

**Submission by the  
Children's Rights Alliance  
to the  
Equality Authority's Strategic Plan, 2003 - 2005**

**20-June 2002**

<b>1 Introduction</b>
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The Children's Rights Alliance is a coalition of 70 non-governmental organisations concerned with meeting the needs and safeguarding the rights of children in Ireland. The Alliance works to secure the full implementation in Ireland of the principles and provisions of the UN Convention on the Rights of the Child, to which Ireland is a State Party.

The Alliance appreciates the opportunity to make a submission to the Equality Authority's Strategic Plan 2003-2005.

<b>2 Policy Context</b>
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**2.1 UN Convention on the Rights of the Child**

The UN Convention on the Rights of the Child recognises and stipulates children's basic human rights, including their civil, political, economic, social and cultural rights and their right to protection from abuse and exploitation. The Convention sets forth the minimum standards necessary for the well-being of every child. The Convention also imposes obligations on the ratifying States Parties to undertake specific actions to ensure the full realisation by children of the rights stipulated in the Convention.

Four principles are basic to the implementation of the Convention:

- Respect for the best interests of the child (Article 3)
- The right of all children to life, survival and development (Article 6)
- Participation: the right of all children to express their views freely on all matters affecting them (Article 12)
- Non-discrimination: the right of all children to enjoy all the rights in the Convention without discrimination (Article 2).

Article 2 provides for non-discrimination and equality by obligating States Parties to

*"respect and ensure the rights set forth in the...Convention..."without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status".*

Article 2 continues by calling on States Parties to "take all appropriate measures to ensure that the child is protected against all forms of discrimination".

**2.2 National Children's Strategy**

The National Children's Strategy was launched in November, 2000. The Strategy lays out a set of objectives and commitments to improve the quality of life for all children in Ireland over a ten-year period. The Strategy aims to achieve the following three National Goals:

1. Children will have a voice in matters which affect them and their views will be given due weight in accordance with their age and maturity.
2. Children's lives will be better understood; their lives will benefit from evaluation, research and information on their needs, rights and the effectiveness of services.
3. Children will receive quality supports and services to promote all aspects of their development. The Strategy recognises that all children have a basic range of needs and that some children have additional needs.

### **2.3 Ombudsman for Children**

The Ombudsman for Children Act was passed in April 2002. The Office of the Ombudsman for Children will have a remit to promote the rights and welfare of children and to examine and investigate complaints against public bodies, schools and voluntary hospitals. The Office will provide children and their parents or guardians with a powerful ally to ensure that government agencies live up to their responsibilities to promote the rights and best interests of all children.

## **3 Children and the Work Programme of the Equality Authority**

### **3.1 Adopt a Specific Focus on Children**

The Children Rights Alliance calls on the Equality Authority to include a specific focus on children in its Strategic Plan 2003-2005 and to address, as a matter of priority, issues of inequality and discrimination faced by those under the age of 18 years.

Inequality among children is a reality of modern day Ireland. Children are affected by inequality in numbers disproportionate to the overall population. Children are disproportionately represented within marginalised communities. Half the Traveller population, for example, is under the age of 15 years. Children are also more likely than adults to be living in poverty.

The impact of the experience of inequality can be particularly damaging for children and may have negative life-long consequences. Children are affected by structurally embedded inequalities as well as by discrimination from both the adult population and from their peers. A child may be perceived by his or her peers as being in some way 'different', leading to stigmatisation and marginalisation, behaviour closely associated with bullying.

It is sometimes assumed that benefits secured by the adult population will automatically 'trickle down' to children and adequately address their needs. This assumption fails to recognise that inequality and discrimination often impact on children and adults in different ways.

It is also important to note that issues related to the needs of children, such as childcare, can be approached from two sometimes conflicting perspectives, namely the best interests of the child and the needs of the parent/s.

Fostering the creation of an equal society requires the involvement of all strands of that society. Children under the age of 18 make up approximately 30% of the Irish population.

Children comprise a distinct group in society with specific needs and requirements. A child-focused approach is needed by the Equality Authority to address issues of inequality faced by children.

### **3.2 *Establish an Advisory Committee on Children and Equality***

The Children's Rights Alliance calls on the Equality Authority to establish an Advisory Committee on Children and Equality. Section 48 (1) of the Employment Equality Act, 1998 enables the Equality Authority to "*appoint such and so many advisory committees as it thinks fit to advise it on matters relating to its functions, for such period and subject to such terms of reference as it thinks appropriate.*"

An Advisory Committee on Children and Equality would:

- Examine what legislative or policy changes are needed to achieve equality for children.
- Identify examples of good practice in promoting equality for children across the nine grounds covered by the equality legislation.
- Recommend what specific actions the Equality Authority can take to promote equality among children.
- Suggest how the Equality Authority, in its efforts to achieve equality for children, can best work with the Ombudsman for Children, the Human Rights Commission, the structures established under the National Children's Strategy and organisations working to address the needs and rights of children.

