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

Children’s Rights Alliance
7 Red Cow Lane
Smithfield
Dublin 7
Ireland
Ph:  +353 1 662 9400
Email:  info@childrensrights.ie

Find us on

www.childrensrights.ie

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Acknowledgements

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- Disability Federation of Ireland
- Early Childhood Ireland
- Educate Together
- EPC
- EQUATE
- Focus Ireland
- GLÉN — Gay and Lesbian Equality Network
- Immigrant Council of Ireland
- Inclusion Ireland
- Irish Heart Foundation
- Irish National Teachers Organisation
- Irish Penal Reform Trust
- Irish Traveller Movement
- Jack & Jill Children’s Foundation
- Mental Health Reform
- Migrant Rights Centre of Ireland
- National Youth Council of Ireland
- One Family
- Ravers Point
- St Patrick’s Mental Health Services
- Society of St. Vincent de Paul
- Start Strong
- Treoir
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- youngpeopleunited
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Finally, we extend our thanks to the members of the independent Assessment Panel who, by assessing the grades in each section and adding their considerable experience, validate this report. The grades allocated represent the collective views of the Panel rather than the views of any individual. The Assessment Panel comprises:

- Professor Pat Dolan, UNESCO Chair in Children, Youth and Civic Engagement and Director, Child and Family Research Centre, National University of Ireland, Galway;
- Dr Orla Doyle, Lecturer in Economics and Research Fellow in the UCD Garry Institute for Public Policy;
- Professor Nóirín Hayes, Visiting Professor, School of Education, Trinity College Dublin;
- Professor Aine Hylan, Emeritus Professor of Education and former Vice-President of University College Cork;
- David Joyce, Equality Officer, Irish Congress of Trade Unions;
- Professor Ursula Kilkelly, Dean of Law, University College Cork;
- Judge Catherine McGuinness, former member of the Supreme Court of Ireland and Member of the Council of State;
- Dr Liam Thornton, Lecturer in Law, School of Law, University College Dublin

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Grading for Report Card 2016

OVERALL GRADE

Children's Constitutional Rights
Children's Referendum
Constitutional Convention
C+

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

Right to Health
Primary Care
Children's Hospital
Mental Health
Alcohol, Smoking and Drugs
C+

Right to an Adequate Standard of Living
Child Poverty
Children and the Social Welfare System
Area Based Approach to Tackling Child Poverty
Child and Youth Homelessness
E+
E-
D
F

Right to Protection from Abuse and Neglect
Child and Family Agency
Ryan Report Implementation Plan
Children in Detention
B
B
B+

Right to Equality and Non-discrimination
Traveler and Roma Children
Migrant Children
Inequalities in Family Life
D+
E-
D-

Explanation of Grades:
A Excellent, making a real difference to children's lives
B Good effort, positive results for children
C Satisfactory attempt, but children still left wanting
D Barely acceptable performance, little or no positive impact on children
E Unacceptable, taking steps in the wrong direction, no positive impact on children
F Fail, taking steps that undermine children's wellbeing
N/A Not applicable, due to vague nature of Government commitment

Grading: Five Year Comparison

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<td>B</td>
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<td>D</td>
<td>C</td>
<td>C</td>
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</tbody>
</table>
| Children's Hospital | B | D | C | C | B-
| Mental Health | C+ | D- | E | E | D |
| Alcohol, Smoking and Drugs | D | D | C | C+ | B |
| Right to an Adequate Standard of Living | Child Poverty | E | F | C | E- | E |
| Children and the Social Welfare System | D | D | C | C | D+ |
| Area Based Approach to Tackling Child Poverty | C | C | C+ | C+ | C+ |
| Child and Youth Homelessness | D | D | C+ | C+ | C+ |
| Right to Protection from Abuse & Neglect | Child and Family Agency | B | B- | B+ | B- | B |
| Ryan Report Implementation Plan | C | B | B- | B+ | B |
| Children in Detention | B | B | B+ | B+ | B+ |
| Right to Equality and Non-discrimination | Traveler and Roma Children | N/A | E | E | E+ | E- |
| Migrant Children | N/A | E | E | E+ | E- |
| Inequalities in Family Life | N/A | D | D+ | E+ | E- |
Introduction

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

The Report Card is an established accountability tool for the Children’s Rights Alliance and our 100 plus members, as well as an important information resource for politicians, policy makers, service providers, non-governmental organisations (NGOs) and academics. It scrutinises the Government’s own commitments to children flowing from the Programme for Government.

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

Each year, the Children’s Rights Alliance evaluates Government’s delivery on the promises it made to children and young people in six key areas: children’s constitutional rights, the right to education, to health, to an adequate standard of living, to protection from abuse and neglect and the right to equality and non-discrimination. As in previous years, the research process for Report Card 2016 was rigorous. It involved desk research, semi-structured interviews, analysis of legal judgments and of statistics and a wide consultation with member organisations and key stakeholders and engagement with departmental officials who verified data and responded to requests for information. The grading was carried out by a high-level independent panel, comprising some of Ireland’s leading experts in children’s rights, child law, early years and from the trade union sector.

The Government is awarded an overall ‘C’ grade in Report Card 2016, reflecting a satisfactory attempt to date, though children remain wanting. In Report Card 2012 – the first year of tracking the Programme for Government 2011-2016 commitments – the Government was awarded a ‘C+’, the best overall grade in the Report Card series to date. In the intervening years, the Government has consistently received an overall ‘C’ grade. Also consistent have been the areas of achievement and areas in which the Government has not performed as well. Aspects of the right to education have been strong throughout in particular ‘Child Literacy’ and ‘School Buildings’. Also steady throughout have been the protection sections in particular ‘Child and Family Agency’ and ‘Ryan Report Implementation Plan’.

‘Children in Detention’ has been one of the biggest success stories moving from an ‘F’ to a ‘B+’ over the course of the Programme for Government. ‘Inequalities in Family Life’ has also climbed from a low of a ‘D’ grade in 2013 to an ‘A’ grade in Report Card 2016.

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

Duty on States to Provide for the Rights of Children

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

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

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

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

This is the final year of the Report Card series under the Programme for Government 2011-2016. The Government committed to hold a referendum to amend the Constitution of Ireland to ensure that children’s rights are strengthened, along the lines recommended by the All-Party Oireachtas Committee. In 2012, the People of Ireland voted 58 per cent to 42 per cent in favour of the Thirty-First Amendment to the Constitution. However, there was a delay of almost three and a half years before the amendment was written into law. The delay was due to a legal challenge. The Supreme Court dismissed the appeal on 24 April 2015, and the Thirty-First Amendment to the Constitution Act 2012 was signed into law by the President of Ireland on 28 April 2015.

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

The Supreme Court has ruled that the Children’s Referendum should not be re-run. A High Court petition taken by Joanna Jordan from Dun Laoghaire to overturn the result of the 2012 referendum was previously rejected. It ruled the Government’s conduct – specifically using State monies to publish an unbalanced information campaign – did not impact on the outcome of the referendum. Her appeal against this decision was unanimously dismissed by the seven-judge panel today. The judgement outlined how the significant voting margin (58% voted yes and 42% voted no) was a significant factor. "Applying the test to the circumstances of these appeals, the Court finds it has not been established that it is reasonably possible that the actions of the Minister materially affected the outcome of the referendum as a whole," the judges explain. The High Court will now have to endorse the result of the referendum before the President can sign it into law. It is understood this could happen in the next seven days. The Minister for Justice Frances Fitzgerald also welcomed today’s decision. “It is important that citizens have the opportunity to bring concerns to our courts as happened in this case,” she said in a statement. “This is a new era for how we as a society view our children. No longer seen and not heard, children are now recognised by our Constitution as individual rights holders deserving of protection by our laws irrespective of their family form.”

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

By Christina Finn

1. The challenge was taken by Joanna Jordan and related to the publication of a government funded booklet/website on the children’s referendum. Jordan v Minister for Children and Youth Affairs & Others (2013) [2013] IEHC 625. Parts of the booklet/website were found to be unconstitutional because they breached the McKenna principles (McKenna v An Taoiseach (No. 2) [1998] 2 IR 10) which prohibit the spending of public monies to espouse a particular perspective in a referendum (McCrystal v Minister for Children and Youth Affairs, the Government of Ireland, Ireland and the Attorney General [2012] IESC 53.) The Court also found that material contained a misstatement as to the effect of the referendum. Jordan relied upon this case to argue that the Government booklet/website had a material effect on the referendum outcome and interfered with the democratic process. However, Jordan’s appeal was unsuccessful.


In other areas Article 42A improves on the wording proposed by the Committee. The Oireachtas is obliged under Article 42A to enact legislation in the area of adoption reform, while the Committee’s wording would have only enabled the Oireachtas to provide for such reform. Importantly Article 42A.2.1a reshaped the Committee’s proposal in relation to child protection to shift away from the failure of the parents and towards reasons for that failure to instead focusing on the child and the impact of the parents’ failure on their safety and welfare. It also includes a safeguard against over-intervention by the State by stating that any intervention take place only in ‘exceptional circumstances’.

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

The UN Committee stresses the importance of clarifying the extent of the applicability of the UN Convention on the Rights of the Child in states where ‘the Convention “has been given constitutional status”, or has been incorporated into domestic law.’  There has been some debate to give effect to the constitutional amendment in practice. In April 2015, the Government gave effect to legislation to key provisions of the constitutional amendment (including those relating to the best interests and to a more limited extent to the views of the child) under the Children and Family Relationships Act 2015, an historic piece of legislation that makes long overdue reforms to Irish family law. However, the relevant legislation to give effect to the provisions on adoption under Article 42A.2.2 and Article 42A.3.1 of the amendment has not been progressed so the law remains unaltered.

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

The Committee for Judicial Studies has not yet developed any specific programme in relation to the constitutional amendment on children. However, the President of the District Court has completed a needs-analysis on the training required by judges in light of the passage of the Children and Family Relationships Act 2015 and has included training on children’s issues in the induction training for new judges. With the support of the Committee, judges have attended a number of training seminars and events in specific areas including on the Children and Family Relationships Act 2015 and the EU Victims Directive. These initiatives are warmly welcomed and should be expanded to adopt best practice in the field which involves scenario-based training by experts and judicial peers.

The Council of Europe Guidelines on Child-Friendly Justice provides important insights on how professionals can enhance their daily practice in the courts to ensure that children’s rights are protected when they engage with the judicial system. The Irish judicial system should be reformed to reflect the principles of the Guidelines and to ensure that practical measures are put in place to ensure that the experiences of children with the system is participatory, that the rule of law applies to children as it does to adults, and that children are properly informed and that their best interests are a primary consideration in decisions affecting them. Implementation of the guidelines is an important step towards ensuring that judges, lawyers and all professionals dealing with children in the courts are appropriately trained and equipped to respect their rights under the provisions of the legislation brought in to give effect, such as the Children and Family Relationships Act 2015.
'Constitutional Convention' is awarded a 'C-' in Report Card 2016, a drop from the 'B-' grade awarded in 2015. While the Programme for Government 2011-2016 commitment has been achieved in this area, at the end of 2015, there was no clarity as to whether or how the work of the Constitutional Convention will be progressed with regard to potentially lowering the voting age and including greater protection of economic, social and cultural rights in the Constitution.

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

1.2 Constitutional Convention

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

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

Progress: Complete

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

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

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

CONDUCT AN AUDIT OF LAWS, PRACTICES AND POLICIES TO DETERMINE OUTSTANDING GAPS IN THE IMPLEMENTATION OF THE COUNCIL OF EUROPE GUIDELINES ON CHILD-FRIENDLY JUSTICE. To identify gaps in compliance with the Guidelines on Child-Friendly Justice in ensuring that children’s rights are protected in the justice system, an audit should be undertaken and areas of poor implementation addressed.

21 The Convention met for over two years between December 2012 and February 2014. It comprised 100 members – 66 citizens drawn from the electoral register, 29 Oireachtas members and four members from the Northern Ireland Assembly.
22 Department of Children and Youth Affairs, Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020 (Department of Children and Youth Affairs 2014), Commitment 5.4.
23 An Taoiseach, Enda Kenny TD, Dáil Debates, Order of Business, 14 January 2015.
24 Stephen Collins, ‘Coalition abandons plan for poll on younger voting age’ The Irish Times (Dublin, 15 January 2015).
In December 2013, the Constitutional Convention chose to consider economic, social and cultural rights and recommended to the Government, by an overwhelming majority of 85 per cent, that these rights be given enhanced protection in the Constitution.36 The UN Convention on the Rights of the Child contains many economic and social rights such as the right to health and health services (Article 24), the right to social security (Article 26) and the right to an adequate standard of living (Article 27), mirroring those set out in the UN International Covenant on Economic, Social and Cultural Rights. Establishing rights such as these at the constitutional level would mean that they have been enshrined in the fundamental law of the State and that all of our laws, policies and services would have to be in line with these provisions. A Private Members Bill to insert the realisation of economic, social and cultural rights into the Constitution was introduced in December 2014.37 The Bill proposed that a referendum be held to ask the People of Ireland whether or not the State should be obliged in the Constitution to ensure that the economic, social and cultural rights would be protected, to the maximum extent of available resources, and to do so incrementally over time.38 If such provision was in the Constitution, children and their families could invoke those rights before the courts in cases where their rights were not being upheld by the State. For example, homeless families with children could seek a remedy before the courts because their right to housing was not being fulfilled by the State.

The Bill was opposed and defeated by the government parties in May 2015, over fears that such an obligation would be a drain on the State’s resources.39 Concern was also expressed that if such rights were enforceable in the courts, the judiciary would, in effect, be interfering with the power of the Oireachtas to determine how State revenue is to be collected and spent.40

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

The terms of reference of the Constitutional Convention state that the Government will respond to each recommendation of the Convention within four months.41 On 14 January 2016, over two years after the recommendation was made, the Minister of State at the Department of the Taoiseach, Paul Kehoe TD, said that the Report of the Convention relating to economic, social and cultural rights will be referred to an Oireachtas committee for consideration.

The National Youth Council of Ireland expressed disappointment at this move stating that up to 120,000 sixteen and seventeen year olds will be denied the right to vote in the next General Election as a result.42 Economic, Social and Cultural Rights: Article 4 of the UN Convention on the Rights of the Child provides that with regard to economic, social and cultural rights, the State should take all appropriate legislative, administrative, and other measures for the implementation of the rights to the maximum extent of their available resources.43 The UN Committee on the Rights of the Child believes that it should be possible to invoke those rights directly before the Courts and that domestic law should set out socio-economic and cultural entitlements in sufficient detail to enable remedies for non-compliance to be effective.44 In line with the International Covenant on Economic, Social and Cultural Rights, even States with inadequate resources must strive to ensure the widest possible enjoyment of the relevant rights in the prevailing circumstances.45

A number of socio-economic rights are provided for under the Constitution of Ireland such as education and property rights.46 Other socio-economic rights are set out in a Directive of Social Policy under Article 48 of the Constitution.47 The Directive includes the right to work and safeguards the ‘economic interests and property rights.29 Other socio-economic rights of the weaker sections of the community.’ Article 45 of the Constitution. The Directive includes the right to work and safeguards the ‘economic interests and property rights.29 Other socio-economic rights of the weaker sections of the community.’ Article 45 explicitly provides that it is intended as guidance for the Oireachtas and should not be enforceable before the courts.

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

[28] ibid para 8 and ICESCR, General Comment No. 3 on the Nature of States Parties Obligations (art 2 para 1) UN Doc HRI/GEN/1/Rev.6 para 11.
[29] These can be found under Articles 42 and 43 of the Irish Constitution.
[32] Thirty-Fourth Amendment to the Constitution (Economic, Social and Cultural Rights) Bill 2014. Under the Bill, a constitutional amendment would have read: ‘The State shall progressively realising object to its maximum available resources and without discrimination, the rights contained in the International Covenant on Economic, Social and Cultural Rights. This duty shall be co-protectible by the Courts. The International Covenant on Economic, Social and Cultural Rights is a human rights treaty which sets out fifteen substantive rights including the rights to health and adequate standard of living, Convention on Economic, Social and Cultural Rights, (3 January 1966) 933 UNTS 3 (ICESCR).
Right to Education

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

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

Teresa Heeney, Chief Executive Officer, Early Childhood Ireland

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

Constitutional Convention

Immediate Action for 2016

ENSURE THAT THE RECOMMENDATION OF THE CONSTITUTIONAL CONVENTION TO ENHANCE THE PROTECTION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN THE CONSTITUTION IS CONSIDERED BY AN OIREACHTAS COMMITTEE IN A TIMELY MANNER. Consideration of the recommendation by an Oireachtas Committee should happen without delay in a transparent and consultative manner. The scope of the Committee’s work should be clearly established in advance and any recommendation of the Committee should be acted upon in a timely manner.
‘Early Childhood Care and Education’ receives a ‘B-’ in Report Card 2016, an increase on last year’s ‘D+’ grade. The improvement in the grade is in recognition of the substantial childcare package announced in Budget 2016 and the launch of the inclusion model for children with disabilities.

This is the final year being analysed in the Report Card series under the Programme for Government 2011-2016. The Government committed to maintaining the free pre-school year; to implement standards and review training options; and to invest in a targeted early childhood education programme for disadvantaged children. The Government has successfully maintained the free pre-school year and has increased investment in early years services. Several important commitments have been made on quality, a number of which have yet to come into effect.

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

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

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

The Kerryman, 23 May 2015

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

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

“It should be part of their programme,” said Independent TD for South Kerry Tom Fleming.

“The same goes for Special Needs Assistants (SNAs) — they’d need a bit of upskilling at times as well. I know that they are specialised and very well qualified in carrying out their duties, but then you need to bring in more specialised services — outside of the SNAs — where they’re needed.”

Last year’s budget saw 365 SNAs being provided, along with 480 more resource teachers. Additionally, there were also over 130 new special classes set up for the 2014/2015 school year. These changes come as the Department of Education is spending €60 million in 2015 to provide more start to the country’s growing school-going population.

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

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

By Cillian Walsh

40 Idib para 20.
41 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 18(2) and (3).
Following a series of consultations with stakeholders, the IDG’s Report was published in July 2015 and set out a suite of options for Government.43 Budget 2016 contained a major package of investment in early years with an increased investment of €85 million on childcare supports, bringing the total investment in 2016 to over €345 million.

