

3. RIGHT TO EDUCATION

Chapter Grade

D+

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Ireland would be a fairer place if schools would accept everyone, not just people with a certain religion."

Students from Dalkey School Project National School, Dublin. Picture Your Rights: A Report to the UN Committee on the Rights of the Child from Children Living in 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



Members of The Ark's Children's Council documenting The Ark and Children's Rights Alliance's Seen AND Heard Forum, 17 November 2016. Photographer: Luca Truffarelli



IN THE NEWS

TEEN AWARDED €5,500 OVER DISCRIMINATION BY SCHOOL

The Anglo-Celt, 23 August 2016

A 17-year-old Oldcastle boy who suffers from cerebral palsy has been awarded €5,500 after his former school discriminated against him by not allowing him to bring his assistance dog to school. [...]

An equality officer of the WRC [Workplace Relations Commission], Orlaith Mannion, found Knocktempole NS had, based on their 'Just Say No' policy towards allowing dog access, taken an 'obfuscating and close-minded approach to the request' by the Melia family. [...]

The letter [to the family] stated that Luke would have to stop bringing Aidan to the school until the board had decided on the matter.

As a result, Luke's parents, Pauline and Brendan, have decided to home-school their child. [...]

At the time, Luke's father Brendan said his son's life had been 'transformed' by the arrival of Aidan, which helped his son's mobility.

He told The Anglo-Celt: 'We used to worry about him falling backwards and hitting his head against a pipe or a radiator but now if he wobbles backwards, the dog stops and they steady themselves up.' [...]

Equality Officer Ms Mannion stated that while the school had been correct to pose questions, the law requires educational establishments to do all that is reasonable to accommodate the needs of a person with a disability.

In its ruling, the WRC has now ordered that the school redraft its policies so that they are in compliance with the law. [...]

3.1

Educational Disadvantage

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > Publish a new School Completion Strategy.

Progress: Limited

- > Publish a new updated Action Plan for Educational Inclusion within 12 months, narrow the gap between DEIS and non-DEIS schools, and examine how students outside of DEIS can be better supported.

Progress: Some

'Educational Disadvantage' receives a 'D' grade in Report Card 2017. Neither the School Completion Strategy nor the Action Plan for Educational Inclusion has yet been published though the Plan is expected in early 2017. However, there is no clear plan as to how students experiencing educational disadvantage outside of the Delivering Equality of Opportunity in Schools programme will be supported.

Every child has a right to education on the basis of equal opportunity.²⁵⁹ The UN Committee on the Rights of the Child has provided that the goal of education is to 'empower the child by developing his or her skills, learning and other capacities, human dignity, self-esteem and self-confidence.'²⁶⁰ The Committee states that education goes beyond formal school to embrace the broad range of life experiences and learning processes which enable children, individually and collectively, to develop their personalities, talents and abilities and to live a full and satisfying life within

society.'²⁶¹ States are required to take measures to 'encourage regular attendance at schools and the reduction of drop-out rates.'²⁶²

Every child has a right to education on the basis of equal opportunity.

School Completion: *Better Outcomes Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* commits to 'implement strategies to improve school engagement and reduce incidences of [...] early school-leaving through engaging parents in schooling, strengthening transitions, [...] and fostering inclusive school environments where all pupils flourish, irrespective of social and ethnic background or disability.'²⁶³ One of the goals under the *Action Plan on Education*, launched in September 2016, is to continue to improve retention rates at second-level with the aim of increasing the current rate of 82.7 per

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

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

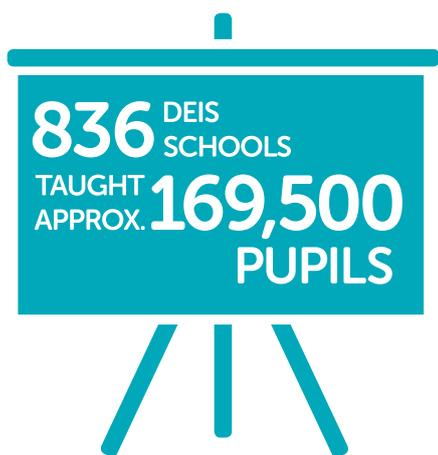
261 *ibid.*

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

263 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) Commitment 2.4.

cent in Delivering Equality of Opportunity in Schools programme (DEIS) schools to the national norm of 90.2 per cent by 2025.²⁶⁴

Work on the School Completion Strategy is to begin at the end of 2017.²⁶⁵ The development of the Strategy will be led by the Department of Children and Youth Affairs in conjunction with the Department of Education and Skills.²⁶⁶ Work on the DEIS review and reform of the School Completion Programme under the Educational Welfare Service will lay the foundations to work on the Strategy.²⁶⁷



Significant progress has been made in improving school completion rates, with the most recently available data showing that 7,572 young people left school early in 2011, a drop of 34 per cent over the previous decade.²⁶⁸ The data makes positive reading but there continues to be a cohort of young people who, for a myriad of reasons, disengage with formal education and whose needs are not catered for in the mainstream system.²⁶⁹ In line with the guidance from the UN Committee, the new School Completion Strategy must go beyond formal education and provide additional support and educational alternatives for all young people, of all

abilities and backgrounds and 'embrace the broad range of life experiences and learning processes' that allow children to flourish.²⁷⁰ Traveller and migrant children are over-represented in the early school leaver statistics.²⁷¹

Casting the net of the School Completion Strategy wider than the School Completion Programme is positive. The new Strategy is an opportunity for the Government to make a real difference in the educational outcomes for vulnerable children and young people. While the Programme will benefit from ongoing reform, a more holistic approach taking account of the DEIS review, the forthcoming Educational Inclusion Action Plan, the School Meals Programme, mental health supports and the wider school environment for example would take account of the needs in all aspects of the child's life that impact their school experience. This will involve a coordinated response with responsibility lying across a number of Government departments. Young people, particularly those who have completed their education early or who are at risk of leaving school early should be consulted in advance of the publication of a new Strategy. The Strategy should be outcomes-focused, encourage evidence-based decision-making, be adequately funded and accompanied by an implementation plan with clear timelines and measurable outcomes. Publication of the Strategy should be prioritised to ensure that another group of young people does not fall through the cracks of the education system.

