

## Constitutional Convention

### Immediate Action for 2016



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

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

## 2. RIGHT TO EDUCATION

Chapter Grade

# B-

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

**Teresa Heeney**, Chief Executive Officer, Early Childhood Ireland

### Right to Education

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

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



## 2.1

## Early Childhood Care and Education

### GOVERNMENT COMMITMENT

The *Programme for Government 2011-2016* commits to maintaining the free pre-school year in Early Childhood Care and Education to promote the best outcomes for children and families; and to improving the quality of the pre-school year by implementing standards and reviewing training options.



**Progress: Good**

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



**Progress: Limited (also see Chapter 4.2)**

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

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

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

All children have the right to education<sup>38</sup> including in their early years.<sup>39</sup> States must provide appropriate assistance to parents and guardians in child-rearing responsibilities<sup>40</sup> 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'.<sup>41</sup>

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

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

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

40 ibid para 20.

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



## IN THE NEWS

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

The Kerryman, 23 May 2015

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

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

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

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

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

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

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

By Cillian Walsh

Following a series of consultations with stakeholders, the IDG's Report was published in July 2015 and set out a suite of options for Government.<sup>43</sup> 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'.<sup>42</sup> 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.<sup>43</sup> 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.<sup>44</sup> Also welcome is the commitment to introduce paternity leave, which is the first official recognition of the role of fathers in the care of young children.<sup>45</sup>

#### Early Childhood Care and Education (ECCE)

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

programme continued to be available in 2015.<sup>46</sup> 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.<sup>47</sup> The free pre-school programme cost €172 million in 2015.<sup>48</sup>

The ECCE programme has been maintained since its introduction in 2010. Budget 2016 expanded the existing duration of the programme from a standard 38 weeks, allowing children to avail of the programme from age three until they start primary school.<sup>49</sup> 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.<sup>50</sup> The OECD found Ireland's investment in early years to be well below the OECD average of 0.8 per cent, coming in at 0.5 per cent of GDP in 2014.<sup>51</sup> This figure includes spending on four and five year olds in primary schools. When this figure is adjusted to exclude

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

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.<sup>54</sup> 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.<sup>55</sup> 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.<sup>56</sup> 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.<sup>57</sup>

**Children with Disabilities:** The UN Committee on the Rights of the Child has stated that '[e]arly childhood education is of particular relevance for children with disabilities as often their disabilities and special needs are first recognized in these institutions'.<sup>58</sup> 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'.<sup>59</sup>

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*,<sup>60</sup> an Inter-Departmental Group was established in June 2015 to examine this issue and reported in September 2015.<sup>61</sup> Budget 2016 announced the introduction of a new model to support the inclusion of children with disabilities in free pre-school.<sup>62</sup> The model, launched in November

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

43 *ibid.*

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

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

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

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

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

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

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

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

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

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

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

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

56 Start Strong, 'Pre-Budget Submission 2016', <[http://www.startstrong.ie/files/Start\\_Strong\\_Pre-Budget\\_Submission\\_2016.pdf](http://www.startstrong.ie/files/Start_Strong_Pre-Budget_Submission_2016.pdf)> accessed 29 January 2016, 3.

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

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

59 *ibid.*

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

61 Report of the Inter-departmental Group, 'Supporting Access to the Early Childhood Care and Education (ECCE) Programme for Children with a Disability' <[http://www.heia.ie/sites/default/files/idg\\_report\\_-\\_supporting\\_access\\_to\\_ecce\\_for\\_children\\_with\\_a\\_disability\\_final.pdf](http://www.heia.ie/sites/default/files/idg_report_-_supporting_access_to_ecce_for_children_with_a_disability_final.pdf)> accessed 29 January 2016, 5, 9.