Interdepartmental Group (IDG) was established to identify and assess policies and future options for increasing the affordability, quality and supply of early years and school-age care and education services in Ireland.44 Following a series of consultations with stakeholders, the IDG’s Report was published in July 2015 and set out a suite of options for Government.44 Budget 2016 contained a major package of investment in early years with an increased investment of €85 million on childcare supports, bringing the total investment in 2016 to over €345 million.45 Also welcome is the commitment to introduce paternal leave, which is the first official recognition of the role of fathers in the care of young children.46

Early Childhood Care and Education (ECCE) Programme: The ECCE programme is one of the State’s main mechanisms to support families and children, providing a year-free pre-school. The programme continued to be available in 2015.47

Now in its sixth full year, 67,000 pre-school children (around 95 per cent of eligible children) availed of the free pre-school year in 2014/15 within 4,200 services.48 The free pre-school programme cost €172 million in 2015.49

The ECCE programme has been maintained since its introduction in 2010. Budget 2016 expanded the existing provision of the programme from a standard 38 weeks, allowing children to avail of the programme from age three until they start primary school.50 On average, children will benefit from an additional 23 weeks of free pre-school depending on when the child’s birthday falls and the age they start primary school. Enrolment will be extended from one to three points in the year – January, April and September. It is estimated that 127,000 children will benefit in a given year from the expanded free pre-school provision. The extension of the scheme is warmly welcomed as it will go some way to assisting families with childcare costs. The work of the Area Based Childhood Programme (discussed in Chapter 4.3) is also acknowledged as a means to meet the commitment to invest in targeted early childhood education programmes for disadvantaged children.

Subsidised Childcare: Parents in Ireland continue to pay some of the highest childcare costs in the Organisation for Economic Co-operation and Development (OECD) countries.51 The OECD found Ireland’s investment in early years to be well below the OECD average of 0.4 per cent of GDP, coming in at 0.5 per cent of GDP in 2014.52 This figure includes spending on four and five year olds in primary schools. When this figure is adjusted to exclude primary school spending, the percentage of GDP spent on pre-school education amounts to less than 0.2 per cent.53 According to the European Commission, ‘Childcare programmes in Ireland generally fail to have a significant impact on increasing access to affordable and high-quality childcare, particularly for low-income families’, which is a significant factor in the high level of child poverty.54

In May 2015, the European Commission recommended that Ireland should increase the work-intensity of households and address the poverty risk of children through better access to affordable full-time childcare.55 In response, Budget 2016 provided for a further 8,000 subsidised places through the Community Childcare Subvention (CCS) Programme to support low-income families. Towards the end of 2015, an additional 5,000 places were released on the CCS Programme.56 There had been criticism of the CCS Programme because it was only available in community-based childcare providers, meaning that some low-income families had no way to access the programme in their area.57 The extra 8,000 places being made available in 2016 will be open to both community and private providers.

Importantly, the package announced in the Budget also committed to the development of a single Affordable Childcare programme to replace existing targeted subsidies and simplify the subsidy programme. The IDG Report proposed a number of options as to the design of a consolidated Affordable Childcare programme. Budget 2016 provided resources for a dedicated project team to undertake this design work, which is currently underway.58

Children with Disabilities: The UN Committee on the Rights of the Child noted that ‘early childhood education is of particular relevance for children with disabilities as often their disabilities and special needs are first recognized in these institutions.59 The Committee goes on to highlight the importance of early intervention in helping children achieve their full potential by increasing their opportunities to benefit from early childhood education which the Committee emphasises ‘should be designed to respond to her or his individual needs’.60

In response to concerns that children with disabilities were not always able to benefit from the ECCE programme on the same basis as their peers, and a commitment set out in the National Policy Framework,61 an Inter-Departmental Group was established in June 2015 to examine this issue and reported in September 2015.62 Budget 2016 announced the introduction of a new model to support the inclusion of children with disabilities in free pre-schools.63 The model, launched in November 2016...
2015, is expected to cost €17 million in 2016 and €40 million per year from 2020.66 The new model is a positive initiative that will further implement the UN Convention on the Rights of the Child by ensuring that children with disabilities can access early years education. The operation of the model should be reviewed in two years’ time to document its success and identify any barriers to its implementation. Under the new model, 50 additional mentors will be recruited to provide specialist early years and inclusion advice and support.67

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

Quality of Childcare: Key mechanisms by which the quality of childcare can be improved include the roll-out of quality standards, inspections of early years settings and training of staff. In 2015, a European Commission report criticised the operation of some of these mechanisms in Ireland. It said that, ‘[t]he findings from various sources indicate that there is variable quality in terms of compliance with [minimum standard] pre-school regulations, qualification levels of staff, in particular in centre-based services, and shortcomings in pre-school curricula.’68

An audit of childcare quality (as recommended in Report Card 2015) was announced in Budget 2016. This is a welcome measure as it will identify gaps and build an evidence base on which to track the impact of investments in this area. Budget 2016 also provided for further roll-out of the Síolta Quality Assurance Programme.69

The Early Years Quality Agenda comprises a number of actions aimed at improving quality and enhancing regulation within early years services.70 There has been mixed progress on the implementation of the Agenda in 2015. New national standards, scheduled for introduction in 2014 have not yet been introduced. A full re-examination of the existing Child Care Regulations has been undertaken delaying the publication date. Tougher sanctions for non-compliance with regulations, also announced in 2013, have not yet materialised.71 The establishment of a registration system for all pre-school services, announced in 2013 and legislated for in 2014, has yet to go live.72 Another area that has not been progressed is the commitment in 2012 to produce a National Early Years Strategy.

In a welcome move, Better Start, the National Early Years Quality Development Service was formally launched in May 2015 which aims to promote quality in early years settings. A component of Better Start called the Early Years Specialist Service (EYSS) provides mentoring support to the services.73

The Agenda provides that from September 2015, staff working in early years settings must have a minimum National Framework of Qualifications (NFQ) Level 5 qualification in early years care and education or an equivalent qualification.74 Further investment was announced in Budget 2016 to achieve this aim75 but the timeline of September 2015 has been postponed until the end of 2016 to give staff time to complete their qualification.76 Given that the level of staff qualification has been shown to be an important contributing factor, as well as an indicator of quality provision,77 it is important that this initiative be progressed without further delay.

There were two key developments with regard to the inspection of early years settings in 2015. First, in January 2015, the existing Inspectorate became the National Early Years Inspectorate under Tusla, the Child and Family Agency.78 Tusla expects that all services will have been inspected within the last three years by mid-2016.79

Second, running in parallel to the work of the National Early Years Inspectorate, the delivery of the ECCE programme will now be inspected on a pilot basis by Early Years-Focused Inspectors.80 A pilot of the model of inspection started in December 2015 and 20 inspections were to be undertaken by the end of 2015.81 The new Education-Focused Inspections are very welcome, as it is the first time that early years services are being inspected for their educational and developmental role.

A pilot of the model of inspection started in December 2015 and 20 inspections were to have been undertaken by the end of 2015. The new Education-Focused Inspections are very welcome, as it is the first time that early years services are being inspected for their educational and developmental role. However, the Education-Focused Inspections are restricted to the Free Pre-School Year and do not examine education provided to children in earlier years. Concerns have also been raised about the fragmentation and lack of coordination between the two inspection regimes and about the risk of increasing bureaucracy for those working on the ground.82 It is expected that the recently established Operations and Systems Alignment Group, chaired by the Department of Children and Youth Affairs, will address these concerns.83

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


66 Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 9 January 2016.

67 Tusla, Child and Family Agency, ‘Early Years Inspectorate Update’ <http://www.tusla.ie/services/preschool-services/early-years-inspectorate-update> accessed 26 January 2016. The Inspectorate is currently focusing on three primary areas: Governance, Welfare and Safety. Additional funding of €1.1 million will be provided in 2016 for the new Inspectorate. It will have 37 additional staff including 8 new inspectors. This new National Early Years Inspectorate came on the back of the Report on the Quality of Pre-School Services published in 2014, which identified variable quality of services. It showed that a significant minority of services were not compliant with a large number of regulations. Sinkad Haranly, Report on the Quality of Pre-school Services: Analysis of pre-school inspection reports (Tusla, Child and Family Agency 2014) 13-15.

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


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

71 Department of Education and Skills, ‘Education inspections alone won’t assure quality in print school’ Independent.ie (Dublin, 18 November 2015).

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

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


76 Tusla, Child and Family Agency, ‘Early Years Inspectorate Update’ <http://www.tusla.ie/services/preschool-services/early-years-inspectorate-update> accessed 26 January 2016. The Inspectorate is currently focusing on three primary areas: Governance, Welfare and Safety. Additional funding of €1.1 million will be provided in 2016 for the new Inspectorate. It will have 37 additional staff including 8 new inspectors. This new National Early Years Inspectorate came on the back of the Report on the Quality of Pre-School Services published in 2014, which identified variable quality of services. It showed that a significant minority of services were not compliant with a large number of regulations. Sinkad Haranly, Report on the Quality of Pre-school Services: Analysis of pre-school inspection reports (Tusla, Child and Family Agency 2014) 13-15.

Early Childhood Care and Education
Immediate Actions for 2016

CONTINUE TO TAKE ACTION TO IMPROVE QUALITY IN EARLY CHILDHOOD CARE AND EDUCATION.
Measures in this area should include the regulation of childcare workers, increasing minimum qualification levels and the full roll-out of the national quality and curriculum frameworks for early years – Aistear and Síolta – and the Diversity and Equality Guidelines for Childcare Providers. Expand the Learner Fund to provide support to allow childcare workers to progress to NQF levels 6, 7 and 8. While the upskilling of childcare staff to NQF levels 5 is very positive, this remains a low level qualification by international standards. Staff should be supported to continue to progress their qualifications to the higher qualification levels on an incremental basis.

INTRODUCE A SINGLE AFFORDABLE CHILD CARE PROGRAMME.
Consolidate existing targeted childcare subsidies to develop a new single affordable programme, in line with the recommendations of the Report of Inter-Departmental Working Group: Future Investment in Childcare in Ireland.

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

Child Literacy

GOVERNMENT COMMITMENT
The Programme for Government 2011-2016 commits to developing a national literacy strategy for children and young people as a matter of urgency, with school-level targets that are related to national targets.

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

Progress: Some
The Programme for Government also commits to:
- improving pre-service and in-service training in the teaching of literacy for all primary and secondary school teachers, with dedicated literacy mentors to work intensively with teachers in the most disadvantaged primary schools.

Progress: Some
- increasing time spent on literacy: Delivering Equality of Opportunity in Schools (DEIS) primary schools will be required to teach literacy for 120 minutes per day; non-DEIS schools to teach literacy for 90 minutes per day. This time includes incorporating structured literacy tuition into the teaching of other subjects.

Progress: Incomplete

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

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

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

**National Strategy: Literacy and Numeracy for Learning and Life:** The National Strategy to Improve Literacy and Numeracy among Children and Young People 2011-2020 sets out clear targets for children’s literacy performance at primary and post-primary levels, with a view to substantially improving performance by 2020.86 The Government reiterated its commitment to the implementation of the National Literacy and Numeracy Strategy for Realising the Potential of all Children in DEIS schools are as entitled to an individual and suitable education to a specific quality of education which is likely to extend to a quality of literacy and numeracy skills.87 The gap in achievement in children’s DEIS schools compared with non-DEIS schools shows that there is the need for continued investment and leadership in the Literacy and Numeracy Strategy. The interim review of the Strategy should focus on measures to bridge this gap and would consider the continuing demand for the outcome of the review of the DEIS programme in its deliberations.

**Literacy Action Plan:** The Strategy did not follow the Programme for Government commitment to require schools to have dedicated Literacy Action Plans.88 A different approach was adopted, which requires all schools to engage in School Self-Evaluation (SSE) and to produce School Improvement Plans, with specific targets for the promotion and improvement of literacy and numeracy.89 At the end of the academic year 2014/15, 95 per cent of primary schools and almost 80 per cent of post-primary schools had submitted a summary of their SSE report to their own school community.90 in addition, test results published in January 2015 show the first significant improvements in literacy in primary schools in thirty years and that the 2020 targets, set in the Strategy, have already been achieved.

83. UNCRC ‘General Comment No. 1 on The Aims of Education Article 29(1)’ (2001) UN Doc CRC/GC/2001/1 para 9.
84. ibid.
89. Department of Education and Skills, Circular Letter 40/2015 Implementation of the National Literacy and Numeracy Strategy for Realising the Potential of all Children in DEIS schools are as entitled to an individual and suitable education to a specific quality of education which is likely to extend to a quality of literacy and numeracy skills. The gap in achievement in children’s DEIS schools compared with non-DEIS schools shows that there is the need for continued investment and leadership in the Literacy and Numeracy Strategy. The interim review of the Strategy should focus on measures to bridge this gap and would consider the continuing demand for the outcome of the review of the DEIS programme in its deliberations.
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83. UNCRC ‘General Comment No. 1 on The Aims of Education Article 29(1)’ (2001) UN Doc CRC/GC/2001/1 para 9.
84. ibid.
95 per cent of primary schools and 61 per cent of post-primary schools had submitted their School Improvement Plans. The statistics indicate that schools demonstrated a high level of commitment to this process in 2015; this is to be commended.

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

Despite the commitment in the Programme for Government to provide dedicated literacy mentors to the most disadvantaged schools, DEIS advisors (formerly ‘Cuiditheoirí’) who were dedicated to DEIS schools have been replaced by literacy and numeracy advisors who are shared amongst the general population of schools. There were 38 full time literacy and numeracy advisors to serve all schools in 2015. This means that the Government’s commitment in this area remains outstanding. Consideration should be given, as part of the ongoing review of the DEIS programme, as to whether dedicated DEIS literacy mentors would improve outcomes in those schools.

Time spent on literacy: A 2011 Departmental Circular continues to guide practice; it provides that all primary schools are required to spend 8.5 hours (102 mins per day) a week on literacy for full-day pupils and 6.5 hours (78 mins per day) for pupils with a shorter day. This time allocation remains below the commitment in the Programme for Government, which committed that 10 hours per week in DEIS schools and 7.5 hours per week in non-DEIS schools would be spent on literacy.

Despite the commitment in the Programme for Government to provide dedicated literacy mentors to the most disadvantaged schools, DEIS advisors (formerly ‘Cuiditheoirí’) who were dedicated to DEIS schools have been replaced by literacy and numeracy advisors who are shared amongst the general population of schools. There were 38 full-time literacy and numeracy advisors to serve all schools in 2015. This means that the

**Child Literacy**

**Immediate Actions for 2016**


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

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

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

GOVERNMENT COMMITMENT

The Programme for Government 2011-2016 commits to publishing a plan for the implementation of the Education for Persons with Special Educational Needs (EPSEN) Act 2004 to prioritise access for children with special needs to an individual education plan. It states that the priority will be to move to a system where necessary supports follow a child from primary to second level and to achieve greater integration of special needs-related services.

Progress: Some

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

This is the final year being analysed in the Report Card series under the Programme for Government 2011-2016. The Government committed to publish a plan for the implementation of the Education for Persons with Special Educational Needs (EPSEN) Act 2004. While there have been important developments in policy initiatives, the most critical provisions of the EPSEN Act 2004 remain unimplemented. The Education Passport will alert schools to the additional learning supports that a pupil had in primary school however whether the child will continue to receive these supports is likely to depend on the level of resources available in their new post-primary school. The new Inclusion Support Service, established to bring greater cohesion to special needs services for children, is welcome but it is unclear, as yet, if it will provide any enhanced services.

The right to education extends to all children regardless of their needs or ability.114 The aim of the right to education is to empower the child by developing his or her skills, learning and other capabilities, human dignity, self-esteem and self-confidence.115 It goes beyond formal school to embrace a wide range of life experiences and learning processes to enable children ‘to develop their personalities, talents and abilities and to live a full and satisfying life within society’.116 Children have the basic right to development and the State must ensure that every child’s right is vindicated to the maximum extent possible, regardless of ability.117

Children should not face discrimination because of a disability.118 States must ensure, as a priority, that children with disabilities ‘have equal opportunities to participate fully in education and community life, including by the removal of barriers that impede the realization of their rights’.119

Education for Persons with Special Educational Needs Act 2004: The Education for Persons with Special Educational Needs (EPSEN) Act 2004 is the key statute governing the education of children with special needs. It provides for ‘inclusive education’120, in line with the Salamanca Statement on Principles, Policy and Practice in Special Needs Education.121 However in 2008, due to the budgetary constraints, the Government deferred implementation of the Act.122 In June 2015, the UN Committee on Economic, Social and Cultural Rights recommended that the State step up its efforts to implement the EPSEN Act.123

The cost of the full implementation of the EPSEN Act was estimated in 2006 to be €235 million.124 The Department of Education and Skills now believes the cost would be higher but it has not published an estimate.125 Under Better Outcomes, Brighter Futures: The National Policy Framework for Children

Children and Young People 2014-2020, the Government committed to prepare and implement a plan, guided by the National Council for Special Education (NCSE) policy advice, ‘on how aspects of EPSEN (…) can be implemented, including prioritising access to an individual education plan and implementing the recommendations of the NCSE Working Group on a new resource allocation model for schools.’126 This plan has not yet been published. Over ten years after its enactment, key provisions of the legislation remain unimplemented and there is no clear policy on the entitlement of children with special educational needs to education.

Education Passport: The Programme for Government committed to move to a system where supports would follow ‘a child from primary to second level and to achieve greater integration of special needs-related services’. The Education Passport, introduced in the academic year 2014/15, involves the transfer of a package of information materials in relation to each child from the child’s primary school to their enrolled post-primary school.127 From the academic year 2015/2016, a Special Educational Needs Summary Form was to be included in the Education Passport to support the sharing of information on children who have

111 UNCRC ‘General Comment No. 1 on The Aims of Education Article 29(2)’ (2001) UN Doc CRC/C/IG/9/1 para 2.
112 Ibid.
114 Ibid Art 2 and UNCRC ‘General Comment No. 1 on The Aims of Education Article 29(2)’ (2001) UN Doc CRC/C/GC/9/1 para 2.
116 Education for Persons with Special Educational Needs Act 2004, s 2. This section, which has been commenced, provides that a child with special educational needs shall be educated in an inclusive environment with children who do not have such needs unless the nature or degree of those needs of the child is such that to do so would be inconsistent with— (a) the best interests of the child as determined in accordance with any assessment carried out under the Act; and (b) the effective provision of education for children with whom the child is to be educated.
117 World Conference on Special Needs Education Access and Quality, The Salamanca Statement and Framework for Action on Special Educational Needs. (UNESCO 1994). The UN Committee on the Rights of the Child has stated that inclusive education should be the goal of educating children with disabilities: ‘The manter and form of inclusion must be dictated by the individual educational needs of the child, since the education of some children with disabilities requires a kind of support which may not be readily available in the regular school system. UNCRC ‘General Comment No. 9 on the rights of children with disabilities’ (2006) UN Doc CRC/C/GC/9 para 66.
118 Communication received from the Department of Education and Skills further to a bilateral of the CSF Pillar on 4 November 2013.
120 Minister for Education and Skills, Ruairí Quinn TD, Dáil Debates, Special Educational Needs Services Provision, 28 May 2013 [2547/13].
121 Communications received by the Children’s Rights Alliance from the Department of Education and Skills further to a bilateral of the CSF Pillar on 4 November 2013. The Department of Education and Skills has received legal opinion that it is not possible to implement the outstanding individual sections of the Act independently of other sections.
123 Department of Education and Skills, Circular 27/2015 Information in Relation to Actions under the Literacy and Numeracy Strategy: Standardised Testing, Reporting, Library Support and Other Matters (Department of Education and Skills 2015). The Education Passport, developed by the National Council for Curriculum and Assessment (NCCA) contains three core documents: - The standard 6th Class Report Card Template for completion by schools; - The My Profile sheet for completion by pupils in primary schools before being shared with parents or guardians; - The My Child’s Profile sheet for completion by parents/guardians.