Educational Disadvantage: In Ireland, a person's socio-economic background remains a strong determining factor in their educational attainment. A person is three times more likely to go on to higher education if their parents have higher education than someone whose parents have not completed secondary level education.²⁷² The rapid expansion of education in recent decades²⁷³ and the removal

264 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) 28.

265 Communication received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 31 January 2017.

266 *ibid.*

267 *ibid.* The Educational Welfare Service is under the remit of the Child and Family Agency.

268 Department of Education and Skills, 'Early School Leavers, What Next? Report on Early Leavers from Post-Primary Schools – Pupils Enrolled in 2010/2011 and not in 2011/2012' <<http://bit.ly/2kNN0zD>> accessed 2 February 2017, 2, 15.

269 Department of Education and Skills, 'Reports on School Completion and School Leaving show majority of students entering Higher and Further Education' (24 March 2016) <<http://bit.ly/2kImUOK>> accessed 2 February 2017.

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

271 Department of Education and Skills, 'Early School Leavers, What Next? Report on Early Leavers from Post-Primary Schools – Pupils Enrolled in 2010/2011 and not in 2011/2012' <<http://bit.ly/2kNN0zD>> accessed 2 February 2017, 12-14, 20. It is worth noting that in September 2011, 'there were 34 boys and 4 girls in detention schools aided by the Department of Education and Skills. There were 21 boys and 17 girls enrolled in DES-aided high-support units in the same period. Data is not available on whether these pupils were enrolled in a DES-aided post primary school in the previous year.'

272 OECD, 'Education at a Glance 2014: OECD Indicators' (2014) <<http://dx.doi.org/10.1787/eag-2014-en>> accessed 3 February 2017, 93. In Ireland, 42 per cent of men and 47 per cent of women (in the 25–43 age range) have a higher educational attainment than their parents, 100.

of tuition fees have benefited most socio-economic groups in accessing higher education.²⁷⁴ These developments have not had a significant impact on the entry rate of students from under-represented lower socio-economic groups²⁷⁵ such as Traveller, Roma and migrant children. *Better Outcomes, Brighter Futures* commits to 'consider the recommendations of the review of the DEIS Programme and use it as a platform for the new initiatives to deliver better outcomes for students in disadvantaged areas'²⁷⁶ and to 'strengthen social inclusion measures and re-invigorate efforts to improve educational outcomes among, and integration of, Travellers, Roma and migrant children and young people.'²⁷⁷

The *Action Plan on Education* commits to publishing and implementing an Educational Inclusion Action Plan that will include 'a school support programme, an assessment framework for resource allocation and a monitoring and evaluation framework.'²⁷⁸ The *Action Plan on Education* also aims to improve the learning outcomes of learners at risk of or impacted by educational disadvantage.²⁷⁹ The Plan notes that 'inclusive education' is a fundamental principle in our education and training system and that while progress has been achieved, 'significant challenges remain' if children and young people from different backgrounds are to be supported to experience educational success.²⁸⁰

The DEIS programme is the State's main policy to tackle educational disadvantage,²⁸¹ and it has been found to positively impact on disadvantage in education.²⁸² Since the formal ending of its initial cycle in 2008, there has been uncertainty related to the future of DEIS. A process to review 'all aspects of DEIS' began in 2015²⁸³ which includes the potential for increased integration of services provided by other Departments and Agencies with the view to improving effectiveness.²⁸⁴ The review is expected to include targeted measures in areas such as new networks of DEIS teachers and schools to share learning outcomes and the improvement of the integration of schools and other State supports within communities.²⁸⁵ A new assessment framework is being developed to assess schools for inclusion in the Programme.²⁸⁶ In a positive move, children from a sample of DEIS schools were consulted as part of the DEIS review and this, together with the outcome of a broader consultation, will be considered in drawing up the Educational Inclusion Action Plan.²⁸⁷

The deadline to publish the Educational Inclusion Action Plan by the end of 2016, as outlined in the *Action Plan on Education*,²⁸⁸ has not been achieved and it is now expected to be published in 2017.²⁸⁹ It is disappointing that the commitments in the Educational Inclusion Action Plan will be implemented 'as resources allow'.²⁹⁰ Dedicated and adequate funding should be committed to achieve its aims given that addressing

273 Expert Group on the Future Funding of Higher Education, *The Role, Value and Scale of Higher Education in Ireland* (DES 2015) 22.

274 Higher Education Authority, *Action Plan for Equity of Access to Higher Education 2008-2013* (HEA 2008), section 2.

275 *ibid.* Such groups include those from skilled manual, semi-skill and unskilled manual and non-manual groups.

276 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) Commitment 2.16

277 *ibid* Commitment 2.22.

278 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) 27.

279 *ibid* 2, 3.

280 *ibid.*

281 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://bit.ly/2kNQ1jz>> accessed 3 February 2017. There were 836 DEIS schools in 2016 teaching 169,500 pupils. Minister for Education and Skills, Richard Bruton TD, Dáil Debates, Delivering Equality of Opportunity In Schools Scheme, 21 July 2016 [24207/16].

282 Emer Smyth, Selina McCoy and Gillian Kingston, *Learning from the Evaluation of DEIS*, (Economic and Social Research Institute 2015) 56, 74.

283 Minister for Education and Skills, Richard Bruton TD, Written Answers, Delivering Equality of Opportunity in Schools Scheme, 29 November 2016 [36891/16].

284 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 20 January 2017.

285 Minister for Education and Skills, Richard Bruton TD, Written Answers, Delivering Equality of Opportunity in Schools Scheme, 29 November 2016 [36891/16]; Carl O'Brien, 'Plan to make education accessible to those from poorer backgrounds' *Irish Times* (Dublin, 14 December 2016).

286 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 20 January 2017.

287 *ibid.*

288 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) 29.

289 Minister for Education and Skills, Richard Bruton TD, Priority Questions, Delivering Equality of Opportunity in Schools Scheme, 18 January 2017 [2011/17].

290 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) 29.

educational disadvantage is a goal of the *Action Plan on Education*. Implementation of the Plan is due to begin in the 2017/2018 school year.²⁹¹

A Programme for a Partnership Government also commits to narrowing the gap between DEIS and non-DEIS schools, and to examine how to better support students outside of DEIS. A 'significant proportion' of disadvantaged students attend non-DEIS schools.²⁹² The Educational Inclusion Action Plan is expected to use 'small areas' census data to identify schools in disadvantaged areas that fall outside of the DEIS Programme.²⁹³ However, children who experience educational disadvantage due to their socio-economic background but do not attend a school in a disadvantaged area will remain beyond the reach of supports such as the Home School Liaison Programme, the School Completion programme and planning supports.²⁹⁴ It is unclear how the Government intends to address the additional support needs of these children as it sets out in its commitment and the new Educational Inclusion Action Plan must make provision for these children.