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

2015, is expected to cost €17 million in 2016 and €40 million per year from 2020.<sup>63</sup> The new model is a positive initiative that will further implementation of the UN Convention on the Rights of the Child by ensuring that children with disabilities can access early years education. The operation of the model should be reviewed in two years' time to document its success and identify any barriers to its implementation. Under the new model, 50 additional mentors will be recruited to provide specialist early years and inclusion advice and support.<sup>64</sup>

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'.<sup>65</sup>

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

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

The Early Years Quality Agenda comprises a number of actions aimed at improving quality and enhancing regulation within early years services.<sup>67</sup> 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.<sup>68</sup> The establishment of a registration system for all pre-school services, announced in 2013 and legislated for in 2014, has yet to go live.<sup>69</sup> 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.<sup>70</sup>

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.<sup>71</sup> Further investment was

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

announced in Budget 2016 to achieve this aim<sup>72</sup> but the timeline of September 2015 has been postponed until the end of 2016 to give staff time to complete their qualification.<sup>73</sup> Given that the level of staff qualification has been shown to be an important contributing factor, as well as an indicator of quality provision,<sup>74</sup> 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.<sup>75</sup> Tusla expects that all services will have been inspected within the last three years by mid-2016.<sup>76</sup>

Second, running in parallel to the work of the National Early Years Inspectorate, the delivery of the ECCE programme will now be inspected on a pilot basis by Early Years Education-Focused Inspectors.<sup>77</sup> A pilot of the model of inspection started in December 2015 and 20 inspections were to have been undertaken by the end of 2015.<sup>78</sup> 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.<sup>79</sup> 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.<sup>80</sup>

63 Department of Children and Youth Affairs, 'Children with disabilities attending free pre-school to benefit from major new supports scheme "Supporting Access to Early Childhood Care and Education (ECCE) Programme for Children with a Disability" – IDG Report published' (18 November 2015) <<http://www.dcy.gov.ie/viewdoc.asp?DocID=3655&CatID=11&mn=6&StartDate=1+January+2015>> accessed 29 January 2016.

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

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

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

67 Minister for Children and Youth Affairs, James Reilly TD, Parliamentary Questions, Written Answers, 17 July 2014 [32809/14] and Department of Children and Youth Affairs, 'Minister Fitzgerald commits to comprehensive pre-school quality agenda' (7 June 2013) <<http://www.dcy.gov.ie/viewdoc.asp?DocID=2710>> accessed 29 January 2016. Note there is no written policy document outlining the Agenda as a whole. The Agenda was introduced in response to an *RTE Prime Time* broadcast in 2013 which exposed evidence of bad practice and maltreatment of children in a number of services.

68 Child and Family Agency Act 2013, s 92.

69 *ibid.*

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

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

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

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

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

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

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

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

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

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

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

## Early Childhood Care and Education

### Immediate Actions for 2016



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

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

#### INTRODUCE A SINGLE AFFORDABLE CHILD CARE PROGRAMME.

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

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

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

## 2.2

### Child Literacy

#### GOVERNMENT COMMITMENT

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



#### Progress: Done

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



#### Progress: Some

The *Programme for Government* also commits to:

- > improving pre-service and in-service training in the teaching of literacy for all primary and secondary school teachers, with dedicated literacy mentors to work intensively with teachers in the most disadvantaged primary schools.



#### Progress: Some

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



#### Progress: Incomplete

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

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

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

In addition to their right to education, children have the right to a certain quality of education.<sup>83</sup> 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'.<sup>84</sup> 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.<sup>85</sup>

**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.<sup>86</sup> The Government reiterated its commitment to the implementation of the Strategy in *Better Outcomes, Brighter Futures: The*

*National Policy Framework for Children and Young People 2014-2020*.<sup>87</sup> 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.<sup>88</sup> This is a very significant achievement.

Due to the successful test results, the interim review of the Strategy, which was scheduled for 2016, was brought forward to 2015.<sup>89</sup> The review will provide an overview of both the successes of the Strategy to date and set out remaining challenges and priorities for the second half of the Strategy's lifespan.<sup>90</sup> A forum to discuss the interim review was held on 14 January 2016.<sup>91</sup> During 2015, additional measures

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

were put in place to further the implementation of the Strategy; these were set out in Circulars 27 and 42 of 2015.<sup>92</sup>

