. Anne Marie Halpenny and Robbie Gilligan (2004) *Caring Before their Time? Research and Policy Perspectives on Young Carers*, Dublin: National Children's Resource Centre, Barnardos and Children's Research Centre, Trinity College Dublin, p. 7. The UK figures are from the Office for National Statistics, 1996.
- 75 Disability Federation of Ireland, *Pre-Budget Submission*, 2003.
- 76 Anne Marie Halpenny and Robbie Gilligan (2004) *Caring Before their Time?*
- 77 Kieran McGrath (2005) "Protecting Irish Children Better - The Case for an Inquisitorial Approach in Child Care Proceedings," *Irish Law Times*, 5(1) JSIJ 136.
- 78 Communication from Treoir, the National Federation of Services for Unmarried Parents and their Children.
- 79 Eithne Fitzgerald (2004) *Counting Our Children: An Analysis of Official Data Sources on Children and Childhood in Ireland*.
- 80 Social Services Inspectorate, *Annual Report 2004*, Dublin: Social Services Inspectorate, pp. 16 - 19. Some children are accommodated in special care arrangements: for example, in October 2005 twenty children were in placements which consisted of only one child.
- 81 In the case of 1,465 children taken into care in 2003 (of a total of 4,984) neglect was the primary reason for reception into care. Department of Health and Children data set.
- 82 Department of Health and Children (2001) *National Standards for Children's Residential Centres*, Dublin: Stationery Office.
- 83 Fiona Daly and Robbie Gilligan (2005) *Lives in Foster Care*, Dublin: Children's Research Centre, Trinity College Dublin.
- 84 Department of Health and Children (2003) *National Standards for Foster Care*, Dublin: Stationery Office.
- 85 Section 16 of the Children Act, 2001 amends the Child Care Act, 1991.
- 86 Patricia Kelleher, Carmel Kelleher and Maria Corbett (2000) *Left Out on Their Own: Young People Leaving Care in Ireland*, Dublin: Oak Tree Press.
- 87 Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption (1993).
- 88 For example, a birth mother, having given initial consent for a child to be adopted, may change her mind prior to giving final consent. By this stage, however, the child may have been with the adoptive parent/s for a significant time.
- 89 Consultation and debate will be needed on the complex issues arising from putting the Guidelines on a statutory basis, such as issues of confidentiality in counselling relationships and service provision.
- 90 The first of these was a 2001 Social Services Inspectorate review and the second a January 2003 report by the National Children's Advisory Council to the Minister for Children.
- 91 'Stay Safe' teaches children about what abuse is and how to tell someone about it. Olivia Kelly, "One in five primary schools does not offer Stay Safe programme", *The Irish Times*, 3 January 2006.
- 92 Childline is run by the Irish Society for the Prevention of Cruelty to Children and is available to any child who wants to talk. Its remit extends beyond abuse.
- 93 'Soft information' is information regarding people who are identified as a risk to children but who do not have a criminal conviction for child abuse.

- 94 The statutory confirmation of the common law defence which existed in section 37 of the Children Act, 1908 was repealed by the Children Act, 2001, but this repeal does not render the common law defence ineffective.
- 95 Ireland was one of four European countries against which the complaint was brought.
- 96 Observations by the Irish Government on the complaint.
- 97 This was highlighted by the absence of an automatic review into the death in 2002 of a fourteen year-old boy, who died after slipping into a coma whilst in Garda custody.
- 98 Helen Buckley, Sadhbh Whelan and Stephanie Holt (2006) *Listen to Me! Children's Experience of Domestic Violence*, Dublin: Children's Research Centre, Trinity College Dublin and Mayo Women's Support Services.
- 99 Some parents, out of fear, have sent their children into hiding when deportations are imminent in the hope that their children will be able to stay in Ireland and have a better life. In some cases, parents have been deported even though officials did not know the whereabouts of the children. "Appeals for women to be let return to their children," *The Irish Times*, 28 March 2005; "Campaign highlights break up of families," *The Irish Times*, 31 March 2005; "Agents of State blamed for breaking up families," *The Irish Times*, 14 April 2005.
- 100 In 2001, the then Minister for Health and Children told Dáil Éireann that FGM is an offence under the Non-Fatal Offences Against the Person Act, 1997 but that he was considering whether it would be appropriate to enact legislation specifically prohibiting the practice.