291 Minister for Education and Skills, Richard Bruton TD, Written Answers, Delivering Equality of Opportunity in Schools Scheme, 29 November 2016 [36891/16].

292 Emer Smyth et al, *Review of the School Completion Programme, Research Series Number 44* (ESRI 2015) 79.

293 Carl O'Brien, 'Plan to make education accessible to those from poorer backgrounds' *Irish Times* (Dublin, 14 December 2016).

294 For more information on the supports provided under the DEIS programme see: Department of Education and Skills, 'Support to DEIS Schools' <<http://bit.ly/2lf5EBE>> accessed 3 February 2017.

Educational Disadvantage

Immediate Actions for 2017



PUBLISH THE ACTION PLAN ON EDUCATIONAL INCLUSION WITHOUT DELAY AND PROVIDE DEDICATED FUNDING FOR ITS IMPLEMENTATION.

The promised Action Plan on Educational Inclusion should be long-term, adequately resourced and accompanied by an implementation plan with clear targets, timelines, expected outcomes and details of how they are to be achieved.

ENSURE THAT THE NEW SCHOOL COMPLETION STRATEGY CONSIDERS THE DIVERSE NEEDS OF THE CHILD IN ALL ASPECTS OF THEIR LIVES AND THAT THIS IS REFLECTED IN A COORDINATED CROSS-DEPARTMENTAL APPROACH. IT SHOULD INCLUDE CONSULTATION WITH CHILDREN AND YOUNG PEOPLE.

The new School Completion Strategy provides the Government with a real opportunity to improve the life outcomes for vulnerable children by helping them achieve their educational potential at school. To achieve this, the Government must be ambitious in its approach and examine all aspects of the lives of the young people who fall out of the education system early through a cross-departmental approach. The Department of Children and Youth Affairs must consult with young people in school as well as early school-leavers to inform the development of the new School Completion Strategy.

ENSURE THAT SUPPORTS ARE MADE AVAILABLE TO CHILDREN WHO EXPERIENCE EDUCATIONAL DISADVANTAGE BUT WHO DO NOT ATTEND DESIGNATED DEIS SCHOOLS.

A significant number of children from disadvantaged backgrounds but not living in DEIS designated areas fall outside of the reach of Programme supports. Priority should be given to ensure that measures are in place to support these children.

3.2

Diversity in Schools**GOVERNMENT COMMITMENT**

A Programme for a Partnership Government commits to:

- > Work with stakeholders to facilitate the phased transfer of Catholic schools to new patrons, where support of communities exists and to consider new approaches.



Progress: Limited

- > Increase the number of non-denominational and multi-denominational schools to 400 by 2030.



Progress: Some

- > Publish new School Admissions and Excellence legislation and enact this legislation for the beginning of the school year 2017.



Progress: Some

'Diversity in Schools' receives a 'D' grade in Report Card 2017. The Government is to be commended for its commitment to increase diversity in schools. However, new plans on the transfer of existing schools from religious patrons are not fully based on the best interests of children and lack transparency and independence. In addition, the 'baptism barrier' has been protected rather than removed in the new school admissions legislation leaving children of minority or of no faith facing discrimination.

Every child has a right to education 'on the basis of equal opportunity'²⁹⁵ and the right to respect for their freedom of thought, conscience and religion.²⁹⁶ Children have the right to be free from discrimination of any kind, irrespective of, amongst other things, the

child's or their parent or guardian's religion or beliefs. The State is under a duty to 'take all appropriate measures' to ensure that the child is protected against all forms of discrimination based on their beliefs or expressed opinions.²⁹⁷ In 2016, the UN Committee on the Rights of the Child encouraged Ireland to promote the establishment of non-denominational or multi-denominational schools and to amend existing legislation to eliminate discrimination in school admissions.²⁹⁸

In the academic year 2016/17, 96 per cent of primary schools have a religious patron with 89.7 per cent under the patronage of the Catholic Church.²⁹⁹ At post-primary level 52.3 per cent of schools have a religious patron, with 48.5 per cent of these under Catholic

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

296 *ibid* Art 14(1).

297 *ibid* Art 2.

298 UNCRC 'Concluding Observations Ireland,' (2016) CRC/C/IRL/CO/3-4 para 64(a).

299 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 23 January 2017.

Church patronage.³⁰⁰ The denominational nature of the Irish education system has led to difficulties for families who wish for their children to be educated in a multi- or non-denominational environment.³⁰¹ This is largely down to a lack of school options in their locality, other than a denominational publicly funded school.³⁰² In five counties in Ireland, there is no alternative to denominational primary school provision.³⁰³

In the Action Plan on Education 2016-2019, the Government commits to working with stakeholders to facilitate the process of reconfiguration under an agreed roadmap for a phased transfer of Catholic schools to new patrons where the support of communities exists.

Divestment/Reconfiguration: The previous Government established a Forum on Patronage and Pluralism in the Primary Sector in 2012 to examine how the education system could best provide a sufficiently diverse number and range of schools nationwide for children of all religions and none.³⁰⁴ It recommended divestment of patronage to take place on a phased process.³⁰⁵ Progress on divestment has been slow and rather than actual divestment of property to another patron, in many cases, schools are housed in temporary accommodation, some with no guarantee of a long-

term building. Just two schools are now in properties given over by the Catholic Church.³⁰⁶

In the *Action Plan on Education 2016-2019*, the Government commits to working with stakeholders to facilitate the process of reconfiguration under an agreed roadmap for a phased transfer of Catholic schools to new patrons where the support of communities exists.³⁰⁷ In conjunction with the proposed new multi- and non-denominational schools, the Minister for Education and Skills, Richard Bruton TD, has pointed to the phased transfer of Catholic schools to new patrons as part of the vision of achieving greater diversity in schools.³⁰⁸ He is to be commended for seeking new approaches to progressing divestment and reconfiguration. Although he met with a broad range of stakeholders on this issue,³⁰⁹ there was little action on the ground in 2016 and progress remained effectively stalled.