The test results also show that while literacy outcomes have improved for children in both the general population of schools and in Delivering Equality of Opportunity in Schools Programme (DEIS) schools,<sup>93</sup> the gap between the two remains, with DEIS pupils continuing to lag behind.<sup>94</sup> A 2015 report by the Economic and Social Research Institute highlighted a number of concerns with the DEIS Programme, including a persistently large proportion of very low achievers and 'continuing challenges' in numeracy in particular.<sup>95</sup> A process for a review of the DEIS programme commenced at the start of the academic year 2015/16.<sup>96</sup> The aim of the review is to assess the programme by examining existing evaluations and relevant policies and developments to inform future policy in the area. Further engagement with stakeholders is expected to take place in early 2016 through the DEIS Consultative Forum.<sup>97</sup>

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

**Literacy Action Plan:** The Strategy did not follow the *Programme for Government* commitment to require schools to have dedicated Literacy Action Plans.<sup>99</sup> 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.<sup>100</sup> 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.<sup>101</sup> In addition,

81 Department of Education and Skills, *Circular Letter 27/2015 Information in Relation to Actions under the Literacy and Numeracy Strategy Standardised Testing, Reporting, Library Support and Other Matters*, (Department of Education 2015) 3.  
 82 For further details, see Department of Education and Skills, 'Literacy and Numeracy for Learning and Life, The National Strategy to Improve Literacy and Numeracy among Children and Young People 2011-2020, Summary Update on Implementation of Actions in the Strategy in 2014' (15 January 2015) <<https://www.education.ie/en/Schools-Colleges/Information/Literacy-and-Numeracy/Literacy-and-Numeracy-Summary-Update-January-2015-.pdf>> accessed 29 January 2016, 15, 18.  
 83 UNCRC 'General Comment No. 1 on The Aims of Education Article 29(1)' (2001) UN Doc CRC/GC/2001/1 para 9.  
 84 *ibid.*  
 85 United Nations Human Rights Council, *Report of the Special Rapporteur on Extreme Poverty and Human Rights*, (UN Human Rights Council 2013) UN Doc A/HRC/23/36, para 43.  
 86 Department of Education and Skills, *Literacy and Numeracy for Learning and Life: The National Strategy to improve Literacy and Numeracy among Children and Young People 2011-2020*, (Department of Education and Skills 2011).  
 87 Department of Children and Youth Affairs, *Better Outcomes, Brighter Future: The National Policy Framework for Children and Young People 2014-2020* (Department of Children and Youth Affairs 2014) Commitment 2.5.  
 88 Education Research Centre, 'Improved Performance among Primary School Pupils in National Assessments of English Reading and Mathematics' (12 January 2015) <[http://www.erc.ie/documents/na14perf\\_pressrelease.pdf](http://www.erc.ie/documents/na14perf_pressrelease.pdf)> accessed 29 January 2016. Department of Education and Skills, 'Minister O'Sullivan welcomes publication of national assessments in primary schools' (12 January 2015) <<http://www.education.ie/en/Press-Events/Press-Releases/2015-Press-Releases/>> accessed 29 January 2016. The 2014 National Assessments, carried out by the Educational Research Centre, showed an improvement in literacy and numeracy skills for the first time since 1980 among second and sixth class pupils. The results also show a reduction in the proportion of low achieving pupils which suggests that the Delivering Equality of Opportunity in Schools (DEIS) Programme is yielding results.  
 89 Department of Education and Skills, *Circular Letter 42/2015 Implementation of the National Literacy and Numeracy Strategy (2011-2020)* (Department of Education and Skills 2015).  
 90 *ibid.*  
 91 Department of Education and Skills, 'National Strategy to Improve Literacy and Numeracy – Interim Review' <<http://www.education.ie/en/Schools-Colleges/Information/Literacy-and-Numeracy/Interim-Review/Interim-Review.html>> accessed 29 January 2016.