## VI BASIC HEALTH AND WELFARE

- 101 Given the nature and prevalence of the illnesses affecting these babies, it is likely that these figures will remain the same into the future. Communication from the Jack and Jill Children's Foundation, 9 May 2005.
- 102 The State may grant a temporary medical card for six months but following review this is often not renewed.
- 103 Caroline Heary, Diane Hogan and Colm Smith (2003) *Living with an Acquired Brain Injury During Childhood and Adolescence: an Irish Perspective*, Dublin: Children's Research Centre, Trinity College Dublin.
- 104 Department of Health and Children (2001) *Quality and Fairness: A Health System for You, Health Strategy*, Dublin: Stationery Office.
- 105 National Children's Office (2004) *Ready, Steady, Play! A National Play Policy*, Dublin: Stationery Office.
- 106 Department of Health and Children (2001) *Primary Care: A New Direction*, Dublin: Stationery Office.
- 107 Barnardos (2005) *Seven Steps to Ending Child Poverty*, Dublin: Barnardos.
- 108 While waiting lists for children for services and treatment are the subject of targets under the National Health Strategy (2001), the lengthy wait for assessment so as to get onto the official waiting list is not the subject of monitoring. Eithne Fitzgerald (2004) *Counting our Children: An Analysis of Official Data Sources on Children and Childhood in Ireland*.
- 109 Ibid.
- 110 In February 2004, there were 1,149,081 medical card holders – representing 29.33% of the population. In 1994, 36% of the population had a medical card. Ita Mangan (2004) *The Medical Card – Affording Health on a Low Income*, Dublin: Comhairle (A Comhairle Social Policy Report).
- 111 Eithne Fitzgerald (2004) *Sick Children, Money Worries: The Financial Cost of a Child in Hospital*, Dublin: Children in Hospital Ireland.
- 112 Office of Chief Medical Officer (2001) *The Health of our Children: Annual Report of the Chief Medical Officer 2000*. Dublin: Department of Health and Children. In January 2006, the Minister for Children expressed support for the provision of GP-only medical cards for all children under 5.
- 113 See *Ireland's Second Report to the UN Committee on the Rights of the Child*, paras. 579 – 580.
- 114 A review of tertiary level services for children has been undertaken and was published in February 2006. McKinsey and Company (2006) *Children's Health First, International Best Practice in Tertiary Paediatric Services: Implications for the Strategic Organisation of Tertiary Paediatric Services in Ireland*, Dublin: Health Service Executive.
- 115 Children's Rights Alliance consultation with NGOs working in the healthcare sector, 2 June 2005.
- 116 National Conjoint Child Health Committee (2001) *Get Connected: Developing an Adolescent-Friendly Health Service, Best Health for Adolescents*, Dublin.
- 117 Children in Hospital Ireland, [www.childreninhospital.ie](http://www.childreninhospital.ie), 25 January 2006.
- 118 Eithne Fitzgerald (2004) *Sick Children, Money Worries: The Financial Cost of a Child in Hospital*, Dublin: Children in Hospital Ireland.
- 119 Children's Rights Alliance consultation with NGOs working in the care sector, 6 October 2005.
- 120 Communication from Barnardos, 23 September 2005.
- 121 Deirdre McGrath, Stephenie O'Keefe and Mary Smith (2005) *Crisis Pregnancy Agency Statistical Report 2005: Fertility and Crisis Pregnancy Indices*, Dublin: Crisis Pregnancy Agency. Figures were not disaggregated for the 15 to 18 age group.
- 122 In 2004, 11% of sexually transmitted diseases reported were for people aged 19 years old or younger (1,174 of a total of 10,695). HSE Health Protection Surveillance Centre (2005) *Sexually Transmitted Infections 2004, Annual Summary Report*, p. 4.
- 123 A high percentage of a sample of early school leavers aged 13 to 18 interviewed for a research study in Dublin had only a superficial understanding of sexually transmitted infections apart from HIV/AIDS. Among the young people there was



- also a sense of being invulnerable to STI infection. Paula Mayock and Tina Byrne (2005) *A Study of Sexual Health Issues, Attitudes and Behaviours*, Dublin: Crisis Pregnancy Agency.
- 124 *Concluding Observations* (5 – 22 July 2005) of the UN Committee on the Elimination of All Forms of Discrimination against Women. “The Committee... urges the State party to further strengthen family planning services, ensuring their availability to all women and men, young adults and teenagers. See also Paula Mayock and Tina Byrne (2005) *A Study of Sexual Health Issues, Attitudes and Behaviours*.
- 125 The study of early school leavers by Mayock and Byrne found that: “...young people did not necessarily perceive the adult world as affording the right to discuss sex. Many had few social supports when it came to accessing information and advice on sexual health issues, leaving them isolated in their efforts to behave responsibly in relation to sex and sexual health.” Paula Mayock and Tina Byrne (2004) *A Study of Sexual Health Issues, Attitudes and Behaviour: The Views of Early School Leavers*.
- 126 *A Vision for Change: Report of the Expert Group on Mental Health Policy* (2006), Dublin: Stationery Office, p. 178.
- 127 *Ibid.*, pp. 86–87.
- 128 *Ibid.*, pp. 87– 88.
- 129 *Ibid.*, p. 85.
- 130 *Ibid.*, p. 86.
- 131 In 2002, the European Court of Human Rights ruled against the Irish Government in the D.G. v Ireland case, which involved the detention of a 16 year-old non-offending child with serious behavioural problems in an adult prison.
- 132 Tom Tuite, “Troubled boy (14) sent to care placement on island off Sweden”, *The Irish Times*, 4 November 2005; Tom Tuite. “Troubled teen to continue Swedish care scheme”, *Irish Examiner*, 1 February 2006.
- 133 A study of lone parent refugee and asylum-seeking families highlighted the stresses experienced by their children, including racism, leaving behind friends and family, and waiting for the decision on their application for refugee status. The study also showed that aspects of the asylum seeking process, such as having to move from one direct provision accommodation centre to another, created a barrier to making and retaining friends and interfered with students’ ability to achieve their academic potential. Karen Smyth and Jean Whyte (2005) *Making a New Life in Ireland: Lone Refugee and Asylum-Seeking Mothers and their Children*, Dublin: Children’s Research Centre, Trinity College Dublin.
- 134 Kitty Holland, “Stuck in Ireland’s Hidden Villages”, *The Irish Times*, 9 April 2005. Currently there are four psychologists for asylum seekers, with waiting lists of 6 to 8 weeks, with one psychologist focusing on children.
- 135 Recent positive developments include: a psychology team has started holding psycho-educational workshops with separated children in hostels; the opening of the Páisti pre-school at the direct provision Kinsale Road Accommodation Centre to provide culturally-appropriate care for asylum seeking children. Eoin English, “Pre-school to open in centre for asylum seekers”, *The Irish Times*, 7 December 2005.
- 136 Mona O’Moore (1997) *Nationwide Study of Bullying in Irish Schools*. See also <http://www.abc.tcd.ie>, the Anti-Bullying Centre, Trinity College Dublin.
- 137 Emer Smyth, Selina McCoy and Merike Darmody (2004) *Moving Up: The Experiences of First Year Students in Post-Primary Education*, Dublin: Liffey Press in association with the ESRI and NCCA.
- 138 Communication from Psychological Society of Ireland, 15 September 2005.
- 139 *Reach Out: The National Strategy for Action on Suicide Prevention, 2005-2014*, Dublin: Health Service Executive.
- 140 “Professor leads research into suicide attempts”, *The Irish Times*, 27 September 2005.
- 141 National Suicide Research Foundation (2005) *National Parasuicide Registry Ireland, Annual Report 2004*, Cork, pp. i-iii.
- 142 Professor Carol Fitzpatrick, testimony to Joint Oireachtas Committee on Health and Children, as reported in John Downes, “Suicidal young people not getting proper care, group told”, *The Irish Times*, 3 November 2005.
- 143 Particularly important are the recommendations for the development of an inter-departmental working group on mental health promotion in schools between the Department of Education and Science and the Department of Health and Children; and the appointment of a national coordinator to oversee the implementation of mental health promotional activities. *Reach Out: National Strategy for Action on Suicide Prevention, 2005-2014*.
- 144 Philip Crowley, Jean Kilroe and Sara Burke (2004) *Youth Suicide Prevention: An Evidence Briefing*, Dublin: Institute of Public Health in Ireland, in conjunction with the NHS Health Development Agency.
- 145 Strategic Task Force on Alcohol (2004) *Second Report*, Dublin: Health Promotion Unit, Department of Health and Children.
- 146 Mats Ramstedt and Ann Hope, “Summary of The Irish Drinking Habits of 2002: Drinking and Drinking-Related Harm in a European Comparative Perspective”, in Strategic Task Force on Alcohol (2004) *Second Report*, Annex 4.
- 147 Strategic Task Force on Alcohol (2004) *Second Report*, p. 20.
- 148 In 2003, Irish 16 year old girls ranked first in the prevalence of regular alcohol use (39%) out of 35 countries surveyed. Björn Hibell et al (2004) *The ESPAD Report, 2003: Alcohol and Other Drug Use Among Students in 35 European Countries*; Björn Hibell et al (2000) *The 1999 ESPAD Report: Alcohol and Other Drug Use Among Students in 30 European Countries*; Björn Hibell et al (1997) *The 1995 ESPAD Report: Alcohol and Other Drug Use Among Students in 26 European Countries*, Stockholm: The Swedish Council for Information on Alcohol and Other Drugs and The Pompidou Group at the Council of Europe.
- 149 Department of Health (1996) *National Alcohol Policy*, Dublin: Stationery Office.
- 150 Strategic Task Force on Alcohol, *Interim Report* (2002); *Second Report* (2004), Dublin: Health Promotion Unit, Department of Health and Children.
- 151 Houses of the Oireachtas, Joint Committee on Health and Children (2004) *Report on Alcohol Misuse by Young People*,