In January 2017, the Minister announced a plan aimed at 'providing more multi-denominational and non-denominational schools across the country' through the transfer of existing schools from religious patronage.³¹⁰ The plan sets out a two phase process for the identification of existing schools for transfer and where it is shown that there is a level of demand to justify the transfer, the implementation phase will begin. This model will continue alongside the previous amalgamation and closure model.³¹¹ With regard to the process for the decision on patronage of the new multi- and non-denominational schools, a statement from the Minister provided that 'the existing landowner... will decide what multi-denominational patron to

300 *ibid.*

301 The Department of Education and Skills provides that two types of primary schools are categorised as multi-denominational: 1. Schools that do not provide religious education as formation, during the school day, but do provide education about religions and beliefs. 2. Schools that provide education about religions and also provide some faith formation for different denominations, depending on parental requests, during the school day, over a 3 or 4 week period. Department of Education and Skills, 'Diversity of Patronage' <<http://bit.ly/2llAaq7>> accessed 1 February 2017. Definitions can also be found at this address for denominational and inter-denominational patronage.

302 The Forum on Patronage and Pluralism in the Primary Sector, *Report of the Forum's Advisory Group* (Department of Education and Skills 2012) 42.

303 Educate Together, 'Schools and Start-Up Groups' <<http://www.educatetogether.ie/schools>> accessed 1 February 2017. The six counties are Leitrim, Longford, Monaghan, Roscommon and Tipperary.

304 The Forum on Patronage and Pluralism in the Primary Sector, *Report of the Forum's Advisory Group* (Department of Education and Skills 2012) 3.

305 *ibid* 105.

306 Michael Shiels McNamee, 'It tends not to be prime property that's handed over: 8 schools opened in 3 years under divestment', *The Journal.ie* (1 August 2016) <<http://bit.ly/2lkOT5J>> accessed 6 December 2016.

307 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) 61. In addition, by the end of March 2017, the Action Plan commits to establishing a working group in the Department of Education and Skills to develop an amalgamation protocol for schools reconfiguring to increase diversity of school type.

308 Minister for Education and Skills, Richard Bruton TD, Written Answers, School Patronage, 16 November 2016 [35019/16].

309 *ibid.*

310 Department of Education and Skills, 'Minister Bruton announces new plans to accelerate provision of multi- and non-denominational schools' (30 January 2017) <<http://bit.ly/2kOoRSL>> accessed 1 February 2017.

311 *ibid.*

transfer to.³¹² This is at odds with the constitutional rights of parents to decide the type of school their children attend.³¹³ Given that the vast majority of primary schools are under the patronage and ownership of one denomination,³¹⁴ decisions on patronage should be undertaken by an independent body to ensure a more transparent and independent approach.

Publicly funded education should be based on the rights and needs of children, in particular the best interests of the child, rather than those of patrons. The plan should be re-stated to take this into account when providing for the transfer of existing schools from religious patronage to other patrons. While the rights and needs of patrons and children may well overlap in many cases, the best interests of the child should always be the starting point and the decision-making process on patronage should be transparent, independent and fair. The wishes of parents and families should be central to any plan in this area in line with Article 42 of the Irish Constitution. Plans for consulting with parents should be more comprehensive³¹⁵ and provision should be included for meaningful consultation with children and young people.

Non- and multi-denominational schools: In 2016, the UN Committee recommended that the State 'expeditiously undertake concrete measures to significantly increase the availability of non-denominational and multi-denominational schools'.³¹⁶ *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* commits to 'expand the provision of multid denominational schools where parental demand exists'.³¹⁷ *A Programme for a Partnership Government* specifies a target of 400 multi- and non-

denominational schools by 2030 which is reiterated in the objectives of the *Action Plan on Education*, launched in September 2016.³¹⁸ The *Action Plan* provides that the Government will 'map out new approaches to reach the target' by the end of 2016.³¹⁹ The Government has set itself an ambitious target which effectively breaks down to a figure of 18 new schools to be opened per year including in 2016.³²⁰ However, since the process began in 2012, a total of 10 schools have been opened under the patronage divestment process.³²¹ Under the *Action Plan*, the target to open five more by the end of September 2016 (three under the patronage process and two under reconfiguration) has been achieved.³²²



PRIMARY SCHOOLS HAVE RELIGIOUS PATRON

Greater clarity will be required as to how the target of 400 schools is to be reached. Transfer of existing schools from religious patronage is expected to account for one third of this figure.³²³ Details of how the remaining two thirds are to be achieved should be set out in clear phases of development with stated timelines and funding streams and involve all patron

312 *ibid.*

313 Irish Constitution, Art 42.3.1°. This provision states that 'The State shall not oblige parents in violation of their conscience and lawful preference to send their children to schools established by the State, or to any particular type of school designated by the State.'

314 The Forum on Patronage and Pluralism in the Primary Sector, *Report of the Forum's Advisory Group* (Department of Education and Skills 2012) 63.

315 It appears that pre-school parents will be asked to fill out a survey but no other plans have been set out such as public meetings, written submissions or focus groups – all options set out in Department of An Taoiseach 'Reaching Out, Guidelines on Consultation for Public Sector Bodies' (2004) <<http://bit.ly/2jUf3dv>> accessed 1 February 2017, 13-18.

316 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 64(a).

317 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) Commitment 2.13.

318 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) 3.

319 *ibid* 44.

320 Michael Shiels McNamee, 'It tends not to be prime property that's handed over: 8 schools opened in 3 years under divestment', *The Journal.ie* (1 August 2016) <<http://bit.ly/2lk0T5J>> accessed 6 December 2016.

321 *ibid.*

322 In the *Action Plan*, under the objective heading 'establish 400 new multi-/non-denominational schools', it includes a commitment to three new schools under the patronage process and two reconfigured schools to be opened in Q3 of 2016 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) 44.

323 Department of Education and Skills, 'Minister Bruton announces new plans to accelerate provision of multi- and non-denominational schools' (30 January 2017) <<http://bit.ly/2kOoRsL>> accessed 1 February 2017.

bodes. In addition, given that there are currently 108 multi-denominational primary schools in the country,³²⁴ and no non-denominational schools at either level, it will be important to ensure that any new school divestment model includes not just multi-denominational but also non-denominational schools. Any new approach must explicitly ensure that all children are treated equally regardless of the religious or non-religious beliefs of the child and their family.