92 These Circulars refer to welcome measures such as free library services being available to both primary and post-primary schools to build upon existing partnerships between libraries and schools. This will include resources that are consistent with the curriculum and the Strategy; support to strengthen young people's reading skills and class visits to the library. Department of Education and Skills, *Circular Letter 42/2015 Implementation of the National Literacy and Numeracy Strategy (2011-2020)* (Department of Education and Skills 2015) 2-3; Department of Education and Skills, *Circular Letter 27/2015 Information in Relation to Actions under the Literacy and Numeracy Strategy Standardised Testing, Reporting, Library Support and Other Matters*, (Department of Education and Skills 2015) 2-3.  
 93 The Delivering Equality of Opportunity in Schools (DEIS) Programme, introduced in 2006, aims to address the educational needs of children from marginalised communities through lower pupil-teacher ratios and a range of literacy and numeracy programmes. For more information see: Department of Education and Skills, 'DEIS: Delivering Equality of Opportunity in Schools,' <<http://www.education.ie/en/Schools-Colleges/Services/DEIS-Delivering-Equality-of-Opportunity-in-Schools-/>> accessed 29 January 2016.  
 94 Emer Smyth, Selina McCoy and Gillian Kingston, *Learning from the evaluation of DEIS*, (Economic and Social Research Institute 2015) 82.  
 95 Emer Smyth, Selina McCoy and Gillian Kingston, *Learning from the evaluation of DEIS*, (Economic and Social Research Institute 2015).  
 96 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 9 December 2015. A consultation with education partners to inform the development of appropriate future measures and supports to combat educational disadvantage was announced by the Minister for Education and Skills in April 2015. Structures put in place to carry out the review include a Technical Working Group to examine the appropriate eligibility criteria to identify the level of need in schools and develop a new assessment framework for same. A DEIS Advisory Group is to review the School Support Programme and draw together a future framework of supports in schools as well as put forward recommendations for a new programme of tackling educational disadvantage. An Interdepartmental Working Group is to develop a framework for interdepartmental and inter-agency links to ensure greater cohesion on the issue and a Project Steering Group is overseeing the work.  
 97 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 27 January 2016.  
 98 UNCRC 'General Comment No. 1 on The Aims of Education Article 29(1)' (2001) UN Doc CRC/GC/2001/1 para 9.  
 99 In September 2014 (the most recent date for which information is available), 89 per cent of schools reported that they had a literacy plan and 71 per cent that they had a numeracy focus in their action plans. Communication received by the Children's Rights Alliance from the Department of Education and Skills, 4 November 2015.  
 100 Under the Strategy, schools were not required to have a Literacy Action Plan but were instead required to engage in a self-evaluation process and produce improvement plans. Department of Education and Skills, *Literacy and Numeracy for Learning and Life: The National Strategy to improve Literacy and Numeracy among Children and Young People 2011-2020* (Department of Education and Skills 2011) 40, 82, 84. See [www.schoolself-evaluation.ie](http://www.schoolself-evaluation.ie) for more details. Department of Education and Skills, 'Minister Ruairi Quinn launches Guidelines on School Self-evaluation' (19 November 2012) <<http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR2012-11-19.html>> accessed 29 January 2016.  
 101 The School Improvement Plans are expected to be used to identify supports needed in the further roll-out of the SSE process. Communication received by the Children's Rights Alliance from the Department of Education and Skills, 9 December 2015.

95 per cent of primary schools and 61 per cent of post-primary schools had submitted their School Improvement Plans.<sup>102</sup> 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<sup>103</sup> and the National Induction Programme for Teachers includes literacy and numeracy workshops.<sup>104</sup> 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<sup>105</sup> and literacy continued to be a module in each of the Professional Development Service for Teachers leadership programmes.<sup>106</sup> 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<sup>107</sup> (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.<sup>108</sup> 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.<sup>109</sup> This time allocation remains below the commitment in the *Programme for Government*, which committed that 10 hours per week in DEIS schools and 7.5 hours per week in non-DEIS schools would be spent on literacy.

Despite the commitment in the *Programme for Government* to provide dedicated literacy mentors to the most disadvantaged schools, DEIS advisors (formerly 'Cuiditheoirí') who were dedicated to DEIS schools have been replaced by literacy and numeracy advisors who are shared amongst the general population of schools.

## Child Literacy

# Immediate Actions for 2016



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

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

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

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

102 ibid.