- Dublin: Stationery Office.
- 152 This change in policy is widely believed to have followed representations by the drinks industry. Documentation obtained under the Freedom of Information Act by the National Youth Federation of Ireland and reported in *The Irish Times*, 12 December 2005.
- 153 It is estimated that approximately 3% of teenagers in Ireland have a significant drug or alcohol problem in need of treatment. A qualitative research with 15-19 year old drug abstainers, drug takers and problem drug takers, in an area of Dublin considered to be 'high risk', indicated that the average age of drug initiation for drug takers was 13.2 years and 12.4 years for problem drug takers. Cannabis, followed by inhalants, dominated as the drug first used. For non-drug users there was a brief flirtation with cannabis, and the motivations for non-use were health concerns and fear of dependence. The majority of young people did not feel pressurised into drug use and drug choices were influenced by contextual factors and subject to ongoing revision. Paula Mayock (2000) *Choosers or Losers? Influences on Young People's Choices about Drugs in Inner-City Dublin*, Dublin: Children's Research Centre, Trinity College Dublin.
- 154 This could be due to increased service provision outside of Dublin as much as increased rates of usage.
- 155 Department of Tourism, Sport and Recreation (2001) *Building on Experience: National Drugs Strategy 2001-2008*, Dublin; Department of Community, Rural and Gaeltacht Affairs (2005) *Mid-term Review of the National Drugs Strategy: Report of the Steering Group*, Dublin; National Conjoint Child Health Committee (2001) *Get Connected: Developing an Adolescent Friendly Health Service*; Drug Education Workers Forum (2005) *Quality Standards in Drug Education Training Project* (2005).
- 156 The inadequacy of this level of provision is apparent when it is considered that in one area alone an estimated 2,000 young people are in need. Communication from practitioner.
- 157 Centre for Health Promotion Studies (2003) *The National Health & Lifestyle Surveys*, Dublin: Health Promotion Unit, Department of Health and Children, p. 24.
- 158 Department of Health and Children (2000) *The National Health Promotion Strategy 2000-2005*, Dublin: Department of Health and Children.
- 159 *Towards a Tobacco Free Society: Report of the Tobacco Free Policy Group* (2000), Dublin: Department of Health and Children.
- 160 *Obesity: The Policy Challenges, Report by the National Task Force on Obesity* (2005) Dublin.
- 161 *EU Survey on Income and Living Conditions (EU-SILC) 2004*. It should be noted that the EU-SILC does not generally include asylum seekers, children in care and Travellers as it is based on the population of private households. Consistent poverty is defined as living in a household with an income below 60% of the national median income and experiencing enforced basic deprivation (measured basic life-style deprivation indicators).
- 162 *EU Survey on Income and Living Conditions (EU-SILC) 2004*. Being 'at risk' of poverty or living in relative poverty is defined as living in a household with an income below 60% of average disposable income after social transfers.
- 163 The incidence of consistent poverty among children was 25% in 1987. Tracking Government progress on implementing its anti-poverty commitments between 2001 and 2005 is not possible, as methodological difficulties exist in comparing the findings of the Living in Ireland Survey, which was used prior to 1993 to measure poverty, and the EU SILC survey.
- 164 Trutz Haase and Jonathan Pratschke (2005) *Deprivation and its Spatial Articulation in the Republic of Ireland: New Measures of Deprivation Based on the Census of Population, 1991, 1996 and 2002*, Dublin: Area Development Management.
- 165 *EU-SILC 2004*, p. 11; p. 14.
- 166 Department of Education, Heritage and Local Government, *Assessment of Homelessness*, 2002.
- 167 Ann Marie Halpenny, Anna Fiona Keogh and Robbie Gilligan (2002) *A Place for Children? Children in Families Living in Emergency Accommodation: The Perspectives of Children, Parents and Professionals*, Dublin: Children's Research Centre, Trinity College Dublin and the Homeless Agency.
- 168 Simon Brooke (2004) *Housing Problems and Irish Children: The Impact of Housing on Children's Well-Being*, Dublin: Children's Research Centre, Trinity College Dublin.
- 169 Department of the Environment, Heritage and Local Government, *Local Authority Assessments of Social Housing Needs – 31 March 2005*, Dublin. The unit for assessment for social housing is the household; this may or may not be a family unit.
- 170 Data from the Department of the Environment, Heritage and Local Government does not indicate how many families with children have been housed in any given period and therefore how many of the children on the waiting lists are having their housing needs met. This is a significant gap in data collation. Simon Brooke (2004) *Housing Problems and Irish Children: The Impact of Housing on Children's Well-Being*, Dublin: Children's Research Centre, Trinity College Dublin.
- 171 Ibid.
- 172 Ibid.
- 173 National Economic and Social Council (2004) *Housing in Ireland: Performance and Policy*, Dublin: National Economic and Social Council (NESC Report no. 112), p. 152.
- 174 Simon Brooke (2004) *Housing Problems and Irish Children: The Impact of Housing on Children's Well-Being*.
- 175 P.J. Drudy and Michael Punch (2005) *Out of Reach: Inequalities in the Irish Housing System*, Dublin: tasc at New Ireland, pp. 44-49.
- 176 National Economic and Social Council (2004) *Housing in Ireland: Performance and Policy*, p. 165.