School Admissions: The Equal Status Acts 2000-2012, which prohibit discrimination on religious and other 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.³²⁵ This is often referred to as the 'baptism barrier' which arises because of the high proportion of schools of a Catholic ethos and the lack of alternatives for families of different or no faiths. It can mean that where schools are oversubscribed, preference in school admission is given to children who can present a baptismal certificate.³²⁶ Research from EQUATE has found that one in four parents who baptised a child, did so to get them into a local school.³²⁷ This shows the lengths that parents are prepared to take to enrol their child in a nearby school which is often publically funded. In 2016, the UN Committee encouraged the State to amend the 'existing legislative framework to eliminate discrimination in school admissions, including the Equal Status Act'.³²⁸ *Better Outcomes, Brighter Futures* commits to reducing discrimination and intolerance of all types experienced by marginalised groups including those from religious minorities.³²⁹

The Government has committed to enact legislation on school admissions in 2017 though this will not apply to admissions for that academic year.³³⁰ The Education (Admission to Schools) Bill 2016 was published in July 2016 fulfilling one part of the commitment, but it relates solely to school admissions and does not address the issue of 'excellence'. The aim of the 2016 Bill is to 'increase the transparency and fairness of school admissions'.³³¹ Amongst other things, it proposes to ban school admission waiting lists which will ensure that parents who move to a new area are not placed at a disadvantage. It will also ban admission fees. However, the Irish Human Rights and Equality Commission has noted that the Bill 'makes no change to the underlying substantive law on how a school may select students for admission'.³³² The Bill explicitly bans discrimination in school admissions including on religious grounds but the exemption set out above under the Equal Status Acts is protected under Section 7 of the proposed legislation.³³³ This amendment allows for the continuation of de facto discrimination based on religious ethos and maintains the 'baptism barrier'.

In November 2016, the Minister for Education and Skills stated that the 'baptism barrier' issue will be addressed separately from the Education (Admission to Schools) Bill under an Equal Status Bill³³⁴ which the Government has agreed will proceed to the second stage in June 2017.³³⁵ In early 2017, he initiated a public consultation based on four potential options to address the 'baptism barrier' issue.³³⁶

While the Minister for Education and Skills has stated publicly that this issue is 'not put on the long finger',³³⁷

324 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 23 January 2017.

325 Equal Status Act 2000, s 7.

326 Caitriona Mc Bride, 'Baptism Barrier, a reality at the school gates' *The Irish Times* (Dublin, 5 September 2016).

327 EQUATE, Religion and School: Parents' voices (EQUATE 2017) 11.

328 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 64(a).

329 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DCYA 2014) Commitment 5.6.

330 Minister for Education and Skills, Richard Bruton TD, Written Answers, School Admissions, 22 November 2016 [35929/16].

331 Department of Education and Skills, 'New law will make process of school admissions easier for children and parents – Minister Bruton' (6 July 2016) <<http://bit.ly/2kDywjM>> accessed 6 December 2016.

332 It notes that the religious exemption in the Equal Status 2000 Act is reinstated in the Bill with regard to (a) an appeal against the designation by the National Council for Special Education of a school in the case of a students with special educational needs and (b) an appeal against the designation by the Child and Family Agency of a school in the case of other students where the student has not been able to secure a place in a school. Irish Human Rights and Equality Commission, *Observations on the Education (Admission to Schools) Bill 2016*, (IHREC 2016) 4.

333 Education (Admission to Schools) Bill 2016, s 7. See Education (Admission to Schools) Bill 2016 for more details and also Department of Education and Skills, 'New law will make process of school admissions easier for children and parents – Minister Bruton' (6 July 2016) <<http://bit.ly/2kDywjM>> accessed 1 February 2017.

334 Equal Status (Admission to Schools) Bill 2016.

335 Minister for Education and Skills, Richard Bruton TD, Written Answers, School Admissions, 22 November 2016 [35929/16].

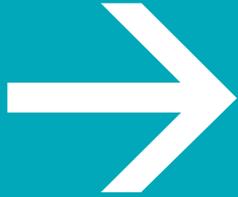
336 The four options are a catchment area approach, a 'nearest school rule', a quota system, which would allow a religious school give preference to children of its own religion in respect of only a certain proportion of places, meaning that the remaining places would be allocated based on other admissions criteria and, the fourth approach is for an outright prohibition on religious schools using religion as a factor in admissions, meaning that all places would be allocated based on other factors. Carl O'Brien, 'Bruton plans removal of 'baptism barrier' in schools' *The Irish Times* (Dublin, 16 January 2017).

it is disappointing that this issue is not being dealt with under the Education (Admission to Schools) Bill 2016. The renewed focus to this area by the Minister is welcome but it seems likely that another group of young children will potentially face discrimination before their first day of school. While the complexity of the issue is acknowledged, it should no longer be used as a reason to deny children access to publicly funded education on an equal basis.

337 Carl O'Brien, 'Bruton plans removal of 'baptism barrier' in schools' *The Irish Times* (Dublin, 16 January 2017).

Diversity in Schools

Immediate Actions for 2017



RE-STATE THE PLAN FOR THE TRANSFER OF EXISTING SCHOOLS FROM RELIGIOUS PATRONAGE FOR PUBLICLY FUNDED EDUCATION TO ENSURE THAT ITS STARTING POINT IS THE BEST INTERESTS OF CHILDREN.

Proposals to provide for the transfer of existing schools from religious patronage for publicly funded education should be based on the rights and needs of children rather than those of patrons. The decision-making process on patronage should be transparent, independent and fair. Current proposals to survey parents of pre-schoolers should be enhanced to ensure a more comprehensive consultation that includes the views of children and young people.

PUBLISH A PLAN TO INCREASE THE NUMBER OF MULTI- AND NON-DENOMINATIONAL SCHOOLS TO 400 BY 2030.

A clear plan involving all patrons and setting out the phases of development with timelines and a monitoring structure is required to provide greater clarity on how the target is to be achieved. Ensure that non-denominational schools are an explicit part of the plan. It should also identify how many of the schools are to be primary and post-primary.

URGENTLY AMEND THE EQUAL STATUS ACTS 2000-2012 AND THE EDUCATION (ADMISSION TO SCHOOLS) BILL 2016 IN ADVANCE OF ENACTMENT TO ENSURE THAT NO CHILD FACES DISCRIMINATION ON THE BASIS OF RELIGION WHEN ACCESSING PUBLICLY FUNDED EDUCATION.