### **3.3 *Support the Incorporation of the UN Convention on the Rights of the Child into Domestic Law***

To build a society where children are treated equally it is essential that the rights of children be explicitly recognised in law. In 1996 the Constitution Review Group recommended that the Constitution be amended to provide express guarantees of certain children's rights stipulated by the UN Convention on the Rights of the Child but not already included in Ireland's Constitution.

In 1998, the UN Committee on the Rights of the Child, in its *Concluding Observations* on Ireland's performance in implementing the Convention, urged Ireland to accelerate implementation of these recommendations and to incorporate the Convention into Irish domestic law.

The Children's Rights Alliance calls on the Equality Authority, as part of its work to promote an equal society, to support and encourage the incorporation of the rights of children into domestic law. The Authority could make a specific contribution in this area, for example, by hosting a conference which would examine the recommendations of the Constitution Review Group and the UN Committee on the Rights of the Child and consider the best manner of incorporating into Irish law the UN Convention on the Rights of the Child.

### **3.4 *Voice of the Child***

The Equality Authority's Strategic Plan 2000-2002 includes a commitment to build stakeholder participation through regular formal consultation exercises (Objective 8 Supporting Actions).

Goal One of the National Children's Strategy provides that "*Children will have a voice in matters that affect them and their views will be given due weight in accordance with their age and maturity.*" This is designed to progress implementation of Article 12 of the UN Convention on the Rights of the Child which recognises the child's "*right to express [his or her] views freely in*

*all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.”*

The Children’s Rights Alliance calls on the Equality Authority to apply the Convention and the Strategy to the work of the Authority and to ensure that meaningful consultation with children be undertaken in relation to decisions and the development of policies by the Authority affecting children and young people under the age of 18.

## 4 Application and Revision of the Equal Status Act

### 4.1 *Discrimination on the Grounds of Age*

The blanket exemption of all those under the age of 18 from the ‘age grounds’ of the Equal Status Act is inconsistent with the participation and non-discrimination provisions of the UN Convention on the Rights of the Child, particularly when viewed in the light of the Good Friday Agreement and the application of equality law in Northern Ireland.

The Good Friday Agreement provides that all those living on the island of Ireland shall enjoy the same rights and an equivalent level of rights protection. Section 75 (1) of the Northern Ireland Act, 1998 places a statutory duty on public authorities to “*promote equality of opportunity between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; between men and women generally; between persons with a disability and persons without; and between persons with dependants and persons without.*” The ‘age provision’ has been interpreted to apply to those under the age of 18 as well as to the aged. The Agreement and the equality provisions of the Northern Ireland Act have been interpreted to require public bodies to consult with and take into account the interests of all those who may be affected by policy decisions, including children and young people.

Such consultation, as noted above, is a key children’s right recognised under the UN Convention on the Rights of the Child. The UN Convention also provides that all the rights of the Convention shall be enjoyed by all children, without discrimination.

In keeping with the principles and provisions of the Good Friday Agreement and the UN Convention, the Equal Status Act, 2000 in Ireland should secure for children in this jurisdiction no less than an equivalent level of rights protection as that enjoyed by children living elsewhere on the island of Ireland.

To achieve this objective, the Children’s Rights Alliance calls on the Equality Authority, in its review of the Equal Status Act, 2000, to support the removal of the blanket exemption covering all those under the age of 18 from the prohibition on discrimination on the grounds of age. Exceptions would need to be stipulated to ensure the retention of appropriate benefits, prohibitions and protections for children.

### 4.2 *Child Poverty and Discrimination on the Grounds of Economic Status*

The existence of poverty creates and reinforces inequalities and discrimination within society. Despite the recent economic boom, 8% of children in Ireland are living in ‘consistent poverty’ and 24% are living in ‘relative income poverty’.

Poverty in childhood can hinder the ability of children to reach their full potential development, negatively affecting their health, education and life chances. Children who are poor or in some way disadvantaged often experience discrimination in relation to accessing services. For example, the current two-tier system of health care discriminates against

children by providing or denying access to care not on the basis of need, but on the grounds of ability to pay.