## VII EDUCATION, LEISURE AND CULTURAL ACTIVITIES

- 177 OECD, *Education at a Glance* 2005.
- 178 OECD, *Education at a Glance* (2005), p. 334.
- 179 Prior to Budget 2006, public investment in ECEC was less than 0.2% of GDP, which is significantly below the 0.4% average across OECD countries. The 2002 census of population showed that there were 384, 712 children under six years in the country, representing 9.6% of the total population. Central Statistics Office (2003) *Census 2002, Volume 2: Age and Marital Status*, Dublin: Stationery Office.
- 180 National Economic and Social Forum (2005) *Early Childhood Care and Education*, Dublin: NESF (Report No. 31).
- 181 Noirin Hayes (2002) *Children's Rights – Whose Right? A Review of Child Policy Development in Ireland*, Dublin: Trinity College Dublin Policy Institute.
- 182 Department of Health and Children (1997) *Child Care (Pre-School Services) Regulations 1996 and Child Care (Pre-School Services) (Amendment) Regulations, 1997 and Explanatory Guide to Requirements and Procedures for Notification and Inspection*, Dublin: Stationery Office.
- 183 Given the separation of childcare and early education currently, there is a danger that some services will be inspected under the Department of Health and Children Inspectorate while others will be inspected by Department of Education and Science.
- 184 Under-funding for physical education is particularly troubling in light of the need for action in this area highlighted in *Obesity: The Policy Challenges, Report of the National Task Force on Obesity* (2005).
- 185 Sean Flynn, "INTO will step up campaign to upgrade schools", *The Irish Times*. 23 May 2005.
- 186 Sean Flynn, "Primary schools to get over 400 new teachers", *The Irish Times*. 18 November 2005.
- 187 The final report of the Government-appointed Educational Disadvantage Committee argues that Government policies and services to combat educational disadvantage are poorly coordinated; that successful one-off programmes should be mainstreamed; that Government should recognise educational disadvantage as a community issue, not just a school issue; and that the register of disadvantaged schools must be updated to reflect reality on the ground.
- 188 This problem is not confined to primary school level. In 2000, Irish 15 year-olds ranked fifth out of 27 countries in reading literacy scores, yet 11% of Irish students scored at or below the lowest proficiency level. Judith Cosgrave et al (2000) *Teacher's Guide to Reading Literacy*, Dublin: Educational Research Centre.
- 189 Eemer Eivers et al (2005) *The 2004 National Assessment of English Reading*, Dublin: Educational Research Centre; Eemer Eivers, Gerry Shiel and Fionnuala Schoot (2004) *Literacy in Disadvantaged Primary Schools: Problems and Solutions*, Dublin: Education Research Centre.
- 190 Policy developments include the Education (Welfare) Act, 2001; the Special Initiative on Educational Disadvantage in *Sustaining Progress: Social Partnership Agreement*, Dublin: Stationery Office, 2003, and the publication of *DEIS (Delivering Equality of Opportunity in Schools): An Action Plan for Educational Inclusion* by the Department of Education and Science, May 2005.
- 191 There is need to ensure adequate funding for and implementation throughout the country of educational disadvantage programmes – the School Completion Programme, the Stay in School Retention Initiative, School Meal Scheme, School Book Rental Scheme, Back to School Clothing Allowance.
- 192 Surveys by parents' bodies and political parties indicate that the cost of sending a child to school is in the region of €1,100 at primary level and €1,200 at second level.
- 193 'Voluntary contributions' fund basic administrative services for schools, such as the purchase of materials for arts, physical education, and the school library, plus photocopying of teaching and learning materials.
- 194 Primary pupils miss on average 10 days out of 183 days in the school year and secondary pupils miss 14 out of 167 days. In 2003/2004, average attendance in the most disadvantaged second-level schools was 86.1% and in the least disadvantaged schools it was 94.6%. Susan Weir (2004) *Analysis of School Attendance Data at Primary and Post-primary Levels for 2003/2004*, Dublin: Education Research Centre.
- 195 Principals provide general information on attendance trends to the Department of Education and Science as of 30 September each year.
- 196 School principals are responsible for alerting the NEWB regarding pupils who have missed more than 20 days of school.
- 197 Department of Education and Science (2005) *Retention Rates of Pupils in Second Level Schools, 1996 Cohort*, Dublin: Department of Education and Science.
- 198 For example, in the areas where Education Welfare Officers are deployed, they are generally under-resourced and they do not have the capacity to deal with all referrals.
- 199 93% under Catholic management; 6% under Protestant management; there are two Muslim schools and one Jewish school.
- 200 "The Committee, noting that almost all primary schools are run by Catholic groups and that non-denominational or multi-denominational schools represent less than 1% of the total number of primary educational facilities, is concerned that existing laws and practice would favour Catholic pupils in the admission to Catholic schools in case of shortage of places, particularly in the light of the limited alternatives available. (article 5(d)(vii) and 5(e)(vi)) The Committee, recognising the 'intersectionality' of racial and religious discrimination, encourages the State party to promote the