Previously, post-primary principals had the responsibility to inform the principal of primary schools of the names of students whose enrolment had been confirmed in their post-primary school. Circular 25/2012.
been identified as having learning needs.\textsuperscript{124} The aim of this document is to alert post-primary schools if additional support is needed to support learning.\textsuperscript{125} The Education Passport is a welcome information sharing initiative. Whether or not a child will receive the same Education Passport when he or she transfers to post-primary school is not clear. This is likely to depend on the level of resources available in their new school.

**Integrating Special Needs Services:** The Programme for Government committed to achieve greater integration of services for children with special educational needs. Existing advisory and intervention supports in schools for children with special educational needs are provided by a range of different organisations.\textsuperscript{126} The NCSE recommended in 2013 that a new Inclusion Support Service be established under its remit to provide a coherent service to schools.\textsuperscript{127} The new service was announced in February 2015.\textsuperscript{128} Its aim is to assist schools in supporting children with special educational needs through greater integration of special needs services.\textsuperscript{129} Details have not yet emerged as to whether this service will merely centralise existing services under the NCSE or will include enhanced services for children.

**New Model for Teaching Resource Allocation:** In September 2015, it was announced that a new model for the allocation of additional teaching resources to schools for pupils with special educational needs\textsuperscript{130} is to be piloted in 47 schools (38 primary and 19 post-primary schools) during the 2015/16 school year.\textsuperscript{131} A review of the pilot will be carried out with a view to taking on board any learnings and introducing the model as soon as possible.\textsuperscript{132} A new model was recommended by the NCSE to replace the existing model which risks ‘children being diagnosed [as] having a special education need for resource allocation purposes rather than for health reasons’.\textsuperscript{133} Under the new model, schools will be given a greater degree of autonomy in the allocation of resources based on a child’s learning needs rather than on the basis of a disability diagnosis.\textsuperscript{134}

**Supports for Children with Special Educational Needs:** The UN Committee on the Rights of the Child has provided that children with disabilities have the right to assistance, appropriate to their condition. Assistance provided should be designed to ensure that the child has effective access to education and receives that education in a manner conducive to the child achieving ‘the fullest possible social integration and individual development, including his or her cultural and spiritual development’.\textsuperscript{135} The UN Committee on the Rights of the Child has provided that children with disabilities have the right to assistance, appropriate to their condition. Assistance provided should be designed to ensure that the child has effective access to education and receives that education in a manner conducive to the child achieving ‘the fullest possible social integration and individual development, including his or her cultural and spiritual development’.\textsuperscript{136} The Committee has also stated that training programmes for professionals working with and for children with disabilities must include targeted and focused education on the rights of children with disabilities.\textsuperscript{137} This could be applied not only to Special Needs Assistants and Resource Teachers but also to educators, policymakers and health workers.

The UN Committee on the Rights of the Child has provided that children with disabilities have the right to assistance, appropriate to their condition. Assistance provided should be designed to ensure that the child has effective access to education and receives that education in a manner conducive to the child achieving ‘the fullest possible social integration and individual development, including his or her cultural and spiritual development’.\textsuperscript{138} The Committee has also stated that training programmes for professionals working with and for children with disabilities must include targeted and focused education on the rights of children with disabilities.\textsuperscript{139} This could be applied not only to Special Needs Assistants and Resource Teachers but also to educators, policymakers and health workers.

Funding for special education provision in 2016 will amount to some €6.1 billion, which is equivalent to 17.6 per cent of the gross current allocation for education and training.\textsuperscript{140} The Government has committed to ensuring that every child who needs a Special Needs Assistant (SNA) will have access to one.\textsuperscript{141} In 2015, there were 11,940 SNAs available to schools.\textsuperscript{142} In the academic year 2014/15 there was 11,157 allocated Resource Teaching posts.\textsuperscript{143} The increase in supports is very welcome and it is hoped that this will improve access to mainstream schools for children with special educational needs.\textsuperscript{144}

During 2015, three positive announcements were made by the Department of Education and Skills – an additional interim allocation of Resource Teachers for children with Down Syndrome;\textsuperscript{145} an additional 610 SNAs from September 2015 to meet a ‘significant increase’ in assessed need;\textsuperscript{146} and a review of the SNA Scheme,\textsuperscript{147} which is expected to report by the end of February 2016.\textsuperscript{148}

\begin{thebibliography}{99}
\bibitem{124} National Council for Special Education, ‘Education Passport, FAQs for Primary Schools’ (<http://www.ncse.ie/en/Curriculum_and_Assessment/Early_Childhood_and_Primary_Education/Primary_Education/Assessment/Report_Card_Templates/Transfer/FAQs_for_primearschools.html>) accessed 29 January 2016.
\bibitem{125} ibid.
\bibitem{127} ibid.
\bibitem{129} ibid. This service will include the Special Education Support Service (SESS), the National Behaviour Support Service (NBSS) and the Visiting Teacher Service for children who are deaf/hard of hearing and for children who are (Visually) Impaired (VT/VI) which were managed by the Department of Education and Skills until this new Service came into operation. This change is consistent with recommendations of NCSE reports and with the review of the VT/VI, which can be found here (<http://www.education.ie/en/Publications/Education-Reports/pub_ed_review_VTHVI_service_ireland.pdf>).
\bibitem{130} In June 2014, the National Council for Special Education (NCSE) published the Report on a Proposed New Model for Allocating Teacher Resources for Students with Special Educational Needs: The report recommends that a new allocation model is developed based on a school’s educational profile, while providing a baseline allocation to every mainstream school in Ireland. (NCSE 2014) (NCSE 2013) 50.
\bibitem{132} Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 28 January 2016.
\bibitem{135} UNCRC ‘General Comment No. 9 on the rights of children with disabilities’ (2006) UN Doc CRC/C/GC/9 para 12.
\bibitem{136} Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 9 December 2015.
\bibitem{137} UNCRC ‘General Comment No. 9 on the rights of children with disabilities’ (2006) UN Doc CRC/C/GC/9 para 27.
\bibitem{143} Department of Education and Skills, 9 December 2015.
\bibitem{145} Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 28 January 2016.
\bibitem{149} ibid.
\bibitem{150} ibid.
\end{thebibliography}
School Buildings

GOVERNMENT COMMITMENT

The Programme for Government 2011-2016 commits to prioritising school building projects in a revised national development plan. It also makes a series of commitments in relation to school buildings; they include:

Progress: Very Good

- To progressively phase-out the inefficient renting of school prefabs. In the interim, negotiation of prefab rental contracts will be part of a reformed public procurement policy to encourage value for money, transparency and reduce dependency on temporary accommodation.

Progress: Good

- To overhaul the Department of Education and Skills’ central database of school accommodation to ensure a complete inventory of school buildings and associated structures is maintained so deficiencies are easily identifiable.

2.4

Children with Special Educational Needs

Immediate Actions for 2016

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

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

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

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

MONITOR THE ROLL-OUT OF THE EDUCATION PASSPORT INITIATIVE.

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

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

This is the final year being analysed in the Report Card series under the Programme for Government 2011-2016 in which a commitment was made to prioritise school building projects in a revised national plan; to progressively phase-out the inefficient renting of school prefabs; and to overhaul the central database of school accommodation. Progress has been made on each of these commitments. Steps have been taken to address the rental costs associated with prefabs though spending in this area remains high. The majority of schools have completed the school inventory and the school building programme is one of the most positive achievements under the Programme for Government. Over the past five years, 189 schools have been completed providing over 48,400 permanent school places with over 115 projects ongoing.

The inclusion of the commitment to provide ‘quality learning environments for all’ in Better Outcomes,
Brighter Futures: The National Policy framework for Children and Young People 2014-2020 consolidates the Government’s ongoing commitment in this area up to 2020. Under the National Policy Framework, the Government also expressed its intention to continue to expand its current practice of clustering schools to ‘encourage greater connections between schools and community and State services, including sharing infrastructure.’

Budget 2016 provided €433 million for the Schools Building Programme. In 2015, as part of the five-year €2 billion capital investment programme, 150 large scale projects were completed, including 33 new schools and large scale extensions at primary school level and 17 new schools and large extensions at post-primary level. In addition, a further 42 new projects were commenced during 2015. The Department of Education and Skills predicts an ongoing increase in the number of pupils at primary level in parts of the country until at least 2019.

To address this, in November 2015 the Minister for Education and Skills, Jan O’Sullivan TD, announced a new capital investment programme of €2.8 billion to run from 2016 to 2021 to provide an additional 62,000 permanent school places. This is the Government’s second five-year school building investment programme, following on from its first programme in 2011, bringing the total investment to almost €5 billion. This sustained and significant investment in ensuring and improving the quality of the learning environment for children is to be warmly welcomed. The new programme will provide 310 major school projects comprising extension and refurbishment at 156 primary schools, 124 post-primary schools and 30 special schools and the building of 14 new schools in areas with a strong demographic demand.

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

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

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

While this announcement is welcome and is linked to the previous commitment, the Government failed to reach its original commitment on pre-fabs. Under the Department of Education and Skills Prefab Replacement Initiatives in 2012 and 2013, approval was given to 217 schools (209 primary and 8 post-primary schools) to place 614 prefabs units with a permanent accommodation. Of these, 180 have been completed with 9 currently on site. There were no new initiatives in 2014 or 2015 and €18 million was allocated for rented accommodation in 2015, a reduction of just €9.5 million on the 2011 spend.

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

Inventory of School Accommodation: The Inventory of School Accommodation will be developed on an incremental basis. Information generated is being linked to data on national demographic trends through a Geographical Information System (GIS). Together, this material will make up an inventory of key data and statistics on the existing school building stock countrywide and is enabling the Department to calculate existing capacity and identify where additional accommodation is required. The GIS is central to identifying the demographic demand which led to the development of the 50 major school projects completed in 2015. The majority of schools, 85 per cent, have completed or are in the process of completing the inventory.
**Patronage and Pluralism in Primary Education**

**GOVERNMENT COMMITMENT**

The Programme for Government 2011-2016 commits to initiating a time-limited Forum on Patronage and Pluralism in the Primary Sector to allow all stakeholders, including parents, to engage in open debate on change of patronage in communities where it is appropriate and necessary. The Forum will have concise terms of reference and will sit for a maximum of 12 months.

**Progress: Complete**

The Forum’s recommendations will be drawn up into a White Paper for consideration and implementation by Government to ensure that the education system can provide a sufficiently diverse number of schools, catering for all religions and none.

**Progress: Incomplete**

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

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

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

TAKE APPROPRIATE MEASURES ON FOOT OF THE INVENTORY OF SCHOOL ACCOMMODATION AND PUBLISH KEY FINDINGS.

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

169 Patronage refers to the ownership and management of schools. In Ireland, the vast majority of primary schools are privately owned and supported by different churches. The State pays the bulk of the building and running costs and a local contribution is made towards the running costs. The Forum comprised Professor John Coolahan (Chair), Dr Caroline Hussey and Fionnuala Kilfeather.

170 John Coolahan, Caroline Hussey, Fionnuala Kilfeather, Report of the Forum’s Advisory Group (Dublin 2012). The Forum on Patronage and Pluralism in the Primary Sector. The Forum on Patronage and Pluralism in the Primary Sector was established in March 2011 and published its final report in 2012 with three key relevant recommendations. The first related to the divesting of patronage, which would take place in a phased process, the second drew attention to the issues affecting ‘stand-alone’ schools (where there is no other choice of school nearby). The final key recommendation focused on how schools can be more inclusive and respect the constitutional rights of all children.
Children have the right to be free from discrimination of any kind, irrespective of, amongst other things, the child’s or their parent’s or guardian’s religion and the State is obliged to ‘take all appropriate measures’ to ensure this right is respected.

system has led to difficulties for families who wish for their child to be educated in a multi- or non-denominational environment. These families may find themselves unable to do so due to a lack of options in their geographical area, other than a denominationally publicly funded school.187

Divestment: In the lifetime of this Government, there has been some progress in providing greater choice in the school system. Parental surveys on demand for alternative forms of education carried out in 2012 and 2013 found that there was a clear demand in 28% of primary schools for a multi-denominational primary school. However, the divestment process has been very slow. In 2014, the Department of Education and Skills acknowledged that divestment had not proceeded at the pace originally envisaged.188 In November 2015, the Archbishop of Dublin, Diarmuid Martin, commented that elements within the Catholic Church are ‘dragging their feet’ on the issue of progressing the divestment process.189

School Admissions: A recent survey has found that one in five of those surveyed were aware of someone who has baptised their child to get them a place in a local school and 77 per cent did not think a school should have the right to refuse admission to a child who has a different religion to that of the school’s patron.188 The Equal Status Acts 2000-2012, section 61(2)(b) of the Bill proposes that where section 7(3)(c) applies, the Minister for Education and Skills could order a school to enrol a student if it would be necessary to maintain the ethos of the school.187

Children have the right to freedom of thought, conscience and religion.185 A child’s right to freedom of thought, conscience and religion is protected under Article 42.2.1° of the Irish Constitution. The Constitution also allows for parents or guardians to provide direction on how this right is exercised. It does not provide any qualification to take account of the child’s evolving preferences. While there are positive developments, given the virtual monopoly of denominational education, these new schools are just a fragment of what is needed to ensure that children and families are protected from discrimination at primary level and are provided with equal opportunity in accessing education.

Negotiations on divestment of primary school properties between the Catholic Church and the Minister for Education and Skills began in 2006. However, the divestment process has been very slow. In 2014, the Department of Education and Skills acknowledged that divestment had not proceeded at the pace originally envisaged. In November 2015, the Archbishop of Dublin, Diarmuid Martin, commented that elements within the Catholic Church are ‘dragging their feet’ on the issue of progressing the divestment process. School Admissions: A recent survey has found that one in five of those surveyed were aware of someone who has baptised their child to get them a place in a local school and 77 per cent did not think a school should have the right to refuse admission to a child who has a different religion to that of the school’s patron. While the Equal Status Acts 2000-2012, section 61(2)(b) of the Bill proposes that where section 7(3)(c) applies, the Minister for Education and Skills could order a school to enrol a student if it would be necessary to maintain the ethos of the school.
Schools face practical difficulties as they must provide alternative subject-matter without being taught. Capacities and so is inconsistent with Article 14 of the UN Convention on the Rights of the Child, which obliges States to ‘respect the right of the child to freedom of conscience and religion’ and the rights and duties of the parents or guardians, ‘to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child’. Article 44.2.4° of the Constitution allows parents or guardians to opt a child out of religious instruction classes at schools receiving public money.197 Enshrining this principle in legislation, Section 30 of the Education Act 1998 provides that a student shall not be required to attend instruction in any subject which is contrary to the conscience of his or her parent.198 Despite this legal framework, the right of a child to opt out of religious instruction is not being upheld. Opt-out measures tend to be ad hoc in nature and inconsistently applied across schools.199 Schools face practical difficulties as they must provide alternative supervision for the child in place of religious education without any alternative subject-matter being taught.200

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

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

Education about Religions and Beliefs (ERB) and Ethics: The UN Committee on the Rights of the Child has stated that education should be directed to a ‘wide range of values’ and that the aims of education include the development of respect for the child’s own cultural identity, language and values.205 The Committee further states that ‘the school environment itself must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin’.206 In November 2015, in line with a recommendation of the Forum on Patronage and Pluralism,207 the National Council for Curriculum and Assessment launched a consultation on the development of a curriculum in Education about Religions and Beliefs (ERB) and Ethics.208 The finalised curriculum should be forward-looking and be grounded in the child’s right to be free from discrimination and their right to freedom of thought, conscience and religion.

The UN Committee on the Rights of the Child has stated that education should be directed to a ‘wide range of values’ and that the aims of education include the development of respect for the child’s own cultural identity, language and values. The Committee further states that ‘the school environment itself must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin’.209

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197 Constitution of Ireland Article 44.2.4°.
202 Catholic Schools Partnership, Catholic Primary Schools in a Changing Ireland – Sharing Good Practices on the Inclusion of All Pupils, (Catholic Schools Partnership 2016). The report has been criticised by the Irish National Teachers Organisation and the chair of the Forum on Patronage and Pluralism in Primary Education, Professor John O’Coorain expressed his disappointment. He noted that while the report was a ‘step in the right direction, it is limited’ and that he would like to have seen more concrete examples of good practice in Catholic schools. Katherine Donnelly, Teachers’ Union says Church proposals for religious inclusion ‘disappointing’. The Irish Independent (Dublin, 13 March 2015); Katherine Donnelly, Catholic Church guidelines on religious inclusion in schools ‘disappointing’. The Irish Independent (Dublin 12 March 2015).
205 UNCRC ‘General Comment No. 1 on The Aims of Education Article 29(1)’ 2003 UN Doc CRC/GC/2003/1 para 4.
206 ibid para 19.
CREATE A NATIONAL NETWORK OF SCHOOLS THAT GUARANTEE EQUALITY OF ACCESS TO CHILDREN IRRESPECTIVE OF THEIR RELIGIOUS OR NON-RELIGIOUS BELIEF.

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

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

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

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

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

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

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

3. RIGHT TO HEALTH

Chapter Grade C+

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

Shari McDaid, Director, Mental Health Reform

Right to Health

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

Summary of Article 24 of the UN Convention on the Rights of the Child
‘Primary Care’ receives a ‘B-’ grade in Report Card 2016, an increase on the ‘C’ grade awarded in Report Card 2015. This grade reflects the continued introduction on a phased basis of Universal Primary Care with the introduction of free General Practitioner (GP) care for children under the age of six and the commitment to extend the scheme to all children under the age of 12 in 2016. Children and those over 70 are the only groups to have benefited from free GP Care.