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

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

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

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

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

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

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

## 2.3

## Children with Special Educational Needs

### GOVERNMENT COMMITMENT

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

Progress: Some

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

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

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

The right to education extends to all children regardless of their needs or ability.<sup>110</sup> 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'.<sup>111</sup> 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'.<sup>112</sup> 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.<sup>113</sup>

Children should not face discrimination because of a disability.<sup>114</sup> 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'.<sup>115</sup>

### 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'<sup>116</sup>, in line with the Salamanca Statement on Principles, Policy and Practice in Special Needs Education.<sup>117</sup> However in 2008, due to the budgetary constraints, the Government deferred implementation of the Act.<sup>118</sup> 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.<sup>119</sup>

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

and *Young People 2014-2020*, the Government committed to prepare and implement a plan, guided by the National Council for Special Education (NCSE) policy advice, 'on how aspects of EPSEN [...] can be implemented, including prioritising access to an individual education plan and implementing the recommendations of the NCSE Working Group on a new resource allocation model for schools'.<sup>122</sup> 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.<sup>123</sup> From the academic year 2015/2016, a Special Educational Needs Summary Form was to be included in the Education Passport to support the sharing of information on children who have

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

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

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

112 ibid.

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

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

**Integrating Special Needs Services:** The *Programme for Government* committed to achieve greater integration of services for children with special educational needs. Existing advisory and intervention supports in schools for children with special educational needs are provided by a range of different organisations.<sup>126</sup> The NCSE recommended in 2013 that a new Inclusion Support Service be established under its remit 'to provide a coherent service to schools'.<sup>127</sup> The new service was announced in February 2015.<sup>128</sup> Its aim is to assist schools in supporting children with special educational needs through greater integration of special needs services.<sup>129</sup> 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<sup>130</sup> is to be piloted in 47 schools (28 primary and 19 post-primary schools) during the 2015/16 school year.<sup>131</sup> 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.<sup>132</sup> 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'.<sup>133</sup> 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.<sup>134</sup>

**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.<sup>135</sup> Assistance provided should be designed to ensure that the child has effective access to education and receives that education in a manner conducive to the child achieving 'the

The UN Committee on the Rights of the Child has provided that children with disabilities have the right to assistance, appropriate to their condition. Assistance provided should be designed to ensure that the child has effective access to education and receives that education in a manner conducive to the child achieving 'the fullest possible social integration and individual development, including his or her cultural and spiritual development'.

fullest possible social integration and individual development, including his or her cultural and spiritual development'.<sup>136</sup> 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.<sup>137</sup> This could be applied not only to Special Needs Assistants and Resource Teachers but also to educators, policymakers and health workers.

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

During 2015, three positive announcements were made by the Department of Education and Skills – an additional interim allocation of Resource Teachers for children with Down's Syndrome,<sup>143</sup> an additional 610 SNAs from September 2015 to meet a 'significant increase' in assessed need,<sup>144</sup> and a review of the SNA Scheme,<sup>145</sup> which is expected to report by the end of February 2016.<sup>146</sup>

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

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

## Children with Special Educational Needs

### Immediate Actions for 2016



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

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

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

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

#### MONITOR THE ROLL-OUT OF THE EDUCATION PASSPORT INITIATIVE.

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

## 2.4

### School Buildings

#### GOVERNMENT COMMITMENT

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



#### Progress: Very Good

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



#### Progress: Good

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



#### Progress: Good

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

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

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

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

*Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* consolidates the Government's ongoing commitment in this area up to 2020.<sup>147</sup> 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'.<sup>148</sup>

Budget 2016 provided €433 million for the Schools Building Programme.<sup>149</sup> In 2015, as part of the five-year €2 billion capital investment programme,<sup>150</sup> 50 large scale projects were completed,<sup>151</sup> 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.<sup>152</sup>

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.<sup>153</sup> 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.<sup>154</sup> 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<sup>155</sup> and 'to combat disease and malnutrition... through the provision of adequate nutritious foods...'.<sup>156</sup> 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.<sup>157</sup>

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'.<sup>158</sup> This commitment goes beyond the *Programme for Government* which committed to phase-out the inefficient renting of school pre-fabs.