- establishment of non-denominational or multi-denominational schools and to amend the existing legislative framework so that no discrimination may take place as far as the admission of pupils (of all religions) in schools is concerned.”
- 201 Educate Together has produced such a curriculum that could be mainstreamed. [www.educatetogether.ie](http://www.educatetogether.ie)
- 202 The Alliance envisions that this would include an audit of the curriculum and school procedures, as well as of the Department of Education and Science.
- 203 <http://www.ohchr.org/english/issues/education/training/programme.htm>
- 204 Department of Education and Science (2003) *Summary of All Initiatives Funded By the Department to help Alleviate Educational Disadvantage*. ([www.education.ie](http://www.education.ie))
- 205 Dympna Devine (2005) “Welcome to the Celtic Tiger? – Teacher Responses to Immigration and Increasing Ethnic Diversity in Irish Schools”, *International Studies in Sociology of Education*, vol.15, no.1: 49–70; Dympna Devine with Mairín Kenny and Eileen McNeela (2004) “Experiencing Racism in the Primary School – Children’s Experiences and Views” in Jim Deegan, Dympna Devine, and Anne Lodge (eds.) *Primary Voices – Equality, Diversity and Childhood in Primary Schools*, Dublin: Institute of Public Administration.
- 206 “Six Nigerian children in hiding to avoid deportation”, *The Irish Times*, 14 October 2005.
- 207 One example is the difficulty in coordination between nursing staff and teaching staff in pre-schools for children with learning disabilities (Children’s Rights Alliance consultation day, 21 June 2005).
- 208 Caroline Heary, Diane Hogan and Colm Smith (2003) *Living with an Acquired Brain Injury During Childhood and Adolescence: an Irish Perspective*.
- 209 National Disability Authority (2005) *Disability and Equality: How Far towards Equality?* Dublin: National Disability Authority.
- 210 Ibid.
- 211 The bulk of this figure will go to pay teachers’ salaries in the primary sector arising from the increase in numbers of Resource Teachers employed under the General Allocations Scheme. Almost none of it will finance initiatives at second level.
- 212 “State may face 100 autism court cases”, *Irish Examiner*, 6 March 2002.
- 213 *A Vision for Change: Report of the Expert Group on Mental Health Policy* (2006) Annex 10, p. 245.
- 214 *A Vision for Change: Report of the Expert Group on Mental Health Policy* (2006) recommended: “Early intervention and assessment services for children with autism should include comprehensive multidisciplinary and paediatric assessment and mental health consultation with the local community mental health team, where necessary.” p. 89.
- 215 Central Statistics Office (2005) *Vital Statistics: Fourth Quarter and Yearly Summary 2004*, Dublin: Stationery Office, p. 28.
- 216 The Final Evaluation Report of the Teen Parents Support Initiative (2002) found that only 40% of participants had completed the Leaving Certificate, 25% had completed the Junior Certificate only and 12% had completed primary school only. These figures are of huge concern given the well-established correlation between early school leaving and long-term poverty and disadvantage. (Sinéad Riordan (2002) *Final Evaluation Report of the Teen Parents Support Initiative*, Dublin: Dublin Institute of Technology.) The Innocenti Research Centre report on teenage births in rich nations reported that almost twice as many Irish women who were teen mothers lived in households with income in the lowest 20% compared to women who had their first child in their twenties. (UNICEF Innocenti Research Centre (2001) *A League Table of Teenage Births in Rich Nations*, Florence: UNICEF, Innocenti Centre Report Card, 3)
- 217 For example, the *Programme for Prosperity and Fairness* (2000) spoke of the need for a strategy to enable young parents to participate in education and training. The Report of the Joint Committee on Social, Community and Family Affairs, *Teenage Parenting* (2001) identified a need for specific supports for students who become pregnant.
- 218 For example, if a student is suffering from depression, the NEPS addresses how that depression affects the student’s behaviour and performance in school and liaises with outside agencies such as the HSE regarding how it affects other aspects of the student’s life outside school.
- 219 The original target for the end of 2005 as set out in the NEPS Strategic Plan was 200. To date 124 psychologists have been appointed.
- 220 The number of assessments is limited to 2 per 100 pupils.
- 221 As recommended in *Reach Out: the National Strategy for Action on Suicide Prevention, 2005–2014*.
- 222 Including under the Special Initiative on Educational Disadvantage for the Social Partnership Agreement, *Sustaining Progress*.
- 223 While capital funding for play provision has greatly improved, local authorities continue to have problems with maintenance funding. In addition, while there is now a local authority play development officer’s network, only two such posts are full-time and many others are in jeopardy from staff restructuring. Communication from Sugradh, 14 November 2005.
- 224 Communication from the Irish Pre-school Playgroups Association, 8 December 2005.
- 225 Minister for Children, Brian Lenihan TD, as quoted in Eithne Donnellan, “‘Disturbing’ rise in objections to playgrounds”, *The Irish Times*, 6 December 2005.
- 226 Centre for Health Promotion Studies (2003) *The National Health & Lifestyle Surveys*, pp.55-56.

- 227 Arts Council (2005) *Partnership for the Arts: Arts Council Goals 2006–2010*, Dublin, p. 20. The goal is to “create better opportunities for young people to experience the arts”. There is also a specific policy reference to young people, children and the arts in the accompanying document, Arts Council (2005) *Partnership for the Arts in Practice, 2006–2008*. See also Marieva Coughlan (2004) *The Participation of Young People in the Arts in Ireland*, Dublin: The Arts Council.
- 228 City Arts Centre (2004) *Civil Arts Inquiry: Young People, Awareness and Participation in Arts and Cultural Activities 2003–2004*. 560 young people in Dublin were interviewed.
- 229 For example, the selling of public lands to private commercial developers with no requirement that some of the land must be kept for public use.
- 230 Dymrna Devine et al (2004) “Time for Children – Time for Change? Children’s Rights and Welfare in a Period of Economic Growth in Ireland” in An-Magrett Jensen et al (2004) *Childhood in Ageing Societies: County Studies on Children’s Welfare and Everyday Life*, Vol 1, Trondheim: Norwegian Centre for Child Research and Tartu University Press.
- 231 Alf Nicholson, Aoife Waters and Fergal Trace (2006) “The ‘Road to Safety’ in Irish Children over the Past Five Years”, *Irish Medical Journal*, vol. 99, no. 1, January.
- 232 European Commission (2002) *Kids on the Move*, Luxembourg: Office for the Official Publications of the European Communities. A ‘Walking School Bus’ is a group of school children who walk to and from school along a set route, accompanied by parents who ‘drive’ or supervise the ‘bus’: one adult at the front and the other at the rear. The walking bus picks up ‘passengers’ along the way at designated ‘bus stops’.