The exemption provision in s 7(3)(c) of the Equal Status Acts allows schools of a particular religious ethos to give preference to students of that religious denomination, or to refuse admission to students of other or no religion in order to preserve the school's ethos. It should be amended to ensure that no child faces discrimination on the basis of religion when accessing publicly funded education. Section 7 of the proposed Education (Admission to Schools) Bill 2016 should be amended to remove this protection.

3.3

Disability and Additional Needs in Education

GOVERNMENT COMMITMENT

A Programme for a Partnership Government commits to:

- > Examine the adequacy of current special education access and funding provision.

Progress: Some

- > Consult with stakeholders with regard to how best to progress sections of the Education of Persons with Special Educational Needs Act 2004 that were introduced on a non-statutory basis.

Progress: Some

- > Introduce a new in-school speech and language service at primary level and to support children in early years.

Progress: Limited

'Disability and Additional Needs in Education' receives 'C+' grade in Report Card 2017. This grade reflects the range of positive developments for special needs education in 2016 including the largely positive review of the new model for resource allocation and investment in additional teaching posts to support its rollout. There is no clear roadmap as to how or when the Education for Persons with Special Educational Needs Act 2004 will be implemented and the introduction of new in-school speech and language service is at the early stages of development.

Every child has a right to education regardless of their needs or ability.³³⁸ The aim of this right is to 'empower

the child by developing his or her skills, learning and other capabilities, human dignity, self-esteem and self-confidence'.³³⁹ 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'.³⁴⁰ 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 realisation of their rights'.³⁴¹ Children with special educational needs have a right to individualised support and reasonable accommodations to ensure that they can be reasonably accommodated in the

338 UNCRC 'General Comment No. 9 on the rights of children with disabilities' (2006) UN Doc CRC/C/GC/9 para 62. All children up to the age of 18 have the right to primary Education in Ireland under Article 42 of the Irish Constitution.

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

340 *ibid.*

341 UNCRC 'General Comment No. 7: Implementing child rights in early childhood' (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 36(d).

general education system.³⁴² In addition to rights in education, like other children, children with special education needs and disabilities 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 their ability.³⁴³ Children should not face discrimination because of a disability.³⁴⁴

In 2016, the UN Committee on the Rights of the Child recommended that Ireland 'adopt a rights based approach to disability', 'establish a comprehensive strategy for the inclusion of children with disabilities in mainstream education and the encouragement of their autonomy' and that the State should 'train and employ a sufficient number of specialised teachers and professionals in order to provide special needs education support'.³⁴⁵ The Ombudsman for Children selected children with disabilities as one of four key strategic areas of work for his office over the next three years. On education for children with disabilities, the Ombudsman highlighted that '[a]ny child with a disability which may make him/her vulnerable should be protected through a rights based approach in public administration'.³⁴⁶

Access and Funding Provision for Special Education:

A Programme for a Partnership Government commits to examine the adequacy of current special education needs access and funding provision. The majority of students with special educational needs attend mainstream schools with additional supports.³⁴⁷ The National Council for Special Education (NCSE) has found that the number of students receiving low-incidence (such as physical disability, hearing impairments and autism) supports in mainstream schools has increased from 38,000 in 2011 to 45,700 in 2014.³⁴⁸ The expenditure of the Department of Education and Skills on special education in 2016 was €1.5 billion, which represents 17.8 per cent of the gross budget for education and training, and an increase of 320 per cent since 2004.³⁴⁹

In 2016, the UN Committee on the Rights of the Child recommended that Ireland 'adopt a rights based approach to disability', 'establish a comprehensive strategy for the inclusion of children with disabilities in mainstream education and the encouragement of their autonomy' and that the State should 'train and employ a sufficient number of specialised teachers and professionals in order to provide special needs education support'.

Currently, provision of low-incidence special educational needs is based on a diagnostic or medical approach.³⁵⁰ This has proved problematic for a number of reasons.³⁵¹ First, it meant that families, who cannot afford to get a private diagnosis immediately, have had to wait for their professional assessment and experience delay in accessing supports. It means that there was a risk that children were being diagnosed for the purposes of resource allocation and being labelled with a disability just to receive extra teaching support. Children were receiving the same level of support despite a spectrum of ability and disability and there was no systematic assessment of outcomes for students to whom resources were allocated.³⁵² In spite of a high level of spending in this area, it is clear that the existing model has a number of deficiencies and that children from lower socio-economic backgrounds faced inequality in accessing services, as highlighted in *Report Card 2015*.

In 2013, the NCSE recommended that a new model be developed based on the profiled need of each school,

342 UN Convention on the Rights of Persons with Disabilities (3 May 2008) A/RES/61/106 Art 24.

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

344 *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.

345 UNCRC 'Concluding observations on the combined third and fourth periodic reports of Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4, para 47.

346 Office of the Ombudsman for Children, 'Education in Focus' (Ombudsman for Children, November 2016, <<https://www.oco.ie/wp-content/uploads/2016/11/Education-In-Focus.pdf>> accessed 18 January 2017, 5.

347 Department of Education and Skills, *Review of the Pilot of a New Model for Allocating Teaching Resources to Mainstream Schools to Support Pupils with Special Educational Needs* (DES 2016) 1.

348 *ibid*.

349 *ibid*.

350 *ibid* 2.

351 *ibid* 3-4.

352 *ibid*.

without the need for a diagnosis of disability.³⁵³ A new model for resource allocation was successfully piloted in 2016 in 47 schools by the Department of Education and Skills.³⁵⁴ A review of the pilot has been completed and the overall response from teachers, students and parents was positive. For example the review found that there was increased flexibility and autonomy because by the model allocates resources based on need.³⁵⁵ The review found that there are still some outstanding challenges, in particular in relation to the high level of support required by pilot schools to assist with teachers' continuing professional development in the areas such as target setting and monitoring of students' progress.³⁵⁶ The review provides that it would be difficult to provide this level of support to all schools.³⁵⁷ It notes that of most concern is that some schools reported a lack of impact of the new model where no additional teaching resources were granted which may have implications for the overall allocation of resources for students with special educational needs.³⁵⁸

While the Minister has said the review included the views of parents³⁵⁹ and the learning experiences of pupils were taken into account, it is not clear if children with educational needs or disabilities were consulted directly in this process. In broadly welcoming the model, Inclusion Ireland has noted that the model does not provide an independent appeal mechanism for parents if they feel their child has not been allocated an adequate amount of hours.³⁶⁰ Complaints can only be made to the principal or Board of Management who

will have made the original decision. Parents should have the right to a final appeal to an independent body in the allocation of resources under the new model.