This is the final year being analysed in the Report Card series under the Programme for Government 2011-2016, while significant steps have been taken to remove fees for GP care for children, it is clear that the Government has not fulfilled its commitment to introduce a legislative basis for Universal Primary Care. Universal Primary Care is defined as the establishment of a primary care system which is free at the point of use, comprising multi-disciplinary teams in dedicated centres, and with a greater focus on prevention of illness and the care of chronic conditions.209 The Government commitment to introduce Universal Primary Care is a positive step towards vindicating the right of a child to the highest attainable standard of health and healthcare.210 As a child’s first point of contact with the health system, a well-resourced, responsive and effective primary care service has the potential to prevent the development of conditions that may later require more intensive treatment or hospitalisation, at greater cost to the child and the State. Article 24 of the UN Convention


on the Rights of the Child places particular emphasis on the development of primary health care213 and through General Comment 15, the UN Committee on the Rights of the Child has stressed that primary care should include the provision of information and services, as well as the prevention of illness and injury.214

Ireland has the only health system in the European Union that does not offer universal coverage of primary care.215 Instead, it operates a two-tier system which has resulted in long waiting lists to access public healthcare services.216 Ireland spends 8.1 per cent of its Gross Domestic Product (GDP) on health.217 Despite the Government commitment to introduce Universal Primary Care,218 less than 25 per cent of the Health Service Executive’s overall budget is allocated to these services.219

The introduction of a supplementary budget for health has become standard practice over the past number of years. However, under European Union Fiscal Rules introduced in January 2015220 it will no longer be possible to have a supplementary budget to address an overspend in any department. Any overspend in health can only be dealt with by “savings’ from elsewhere, such as cutting back on services or raising more money, for example through increased social contributions.”221 There are concerns that the existing level of service may struggle to be maintained towards the end of 2016 within the current Budget allocation.222

Free GP Care for Children:223 In Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020, the Government reiterated its commitment to introduce universal free GP services,224 first articulated in the 2012 Future Health Strategies.225 In 2013, the Government announced the first step towards universal free GP care,226 by allocating €37 million to meet the full year cost of free GP care to 420,000 children under the age of six years.227 Following the enactment of the Health (General Practitioner) Service Act 2014 and the successful negotiations of a GP contract, the scheme for children under six years began in June 2015 and within three weeks 60 percent of children under six were registered.228 An updated figure for the number of children who remain unregistered has not been published. As the scheme is a key way of implementing a child’s right to access healthcare, the registration figure will need to be tracked to ensure close to 100 per cent registration.

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

In the Budget 2016 the free GP Care Scheme will be extended to all children under the age of 12. The extension of the GP Care Scheme to the under 12s is expected to commence in late 2016 and will result in approximately 200,000 additional children being eligible to access GP services without fees.229

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

The new GP contract, negotiated as part of the scheme for under fives, began a process of re-orientating the focus of GP care toward prevention and health promotion. New elements of the scheme include the provision of assessments of children at age two years and again at age five years. The health assessments are aimed at wellbeing and the prevention of disease.230 The scheme also includes an agreed cycle of care for children diagnosed with asthma.231 The expanded scheme is a further positive step towards fulfilling the child’s right to access preventive healthcare, in line with EU law232 and international human rights law.233

The Government announced in Budget 2016 that the free GP Care Scheme will be extended to all children under the age of 12. The extension of the GP Care Scheme to the under 12s is expected to commence in late 2016 and will result in approximately 200,000 additional children being eligible to access GP services without fees.229

Primary Care Teams and Centres: Community-based, early intervention and preventative healthcare services within a primary care structure are critical so that children can access effective services close to home and when they need them. To fulfil the child’s right to the highest attainable standard of healthcare, it is essential that primary care teams and primary care centres are in place and fully operational throughout the country. The UN Committee on the Rights of the Child encourages states to ‘strive to ensure availability, accessibility, acceptability and quality of essential children’s health services for all, without discrimination.’234

A key way in which the Government is seeking to fulfil its commitment to introduce universal primary healthcare is through the development of primary care teams235 and primary care centres.236 At the end of 2015, 484 primary care teams, at different stages of development, were in operation across the country.237 The teams comprise of a range of health and social care professionals who work together to deliver local accessible health and social services to a defined population of between 7,000-10,000 people at ‘primary’ or first level.238

A Primary Care Team (PCT) is a multidisciplinary group of health and social care professionals who work together to deliver local accessible health and social services to a defined population of between 7,000-10,000 people at ‘primary’ or first level.239


Communication received by the Children’s Rights Alliance from the Department of Health, 18 December 2015.

Minister for Health, Leo Varadkar TD, Parliamentary Questions, Priority Questions, 22 October 2015 [36796/15].


Health Service Executive, ‘To fulfil its commitment to introduce universal primary healthcare is through the development of primary care teams and primary care centres.’235

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Minister for Health, Leo Varadkar TD, Parliamentary Questions, Priority Questions, 22 October 2015 [36796/15].


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Minister for Health, Leo Varadkar TD, Parliamentary Questions, Priority Questions, 22 October 2015 [36796/15].


Communication received by the Children’s Rights Alliance from the Department of Health, 18 December 2015.

Minister for Health, Leo Varadkar TD, Parliamentary Questions, Priority Questions, 22 October 2015 [36796/15].

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

A system of Universal Health Insurance (UHI) was identified in the Programme for Government 2011-2016 as the preferred model for the introduction of universal healthcare, including universal primary care and a target date for its introduction was set for 2019.239 On foot of the findings of a costing exercise published in November 2015, the Government decided not to proceed with the proposed model.240 There is no indication, as of yet, what reform if any will be pursued in lieu of UHI.241

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

Immediate Actions for 2016

COMPLETE THE EXTENSION OF FREE GP CARE TO ALL CHILDREN UNDER THE AGE OF 18 YEARS. The completion of the introduction of free GP care for all children under 18 years should be a priority for the next Government, as a key strategy to vindicate the child’s right to access healthcare services.

CONTINUE THE DEVELOPMENT OF PRIMARY CARE TEAMS AND CENTRES. The development of primary care teams and centres should be continued; a well-staffed and adequately funded primary care system is essential for the child’s right to health to be respected, protected and fulfilled.

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

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239 ibid.
240 Department of Public Expenditure and Reform, Building on Recovery: Infrastructure and Capital Investment 2016-2021 (Department of Public Expenditure and Reform 2015) 32.
242 The findings found that the cost incurred in adopting the preferred model of UHI would not be outweighed by the anticipated benefits of improved patient outcomes, lower healthcare prices or lower premiums. M. Wren, S. Connolly, N. Cunningham, An Examination of the Potential Costs of Universal Health Insurance in Ireland (ESRI 2015).
244 UNCRC ‘General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art 24)’ (2013) UN Doc CRC/C/15/15 para 94-95.
245 UN Committee on the Rights of the Child Concluding Observations Ireland’ (2016) UN Doc CRC/C/IRL/CO/2, para 45(a).


Children’s Hospital

GOVERNMENT COMMITMENT

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

Progress: Limited

‘Children’s Hospital’ gets a ‘C+’ grade in Report Card 2016, up slightly from last year’s grade of a ‘C’. Progress has been slow due to the design and planning process for capital building projects.

2015 saw the design for the National Children’s Hospital unveiled and the planning application lodged with An Bord Pleanála; a decision is expected by March 2016.

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

A world class national children’s hospital is essential to vindicating a child’s right to the highest attainable standard of health246 and to facilities for the treatment of illness and rehabilitation of health.247 This right requires that children receive ‘quality health services’ and obliges states to the greatest extent possible, to provide hospital care with ‘functional referral systems linking communities and families at all levels of the health system’248; the right to health requires states to protect and respect rights that impact all other aspects of a child’s life in the hospital setting, including the right to participate in matters relating to him or her;249 the best interests of the child;250 the right not to be separated from his/her parents;251 the right to privacy;252 the right to be protected from harm;253 the child’s right to rest, leisure, play and recreational activities254 and the right to education.255

The development of a new, single, national children’s hospital was first recommended in a 2006 McKinsey Report.256 It recommended the amalgamation of acute paediatric services in Dublin into a single site, located alongside a leading adult teaching hospital. Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020 commits to implementing a new National Model of Paediatric Care and to completing the building of the new National Children’s Hospital.257

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

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

Definition of a Child: The National Children’s Hospital will accept new patients under the age of 16 years. Existing patients will continue under the hospital’s care until they turn 18 years265 and their transition to adult services will commence early and be completed by the eighteenth birthday, unless specific circumstances exist where clinical outcomes are better under paediatric services.266

251 ibid Art 9.
252 ibid Art 36.
253 ibid Art 19. 254 ibid Art 31.
255 ibid Art 28.
258 Minister for Health, Leo Varadkar TD, Parliamentary Questions, Written Answers, 16 July 2014 (IS166/14).
260 This ‘greenfield’ position is not supported by the three children’s hospitals in Ireland. Communication received by the Children’s Rights Alliance from the Children’s Hospital Group, 5 January 2016.
261 A 3D walk-through of the proposed hospital can be viewed at National Children’s Hospital, ‘Design Video’ <http://www.newchildrenshospital.ie/design-vision/video/> accessed 28 January 2016.
264 Communication received by the Children’s Rights Alliance from the National Paediatric Hospital Development Board, 5 November 2015.
266 ibid.
267 Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 1 states that ‘a child means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier’.

The definition of a child adopted by the hospital as a person under 16 years is not consistent with the definition of a child as a person under the age of 18 under the UN Convention on the Rights of the Child and key Irish statutes.
Canada, adolescents are treated up to the age of 18 and in some cases up to 21 years. In these hospitals there are specialist adolescent consultants and services available. The new national hospital provides an opportunity to address the gap in adolescent focused healthcare by raising the age that children are treated up to the age of 18 years in the new hospital and satellite centres.\(^{271}\)

Consultation with Children and Young People:
There has been extensive consultation on the design of the new hospital with patient advocacy groups, existing staff and the National Youth Advisory Committee made up of children and young people aged 12 to 19 years. Children will also have an input into how patient services are rolled out in the hospital setting. In November 2015, the Children’s Hospital Group commenced a joint initiative with the Ombudsman for Children to hear and take account of children’s and young people’s views as service users in relation to the planned delivery of services in the new children’s hospital.\(^{272}\) This continued engagement with children and young people is warmly welcomed as a vindication of a child’s right to be heard under Article 12 of the UN Convention on the Rights of the Child.\(^{273}\)

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

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\(^{272}\) Communication received by the Children’s Rights Alliance from the Ombudsman for Children’s Office, 16 December 2015.

Mental Health

GOVERNMENT COMMITMENT

The Programme for Government 2011-2016 commits to: ring-fencing €35 million annually from within the health budget to develop community mental health teams and services as outlined in A Vision for Change, to ensure early access to more appropriate services for adults and children and improved integration with primary care services.

Progress: Some

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

Progress: Complete

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

Progress: Unsatisfactory

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

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

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

Child and Adolescent Mental Health Service Teams: The Programme for Government 2011-2016 committed to ring-fence €35 million annually from within the health budget to develop community mental health teams and services as outlined in A Vision for Change, to ensure early access to more appropriate services and improved integration with primary care services. Budget 2016 fulfilled this commitment by allocating €35 million to develop community mental health teams and services. During the lifetime of this Government €35 million was allocated in every Budget except 2014 where only €20 million was allocated.

Of the recommended 129 specialist teams needed for CAMHS to operate effectively,274 only 63 CAMHS teams are currently in operation.275 As of November 2015, the number of clinical staff in post in CAMHS was 50.4 whole time equivalents (WTEs).276 This represents only half of the staffing level recommended in A Vision for Change.277

The demand for CAMHS has increased significantly in 2015, referrals made to the service from June 2014 to May 2015 show a growth rate of 49.39 per cent. CAMHS have managed the increased demand well with waiting lists for the same period rising by only 5.93 per cent.280 However, the high number of children on waiting lists remains a concern. In September 2015, there were a total of 2,309 children waiting for a first appointment with CAMHS.278 Of these 1,319 children were waiting for longer than three months281 and 214 were waiting over one year.282

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

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

275 This lack of clarity hinders the fulfilment of Article 12 of the International Covenant on Economic, Social and Cultural Rights which requires State Parties to ‘recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health’. International Covenant on Economic, Social and Cultural Rights (16 December 1966) 993 UNTS 151 (ICESCR).


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

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

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


281 Health Service Executive, September Performance Report (Health Service Executive 2013) 10.

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

283 ibid.

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


286 ibid 11.

287 ibid 10.
It is now urgent that the Mental Health Act 2001 be amended in line with the recommendations of the Expert Group Report, in particular those relating to children and young people.

**Children in Adult Units:** The Programme for Government committed to endeavour to end the practice of placing children and adolescents in adult psychiatric wards. The UN Committee on the Rights of the Child states that, where placement in a psychiatric unit is necessary, adolescents should be separated from adults, where appropriate and any decision on their care should be made in accordance with their best interests.

The Programme for Government committed to endeavour to end the practice of placing children and adolescents in adult psychiatric wards. The UN Committee on the Rights of the Child states that, where placement in a psychiatric unit is necessary, adolescents should be separated from adults, where appropriate and any decision on their care should be made in accordance with their best interests.

**Review of the Mental Health Act 2001:** The Programme for Government 2010-2016 commitment to review the Mental Health Act 2001 was fulfilled in 2015, with the publication in March of the Report of the Expert Group Review of the Mental Health Act 2001.289 The report was produced in consultation with service users, carers and other stakeholders, and informed by human rights standards.

The Expert Group made a number of recommendations including that the Mental Health Act 2001 be reformed to include a separate section on children under 18 years. It was recommended that this new section would have its own set of guiding principles, including the best interests of the child and the child’s right to be heard central to the section.290 The report also recommended that consultation with a child is required at each and every stage of diagnosis and treatment,291 which is reflective of the child’s right to be heard under Article 12 of the UN Convention on the Rights of the Child.
Alcohol, Smoking and Drugs

GOVERNMENT COMMITMENT

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

Progress: Some

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

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

Alcohol: Of Ireland’s 4.59 million population it is estimated that 1.34 million people drink harmfully and 176,999 are dependent drinkers.

3.4 Mental Health

Immediate Actions for 2016

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

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

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

Amend the Mental Health Act 2001 to prohibit the placement of a child under 18 years in an adult in-patient unit, save in exceptional circumstances where it would be in his or her best interests to do so. Invest in the provision of child and adolescent in-patient beds to ensure demand can be met.


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

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


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

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

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

**Smoking:** The health implications of smoking are well documented and undisputed. Research has shown that nicotine is a highly addictive substance and children can become addicted within weeks of experimenting with tobacco. Half of all smokers who start smoking as children die prematurely from a smoking related disease. A 2015 study found that the rates of childhood smoking have dramatically decreased since 2010. Only 16 per cent of children aged 10 to 17 years reported that they have ever smoked, a 12 per cent drop from the 2010 figure.

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

The Public Health (Standardised Packaging of Tobacco) Act 2015 was enacted in March 2015. The Act introduces standardised packaging for tobacco products, which will give effect in part to the revised European Tobacco Products Directive that entered into force in May 2014. Under the Act, all forms of branding – trademarks, logos, colours and graphics – will be removed from tobacco products, except for the brand and variant name, which would be printed in a uniform typeface for all brands. It is hoped that the measures introduced will deter young people from smoking. It is essential that this legislation is commenced as a matter of urgency.

**Protection of Children’s Health (Tobacco Smoke in Mechanically Propelled Vehicles) Act 2014** came into effect in 2016. This legislation amends Section 47(1) of the Public Health (Tobacco) Act 2002 by extending the prohibition of smoking in workplaces to ‘a mechanically propelled vehicle in which a person under the age of 18 is present’ and making the driver of the vehicle responsible.

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

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

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

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

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

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

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


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

321 Ibid 19.


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

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


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

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

ADOPT A SPECIFIC FOCUS ON CHILDREN AND YOUNG PEOPLE WHEN DEVELOPING THE NEW NATIONAL DRUGS STRATEGY.
The Government is urged to adopt a specific focus on children and young people when developing the new National Drugs Strategy to reflect Article 33 of the UN Convention on the Rights of the Child which obliges states to protect children from the illicit drug use and production and trafficking of such substances.

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

Geraldine O’Driscoll, Centre Manager, Realt Beag, Ballyfermot

Right to an Adequate Standard of Living

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

Summary of Article 27 of the UN Convention on the Rights of the Child
HOMELESS CHILDREN WORRIED SANTA WON'T FIND THEM

Kildare Now. 15 December 2015

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

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

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

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

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

SANTA WON’T FIND THEM
HOMELESS CHILDREN WORRIED

This is the final year being analysed in the Report Card series under the Programme for Government 2011-2016, in which the objective was to eliminate poverty and to achieve the targets in the National Action Plan for Social Inclusion. The Plan contains a commitment to reduce the number of those experiencing consistent poverty to between two and four percent by 2012, with the aim of eliminating consistent poverty by 2016 which has since been revised. The National Social Target for Poverty Reduction sets a target to reduce consistent poverty to four per cent by 2016 and to two per cent or less by 2020, from the 2010 baseline rate of 6.3 per cent. While the Plan did not contain a child-specific target it contained four high level goals relating to children, three of which relate to education and one was concerning income supports.

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

Child poverty has deepened in Ireland during the Programme for Government. In 2011 9.3 per cent of children were living in consistent poverty and this rose to 11.2 per cent in 2014. Children in certain situations are particularly at risk of poverty, including children in lone parent families, children in jobless households,190 Traveller and Roma children, children living in direct provision centres, children with a disability and homeless children.

GOVERNMENT COMMITMENT
The Programme for Government 2011-2016 states that the elimination of poverty is an objective of this Government and that it is committed to achieving the targets in the National Action Plan for Social Inclusion to reduce the number of people experiencing poverty.

Progress: Unsatisfactory

332 Central Statistics Office, Survey on Income and Living Conditions (SILC) 2004 (CSO November 2015). Consistent poverty is measured using income and 11 deprivation indicators – 4 on material deprivation (clothing, footwear and furniture), 2 on food poverty, 2 on energy poverty and 3 on the ability of a child to participate in normal childhood activities, such as buying a birthday present or going on a family outing. For more see: Department of Social Welfare, ‘What is Poverty’ <http://www.socialinclusion.ie/poverty.html> accessed 29 January 2016.


339 Ibid 55.

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


342 Ibid 55.
The Government must uphold its international obligations, including those under Article 4 of the UN Convention on the Rights of the Child to ensure the implementation of children’s economic, social and cultural rights to the fullest extent possible, even when resources are limited.