## VIII SPECIAL PROTECTION MEASURES

- 233 The guidelines for granting humanitarian leave to remain are not made public.
- 234 Department of Justice, Equality and Law Reform (2005) *Immigration and Residence in Ireland, Outline Policy Proposals for an Immigration and Residence Bill: A Discussion Document*, Dublin: Stationery Office.
- 235 Health Services Executive monthly statistics, May 2005. The number of separated children seeking asylum entering the country peaked in 2001. *Foreign National Young People at Risk: Report on the Seminar and Recommendations from the Foreign National Young People at Risk Sub-group, North Inner City Dublin*, 28 April 2005.
- 236 Currently a social worker or project worker supports the separated child through the asylum process and may act on their behalf. However, this does not constitute the independent representation that the Alliance believes is necessary and which was proposed in the *National Children’s Strategy*.
- 237 *National Children’s Strategy: Our Children, Their Lives*, p. 71.
- 238 Children require more time than adults to prepare for an asylum interview for a variety of reasons, including the fact that they may need time to understand the implications of the asylum process. Other reasons for needing additional time include the fact that a child may be too traumatised to talk about their experience at that stage and a medical report may need to be requested.
- 239 In 2005, of a total of 643 referrals, 422 were reunited with family and 221 were taken into State care (communication from the Irish Refugee Council).
- 240 Including the provision of a designated key worker; a designated social worker; a care plan; and a system and schedule of case review for each young person.
- 241 Pauline Conroy and Frances Fitzgerald (2005) *Separated Children Seeking Asylum: Health and Social Education Needs, Research Study 2004*, Dublin: Health Service Executive. In its Report for 2002 the Social Services Inspectorate stated: “The ECAHB [East Coast Area Health Board] acknowledges that the standard of care for this group of young people may not meet the National Standards for Children’s Residential Centres... ” Social Services Inspectorate, *Annual Report, 2002*, Dublin, pp. 16–17. The Inspectorate’s Report for 2001 acknowledged that: “Social workers or project workers are allocated to these young people and refer them to schools or other appropriate services. However, the children shop and cook for themselves and spend their leisure time unsupervised and unsupported.” Social Services Inspectorate, *Annual Report 2001*, Dublin, p. 8.
- 242 Separated Children in Europe Programme (2004) *Statement of Good Practice*, Third Edition, Copenhagen: Save the Children and Geneva: UNHCR.
- 243 Dun Laoghaire Refugee Project and P+L+U+S Campaign (2005) *P+L+U+S Appeal (Please Let Us Stay) Leave to Remain for Aged Out Minor Asylum Seekers*, Dublin: Dun Laoghaire Refugee Project.
- 244 Free Legal Advice Centres (2003) *Direct Discrimination? An Analysis of the Scheme of Direct Provision in Ireland*, Dublin: FLAC.
- 245 Data from the Refugee and Integration Agency, as of 31 January 2006. Communication from the Irish Refugee Council.
- 246 1,678 asylum seekers (21%) had been residing in direct provision for over 2 years. Communication from the Irish Refugee Council, 3 August 2005.
- 247 Ireland and Denmark, uniquely, have opted out of the EU-wide ‘Reception Directive’ which includes proposals granting (limited) access to employment to people in the asylum process. Communication from the Irish Refugee Council, 3 August 2005.