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

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

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

**Inventory of School Accommodation:** The Inventory of School Accommodation will be developed on an incremental basis.<sup>164</sup> Information generated is being linked to data on national demographic trends through a Geographical Information System (GIS).<sup>165</sup> 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.<sup>166</sup> The GIS was central to identifying the demographic demand which led to the development of the 50 major school projects completed in 2015.<sup>167</sup> The majority of schools, 85 per cent, have completed or are in the process of completing the inventory.<sup>168</sup>

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

148 *ibid* 131.

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

150 Department of Education and Skills, 'Minister Quinn announces details of 275 major school building projects - More than 15,000 jobs to be created over five years' (12 March 2012) <<http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR12-03-12.html>> accessed 29 January 2016.

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

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

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

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

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

156 *ibid* Art 24.

157 *ibid* Art 31.

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

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

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

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

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

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

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

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

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

167 *ibid*.

168 *ibid* 9 December 2015.

## School Buildings

### Immediate Actions for 2016



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

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

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

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

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

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

## 2.5

### Patronage and Pluralism in Primary Education

#### GOVERNMENT COMMITMENT

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



#### Progress: Complete

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



#### Progress: Incomplete

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

This is the final year being analysed in the Report Card series under the *Programme for Government 2011-2016*. It committed to establish a Forum on Patronage<sup>169</sup> and Pluralism in the Primary Sector and draw its recommendations into a White Paper aimed at ensuring the education system can provide a sufficiently diverse number of schools, catering for all religions and none. Significant progress was made in the early years including the establishment of the Forum on Patronage and Pluralism in the Primary Sector in 2011, publication of their report a year later<sup>170</sup> and publication of an update on the

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

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

implementation of the Forum's recommendations in 2014.<sup>171</sup> However, the White Paper on the Forum's recommendations was not delivered and the education system is still struggling to accommodate children of different or no faiths.

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

Every child has a right to education 'on the basis of equal opportunity'<sup>173</sup> and the right to respect for their freedom of thought, conscience and religion.<sup>174</sup> 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.<sup>175</sup> In 2006, the UN Committee on the Rights of the Child called on the State to encourage the establishment of non-denominational or multid denominational schools.<sup>176</sup>

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

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

**Divestment:** In the lifetime of this Government, there has been some progress in providing greater choice in the school system. Parental surveys on demand for alternative forms of education carried out in 2012 and 2013 found that there was a clear demand in 28 localities.<sup>180</sup> To date, eight new multi-denominational primary schools have been opened under the divestment process, three such schools opened in 2015.<sup>181</sup> This means that there are 20 localities across the country still waiting for alternative forms of education. Only two of the eight new multi-denominational schools opened in buildings transferred from religious institutions.<sup>182</sup> Three new post-primary schools also opened under the process in 2015.<sup>183</sup> In areas of population growth, the process for establishing new schools

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

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

Negotiations on divestment of primary school properties between the Catholic Church and the then Department of Education and Science began in 2008. However, the divestment process has been very slow. In 2014, the Department of Education and Skills acknowledged that divesting had not proceeded at the pace originally envisaged.<sup>185</sup> 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.<sup>186</sup>

**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.<sup>187</sup> The Equal Status Acts 2000-2012, which prohibit discrimination including on religious grounds, provide an exemption that allows schools of a particular religious ethos to give preference to students of that religious denomination, or refuse admission to students of other or no religion in order to preserve the school's ethos.<sup>188</sup> The fact that the law permits religious discrimination in school

admissions has been heavily criticised by the UN Committee on the Rights of the Child,<sup>189</sup> the UN Committee on Economic, Social and Cultural Rights,<sup>190</sup> the Irish Human Rights and Equality Commission<sup>191</sup> and the Ombudsman for Children.<sup>192</sup> The publication of the Education (Admission to Schools) Bill 2015 in April 2015 was a missed opportunity to remedy this issue.<sup>193</sup>