The Department of Social Protection is leading the preparation of a whole-of-government Implementation Plan to meet the child poverty target. This work was adopted as one of five key priorities for 2015 under the National Policy Framework. The Implementation Plan for the national child poverty target should use the European Commission Recommendation on Investing in Children as a roadmap and adopt the three pronged approach.364

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

The European Commission has set two Country Specific Recommendations for Ireland including a recommendation on child poverty where it calls on the Government to take steps to ‘ tackle low work intensity of households and address the poverty risk of children through tapered withdrawal of benefits and supplementary payments upon return to employment’.364 Secondly, it recommends that Government improve access to affordable and full-time childcare, in particular for low income families.364

Income Supports: The European Commission Recommendation on Investing in Children places a significant focus on both supporting parents’ participation in the labour market and supporting family incomes through adequate benefits and minimum income schemes.344 Budget 2016 maintained the weekly rate of payment for the majority of primary social welfare payments and reduced the Universal Social Charge (USC) for all workers in Budget 2016, meaning more money in people’s pockets.365 There was an increase of 50 cent per hour for the Living Wage, bringing it to €12.50 per hour. While this is a very positive step, it is still well below the living wage (the wage which makes possible a minimum acceptable standard of living) of €13.50 per hour.366 In another positive development, 2015 saw the establishment of the Low Pay Commission367 to advise on the appropriate rate of the National Minimum Wage. It published its first report on the National Minimum Wage in July 2015.368

In Budget 2016, the Child Benefit payment was increased by €5 per month to €140 per child. Child Benefit is designed to assist parents with the cost of raising a child while also helping to alleviate child poverty and is a key mechanism through which the State can fulfil its duty to give ‘appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities,’ under Article 18 of the UN Convention on the Rights of the Child. However, an ongoing concern is that certain children are excluded from availing of this crucial support as their parents do not meet certain qualifying criteria set out in social welfare legislation.369 In some cases, children of migrant parents, including the children of all asylum seekers, are prevented from accessing the payment on the basis of their parent’s immigration status which contravenes the non-discrimination principle in Article 2 of the UN Convention. Once again in Budget 2016 the Government failed to address the issue of social exclusion of children as a result of their parents’ immigration status.

348 Ibid 3-4.
349 Ibid 4-5.
350 Ibid 4-5.
351 Department of Social Protection (2012) ‘National Social Target for Poverty Reduction: Policy Briefing on the Review of the National Poverty Target Dublin: Department of Social Protection’ p.3. The Irish figure is based on the 2001 baseline rate of 6.3 per cent. The EU will be tracking the ‘at risk of poverty’ measure.
352 Department of Children and Youth Affairs, Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020 (Department of Children and Youth Affairs 2014) paragraph 4.2 This target includes reducing the higher consistent poverty rate for households with children as compared to non-child households (8.8 per cent compared with 4.2 per cent) and for children as compared to adults (9.5 per cent compared with 6 per cent).
353 Communication received by the Children’s Rights Alliance from the Department of Social Protection, 2 December 2015.
and the extension of the Early Childhood Care and Education Scheme.\textsuperscript{357}

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

One Parent Families: One parent families have the highest consistent poverty rate of any household type at 22.1 per cent.\textsuperscript{358} Supporting the employability and participation of single parents in the workforce is a key action in the European Commission's Recommendation on Investing in Children.\textsuperscript{359} Until 2012, the One Parent Family Payment was available to a lone parent of a child up to the age of 18 years who satisfied the qualifying criteria and means-test. Since then a series of measures have been introduced the final phase of which set the age threshold of the youngest child for new recipients to seven years in July 2015.\textsuperscript{360} Although lone parents may be eligible for other social welfare payments, they continue to face structural barriers which hinder their engagement in the labour market. Key among these barriers is access to affordable high-quality childcare and after-school supports, affordable housing and well paid family-friendly employment opportunities.\textsuperscript{361}

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

Food poverty has been exacerbated by the recession. Since 2010, the percentage of people experiencing food poverty in Ireland has risen from 10 to 13.2 per cent.\textsuperscript{362} A 2015 report found that 22 per cent of children aged between 10 and 17 years have gone to school or to bed hungry because there was not enough food at home.

Budget 2016 provided some positive measures for lone parent families and on low incomes,\textsuperscript{363} including an €38 million increase in the Family Income Supplement (FIS),\textsuperscript{364} weekly income thresholds by €5 for a family with one child and by €10 for a family with two children or more from January 2016,\textsuperscript{365} and an increase in the earnings disregard for the Jobseeker's Transitional Payment from €60 to €90, with effect from January 2016 for existing and new recipients.\textsuperscript{366}

Food Poverty: Food poverty has been exacerbated by the recession. Since 2010, the percentage of people experiencing food poverty in Ireland has risen from 10 to 13.2 per cent.\textsuperscript{362} A 2015 report found that 22 per cent of children aged between 10 and 17 years have gone to school or to bed hungry because there was not enough food at home.\textsuperscript{362} There is no national strategy on food poverty. Research found that the rate of social welfare payments and level of earnings based on the minimum wage in Ireland are such as to make eating a healthy diet difficult.\textsuperscript{363} The risk of low income families experiencing food poverty is related to the age of their children, with expenditure greatest when a child is an infant (who has specific dietary requirements) or a teenager (who need to consume more food in the household).\textsuperscript{362}

The School Meals Programme, funded through the Department of Social Protection, continues to be a positive way of ensuring regular food services for disadvantaged school children. In 2015, over 217,000 children in over 1,700 schools and local organisations benefitted from this programme.\textsuperscript{367} A total of €42 million has been allocated to the School Meals Programme for 2016, an increase of €3 million on 2015. However, the programme does not cover the cost of kitchen equipment, facilities or salaries, training for staff or repurposing of space within the school to provide food in a safe and social way. This forces schools to take from their core budget or charge students to implement the programme.\textsuperscript{368} Unlike other European countries, Ireland has a poor infrastructure of kitchen facilities in schools.\textsuperscript{369} The School Meals Programme is not universal, an application process is in place and priority is given to schools which are part of the DEIS initiative.\textsuperscript{370} There are no mechanisms to support non-formal education and early-years settings to address food poverty.

| 365 | Barnardos, School Costs Survey Briefing 2015 (Barnardos 4 August 2015) |
| 368 | The One Parent Family Payment was introduced to take account of this reality. Back to School Clothing and Footwear Allowance, which provides a secondary school pupil was €255.\textsuperscript{360} The Back to School Clothing and Footwear Allowance which provides a primary school child's clothing or uniform and shoes cost between €150 and €165 and the costs for a secondary school pupil was €255.\textsuperscript{360} The Back to School Clothing and Footwear Allowance is a means-tested payment so it is a targeted method of supporting parents with the cost of sending their children to school and of addressing child poverty. The social welfare system provides an important safety net for many families.\textsuperscript{361} However the increases in Budget 2016 did not go far enough to address the gap that has deepened between social welfare rates and the cost of living.\textsuperscript{367} Households with adolescent children are experiencing the greatest shortfall of income.\textsuperscript{368} Aside from the Back to School Clothing and Footwear Allowance, child income supports, including the Child Benefit payment, do not take account of the increase in cost for adolescent children. An age differential should be introduced to take account of this reality.

In-kind Benefits: The European Commission Recommendation on Investing in Children places a Back to School Clothing and Footwear Allowance, which provides a secondary school pupil was €255.\textsuperscript{360} The Back to School Clothing and Footwear Allowance is a means-tested payment so it is a targeted method of supporting parents with the cost of sending their children to school and of addressing child poverty. The social welfare system provides an important safety net for many families.\textsuperscript{361} However the increases in Budget 2016 did not go far enough to address the gap that has deepened between social welfare rates and the cost of living.\textsuperscript{367} Households with adolescent children are experiencing the greatest shortfall of income.\textsuperscript{368} Aside from the Back to School Clothing and Footwear Allowance, child income supports, including the Child Benefit payment, do not take account of the increase in cost for adolescent children. An age differential should be introduced to take account of this reality.

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

The Implementation Plan to achieve the Child Poverty Target currently being developed under the National Policy Framework for Children and Young People 2014-2020 should be rights based and mirror closely the EU Recommendation on Investing in Children with a focus on access to adequate resources, access to affordable quality services and the child’s right to participate.

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

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

TAKE MEASURES TO ADDRESS POVERTY AMONG ONE PARENT FAMILIES.

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

REMODEL THE FUNDING SYSTEM FOR THE SCHOOL MEALS SCHEME.

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

GOVERNMENT COMMITMENT

The Programme for Government 2011-2016 pledges that the Commission on Taxation and Social Welfare will examine and make recommendations on the interaction between taxation and the welfare system to ensure that work is worthwhile. In particular, it will examine family and child income supports.

Progress: Complete

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

This is the final year being analysed in the Report Card series under the Programme for Government 2011-2016, in which the objective was set to examine and make recommendations on the interaction between taxation and the welfare system to ensure that work is worthwhile. Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020 commits the Government to ‘determine the optimal design of child and family income supports to maximise their effectiveness and efficiency in reducing child poverty, while improving employment incentives.’

Article 27 of the UN Convention on the Rights of the Child provides that every child has the right to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.

While the provision recognises that parents and guardians have the primary role in providing financially for a child, the State must take appropriate measures to assist parents and guardians according to its means, including the provision of material assistance and support programmes. Article 27 is a qualified right, subject to the economic conditions of the State. That said, children should not disproportionately bear the brunt of budgetary cuts. The UN Committee on the Rights of the Child has stated that no matter how limited their economic circumstances, States must take steps to uphold the economic, social and cultural rights of children.

An Advisory Group on Tax and Social Welfare – established by the Minister for Social Protection, Joan Burton TD, in June 2011 and chaired by Ita


391 A qualified right is a right that the State can lawfully interfere with in certain circumstances where the public or state interest, on balance, overrides those of the individual.

The report recommended retaining a universal Child Benefit paid at a reduced rate coupled with the introduction of a ‘second tier’ child income support to replace Qualified Child Increases (QCI) and Family Income Support (FIS) for qualifying families. The recommendations have not as of yet been accepted or acted on by Government. It is understood that a Government decision on how to proceed will be taken following publication of the Advisory Group on Tax and Social Welfare report on working-age income supports. This report has been completed and is with the Minister for Social Protection for her consideration. The Advisory Group’s report on working age income should be published to facilitate debate.

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

This is the final year being analysed in the Report Card series under the Programme for Government 2011-2016 in which a commitment was made to adopt a new area based approach to child poverty, drawing on international best practice and existing services to tackle every aspect of child poverty. Initially, this model will be rolled out to up to ten of Ireland’s most disadvantaged communities, in cooperation with philanthropic partners to co-fund and manage the project.

GOVERNMENT COMMITMENT

The Programme for Government 2011-2016 acknowledges that a new approach is needed to break the cycle of child poverty where it is most deeply entrenched. It pledges to adopt a new Area Based Approach to Child Poverty, which draws on best international practice and existing services to tackle every aspect of child poverty. Initially, this model will be rolled out to up to ten of Ireland’s most disadvantaged communities, in cooperation with philanthropic partners to co-fund and manage the project.

PROGRESS: STEADY

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

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

394 Ibid 28 -29.
395 Recommendations included retaining a universal Child Benefit paid at a reduced rate coupled with the introduction of a ‘second tier’ child income support to replace Qualified Child Increases (QCI) and Family Income Support (FIS) for qualifying families.
396 Communication received by the Children’s Rights Alliance from the Department of Social Protection, 26 November 2015.
In 2015, the Department of Children and Youth Affairs established the ABC Programme ‘Mainstreaming the Learning’ Task Group to explore the issue of mainstreaming. The Task Group is examining the challenge of how to mainstream the learning of the processes and programmes that worked into mainstream provision, rather than committing to replicate the approach of an individual site on a national basis. The Task Group comprises representatives from a number of ABC and former Prevention and Early Intervention Programme (PEIP) sites, the Centre for Effective Services, Pobal and nominees from the Department of Children and Youth Affairs and The Atlantic Philanthropies. In November 2015, the Task Group presented its initial discussion paper outlining feasible options in relation to mainstreaming to the ABC Interdepartmental Project Team. This paper will be further informed by the hosting in Dublin in February 2016 of an EU Peer Review event on effective prevention and early intervention for children, particularly those at risk of poverty, and strategies adopted in mainstreaming this learning.

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

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

The evaluation will examine outcomes, implementation and cost using a range of quantitative and qualitative methods including pre- and post-outcomes assessments, online surveys, focus groups and interviews. The evaluation will consider the implementation from both local and national perspectives. National interim reports will be provided from mid-2016. The final national evaluation reports will be produced in 2018.

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

The final national evaluation reports will be produced in 2018.

The successful sites included the three existing projects funded under the Prevention and Early Intervention Programme (PEIP): the Childhood Development Initiative in Tallaght West; Preparing for Life in the northside Dublin communities of Darndale, Belcamp, Ballyboden, Donabate, and youngballymun in Ballymun. The 10 new sites selected are: Ballinteer/Dublin 10, Bray, Clondalkin (Richways); Dublin Docklands, Finglas (Finglas-Stock project); Grangegorman/Notth West Inner City; Knocknareaen in Cork; Limerick; Louth (Drogheda and Dundalk); and Midlands (Implementation of Good Behaviour Game).


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


Ibid 9.


Ibid 6.

Ibid 4.

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

Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs (accessed 29 January 2016).

Ibid.

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

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

Minister for Children and Youth Affairs, Dr James Reilly, Parliamentary Questions, Written Answers, 21 October 2015 (TIS10/115).

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

This is the final year being analysed in the Report Card series under the Programme for Government 2011-2016, in which the objective was set to end long-term homelessness and the need to sleep rough. To achieve this the Government committed to review and update the existing Homeless Strategy, including a specific focus on youth homelessness, and take into account the current demands on existing housing and health services with a view to assessing how to best provide additional services. While the Department of Environment, Community and Local Government did issue a new National Homelessness Policy Statement in 2013, measures have been put in place to end the need to sleep rough and the rate of homelessness among families with children has risen dramatically. Following a 2013 review of the Youth Homelessness Strategy, the policy response to youth homelessness is now integrated into the child protection and welfare service, rather than set out in a stand-alone strategy. In assessing the Programme for Government commitment, this section looks at four key areas: homeless families with children, housing, youth homelessness and aftercare.

Progress: Unsatisfactory

Area Based Approach to Tackling Child Poverty

Immediate Action for 2016

MAINSTREAM LEARNINGS FOUND TO BE SUCCESSFUL UNDER THE ABC PROGRAMME.

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


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


419 CESCR 'General Comment No.4 on the Right to Adequate Housing (Art. 11 (1) of the Covenant)' (1999) UN Doc E/1992/23.
of the homeless population. The majority of these homeless families were in Dublin.\(^{147}\)

The quality of emergency accommodation being offered to families – in hotel rooms and bed and breakfast (B&B) accommodation – is sometimes inappropriate for family life. Children are living in unsuitable temporary accommodation that is not designed for homeless families, and is usually provided without appropriate housing management or support services.\(^{420}\) Many families are living in one room with no privacy and no access to safe cooking and washing facilities.\(^{424}\) The lack of available accommodation means that families have become stuck in emergency accommodation for months on end.\(^{424}\) There is often no safe and secure areas for children to play or do homework, in many cases children have to travel long distances to remain in the school which they were attending prior to their family becoming homeless.\(^{147}\) Long-term living in inappropriate emergency accommodation is not conducive to a child's development, well-being, health and education.

Child welfare and protection issues arise where families are living in shared emergency homeless accommodation, such as hotels and B&B accommodation, with staff who are not Garda vetted to assess their suitability for working in proximity to children.\(^{426}\) It is imperative that Tusla - the Child and Family Agency, conducts a children’s rights audit of emergency homeless accommodation placing a particular focus on child protection, welfare and development. The purpose of this audit would be to identify risks and best practice. Following the audit, minimum child protection standards should be put in place for any temporary accommodation used by families with children to ensure compliance with the Children First national guidelines.\(^{421}\) These standards should include the appointment of a Designated Liaison Person to receive information on child protection issues and link with Statutory Agencies; establishment of a Complaints Procedure, measures to ensure the owner/proprietor meets a ‘fit and proper person’ test; and that there is a secure area for children to play and that the place is only for children and accompanying adults (not for other guests).\(^{424}\) Any child subject to child protection measures should not be moved outside of their local area as this would undermine the licence to services and consistent intervention by Tusla.\(^{424}\)

A 20 point Action Plan agreed at the end of 2014 contained a commitment that Tusla and Dublin City Council will coordinate operations to ensure that services are fully responsive to the protection and welfare needs that might arise for families in emergency accommodation.\(^{425}\) Work has commenced on the creation of a multi-agency protocol to clarify individual agency and multi-agency responsibilities in regard to homelessness being led by Tusla.\(^{426}\) Tusla has also put in place a number of new initiatives working with relevant services to maximise supports available to families who are homeless.\(^{427}\) Measures include: the appointment of a Homelessness Liaison Officer to lead Tusla engagement with other services, particularly in relation to child protection, linking with the Dublin Region Homeless Executive to ensure access for children and families to Family Resource Centres and guidance from the Department of Children and Youth Affairs on the

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

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

420 Ibid para 8.
422 Ibid para 27.
424 Ibid.
428 Ibid.
429 Issues raised at the Children’s Rights Alliance Homelessness Services Stakeholder Meeting, 7 October 2015.

429 Communication received by the Children’s Rights Alliance from the ISPCC, 12 January 2016.
433 A commitment was also made in the Budget to provide over 9,500 social housing units by 2018, funded through direct investment and public/private partnership, with over 3,000 of these social housing units to be provided in 2016.
434 Under Public Private Partnership, €100 million will be invested in social housing which is expected to deliver 1,500 social housing units. In addition, the National Asset Management Agency will facilitate the completion of 4,500 new residential units in the Dublin area by to the end of 2016, Department of Public Expenditure and Reform, Capital Plan (Building on Recovery: Infrastructure and Capital Investment 2016-2021)(DEPER 2015): 32.
The introduction of these units is to be welcomed as an immediate interim measure to tackle the high numbers of families currently living in emergency homeless accommodation.

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

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

**Youth Homelessness:** A child or young person who is homeless without their family is extremely vulnerable and the State is obliged under the UN Convention on the Rights of the Child to provide special protection to any child deprived of their family environment (Article 20). Much progress has been made in the area of youth homelessness over the past number of years. However, the lack of a national out-of-hours social service in Ireland means that some newly homeless children still must access emergency accommodation through the Garda Síochána (police).