The Minister for Education and Skills, Richard Bruton TD and his predecessor Jan O'Sullivan TD are to be commended for following the recommendation of the NSCE and taking the necessary steps to develop the new model to address inequalities in access to special educational needs supports. The NCSE has welcomed the introduction of the new model hailing it a 'better and more equitable way of allocating teaching resources for students with special educational needs'.³⁶¹ It is expected to be introduced across mainstream primary and post primary schools from September 2017.³⁶² Budget 2017 provided an additional 900 teaching posts to support the introduction of the model and for the recruitment of an additional 115 additional Special Needs Assistants (SNAs) from January 2017.³⁶³ Ensuring that the necessary posts are available to support the roll-out of the new model is welcome.

A number of positive developments took place in other areas of special educational needs in 2016 including exceptional arrangements for students with Downs Syndrome being retained under the new model,³⁶⁴ a review of the SNA scheme,³⁶⁵ and the launch of the Better Start Access and Inclusion Model (AIM) by the Department of Children and Youth Affairs which provides supports designed to ensure that children with disabilities

353 *ibid* 3.

354 Minister for Education and Skills, Richard Bruton TD, Dáil Debates, Special Educational Needs Data, 29 November 2016.

355 Department of Education and Skills, 'Review of the pilot of a new model for allocating teaching resources to mainstream schools to support pupils with special educational needs' (DES 2016) 12.

356 *ibid* 32.

357 *ibid*.

358 *ibid* 33.

359 Minister for Education and Skills, Richard Bruton TD, Written Answers, Special Educational Needs Services Provision, 19 October 2016 [31092/16].

360 Inclusion Ireland, 'Department of Education announce new resources allocation model – our reaction' <<http://www.inclusionireland.ie/content/news-items/1595/departement-education-announce-new-resource-allocation-model-our-reaction>> accessed 6 February 2017.

361 National Council for Special Education, 'NSCE welcomes a better and more equitable way of allocating teaching resources for special needs' (18 January 2017) <<http://ncse.ie/wp-content/uploads/2017/01/NCSE-Press-Release-18th-January-2017final-for-web.pdf>> accessed 5 February 2017.

362 Department of Education and Skills, 'Better outcomes for children with special educational needs is the key goal of new model – Minister Bruton' (18 January 2017) <<http://www.education.ie/en/Press-Events/Press-Releases/2017-Press-Releases/PR2017-01-18.html>> accessed 6 February 2017.

363 *ibid* and Department of Education and Skills, 'Main Features of the 2017 Estimates' <<http://www.education.ie/en/Publications/Estimates/2017-Budget-Main-Features.pdf>> accessed 11 January 2017.

364 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 3 February 2017. Further information will be provided in a Circular and guidance that is being developed for schools.

365 *ibid*. The Minister for Education and Skills has requested that the NCSE to carry out a review of the SNA scheme to make recommendations on how the additional care needs of students can be met in the future and the most appropriate form of support options to provide better outcomes for students with special educational needs given the significant amount of investment in this area. The NCSE will report on the progress of the review in May 2017.

can access the Early Childhood Care and Education programme.³⁶⁶

These developments and policy advices from the NCSE in recent years such as those relating to the education of children with autism, special educational needs and with challenging behaviour arising from severe emotional disturbance/behavioural disorders will inform the assessment of the adequacy of current special educational needs access and funding provision.³⁶⁷

It is worth noting that the many positive developments this area in 2016, there are a number of challenges continue to exist. Cuts to resource hours for students with special educational needs made in 2011, amounting to 15 per cent less hours, have not been restored.³⁶⁸ As noted above, additional supports are welcome but they will only go some way to covering hours lost. In addition, the NCSE has found that, while most schools welcome and enrol children with special educational needs, some erect overt and/or 'soft' barriers to prevent or discourage parents from enrolling their children in the schools.³⁶⁹ These exclusionary practices cannot be permitted in any publicly funded education system.

Consultation on the Education for Persons with Special Educational Needs Act 2004: A Programme

for a Partnership Government commits to consult with stakeholders on the progression of provisions of the Education for Persons with Special Educational Needs (EPSEN) Act 2004 that were introduced on a non-statutory basis.³⁷⁰ The commitment was reiterated in the *National Action Plan for Education* published in September 2016, which sets a deadline for consultation by the end of 2016.³⁷¹

The EPSEN Act 2004 is the key statute providing for the education of children with special needs.³⁷² It provides for 'inclusive education', in line with the UN Convention on the Rights of Persons with Disabilities³⁷³ and the Salamanca Statement on Principles, Policy and Practice in Special Needs Education.³⁷⁴ Though the EPSEN Act was enacted more than 12 years ago, key provisions of the legislation remain unimplemented and the full education rights of children with disabilities and special educational needs remain unfulfilled.

In 2008, due to budgetary constraints, the Government deferred implementation of the Act.³⁷⁵ While a number of provisions of the legislation have been introduced such as those to enable the NCSE to be placed on a statutory footing,³⁷⁶ provisions that would confer on children a statutory entitlement to an educational

366 Department of Children and Youth Affairs, 'Better Pre-School Access for Children with Disabilities 'Access and Inclusion Model: AIM' unveiled Minister Zappone urges Parents to apply' (15 June 2016) <<http://www.dcy.gov.ie/viewdoc.asp?Docid=3804&CatID=11&mn=6&StartDate=01+January+2016>> accessed 11 January 2017. The model includes an escalating range of services provided on the basis of assessed need, rather than formal diagnosis. http://www.dcy.gov.ie/documents/earlyyears/20160615AIMInfo_LeafletandContact.pdf

367 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 3 February 2017.

368 Inclusion Ireland, 'A Submission to the Department of Education and Skills: on the allocation of resource teaching hours in schools. September 2014'. < <http://www.inclusionireland.ie/sites/default/files/attach/basic-page/1110/resourcehourssubmissionsept14.pdf>> accessed 6 February 2017.