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

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

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

184 Ibid 27 January 2016.  
185 Department of Education and Skills, 'Update on Forum on Patronage and Pluralism in Primary Sector; Progress to Date and Future Directions,' (1 July 2014) <<http://www.education.ie/en/Press-Events/Conferences/Patronage-and-Pluralism-in-the-Primary-Sector/Progress-to-Date-and-Future-Directions-Forum-on-Patronage-and-Pluralism-in-the-Primary-Sector.pdf>> accessed 29 January 2016, 14.  
186 Aoife Carr 'Church "dragging its feet" over divestment process – Martin,' *The Irish Times* (Dublin, 9 November 2015).  
187 Equate, 'News' <<http://www.equateireland.ie/#!news/c6v5>> accessed 29 January 2016.  
188 Equal Status Acts 2000-2012, s 7(3)(c).  
189 UNCRC 'Concluding Observations Ireland,' (29 September 2006) UN Doc CRC/C/IRL/CO/2, para 61.  
190 The UN Committee on Economic, Social and Cultural Rights recommended that the State increase the number of nondenominational schools at the primary and post-primary education levels. CESCR, 'Concluding Observations on the third periodic report of Ireland' (19 June 2015) UN Doc E/C.12/IRL/CO/3 para 31.  
191 Irish Human Rights and Equality Commission, *Observations on the Education (Admission to Schools) Bill 2015*, (Irish Human Rights and Equality Commission 2015) 18.  
192 Ombudsman for Children, *Advice of the Ombudsman for Children on the General Scheme of the Education (Admission to Schools) Bill 2015* (Ombudsman for Children 2013) 19.  
193 The Explanatory Memorandum of the Education (Admission to Schools) Bill 2015 states that the Bill aims to make school enrolment more fair and the admissions procedures more transparent. While the Bill provides positives steps in this area such as requiring schools to publish their admissions criteria, section 61(2)(b) of the Bill proposes that where section 7(3)(c) of the Equal Status Act 2000 applies, denominational schools will not be considered to discriminate where their admissions statements allow for the admission of students of the school's denomination or refuses the admission of students who are not of the school's denomination and in the case of such refusal where it is proved that it is essential to maintain the ethos of the school.  
194 Carl O'Brien, 'Schools should accept pupils on proximity – O'Sullivan' *The Irish Times* (Dublin 9 November 2015).  
195 ibid.  
196 UNCRC 'General Comment No. 1 on The Aims of Education Article 29(1)' (2001) UN Doc CRC/GC/2001/1 para 3.

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

capacities and so is inconsistent with Article 14 of the UN Convention on the Rights of the Child, which obliges States to 'respect the right of the child to freedom of thought, conscience and religion' and the rights and duties of the parents or guardians, 'to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child'. Article 44.2.4° of the Constitution allows parents or guardians to opt a child out of religious instruction classes at schools receiving public money.<sup>197</sup> 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.<sup>198</sup>

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.<sup>199</sup> 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.<sup>200</sup>

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.<sup>201</sup> 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.<sup>202</sup> While this is a welcome development, it is not fully compliant with children's rights. For example, the options offered on how principals could handle 'opt-outs' from religious education classes include that the child stays in the classroom during the class.<sup>203</sup> 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.<sup>204</sup> 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.<sup>205</sup> 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'.<sup>206</sup>

In November 2015, in line with a recommendation of the Forum on Patronage and Pluralism,<sup>207</sup> 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.<sup>208</sup> The finalised curriculum should be forward-looking and be grounded in the child's right to be free from discrimination and their right to freedom of thought, conscience and religion.

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

197 Constitution of Ireland Article 44.2.4°.

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

199 A. Mawhinney 'Freedom of Religion in the Irish Primary School System: A Failure to Protect Human Rights?' [2015] Legal Studies, Vol 27, No. 3, 390-393; Department of Education and Skills, 'Update on Forum on Patronage and Pluralism in Primary Sector; Progress to Date and Future Directions,' (1 July 2014) <<http://www.education.ie/en/Press-Events/Conferences/Patronage-and-Pluralism-in-the-Primary-Sector/Progress-to-Date-and-Future-Directions-Forum-on-Patronage-and-Pluralism-in-the-Primary-Sector.pdf>> accessed 29 January 2016, 23.

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

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

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

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

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

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

206 *ibid* para 19.

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

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

## Patronage and Pluralism in Primary Education

### Immediate Actions for 2016



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

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

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

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

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

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

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

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

# 3. RIGHT TO HEALTH

Chapter Grade

# C+

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

**Shari McDaid**, Director, Mental Health Reform

## Right to Health

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

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