**Aftercare:** In 2006, the UN Committee called on Ireland to strengthen its efforts to ensure and provide for follow-up and aftercare to young persons leaving care centers. At the end of September 2015, 1,737 young adults aged between 18 and 23 years were receiving an aftercare service. The Child Care (Amendment) Act 2015 was signed into law in December 2015. The Act places a statutory duty on the Child and Family Agency to prepare an aftercare plan for each eligible young person and sets the grounds for eligibility based on the length of time a child has been in care. While the Act’s provisions represent significant improvement on the existing legislative situation, they do not provide the young person with an entitlement to access services, only an entitlement to have a plan drawn up.

A child or young person who is homeless without their family is extremely vulnerable and the State is obliged under the UN Convention on the Rights of the Child to provide special protection to any child deprived of their family environment (Article 20).

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443 See generally: Simon Communities of Ireland, ‘Locked Out of the Market II’ (Simon Communities 2015).

444 For more see: Simon Communities of Ireland, ‘Locked Out of the Market II’. Simon Communities 2015.

445 Under Tenancy Sustainment initiatives, increases in the level of Rent Supplement normally allowable have been granted to approximately 6,000 clients (of which 4,500 were in 2015). Communication received by the Children’s Rights Alliance from Tusla, the Child and Family Agency, 29 January 2016.


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

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


450 Tusla, Quarterly Management Data Activity Report, Quarter 1 2015 (Tusla 2015) 11.

451 To be eligible a child aged needs to be 16 years or over who has spent at least 12 months in the care of the State between the ages of 13 and 18 years old and an adult means a young person aged 18, 19 or 20 who has spent at least 12 months in the care of the State between the ages of 13 and 18 years old.
5. RIGHT TO PROTECTION FROM ABUSE AND NEGLECT

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

Jennifer Gargan, Director, EPIC

Right to Protection from Abuse and Neglect

Every child has the right to be protected from all forms of abuse, violence, punishment and neglect, whether physical or mental. The State has the responsibility to provide support for children who experience abuse and their carers, as well as mechanisms for prevention, reporting, investigation and treatment.

Summary of Article 19 of the UN Convention on the Rights of the Child
Children's Rights Alliance

STAFF SHORTAGE AFFECTS QUALITY OF FOSTER CARE

Connacht Tribune, 31 October 2015

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

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

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

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

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

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

Inspectors found that some children had a number of different social workers assigned to them and experienced periods of unallocation due to staff leave, and this impacted on a consistent service for children.13

Galway/Roscommon is one of 17 services areas served by Tusla, the Child and Family Agency. It is the fourth largest area in the country, and when combined with Mayo it ranked as one of the most deprived in the country.14

By Dara Bradley

5.1 CHILD AND FAMILY AGENCY

GOVERNMENT COMMITMENT

The Programme for Government commits to fundamentally reform the delivery of child protection services by removing child welfare and protection services from the HSE, and creating a dedicated Child Welfare and Protection Agency, reforming the model of service delivery and improving accountability to the Dáil.

Progress: Good

Under the UN Convention on the Rights of the Child, the child has a right to protection from abuse and neglect (Article 19), protection from sexual and other forms of exploitation (Articles 34-36) and to rehabilitate care (Article 39).142 A children’s rights approach to child protection starts with prevention and builds a child’s capacity to protect themselves and to understand their right to protection.142 Central to this approach is the right of a child to be cared for by his or her parents,146 and not to be separated from parents unless it is in the child’s best interests.146

This is the final year of the Report Card series under the Programme for Government 2011-2016. The Government’s objective in this area was to reform child welfare and protection services by removing these services from the Health Service Executive (HSE), creating a dedicated Child Welfare and Protection Agency, reforming the model of service delivery and improving accountability to the Dáil. Significant progress has been made towards achieving each of these goals.

The Child and Family Agency was established in January 2014 under Child and Family Agency Act 2013. The establishment of the Agency fulfilled the Programme for Government commitment to remove child welfare and protection services from the HSE and create a dedicated new agency. Tusla – the Child and Family Agency brings together the HSE’s Children and Family Services,148 the Family Support Agency, the National Educational Welfare Board, and services relating to pre-school inspections, psychology, and domestic, sexual and gender-based violence.147

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

IN THE NEWS

453 UNCRC ‘General Comment No.13 on the right of the child to freedom from all forms of violence’ UN Doc CRC/C/GC/13 para 1.36 and (g), ‘UNCRC: Concluding Observations Ireland’ (29 September 2006) UN Doc CRC/C/IRL/CO/2 para 37(c).
455 `Concluding Observations Ireland’ (29 September 2006) UN Doc CRC/C/IRL/CO/2 para 37(e).
456 These services comprise child welfare and protection services, foster and residential care and aftercare, and adoption services.
457 For information see http://www.tusla.ie/about
Children’s Rights Alliance

so that when duties are not fulfilled or standards are occasions. Part 9 of the 2013 Act provides

2015, Tusla appeared before the Joint Oireachtas Committee on Health and Children on four occasions. Part 9 of the 2013 Act provides for a complaints mechanism. In addition, the Department of Children and Youth Affairs, ‘Minister Reilly announces significant budget increase for Tusla’ (13 October 2015)


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

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

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

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

In line with a recommendation from the UN Committee on the Rights of the Child, a key indicator of success for Tusla is whether all reported cases of suspected abuse and neglect are adequately investigated in a timely manner. In January 2015, of the child protection cases ‘open’ to social work teams were managed in the Laois/Offaly area.

The accountability framework in relation to Tusla’s work and the monitoring and remedy bodies have greatly improved accountability in the area of child protection. Further areas that need attention include promoting awareness of complaints and remedy with a shorter output that ‘Tusla’s child protection processes and systems are responding to children at risk in a timely manner’. To achieve this, Tusla identified reform activities for 2015, including to improve information systems and introduce a Child Protection Notification System and a National Out of Hours Emergency Service.

In line with a recommendation from the UN Committee on the Rights of the Child, a key indicator of success for Tusla is whether all reported cases of suspected abuse and neglect are adequately investigated in a timely manner. In January 2015, 5,900 assessed triaged cases were managed in the Laois/Offaly area.

The accountability framework in relation to Tusla’s work and the monitoring and remedy bodies have greatly improved accountability in the area of child protection. Further areas that need attention include promoting awareness of complaints and remedy bodies and collecting data on how child protection services are operating to vindicate children’s rights.

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

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

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The accountability framework in relation to Tusla’s work and the monitoring and remedy bodies have greatly improved accountability in the area of child protection. Further areas that need attention include promoting awareness of complaints and remedy bodies and collecting data on how child protection services are operating to vindicate children’s rights.
**Child and Family Agency**

**Immediate Action for 2016**

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

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

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**Ryan Report Implementation Plan**

**GOVERNMENT COMMITMENT**

The Programme for Government 2011-2016 commits to implementing the recommendations of the Ryan Report including putting the Children First Guidelines on a statutory footing and legislating for the use of “soft information”.

**Progress: Some**

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

The UN Convention on the Rights of the Child provides that a child has the right to protection from abuse and neglect (article 19), including from sexual and other forms of exploitation (articles 34 to 36). It further provides for the right to rehabilitative care (article 39) and specific protections for children in the care system such as the child’s right not to be separated from his or her parents and protection for children without families (article 9 and 20), the review of care placements (article 25) and the best interests of the child in adoption cases (article 21).

**The UN Convention on the Rights of the Child**

provides that a child has the right to protection from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse (article 19). To ensure that children are adequately protected, the UN Committee on the rights of the Child recommends that States establish a government focal point to coordinate child protection strategies and services.

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Ryan Report Implementation Plan: The Ryan Report Implementation Plan was published in July 2009 in response to the recommendations contained in the Report of the Commission to Inquire into Child Abuse (Ryan Report) 489 which identified key shortcomings in the child protection system and provided a roadmap for reform. The Fourth and Final Progress Report of the Monitoring Group for the Ryan Report Implementation Plan was published in March 2016.490 The work of the Monitoring Group is now complete. The final report notes that of the 99 actions of the Implementation Plan, 94 are either ‘completed’ or ‘ongoing’, as by their nature they are not once-off actions so continue to be implemented on an ongoing basis491 and are being progressed under other fora, including the Children First Interdepartmental Implementation Group and the Tusla Business Plan.492 There were also five actions under the Implementation Plan which were deemed to be ‘incomplete’ at the end of December 2016.493 The Minister for Children and Youth Affairs has committed to follow up on these actions and report back to Government until their completion.494

Three of the five ‘incomplete’ actions fall under Tusla’s remit – to establish a longitudinal study on outcomes for children who leave care (Action 65), develop a professionally managed national archive as a central repository for the records of all children in care (Action 75), and secure the records created in non-statutory agencies in the national archive (Action 76). These actions were not implemented due to resource restraints. In 2014, the Minister for Children and Youth Affairs requested Tusla to develop a business case with costings to complete these recommendations.495 Each of these actions has been incorporated into Tusla’s 2016 Business Plan.496 The fourth ‘incomplete’ action relates to the construction of a memorial to the victims of institutional abuse (Action 1). This original proposal faced planning difficulties497 and will not go ahead, but the Department of Education and Skills is pursuing an alternative.498 The final ‘incomplete’ action related to the Courts Service conducting research into best practice in other jurisdictions on the management of children and family services (Action 96). This research has not been undertaken by the Court Service. However, the work of the Child Care Law Reporting Project is adding to our knowledge in this area.499

Children First: A 2008 national review of compliance with Children First500 and 2010 investigation by the Ombudsman for Children501 found that the Children First Guidelines were being applied in an ad hoc manner across the country leading to incidences of non-reporting of child abuse concerns. These findings highlighted the inadequacy of a voluntary set of guidelines.502 In line with recommendations of the Ryan Report Implementation Plan503 and the UN Committee,504 the Children First Interdepartmental Implementation Group for the Ryan Report Implementation Plan505 and the UN Committee,506

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

the Children First Bill was published in April 2014 and enacted in November 2015 to place elements of the Children First Guidance on a statutory footing. The legislation places a legal duty on organisations providing specified services for children to carry out a risk assessment and prepare an organisation-specific Child Safeguarding Statement.507 It requires ‘mandated persons’ to report child protection concerns which meet a defined threshold.508 Although the Bill is welcome, the sanctions for those who fail to comply with its provisions are weak.509 The only sanction introduced under the Bill is the establishment of a non-compliance register to ‘name and shame’ organisations which do not have a child safeguarding statement.510 The Bill provides no new sanction to address a breach of its provisions by a mandated individual. A failure by a mandated person to report a child protection concern will therefore need to be addressed in accordance with the legislation it is anticipated that the number of child protection and welfare referrals will initially rise and then level out. Hence measures must be in place to ensure the availability of sufficient social workers to access referrals and respond to them in an effective and timely manner.

Ireland’s failure to explicitly prohibit corporal punishment in the home has been criticised by international bodies.511 Corporal punishment continues to be a feature in the lives of children in Ireland with research finding that 43 per cent of mothers reported using corporal punishment.512 In a very welcome development, provision was made under Section 28 of the Children First Act 2015 to abolish the common law defence of reasonable chastisement513 for parents and others in the home, including certain children.514 This provision was commenced on 11 December 2015.515 It sends a powerful message to society that hitting children is wrong. However, to change behaviour towards disciplining children more work needs to be done to promote positive, non-violent alternative forms of discipline.

Vetting: Three years on from the enactment in December 2012, the National Vetting Bureau (Children and Vulnerable Persons) Act 2015 has yet to be commenced. The Act places the National Vetting Bureau on a statutory footing and permits the Bureau to collect and exchange ‘relevant’ or ‘soft’ non-criminal information that indicates that there is a reason to believe that a person may harm or attempt to cause harm to children or vulnerable adults.516 The protected delay in commencing the Act is deeply disappointing. This means that the vetting of staff working with children and vulnerable adults is confined to ‘hard’ information relating to criminal

506 Ibid Part 5. Schedule 2 of the Children First Act 2015 specifies the classes of persons who are deemed to be mandated persons. They include social workers, teachers and certain health professionals including doctors and nurses.
511 32 per cent said they did so ‘rarely’ and 11 per cent never and again. J. Williams et al., Growing up in Ireland: National Longitudinal Study of Children (Stationery Office 2009).
513 The defence was added to the Children First Bill during its passage through Seanad Éireann. The amendment was co-sponsored by the Minister for Children and Youth Affairs, Dr James Reilly TD, and independent Senator, Jillian van Turnhout.
515 National Vetting Bureau (Children and Vulnerable Persons) Act 2012.
convictions. Concern exists that the weak level of vetting in Ireland is placing children at risk and may attract people who wish to commit offences against children or vulnerable adults from jurisdictions that operate a more robust vetting system.514

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

515 Elements of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 relating to the disclosure of convictions require amendment before it can be commenced following a Court judgment, UK Court of Appeal (T and others v Chief Constable of Greater Manchester, 2013).
This is the final year of the Report Card series under the Programme for Government 2011-2016. The Government’s objective in this area was to end the practice of sending children to St. Patrick’s Institution.

GOVERNMENT COMMITMENT

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

Progress: Good

‘Children in Detention’ receives a ‘B+’ grade in Report Card 2016, an increase from the ‘B’ grade awarded last year. This is reflective of the progress made towards ending the practice of sending children to St. Patrick’s Institution. Significant progress has been made to meet this commitment, with the Children Detention Schools now responsible for the detention of all categories of children with the exception of boys aged 17 years who are serving a sentence – this group is currently accommodated in Wheatfield Place of Detention.

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

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

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

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

In 2012, the Government committed to end the practice of detaining children in adult prisons and to develop a National Children Detention Facility for the detention of all those under 18 years, as originally provided for in the Children Act 2001.
Since December 2013, all 17 year olds serving custodial sentences are detained in Wheatfield Place of Detention, an adult prison rather than St Patrick’s Institution. For example on 22 January 2016, thirteen 17 year olds were detained in Wheatfield 533. This is intended to be an interim measure until the completion of the new facility in Oberstown. 534. A minimum of two additional units at the Oberstown campus are needed to allow for the transfer of responsibility for this category of 17 year old boys.

To open these units, additional residential social care worker grade staff is needed.535 Recruitment for these posts by the Irish Youth Justice Service is ongoing, and is expected to be completed by the end of Q1 2016. 536

2015 saw the publication and enactment of two important pieces of legislation. In May 2015, the Minister for Children and Youth Affairs, James Reilly TD, published the Children (Amendment) Act 2015, which was enacted in July 2015. 537 The Act provides for the amalgamation of the Children Detention Schools into a single facility and for the repeal of all legislative provisions that allow for detention of children in Irish Prison Service facilities. The Act was partially commenced on 1 December 2015. 538 The remaining provisions will be commenced once the staff complement in the Oberstown facility has been achieved to enable Oberstown to receive sentenced persons aged 17. 539

On foot of an Inspector of Prisons report published in July 2015 which found ‘very disturbing incidents of non-compliance with best practice and breaches of the fundamental rights of prisoners’,540 the Government announced its intention to close St Patrick’s Institution. The General Scheme of the Prisons Bill was published in April 2015 and enacted in December 2015. 541 It provides for the complete closure of St Patrick’s Institution by repealing statutory provisions that enable courts to detain offenders under the age of 21 in St Patrick’s Institution and by deleting references to St Patrick’s Institution from the statute book.542 The provisions of the Prisons Act 2015 cannot be commenced until the Oberstown campus is ready to receive all sentenced persons under the age of 18 years and the relevant provisions of the Children (Amendment) Act 2015 are commenced.

It is vital that the recruitment is finalised and the Children (Amendment) Act 2015 and Prison Act 2015 are commenced as a matter of priority to end the detention of children in Wheatfield Place of Detention and the continued use of St Patrick’s institution to detain a child on remand while awaiting places in Oberstown. For example, Prison Services figures show that during 2015, a 16 year old was in custody at Patrick’s Institution. For example on 22 January 2016, 17 year old offenders under the age of 21 were detained in Wheatfield Place of Detention.543 The Children (Amendment) Act 2015 and Prison Act 2015 are expected to be completed by the end of Q1 2016. 544

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Since 2012, the Government has taken steps to remove the use of prison facilities for children. In July 2015, the Department of Children and Youth Affairs has stated that it is ‘now a matter of when, and not if, there will be a final end to the practice of detaining children in adult prison facilities’. 545

535 Department of Children and Youth Affairs, ‘Information Note: Progress on Oberstown’ 10 December 2015.
536 Four recruitment phases have been arranged to date since mid-2014, three external and one internal. Two further recruitment processes for care staff commenced on 19 November 2015 and 21 December 2015.
538 The Order provides for the commencement of sections 1, 2, 4 other than paragraph (d), 5, 6 (insofar as it relates to S88A, 7, 11 to 15, 17, 20 to 25 and 31 of the Children (Amendment) Act 2015 with effect from 1 December 2015. Children (Amendment) Act 2015 (Commencement) Order 2015, Statutory Instrument 539 of 2015.
539 Department of Children and Youth Affairs, ‘Information Note: Progress on Oberstown’ 10 December 2015.
549 Ibid. See also Adam Culsen, ‘Teen boy held in St Patrick’s’ The Irish Independent (Dublin, 29 October 2015).
550 89 boys were detained in Oberstown rather than in an adult prison in 2012, 109 in 2013, 119 in 2014, and 91 in 2015 (up to 30 December 2015).
Children in Detention
Immediate Actions for 2016

SUPPORT THE OPENING OF ADDITIONAL UNITS IN THE NATIONAL CHILDREN DETENTION FACILITY TO ACCOMMODATE 17 YEAR OLDS SERVING A CUSTODIAL SENTENCE.
Provide all necessary supports, including staffing recruitment, to facilitate the opening of additional units in the National Children Detention Facility to allow for the transfer of responsibility for 17 year olds serving a custodial sentence, currently detained in Wheatfield Place of Detention.

Fully commence the Children (Amendment) Act 2015 and the Prisons Act 2015 at the earliest opportunity to ensure that no child under 18 years is detained in an adult prison.

WITHDRAW THE RESERVATION TO ARTICLE 10(2)(B) OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS.
Once the transfer of responsibility for 17 year old males to the Oberstown campus has been completed, the Government should withdraw the reservation to Article 10(2)(b) of the International Covenant on Civil and Political Rights.

6. RIGHT TO EQUALITY AND NON-DISCRIMINATION

Right to Equality and Non-Discrimination

Every child has the right to equal treatment, without discrimination of any kind, irrespective of the race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status of the child or the child’s parents or guardian.

Summary of Article 2 of the UN Convention on the Rights of the Child

The Children and Family Relationships Act (2015) for the first time recognises and gives legal status to the broad range of families in Ireland of the 21st century. This important Act has brought much-needed security to thousands of children in Ireland and is a very welcome reform to Irish family law. Children from all family types can now enjoy the security and care of a legal relationship with their parents that heretofore was not possible.