- 248 Asylum seekers receive €19.10 per week for adults and €9.60 for children. Basic over-the-counter medical products such as painkillers, bandages or antiseptics are not covered under the medical card scheme. Furthermore, access to medical services and pharmacists can be restricted for asylum seekers living in direct provision centres located in rural areas far from amenities; on such a low weekly cash allowance, transport costs are prohibitive.
- 249 UN Committee on the Elimination of all Forms of Racial Discrimination, *Concluding Observations, 14/04/2005*.
- 250 Karen Smyth and Jean Whyte (2005) *Making a New Life in Ireland: Lone Refugee and Asylum-Seeking Mothers and their Children*.
- 251 Policy in the area of youth justice has been ad hoc and lacking co-ordination. An example of inconsistent and reactive policy-making was the decision in 2002, following a joy-riding incident in which two members of an Garda Síochána died, to build a €10 million prison wing for 14 and 15-year-olds at St. Patrick's Institution (a detention centre for 16 to 21 year-olds). This wing has never been used and lies idle.
- 252 Ursula Kilkelly (2005) *The Children's Court: A Children's Rights Audit*. The research was supported by the Irish Research Council for the Humanities and Social Sciences.
- 253 Carl O'Brien, "Concern for missing children prompts new service", *The Irish Times*, 20 June 2005.
- 254 Olivia Kelleher, "Warning of human trafficking in Ireland", *The Irish Times*, 13 June 2005.
- 255 Following its examination of Ireland's combined fourth and fifth report on the implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women, the UN Committee on the Elimination of Discrimination against Women stated: "The Committee recommends the adoption and implementation of a comprehensive strategy to combat trafficking in women and girls, which should include preventive measures, the prosecution and punishment of offenders and the enactment of specific legislation in this area. The Committee also recommends that measures be put in place to provide for the physical, psychological and social recovery of women and girls who have been victims of trafficking, including the provision of shelter, counselling and medical care. It further recommends that border police and law enforcement officials be provided with the requisite skills to recognize and provide support for victims of trafficking." UN Committee on the Elimination of Discrimination against Women, Thirty-third session, 5–22 July 2005, *Concluding Comments – Ireland* (CEDAW/C/irl/co/4–5) par. 31.
- 256 Pauline Conroy (2003) *Trafficking in Unaccompanied Minors in the European Union Member States – Ireland Research*, Dublin: The International Organization for Migration.
- 257 Including 24-hour secure accommodation and the provision of a social worker and language support at their point of entry to the country.
- 258 Another possible option is to show an information video on the dangers of trafficking to suspected separated children seeking asylum at their point of entry to the country.
- 259 Central Statistics Office (2004) *Census 2002, Volume 8: Irish Traveller Community*, Dublin: Stationery Office, p. 17. Travellers are a small, indigenous minority ethnic group with a nomadic tradition. They identify themselves as a distinct community and share common cultural characteristics and traditions, which are evident in the organisation of family, social and economic life.
- 260 World Conference Against Racism in Durban, South Africa, September 2001.
- 261 The status of Irish Travellers as an ethnic minority has been officially recognised in Northern Ireland and in England.
- 262 UN Committee on the Elimination of all Forms of Racial Discrimination, *Concluding Observations, 14/04/2005*, par. 20.
- 263 "The Committee recommends to the State party that it intensify its efforts to fully implement the recommendations of the Task Force on the Traveller community, and that all necessary measures be urgently taken to improve access by Travellers to all levels of education, their employment rates as well as their access to health services and to accommodation suitable to their lifestyle." UN Committee on the Elimination of all Forms of Racial Discrimination, *Concluding Observations, 14/04/2005*.
- 264 The need for recognition of Traveller children's cultural identity is highlighted in: Department of Justice, Equality and Law Reform (2005) *Second Progress Report of the Committee to Monitor and Co-ordinate the Implementation of the Recommendations of the Task Force on the Travelling Community*, Dublin: Stationery Office.
- 265 The 2002 Census of Population showed that there were 23,681 Travellers living in 4,396 households in Ireland. 37% of households lived in a caravan or mobile home; 28% lived in housing rented from a local authority; 20% were owner-occupiers and 5% rented privately. There are difficulties in collecting Census information regarding Travellers living on the roadside. *2002 Census: Volume 8, Irish Traveller Community*, p. 44.
- 266 *Report of the Task Force on the Travelling Community* (1995), Dublin: Stationery Office, p. 105.
- 267 Department of Justice, Equality and Law Reform (2005) *Second Progress Report of the Committee to Monitor and Co-ordinate the Implementation of the Recommendations of the Task Force on the Travelling Community*, p. 21.
- 268 Irish Traveller Movement, *An Analysis of the Housing (Miscellaneous Provision) Act, 2002*, Dublin.
- 269 Request made from Pavee Point to Local Authorities for statistics under the Freedom of Information Act. The Garda Commissioner also holds statistics on evictions, but these were unavailable.
- 270 Evictions are taking place at a time when Government policy on Traveller accommodation is well behind schedule. Traveller children are, therefore, facing disruption to their education and potential damage to their health as well as witnessing the treatment of their homes (caravans) as a place of less importance to state agencies than a settled person's home.
- 271 For example, birth weights for Traveller children are significantly lower than those for the population as a whole. The

immunisation uptake rate for MMR among Travellers is 52% as opposed to a national figure of 75%. While Travellers have a higher birth rate, they have a low life expectancy with only 3.3% of the population over 65 years as opposed to 11.1% for the general population. Department of Health and Children (2002) *Traveller Health – A National Strategy 2002–2005*, Dublin: Department of Health and Children, p. 53; *Census 2002: Volume 8, Irish Traveller Community*, Table 5, p. 17.

- 272 Department of Health and Children (2002) *Traveller Health – A National Strategy 2002–2005*. The Strategy noted: "There is little doubt that the living conditions of Travellers are probably the single greatest influence on health status. Stress, infectious disease including respiratory disease and accidents are all closely related to the Traveller living environment." p. 28.
- 273 *Census 2002: Volume 8, Irish Traveller Community*, Table 5, p. 17.
- 274 Pavee Point Fact Sheet, *Education and Cultural Right (2002-2003)* [http://www.paveepoint.ie/fs\\_educ\\_a.html](http://www.paveepoint.ie/fs_educ_a.html). 22 October 2004.
- 275 Key issues which the Traveller Education Strategy must address include: early childhood education provision; obstacles to enrolment; access to education for nomadic Travellers; increased access to third-level education; transfer and retention rate at post-primary level; increased support for parents; training for educators to promote and support the identity of Traveller students.
- 276 The European Monitoring Centre on Racism and Xenophobia in its *Annual Report* for 2005 stated that the Roma are the ethnic group most vulnerable to racism in the EU. (European Monitoring Centre on Racism and Xenophobia (2005) *Racism and Xenophobia in the EU Member States: Trends, Developments and Good Practice, Annual Report 2005 – Part 2*, Vienna: European Monitoring Centre on Racism and Xenophobia (EUMC)).
- 277 All information on Roma children in Ireland taken from Louise Lesovitch (2005) *Roma Educational Needs in Ireland: Context and Challenges*, Dublin: City of Dublin Vocational Education Committee.
- 278 Irish is the first official language of Ireland and an EU working language.
- 279 Difficulties do arise, for example, if speech testing is done solely through the medium of English, with inaccurate results if the child speaks Irish as a first language.

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## If you had a magic wand

(Angel, age 8, Co. Offaly)

# Appendices

# Summary of UN Convention on the Rights of the Child

## Your Rights under the UN Convention on the Rights of the Child

### Article 1

Everyone under the age of 18 has all the rights in this Convention.

### Article 2

The Convention applies to everyone whatever their race, religion, abilities, whatever they think or say, no matter what type of family they come from.

### Article 3

All organisations concerned with children should work towards what is best for you.

### Article 4

Governments should make these rights available to you.

### Article 5

Governments should respect the rights and responsibilities of families to direct and guide their children so that, as they grow, they learn to use their rights properly.

### Article 6

You have the right to life. Governments should ensure that children survive and develop healthily.

### Article 7

You have the right to a legally registered name and nationality. You also have the right to know and, as far as possible, to be cared for by your parents.

### Article 8

Governments should respect children's right to a name, a nationality and family ties.

### Article 9

You should not be separated from your parents unless it is for your own good – for example, if a parent is mistreating or neglecting you. If your parents have separated, you have the right to stay in contact with both parents, unless this might harm you.

### Article 10

Families who live in different countries should be allowed to move between those countries so that parents and children can stay in contact or get back together as a family.