In its Strategic Plan 2000-2002, the Equality Authority commits itself to *“working with the National Anti-Poverty Strategy to support the focus on inequalities leading to poverty”*. In the recent review of the National Anti-Poverty Strategy (2002), the Government has adopted the goal of eliminating consistent child poverty by 2007.

The right of the child *“to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development”* is a fundamental right enshrined in the UN Convention on the Rights of the Child.

The Children’s Rights Alliance calls on the Equality Authority to prioritise the issue of child poverty in its next Strategic Plan and to support measures to achieve the elimination of consistent child poverty by 2007.

To advance the effort to combat inequality connected to child poverty, the Children’s Rights Alliance recommends the Equality Authority, in its review of the Equal Status Act, 2000, support expanding the grounds under which discrimination is prohibited to include economic status.

#### **4.3     *Discrimination on the Grounds of Membership of the Traveller Community***

The Children’s Rights Alliance calls on the Equality Authority to examine the discriminatory impact on Traveller families of trespass legislation passed by the Oireachtas in April 2002.

The potential impact of the legislation must be examined within the context of the delay in promised accommodation to these families. In 1995, the Government Task Force on Travellers called for the provision of 2,200 units of Traveller-specific accommodation by the year 2000. Since then, less than 150 units have been provided. More than 1,200 families, including approximately 3,000 Traveller children, continue to live on the roadside without adequate facilities, in conditions that are simply intolerable and that represent a gross violation of children’s rights. If implemented the new criminal trespass legislation will put these children into even greater jeopardy. Already coping with inadequate accommodation, thousands of children could soon face the threat of forcible eviction coupled with the arrest and imprisonment of their parents.

<b>5     Information and Research</b>
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#### **5.1     *Research***

A thorough analysis of the well-being of children and young people in Ireland is hindered by a lack of research, analysis and disaggregated data. There is little available qualitative research on the experiences of children who are affected by discrimination. The Equality Authority should consider commissioning qualitative research to gain insights into the impact of discrimination on the lives and well-being of children. The research should also examine models of good practice and explore what measures can be introduced to prevent discrimination.

#### **5.2     *Equality Indicators***

The development of Equality Indicators as proposed under Objective 2 of the Equality Authority’s Strategic Plan 2000-2002 is welcome. The gathering of disaggregated data is central to monitoring children’s well-being and informing an equality perspective in the

planning, implementation and monitoring of services to children. The Equality Indicators should be used to develop time-bound and measurable targets to eliminate discrimination against children.

To ensure the compatibility of information, the Equality Authority should liaise with governmental bodies drawing up information measures and reports as outlined in the National Children's Strategy, including child well-being indicators, a state of the nation's children report and child impact statements. Under the Strategy, all departments must identify the impact of their policies on children when seeking a government decision. This practice is to be extended to state agencies.

The Children's Rights Alliance calls on the Equality Authority to take the lead among state agencies by developing child impact statements in relation to all aspects of its work affecting children.

### **5.3     *Equality Statement***

The Children's Rights Alliance recommends that the Equality Authority design a model 'Equality Statement' which would incorporate children and young people and relate to all nine categories of discrimination prohibited in the Equal Status Act, 2000. The model statement could be adopted by organisations working with or for children and young people. The model statement could be drawn up along the lines of the Authority's Model Equal Opportunities Policy Statement.

## Summary of Recommendations

The Children Rights Alliance calls on the Equality Authority to:

- Include a specific focus on children in its Strategic Plan 2003-2005 to address as a matter of priority issues of inequality and discrimination faced by those under the age of 18.
- Establish an Advisory Committee on Children and Equality.
- Support and encourage the incorporation of the rights of children into domestic law.
- Engage in consultation with children in relation to decisions and the development of policies by the Authority affecting children.
- Support an amendment to the Equal Status Act, 2000 to remove the blanket exemption covering all those under the age of 18 from the prohibition of discrimination on the grounds of age.
- Prioritise the issue of child poverty in its next Strategic Plan and support measures to implement the Government's commitment to end consistent child poverty by 2007.
- Support an amendment to the Equal Status Act, 2000 to expand the grounds for prohibition of discrimination to include economic status.
- Examine the discriminatory impact on Traveller families of trespass legislation passed by the Oireachtas in April 2002.
- Commission qualitative research on the experiences of children who are affected by discrimination.
- Use the proposed Equality Indicators to develop time-bound and measurable targets to eliminate discrimination against children.
- Draw up 'child impact statements' in relation to all aspects of the Authority's work affecting children.
- Design a model Equality Statement that would incorporate children and young people and relate to all nine categories of discrimination prohibited in the Equal Status Act.