Sandra Irwin-Gowran, Director of Education Policy, GLEN - Gay and Lesbian Equality Network
GOVERNMENT COMMITMENT

The Programme for Government 2011-2016 commits to promoting greater co-ordination and integration of delivery of services to the Traveller community across Government, using available resources more effectively to deliver on principles of social inclusion, particularly in the area of Traveller education.

Progress: Unsatisfactory

‘Traveller and Roma Children’ is awarded an ‘E-’ grade in Report Card 2016, a decrease from last year’s ‘E+’ grade. The lower grade reflects the Government’s persistent failure to implement their commitment to recognise the ethnic minority status of Travellers and the missed opportunity presented by the Carrickmines fire tragedy to uphold the rights of Traveller children. Traveller and Roma children continued to face educational disadvantage in 2015.

This is the final year being analysed in the Report Card series under the Programme for Government 2011-2016. A commitment was made to promote greater co-ordination and integration of delivery of services to Travellers. The coordination of delivery of services for Travellers remains very weak. In many cases whilst policies and strategies have been put in place, there is limited implementation, monitoring, evaluation or accountability. For example, the National Traveller Health Advisory Committee (NTHAC) entrusted with developing a strategy to respond to the All-Ireland Traveller Health Study in 2010 has not met since 2012.\textsuperscript{553} Between 2008 and 2013, funding for interagency activities relating to Travellers was cut completely and has not been reinstated.\textsuperscript{552} Of serious concern is that the adoption of integrated services has resulted in a mainstreaming approach which fails to address the specific experiences of Traveller and Roma children as members of communities who experience high levels of marginalisation, discrimination, educational disadvantage and poverty. In the area of education for example, additional supports for Travellers to assist the process of mainstreaming have not been put in place.\textsuperscript{554}

There are 14,913 Traveller children living in Ireland.\textsuperscript{555} The Traveller community has a very young population with 42 per cent of Travellers under the age of 15 years.\textsuperscript{556} At the end of the Programme for Government, outcomes for Traveller and Roma children continue to be among the worst for children in Ireland in areas such as equality and education.

6.1 Traveller and Roma Children

STATE TO INTRODUCE PARTS OF CHILDREN AND FAMILY RELATIONSHIPS ACT

The Irish Times, 20 May 2015

The Government is preparing to activate parts of the Children and Family Relationships Act, which overhauls the law on adoption and donor-assisted reproduction.

The Act was signed into law by President Michael D Higgins in April but its provision will not come into force until formal commencement orders are signed. Some parts of the legislation will not be activated for at least a year.

The landmark reform of family law changes guardianship and custody rules and allows same-sex couples to apply to adopt. A section on surrogacy was removed by Minister for Justice Frances Fitzgerald when she succeeded Alan Shatter last year, and the Department of Health plans to incorporate surrogacy into a forthcoming Bill on assisted human reproduction. Three departments – Justice, Children and Foreign Affairs – must sign separate commencement orders for the Children and Family Relationships Act to come into force. A spokesman for the Department of Justice, which is responsible for most sections of the legislation, said it was “proceeding with preparations” for the commencement of those parts but could not say when it would be done.

[...]

By Ruadhán Mac Cormaic

552 Communication received by the Children’s Rights Alliance from Pavee Point, 10 February 2016.
553 Brian Harvey, Travelling with Austerity: Impacts of cuts on Travellers, Traveller Projects and Services (Pavee Point Publications 2013) 1.
554 Ibid 35.
556 Pavee Point Travellers’ Centre, Profile of the Traveller Family for Family Resource Centres (Pavee Point 2010) 1.
In Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020, the Government committed to reduce discrimination and intolerance of all types experienced by marginalised groups including Traveller and Roma children, and to improve their educational and health outcomes.

non-discrimination, access to social protection, health, education, and accommodation. The Final Report of the Child Care Law Reporting Project, published in November 2015, noted that Traveller children are over-represented in child protection cases coming before the courts compared to the general population.

In Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020, the Government committed to reduce discrimination and intolerance of all types experienced by marginalised groups including Traveller and Roma children, and to improve their educational and health outcomes. The Government also reiterated its commitment to implement and monitor the National Traveller Roma Integration Strategy.

Under the UN Convention on the Rights of the Child, the State is obliged to take measures, using the maximum available resources, to ensure that all children, including Traveller and Roma children, have an adequate standard of living. All children have the right not to experience discrimination on any ground irrespective of the race, language, religion, ethnic or social origin, other status of the child or the child’s parents or guardian and they have the right to life, survival and development. The State is obliged to ensure that every child has a standard of living which is adequate to allow them to develop fully – physically, mentally, spiritually, morally and socially. Moreover, children in ethnic, religious, linguistic minorities or of indigenous origin must not be denied the right to enjoy their own culture, religion or language.

National Traveller and Roma Inclusion Strategy: A National Traveller Roma Integration Strategy was launched in 2011. In April 2015, the National Traveller and Roma Inclusion Strategy Steering Group was established to oversee the development and implementation of a revised Strategy. A second phase of the consultation process for this strategy was commenced in February 2016. It is vital that the development of the Strategy, involves Travellers and Roma, is based on human rights, and sets out clear goals, targets, indicators, timelines and funding mechanisms. Rigorous monitoring, evaluation and accountability mechanisms should be put in place to oversee the impact of the new Strategy in particular on children.

Recognition of the Ethnic Status of Travellers: In November 2014, the Minister of State for New Communities, Culture and Equality, Aodhán Ó Ríordáin TD, made a commitment that the State would recognise Travellers as an ethnic minority within six months. One year later, in November 2015, Traveller ethnicity was debated in Dáil Éireann. A motion calling for the State to recognise the ethnic minority status of Travellers was rejected by Government by 58 to 39 votes.

The Government’s failure to recognise Traveller ethnicity is incompatible with international human rights standards and has been criticised at both national and international level, including in 2014 by the UN Human Rights Committee. Travellers are an indigenous minority group that have been part of Irish society for hundreds of years and deserve the right to self-identification. They have a distinctive lifestyle and culture based on a nomadic tradition with a language, customs and traditions that make them identifiable as a group to both themselves and to others.

One impact of the recognition of ethnicity would be that Traveller children would be automatically given consideration in anti-racism and anti-discrimination initiatives.

Ethnic Identifier: There is no publicly available statistical information on the number of Roma living in Ireland or the number of Roma or Traveller children in the care system. The UN Committee on the Rights of the Child has called on States to employ data collection mechanisms that can study the situation of specific groups, including ethnic and/or indigenous groups. In 2014, 2015 and 2016, the National Traveller and Roma Inclusion Strategy Steering Group was established to oversee the development and implementation of a revised Strategy.

The Irish Times (Dublin, 29 November 2014) provides an overview of the development of the Strategy since its launch and the challenges faced to date.

The Government’s failure to recognise Traveller ethnicity is incompatible with international human rights standards and has been criticised at both national and international level.
as part of the data collection for the POD, known as an ethnicity identifier. This is due to be fully operational for the academic year 2015/16. An ethnicity identifier is an important measure to track and monitor the impact of policies and legislation on minority children, including school attendance, retention and learning outcomes. The data generated by the POD is to be used to monitor the progress of children through the education system and the question on ethnicity is to allow the Department to collect data on the diversity of the school population. It is anticipated that the database will be a key resource for relevant parties, such as the Department of Social Protection, the HSE and the National Council for Special Education. The Data Protection Commissioner has advised that the ‘most equitable way of collecting this type of data is to give all pupils an opportunity to identify their own ethnic and cultural background and to consent to the data being shared with the Department.’

Because ethnicity is considered to be sensitive data, consent of the child’s parent or guardian is required in order for it to be shared with the Department. The database only applies to primary schools. At second level, Traveller children are the only group asked to identify their ethnicity.

**Traveller Accommodation:** Adequate and culturally appropriate accommodation is a serious and ongoing issue for the Traveller community and has a direct impact on health outcomes of Traveller children. A study in 2010 found that almost three-quarters of Travellers live in houses and almost a fifth live in caravans, trailers or mobile homes. It also found a quarter of families felt where they lived was unhealthy and over a quarter felt that their place of residence was unsafe. Over three quarters did not have safe play areas.

Local authorities are charged with providing Traveller accommodation but between 2008 and 2015, 25 local authorities failed to meet their targets for accommodation provision. There are no sanctions against those who failed to achieve their targets. The Irish Human Rights and Equality Commission expressed concern at the rising numbers of Travellers living on the roadside and sharing accommodation in the context of ‘low or non-existent’ capital investment in Traveller accommodation through the Department of the Environment, Community and Local Government. The Commission went on to note that emergency accommodation has become ‘de facto permanent’ accommodation for many Traveller families and that such accommodation ‘cannot, in the long term, vindicate the right to dignity and protection of the concerned individuals.’ A 2015 Supreme Court judgment in O’Donnell & Ors v South Dublin County Council & Ors highlighted the fact that poor quality Traveller accommodation, may be a breach of a local authority’s statutory duty, and in addition may also amount to a breach of the constitutional right to autonomy, bodily integrity and privacy.

On 9 October 2015, a fire at a temporary Traveller halting site, in Carrickmines, Dublin, killed ten people including five children. Local residents objected to the use of a nearby green field site to re-accommodate the survivors on a temporary basis. Legal action by residents threatened to delay the relocation decision so the Local Authority re-accommodated the survivors in an alternative site – a car park. The Carrickmines fire tragedy highlighted the deeply rooted racism in Irish society towards Travellers and focused national attention on the deficits of Traveller accommodation. Following the tragedy, fire safety reviews are to be undertaken on all sites and Pavee Point called for the establishment of a dedicated Traveller Agency to drive improvements and implementation of policy and legislation for Travellers.

**Roma Children:** In December 2013, the then Ombudsman for Children, Ms. Emily Logan was appointed in her personal capacity by the Minister for Justice and Equality to carry out a special inquiry into the removal of two Roma children from their families by An Garda Síochána. The Report of the Implementation Group set up to monitor the recommendations in the Logan Report was published in November 2015 and lists the range of activities undertaken to date. One of the report’s key recommendations was that an assessment of the needs of the Roma community be undertaken. The assessment is ongoing in partnership with Pavee Point and is expected to be finalised by the end of 2015.

The Government noted that the completed assessment will inform consideration of whether an up-dated needs assessment of the Traveller community could usefully be undertaken.

**Education:** The Programme for Government commits to use available resources to more effectively deliver on principles of social inclusion such as Traveller education. All children including Traveller and Roma children have the right to education. This education must be directed to the development of respect for the child’s, his or her own cultural identity, languages and values.

While the Report and Recommendations for a Traveller Education Strategy was published in 2006, a strategy of itself with an implementation plan and timeline was never developed. In April 2015, an evaluation of the Delivering Equality of Opportunity in Schools (DEIS) programme was published, a repeated earlier findings comparing average test scores undertaken to date.

In April 2015, an evaluation of the Delivering Equality of Opportunity in Schools (DEIS) programme was published, a repeated earlier findings comparing average test scores undertaken to date.
scores of pupils from the Traveller community in 2007 and in 2010 with non-Traveller pupils in reading and mathematics. The study found that the average scores of Travellers in both years were significantly below those of non-Travellers and that the difference between them was ‘large’. Small but not significant improvements were seen across the board in reading but not in mathematics. This is of particular concern given the broader context that of the general Traveller population 55 per cent have left school by the age of 15, on average 4.7 years earlier than the general population, and 17.7 per cent of Travellers have no formal education, compared with 1.4 per cent in the general population.

Half of Traveller pupils attend DEIS schools, those in non-DEIS schools do not receive additional support because Traveller specific supports, such as resource teachers for Travellers and the Visiting Teacher Service were abolished in 2011. The Irish National Teacher’s Organisation (INTO) has noted that ‘many teachers’ are of the view that ‘the DEIS support programme did not adequately respond to the needs of Traveller children.’

Despite the obvious challenges faced by Traveller and Roma children in education, Budget 2016 did not include any additional supports for these groups. Resources are provided on ‘identified individual educational need’ to all children with no targeted initiatives for Traveller children or others based on cultural or ethnic background to facilitate and support their engagement in mainstream education.

**Traveller and Roma Children**

**Immediate Actions for 2016**

- **Put in place a monitoring and evaluation mechanism for the National Roma and Traveller Inclusion Strategy.**
  
  To ensure commitments are delivered, a rigorous monitoring and evaluation mechanism should be established for the Strategy.

- **Deliver on the Government commitment to recognise Traveller ethnicity.**
  
  Swift action is needed to fulfil the commitment of the Minister of State for Equality, New Communities and Culture that the State will recognise Traveller ethnicity.

- **Introduce an ethnic identifier across all administrative areas.**
  
  An ethnic identifier should be introduced across all administrative areas to enable the Government to track outcomes for minorities and to measure the efficacy of Traveller and Roma related initiatives.

- **Ensure adequate and appropriate accommodation, including transient accommodation, is provided to Traveller families by local authorities.**
  
  Local authorities should fulfil their obligations under the Housing (Traveller Accommodation) Act 1998 to provide culturally appropriate accommodation to Travellers with adequate water and sanitation facilities. Penalties should be imposed where local authorities fail in their duty to do so. Safe play and recreational areas should be provided for Traveller children and young people.

- **Establish a Traveller Agency.**
  
  A Traveller Agency should be established to drive cohesion and integration of delivery of services as well as improvements to and implementation of policy and legislation for Travellers and their children.

- **Take steps to improve the educational outcomes for Traveller and Roma children.**
  
  Targeted education supports should be introduced to support Traveller and Roma inclusion in mainstream education. An evaluation of the impact of the withdrawal of Traveller specific education supports should be undertaken to inform this. A monitoring and evaluation framework with clear timelines for the Report and Recommendations for a Traveller Education Strategy should also be developed and implemented.

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610 Emer Smyth et al, Learning from the Evaluation of DEIS, Economic and Social Research Institute 2015:12
612 ibid.
614 ibid.
616 ibid 6.
617 Communication Received by the Children’s Rights Alliance from the Department of Justice and Equality, 4 November 2014.
6.2 Migrant Children

GOVERNMENT COMMITMENT

The Programme for Government 2011-2016 commits to promoting policies that integrate minority ethnic groups in Ireland, and that promote social inclusion, equality, diversity and the participation of immigrants in the economic, social, political and cultural life of their communities.

Progress: Limited

‘Migrant Children’ receives a ‘D’ in Report Card 2016. This grade represents an increase on last year’s ‘E’ grade. The increased grade reflects the fact that the Working Group on the Protection Process Consultation, key, established the report, and that the first government consultation of its kind in the EU took place with children in the Direct Provision system. Further resources are required to ensure that the Working Group recommendations that relate to children are implemented. However, the grade remains low because in spite of the report, little changed on the ground for children in 2015 and the promised Integration Strategy has not yet been published.

This is the final year being analysed in the Report Card series under the Programme for Government 2011-2016. A commitment was made to promote policies on the integration of minority ethnic groups including the promotion of inclusion, equality and diversity. While progress is beginning to be made now, little has changed for migrant children on the ground across these areas over 2015.

Census 2011 shows that one in seven children under the age of 14 is from an ethnic minority and/or migratory background.619 There were more than 1,200 asylum seeking children living in the Direct Provision system in Ireland at the end of December 2015.620 International developments have seen an increase over the last twelve months in the number of migrant and asylum-seeking families and unaccompanied children in Europe.621 The Government responded to the refugee crisis by establishing the Irish Refugee Protection Programme and agreed to accept up to 4,000 persons under the EU Resettlement and Relocation Programmes.622

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There are a range of rights relating to migrant children under the UN Convention on the Rights of the Child622 but for the purpose of this section, we will examine the Programme for Government commitment under two key provisions relating to migrant children – non-discrimination and special protection measures. Under Article 2, the State is required to ensure that children are not discriminated against on any ground irrespective of race, national or ethnic origin or other status.623 Furthermore, they must be protected against discrimination based on their parent or guardian’s race, national, ethnic or other status. Under Article 22, States must provide special protection measures for children outside their country of origin seeking refugee protection.624

The Programme for Government commitment in this area is broad-reaching. Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020 recognises migrant children as a vulnerable group and makes specific commitments including to tackle inequalities in health,625 strengthen social inclusion measures, improve educational outcomes,626 address the interaction of migrant children with the immigration system, provide for a more efficient protection determination system627 and reduce discrimination and intolerance experienced by migrant children.628

Integration Strategy: In 2014, a review of Ireland’s approach to migrants was ordered by the then Minister for Justice and Equality, Alan Shatter TD. A Cross-Departmental Group on Integration was established in March 2014 to draft an overarching Integration Strategy taking account of existing policies629 and actions being implemented630. Consultation with key stakeholders was carried out and in October 2015 a draft of the Strategy was shared with stakeholders for their observations; the Strategy is due to be published shortly.

It has been eight years since the publication of Migration Nation, Statement on Integration Strategy and Diversity Management in 2008631 and the landscape has changed significantly in the intervening period, with the lapse of Planning for Diversity. The National Action Plan Against Racism 2005-2006, the closure of the National Consultative Committee on Racism and Interculturalism and the loss of the designated Minister for Integration as well as a significant reduction in the capacity of community migrant-led groups.632 The new Strategy is an opportunity for the State to meet its commitments to migrant children under the National Policy Framework and its obligations under the UN Convention on the Rights of the Child. The Strategy should include commitments on legislative reforms. The continued lack of a modern and coherent legal structure in relation to migrants and their families, impacts negatively of the everyday lives of migrant children, young people and their families in Ireland. 2015 saw the publication and enactment of the International Protection Act 2015. However, this legislation only addresses issues relating to the protection determination process, which is not covered in this report.

There is still no legal framework on the reception conditions of asylum seekers in Ireland, that is, Direct Provision. Ireland has decided to opt out of the EU Reception Conditions (Recast) Directive, which governs reception conditions for applicants.