**Article 11**

Governments should take steps to stop children being taken out of their own country illegally.

**Article 12**

You have the right to say what you think should happen when adults are making decisions that affect you, and to have your opinions taken into account.

**Article 13**

You have the right to get, and to share, information as long as the information is not damaging to yourself or others.

**Article 14**

You have the right to think and believe what you want and to practise your religion, as long as you are not stopping other people from enjoying their rights. Parents should guide children on these matters.

**Article 15**

You have the right to meet with other children and young people and to join groups and organisations, as long as this does not stop other people from enjoying their rights.

**Article 16**

You have the right to privacy. The law should protect you from attacks against your way of life, your good name, your family and your home.

**Article 17**

You have the right to reliable information from the mass media. Television, radio, and newspapers should provide information that you can understand, and should not promote materials that could harm you.

**Article 18**

Both parents share responsibility for bringing up their children, and should always consider what is best for each child. Governments should help parents by providing services to support them, especially if both parents work.

**Article 19**

Governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.

**Article 20**

If you cannot be looked after by your own family, you must be looked after properly, by people who respect your religion, culture and language.

**Article 21**

If you are adopted, the first concern must be what is best for you. The same rules should apply whether the adoption takes place in the country where you were born or if you move to another country.

**Article 22**

If you are a child who has come into a country as a refugee, you should have the same rights as children born in that country.

**Article 23**

If you have a disability, you should receive special care and support so that you can live a full and independent life.

**Article 24**

You have the right to good quality health care and to clean water, nutritious food and a clean environment so that you can stay healthy.

**Article 25**

If you are looked after by your local authority rather than your parents, you should have your situation reviewed regularly.

**Article 26**

The government should provide extra money for the children of families in need.

**Article 27**

You have a right to a standard of living that is good enough to meet your physical and mental needs. The government should help families who cannot afford to provide this.

**Article 28**

You have a right to an education. Discipline in schools should respect children's human dignity. Primary education should be free. Wealthy countries should help poorer countries achieve this.

**Article 29**

Education should develop your personality and talents to the full. It should encourage you to respect your parents, your own and other cultures.

**Article 30**

You have a right to learn and use the language and customs of your family whether or not these are shared by the majority of the people in the country where you live.

**Article 31**

You have a right to relax, play and join in a wide range of activities.

**Article 32**

The government should protect you from work that is dangerous or might harm your health or education.

**Article 33**

The government should provide ways of protecting you from dangerous drugs.

**Article 34**

The government should protect you from sexual abuse.

**Article 35**

The government should ensure that you are not abducted or sold.

**Article 36**

You should be protected from any activities that could harm your development.

**Article 37**

If you break the law, you should not be treated cruelly. You should not be put in a prison with adults and you should be able to keep in contact with your family.

**Article 38**

Governments should not allow children under 16 to join the army. In war zones, you should receive special protection.

**Article 39**

If you have been neglected or abused, you should receive special help to restore your self-respect.

**Article 40**

If you are accused of breaking the law, you should receive legal help. Prison sentences for children should only be used for the most serious offences.

**Article 41**

If the laws of a particular country protect you better than the articles of the Convention, then those laws should stay.

**Article 42**

The government should make the Convention known to all parents and children.

**Articles 43-54** are about how adults and governments should work together to make sure all children get all their rights.

This summary of the UNCRC is taken with permission from UNICEF – Youth Voices UK

For the full text of the UN Convention on the Rights of the Child go to:  
[www.unhcr.ch/html/menu3/b/k2crc.htm](http://www.unhcr.ch/html/menu3/b/k2crc.htm)



# Children's Rights Alliance

## Member Organisations

Amnesty International  
Ana Liffey Children's Project  
The Ark, A cultural centre for children  
Arrupe Society  
Association of Secondary Teachers Ireland  
ATD Fourth World  
Barnardos  
Barretstown  
Border Counties Childcare Network  
CARI  
Catholic Guides of Ireland  
Catholic Youth Care  
Childminding Ireland  
Children in Hospital Ireland  
CityArts  
Crosscare Aftercare Unit  
Crosscare Drug Awareness Programme  
DIT – School of Social Sciences and Legal Studies  
Dublin Rape Crisis Centre  
Dunlaoghaire Refugee Project  
Educate Together  
Education Department UCD  
Enable Ireland  
Focus Ireland  
Forbairt Naionraí Teo  
Foróige  
Home Start National Office Ireland  
Hope Voluntary Housing Association  
IAYPIC  
Inclusion Ireland (formerly Namhi)  
Integrating Ireland  
IPPA, the Early Childhood Organisation  
Irish Association of Hospital Play Staff  
Irish Association of Social Workers  
Irish Association of Suicidology  
Irish Centre for Human Rights, NUI Galway  
Irish Congress of Trade Unions  
Irish Council for Civil Liberties  
Irish Foster Care Association  
The Irish Girl Guides  
Irish National Organisation of the Unemployed

Irish National Teachers Organisation  
Irish Penal Reform Trust  
The Irish Refugee Council  
Irish Traveller Movement  
Irish Youth Foundation  
ISPCC  
Jack & Jill Children's Foundation  
Jesuit Centre for Faith and Justice  
Junglebox FDYS  
Kids' Own Publishing Partnership  
Kilbarrack Youth Project  
La Leche League of Ireland  
Lifestart National Office  
Mary Immaculate College  
Matt Talbot Community Trust  
Mothers Union  
Mounttown Neighbourhood Youth Project  
National Association for Parent Support  
National Children's Nurseries Association  
National Parents Council (Primary)  
National Parents Council (Post-Primary)  
National Youth Council of Ireland  
One Family  
O.P.E.N.  
Parentline  
Pavee Point  
Resident Managers Association  
Society of St. Vincent de Paul  
South West Wexford Community Development  
St. Nicholas Montessori College  
St. Nicholas Montessori Society  
Step by Step Child and Family Project  
Sugradh  
Tallaght Partnership  
Treoir  
UNICEF Ireland  
Youth Initiative in Partnership  
Youth Work Ireland (National Youth Federation)

*Affiliated Member Organisation:*  
Children's Law Centre (Northern Ireland)