619 Communication received by the Children’s Rights Alliance from the Department of Justice and Equality, 27 January 2016.
622 See, for example, Article 7 of the UN Convention on the Rights of the Child, which stipulates that a child shall have the right to a nationality and Article 30 which provides that the State must ensure that children of an ethnic, religious, or linguistic minority are not denied the right to enjoy their own culture, to profess and practise their own religion, or to use their own language. Article 32(1) obliges States to ensure that children can participate fully in cultural, leisure and sport activities and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.
625 Department of Children and Youth Affairs, Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020 (Department of Children and Youth Affairs 2014) Commitment 1.4
626 ibid Commitment 2.22.
627 ibid Commitment 3.7.
628 ibid Commitment 5.6.
629 Existing strategies include the Intercultural Education Strategy and the Garda Stonadhara Diversity Strategy.
630 Minister of State at the Department of Justice and Equality, Mr Aodhán Ó’ Ríordáin TD, Dáil Debates, Migrant Integration, 25 July 2016.
631 Office of the Minister for Integration, Migration Nation, Statement on Integration Strategy and Diversity Management (Office of the Minister for Integration 2008).
Children Living in Direct Provision: Young people from migrant backgrounds experience discrimination in their daily lives both interpersonally and systemically in terms of their right to family life, access to education and healthcare, protection and independent decisions (though this is expected to change shortly). Few children are more vulnerable to discrimination in Ireland than those of asylum seeking families. Approximately half of children in asylum-seeking families in Ireland live in the Direct Provision system. Direct Provision is a system of accommodation provided by the State to people seeking asylum in Ireland. It provides room and board within former hotels, hostels or other large buildings. Each centre is managed by private contractors on behalf of the Reception and Integration Agency.

Concerns about the system and the living conditions at the centres are well-documented and the Government’s own Statement of Government Priorities 2014-2015 highlights the ‘need to reform’. In October 2014, the Minister for Justice and Equality, Frances Fitzgerald TD and the Minister of State for New Communities, Culture and Equality, Aodhán Ó Ríordáin TD established a Working Group, chaired by former High Court Judge, Dr Brian McMahon, to review the protection process and make recommendations on how to improve the standard of living in the Direct Provision system. The Final Report of the Working Group, published in June 2015, made a range of findings and recommendations, five of which were of particular relevance to children. The Working Group report provides a blueprint for the State to significantly improve the lives of children and families in the Direct Provision system.

The average length of stay in Direct Provision is three years and four months but almost 15 per cent of residents have been living in the system for more than seven years. This means that there are children who have spent their whole lives living in a centre, which often involves living in communal or shared accommodation and is not appropriate for family life. One of the main recommendations of the Working Group relates to reducing the length of time being spent by people in the protection process and secure to remain stages.

The Group recommended that all requests for new accommodation for asylum seeker families should specifically require self-contained units with cooking facilities and/or family quarters with communal kitchens and adequate recreational space for children and young people. However, a tender for new accommodation released in July 2015 did not reflect this recommendation, missing an important opportunity to act on the Working Group’s recommendation in this area.

In May 2015, the Health Inspection and Quality Authority (HIQA) issued a report that found that in one year child welfare and protection referrals had been made to Tusla – the Child and Family Agency in relation to approximately 10 per cent of the general child population of children living in Direct Provision. This represents a significantly higher referral rate than for the general child population of 1.6 per cent.

Another key issue raised by the Working Group related to the quality of the physical conditions in Direct Provision accommodation, which they noted, varied across the centres and in some cases involved ‘cramped physical conditions’ and that the ‘multi-ethnic and multi-occupancy nature of the accommodation raises concerns around privacy, mental health, family life and child protection’. The Working Group notes that some children had grown up without a memory of their parents cooking a family meal, and that all families should have access to cooking facilities and their own private living space in so far as practicable.

The report focused on the following service areas, namely: Out/Reach, Midlands, Sligo/Letrim/West Cavan and Dublin North City. Health Information and Quality Authority, Report on inspection of the child protection and welfare services provided to children living in Direct Provision accommodation under the National Standards for the Protection and Welfare of Children, and Section 8(1) (c) of the Health Act 2007. The report focused on the following service areas _outreach, midlands, Sligo/Letrim/West Cavan and Dublin North City_. Health Information and Quality Authority, Report on inspection of the child protection and welfare services provided to children living in Direct Provision accommodation under the National Standards for the Protection and Welfare of Children, and Section 8(1) (c) of the Health Act 2007. The report focused on the following service areas. The report focused on the following service areas. The report focused on the following service areas. The report focused on the following service areas. The report focused on the following service areas._
the prevalence of families in Direct Provision centres involving in child care proceedings.655

While a child protection policy is in place at the accommodation centres, the current approach must be revisited to develop a broader policy in line with the recommendation of the Working Group.656 The Group recommended that Tusla, in conjunction with the Reception and Integration Agency (RIA) should develop a welfare strategy within RIA, to advise on policy and practice matters and to liaise on individual cases as required.657 This followed a number of recommendations from HIQA to Tusla in this area, including that Tusla develop an inter-cultural strategy to inform the provision of social services to ethnic minority children and families. It is understood that work is underway on formalising current practice between Tusla and RIA and in their cooperation on tracking movement of children and families between centres to ensure social workers are notified where necessary.658 HIQA also recommended that Tusla complete an audit to ensure all assessments have been carried out where needed; ensure effective interagency and inter-professional co-operation with key stakeholders and gather information on referrals to their services about children in Direct Provision accommodation to inform strategic planning.659

The Working Group found that the existing inspection regimes at Direct Provision centres lacked credibility among residents, and focused on compliance with contractual obligations in relation to health and safety, for example, and lacked care standards in areas such as training of staff in diversity issues, ensuring that residents have a voice and facilities for children.660 The Group recommended that national standards for inspection be developed to reflect fully government policy across all areas of service in Direct Provision. The report further recommended that an independent inspectorate should be established to ensure equality of treatment across services and that the Inspectorate should report its findings directly to the Minister.

In early 2016, plans were announced to extend the remit of the complaints procedure under the Office of the Ombudsman for Children to include children in the Direct Provision.661 Up to this point, this group of children were the only group of children in Ireland who were denied access to this procedure.662 They continue to be among a minority of children denied access to the Child Benefit payment.663 On 5 January 2016, the Department of Social Protection announced that the child component of the weekly Direct Provision allowance of €9.60 will be increased by €6.00 to €15.60.664 This represents the first increase in the payment in 16 years. While this increase is welcome, it falls far short of the €29.80 weekly figure recommended by the Working Group for the child component of the payment.665

**Consultations:** During October and November 2015, the Child Participation Unit of the Department of Children and Youth Affairs conducted consultations with approximately 90 asylum seeking children and young people aged 8-17 living in Direct Provision, in co-operation with the Reception and Integration Agency (RIA) of the Department of Justice and Equality. An independent researcher is compiling a report to establish the possibility of further increases in the payment.666

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655 Carol Coulter, Final Report - Child Care Law Reporting Project (Child Care Law Reporting Project 2015) 45. This often related to instances where mothers in Direct Provision suffered from mental illness problems, leading to their children being taken into care.

656 Communication received from Tusla, The Child and Family Agency, 18 February 2016.


661 Ombudsman for Children Act 2002, s 11(1)(e)(i) precludes the Office of the Ombudsman for Children from hearing complaints on decisions taken in the administration of the law relating to asylum, immigration and citizenship.

663 Child Benefit is a monthly payment to parents for the support of their children. Department of Social Protection, ‘Child Benefit Payment’ <http://www.welfare.ie/en/Pages/Child-Benefit.aspx> accessed 29 January 2016. The Habitual Residence Condition was introduced in 2005 under the Social Welfare (Consolidation) Act 2005 as amended, s 248, restricting access to certain social welfare payments including Child Benefit, to those who can prove a close link to Ireland. This amounts to indirect discrimination against approximately 10,000 children as they are denied the payment due to their parents’ immigration status, or migration history.

664 Communication received by the Children’s Rights Alliance from Tusla, the Child and Family Agency (RIA) of the Department of Justice and Equality. An independent researcher is compiling a report of the consultations. RIA has committed to giving consideration to the views of the children in the forthcoming series of reforms aimed at improving conditions, particularly for families and children, in the Direct Provision system.

665 The Government has committed to revisiting the payment with a view to considering the possibility of further increases. Communication received by the Children’s Rights Alliance from the Irish Naturalisation and Immigration Service, 28 January 2016.

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Inequalities in Family Life

GOVERNMENT COMMITMENT
The Programme for Government 2011-2016 promises to modernise and reform outdated elements of family law.

Progress: Complete
We will enact legislation to consolidate and reform the law on adoption.

Progress: Slow
We will amend the Civil Partnership and Certain Rights and Obligations of Cohabitating Couples Act 2010 to address any anomalies or omissions, including those relating to children.

Progress: Complete

Inequalities in Family Life’ receives an ‘A’ grade in Report Card 2016, an increase from the ‘B’ grade awarded last year. The improved grade reflects the enactment of the Children and Family Relationships Act 2015, which represents the most important reform of family law for a generation and the improvement in the law relating to children parented by same sex couples.

This is the final year being analysed in the Report Card series under the Programme for Government 2011-2016. A commitment was made to modernise and reform the law in relation to families and adoption. Significant progress has been made through the enactment of the Children and Family Relationships Act 2015 and Marriage Act 2015, and the publication of the General Scheme and Heads of the Adoption (Information and Tracing) Bill 2015.

The UN Convention on the Rights of the Child recognises the central role played by parents and guardians in the lives of children. Under the Convention every child has the right to be cared for by his or her parents insofar as possible.667 Children also have the right to contact with both their parents on a regular basis, to maintain personal relations and not to be separated from their parents against their will, unless the separation is in the child’s best interests.668 States are obliged to ‘respect the responsibilities, rights and duties of parents’ or ‘persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of his or her rights.’669 Irrespective of the relationships entered into by parents, children should not be discriminated against on any ground, including due to the status of their parents’ relationship.670


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668 ibid Art 9.
669 ibid Art 5.
670 ibid Art 2.
One of the key strengths of the Children and Family Relationships Act 2015 is that it provides that the best interests of the child are paramount in decisions on guardianship, custody and access.

The provisions of the Act relating to adoption, guardianship and custody were commenced on 18 January 2016676 and Part 10 which relates to passports has also been commenced.677 Despite the significant progress made in the area of family law under the 2015 Act, two significant problems remain unresolved.

Section 63 of the Act provides, at the discretion of the Court, to procure from an expert a report in writing in any case affecting the welfare of the child or to appoint an expert to determine the views of the child and convey these to the Court.675 The cost of the expert must be borne by the parties to the cases, in effect the parent or guardian. This provision is likely to impact negatively on children in low income families who will face an additional barrier to having their voices heard. Section 63 has yet to be commenced meaning that a child still has no automatic entitlement to have their voice heard in family law proceedings affecting them, such as guardianship, custody and access decisions.678

The second issue relates to the lack of a Central Register for Statutory Declarations for Joint Guardianship which may cause a difficulty for an unmarried father who has not retained a copy of his declaration of guardianship and so is unable to prove that he is joint guardian of his child. The statutory declaration is the only non-judicial mechanism to enable an unmarried father to gain guardianship rights – the safe keeping of these documents should be fully supported by the State. This is understood to be the case, in effect the parent or guardian. This provision is likely to impact negatively on children in low income families who will face an additional barrier to having their voices heard. Section 63 has yet to be commenced meaning that a child still has no automatic entitlement to have their voice heard in family law proceedings affecting them, such as guardianship, custody and access decisions.678

In relation to guardianship, the Act provides that a step-parent, civil partner or a person who has co-parented with a parent for not less than three years may apply to the court to become a guardian where they co-parented the child for more than two years. A person who has provided for the child’s day-to-day care for a continuous period of more than a year may apply for guardianship if the child has no parent or guardian who is willing or able to exercise the rights and responsibilities of guardianship. The Act also allows for the appointment of a temporary guardian. Further, the Act stipulates that an unmarried father will automatically be a guardian if he has lived with the child’s mother for 12 months and is understood to be the child’s father, or has cohabited with a parent for not less than three years, including at least three months with the mother and child following the birth of the child. This is a welcome development as previously unmarried parents did not automatically acquire guardianship rights.

The Children and Family Relationships Act 2015 placed new obligations on the court system, in particular the District Court. On foot of the Act and as part of a broader programme of reform, a number of new initiatives were announced. These include plans to develop a state-of-the-art Family Law and Children’s Courts building on Dublin’s courtroom capacity in Dolphin House will be freed up to facilitate family law proceedings.679 It is anticipated that these changes will have a positive impact on waiting times in family law cases.680

In addition, a court welfare service is needed to support the roll out of the Children and Family Relationships Act 2015. This service would support the judiciary to make informed decisions by carrying out assessments of the child’s welfare and best interests, ascertaining his or her views, and carrying out family risk assessments. Additional services are also needed to support children and families, such as mediation services and child contact centres.681

Adoption Law: In addition to the right to know their parentage, to have access to information about their identity, a child has the right to the assistance and protection of the State where they have been denied an element of their identity.682 In July 2015, the Government published the General Scheme and Heads of the Adoption (Information and Tracing) Bill 2015. It provides a statutory basis for the provision of information related to prospective and retrospective adoptions, including access for persons over 18 years to their original birth certificate. Moreover, it provides that the best interests of the child principle is to be the deciding factor in the sharing of information on anyone under 18 years.683 This legislation should be enacted to vindicate the right of an adopted child to know his or her identity.

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Civil Partnership and Cohabiting Couples: The commitment in the Programme for Government to address anomalies and omissions in civil partnership legislation has been addressed through the Children and Family Relationships Act 2015. The Civil Partnership and Certain Rights and Obligations of Cohabiting Couples Act 2010 did not provide a legal framework governing the relationship between a child and their mother or father’s civil partner or cohabiting partner in a number of critical areas. This meant that civil or cohabiting partners could not apply for guardianship, custody or access of a child in the family unit. It was also not possible for a maintenance order to be made against a civil or cohabiting partner in relation to a dependent child and non-biological children of a deceased civil or cohabiting partner were denied inheritance rights. This meant that civil partner or cohabiting families faced significant discrimination in comparison with married families. The Children and Family Relationships Act 2015 addresses these anomalies and ensures that the legal relationship is formalised.

Furthermore, on 23 May 2015, a referendum took place to determine whether or not the Constitution should be amended to extend civil marriage rights to same sex couples. The amendment was passed by a 62.1 per cent majority. On foot of the referendum result, the Marriage Act 2015 was enacted and commenced on 16 November 2015. It provides for civil marriages for same sex couples — which have the same status under the Constitution as a marriage between a man and a woman.

The commitment in the Programme for Government to address anomalies and omissions in civil partnership legislation has been addressed through the Children and Family Relationships Act 2015. The Civil Partnership and Certain Rights and Obligations of Cohabiting Couples Act 2010 did not provide a legal framework governing the relationship between a child and their mother or father’s civil partner or cohabiting partner in a number of critical areas.

690 Paula Fagan, Missing Pieces, A comparison of the rights and responsibilities gained from civil partnership compared to the rights and responsibilities gained through civil marriage in Ireland (Marriage Equality 2011) 26-27.
691 Paula Fagan, Missing Pieces, A comparison of the rights and responsibilities gained from civil partnership compared to the rights and responsibilities gained through civil marriage in Ireland (Marriage Equality 2011) 27.
692 ibid.
The Children’s Rights Alliance unites over 100 members working together to make Ireland one of the best places in the world to be a child. We change the lives of all children in Ireland by making sure that their rights are respected and protected in our laws, policies and services.

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Ag Eisteacht
Alcohol Action Ireland
Alliance Against Cutbacks in Education
Amnesty International Ireland
ASH Ireland
Assoc. for Criminal Justice Research and Development (ACJRD)
Association of Secondary Teachers Ireland (ASTI)
ATD Fourth World - Ireland Ltd
Attest Ireland
Autism Network Ireland
Barnardos
Baretstown Camp
Belong To You Services
Bessborough Centre
Catholic Guides of Ireland
Childhood Development Initiative
Children in Hospital Ireland
COPE Galway
Cork Life Centre
Croke Park
Dental Health Foundation of Ireland
Department of Occupational Science and Occupational Therapy, UCC
Disability Federation of Ireland
DIT - School of Social Sciences & Legal Studies
Down Syndrome Ireland
Dublin Rape Crisis Centre
Dun Laoghaire Refugee Project
Early Childhood Ireland
Educate Together
EPIC
EQUATE
Extern Ireland
Focus Ireland
Foróige
Gaolscóilanna Teo
GLEN - Gay and Lesbian Equality Network
Headstrong - The National Centre for Youth Mental Health
Healthy Food for All
Immigrant Council of Ireland
Inclusion Ireland
Independent Hospitals Association of Ireland
Inspire Ireland
Institute of Community Health Nursing
Institute of Guidance Counsellors
International Adoption Association
Irish Association for Infant Mental Health
Irish Association of Social Care Workers (IASCW)
Irish Association of Social Workers
Irish Association of Suicidology
Irish Autism Action
Irish Centre for Human Rights, NUI Galway
Irish Congress of Trade Unions (ICTU)
Irish Council for Civil Liberties (ICCL)
Irish Foster Care Association
Irish Girl Guides
Irish Heart Foundation
Irish National Teachers Organisation (INTO)
Irish Penal Reform Trust
Irish Premature Babies
Irish Primary Principals Network
Irish Refugee Council
Irish Second Level Students’ Union (ISSU)
Irish Society for the Prevention of Cruelty to Children
Irish Traveller Movement
Irish Youth Foundation (IYF)
Jack & Jil Children’s Foundation
Jesus Centre for Faith and Justice
Kids’ Own Publishing Partnership
Law Centre for Children and Young People
Lifestart National Office
Mental Health Reform
Mounttown Neighbourhood Youth and Family Project
MyMind
National Childhood Network
National Organisation for the Treatment of Abusers (NOTA)
National Parents Council Post Primary
National Parents Council Primary
National Youth Council of Ireland
One Family
One in Four
Parentline
Parentstop
Pavee Point
Peter McVerry Trust
Rape Crisis Network Ireland (RCNI)
Real Beag
SAFE Ireland
Saorín Housing Association
SACL Beag Children’s Centre
School of Education UCD
Scouting Ireland
Simon Communities of Ireland
Society of St. Vincent de Paul
Sons Housing Association
Special Needs Parents Association
SpunOut.ie
St. Nicholas Montessori College
St. Nicholas Montessori Teacher’s Association
St. Patrick’s Mental Health Services
Start Strong
Step by Step Child & Family Project
Suis Educational Development
Sugradh
Teachers’ Union of Ireland
Terenure Rugby Football Club
The Ark, A Cultural Centre for Children
The Guardian Childrens Project
The Prevention and Early Intervention Network
The UNESCO Child and Family Research Centre, NUI Galway
Treasor
UNICEF Ireland
Unmarried and Separated Families of Ireland
youngballymun
Youth Advocate Programme Ireland (YAP)
Youth Work Ireland
The Children's Rights Alliance unites over 100 members working together to make Ireland one of the best places in the world to be a child. We change the lives of all children in Ireland by making sure that their rights are respected and protected in our laws, policies and services.

Children's Rights Alliance
7 Red Cow Lane
Smithfield
Dublin 7
Ireland

Ph: +353 1 662 9400
Email: info@childrensrights.ie

Find us on

www.childrensrights.ie

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