369 National Council for Special Education, *Supporting Children with Special Educational Needs in Schools. NCSE Policy Advice Paper No. 4*, (NCSE 2013) 4.

370 A number of sections of the EPSEN Act have been progressed on a non-statutory basis. The Minister noted that the Department of Education and Skills has introduced measures to provide for educational plans to be prepared for all students accessing Special Needs Assistant (SNA) support. Minister for Education and Skills, Richard Bruton TD, Written Answers, Special Educational Needs Services Provision, 19 October 2016 [31092/16].

371 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) Action 50, 20.

372 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'.

373 UN Convention on the Rights of Persons with Disabilities (3 May 2008) A/RES/61/106 Art 24.

374 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.

375 Communication received from the Department of Education and Skills further to a bilateral of the C&V Pillar on 4 November 2015.

376 Sections 1, 2, 14, 19-37, 39, 40 -53 and Schedules 1 and 2 of the EPSEN Act 2004 have been implemented.

assessment, individual educational plans and delivery of services on foot of the individual plans, remain unimplemented.³⁷⁷

A commitment was made under *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* to 'prepare and implement a plan, guided by the NCSE policy advice, on how aspects of EPSEN Act can be implemented, including prioritising access to an individual education plan and implementing the recommendations of the NCSE'.³⁷⁸ Placing these provisions on a statutory footing would mean that children would have a right to redress if they find that their rights have not been vindicated. In October 2016, the Minister stated his intention to bring into effect many of 'the good ideas contained in the EPSEN Act' and progress EPSEN on a non-statutory basis 'through policy developments across a range of areas, in conjunction with NCSE policy advice. The Minister has stated that legal advice to the Department 'indicates that the EPSEN Act, as it is currently constituted, may not be implemented on a phased, or age cohort, basis'.³⁷⁹ A clear roadmap to fulfil the full range of rights of children with special educational needs should be urgently developed.



The Department of Education and Skills has indicated that consultations have taken place in recent years in relation to the new model and the implementation of the EPSEN Act and that consultation took place over two days in January 2017 with disability and parent representative groups as well as education partners.³⁸⁰ It is unclear if further consultations are planned in line with the commitment in this area with regard to how best sections of the EPSEN Act that were introduced on a non-statutory basis can be progressed.

In-school speech and language service: *A Programme for Partnership Government* commits to introduce a new in-school speech and language service at primary level and to support children in early years. Speech and language services are currently provided by the Health Service Executive (HSE). It has been reported that there are variations in waiting lists and HSE responses across the country and that some parents have to pay privately for diagnosis and treatment because poor access in the public system means that early intervention is not always possible.³⁸¹

Internationally, children with speech and language difficulties are the largest single group of all children with special needs.³⁸² Research indicates that speech and language difficulties are among the most common neuro-developmental disorders of childhood,³⁸³ although its prevalence in Ireland is unclear.³⁸⁴ However, the preschool years are the time when speech and language difficulties typically first reveal themselves.³⁸⁵ Children whose speech and language difficulties are resolved by the age of five are unlikely to experience long-term effects, while children whose difficulties are not resolved by this time are likely to experience long-term academic and/or social difficulties.³⁸⁶ Therefore in-school speech and language services in early years and at primary level would be a positive step. The location of speech and language therapy in the school is particularly important because it has been shown to

377 Minister for Education and Skills, Richard Bruton TD, Written Answers, Special Educational Needs Services Provision, 19 October 2016 [31092/16].

378 Department of Children and Youth Affairs, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020* (DYCA 2014) commitment 2.21. It also commits to 'continue to provide timely access to educational and therapeutic supports for children who are identified as having special needs'.

379 Minister for Education and Skills, Richard Bruton TD, Dáil Debates, Special Educational Needs Services Provision, 19 October 2016 [31092/16].

380 Communication received by the Children's Rights Alliance from the Department of Education and Skills, 17 January 2017.

381 Kitty Holland, 'Over 15,000 people waiting for speech assessment' *Irish Times* (Dublin, 3 May 2016).

382 "Dublin South-West Inner City NEYAI Consortium, *Preschoolers Get Talking and Communicating* (Dublin South-West Inner City NEYAI Consortium, n.d.)"

383 Noirin Hayes et al, *Evaluation of the Early Years Programme of the Childhood Development Initiative* (Childhood Development Initiative 2013) 17.

384 *ibid.*

385 Dublin South-West Inner City NEYAI Consortium, *Preschoolers Get Talking and Communicating* (Dublin South-West Inner City NEYAI Consortium, n.d.).

386 Noirin Hayes et al, *Evaluation of the Early Years Programme of the Childhood Development Initiative* (Childhood Development Initiative 2013) 17.

promote accessibility of services, increase attendance rates and facilitate collaboration between educational and health staff.³⁸⁷

Internationally, children with speech and language difficulties are the largest single group of all children with special needs.

The *National Action Plan for Education* reiterated the commitment to increase speech and language therapy support and the Department of Education and Skills further committed to commence discussions with the HSE and the Department of Health to develop an implementation plan by the end of 2016.³⁸⁸ The implementation plan will provide a timeline for the fulfilment of the commitment and identify what actions will need to be taken.³⁸⁹ It is important that this implementation plan will encompass Early Years Services with both universal and targeted approaches.

387 Child Development Initiative, 'Chit Chat: Early Intervention Speech and Language Therapy Model and linkages to the Education Sector' (CDI 2016) <https://www4.dcu.ie/sites/default/files/edc/pdf/final_version_-_education_chit_chat_policy_brief_29th_august_2016_2.pdf> accessed 13 February 2017.

388 Department of Education and Skills, *Strategy Statement Action Plan for Education 2016-2019* (DES 2016) Action 52.

389 Minister for Education and Skills, Richard Bruton TD, Dáil Debates, Speech and Language Therapy Provision, 16 November 2016 [35021/16].

Disability and Additional Needs in Education

Immediate Actions for 2017



INTRODUCE AN INDEPENDENT APPEALS MECHANISM FOR FAMILIES UNDER THE NEW RESOURCES ALLOCATION MODEL.

Families should have an independent appeals mechanism under the new model for resources allocation parents if they feel their child has not been allocated an adequate amount of hours.

DEVELOP A CLEAR ROADMAP TO FULFIL THE FULL RANGE OF RIGHTS OF CHILDREN WITH SPECIAL EDUCATIONAL NEEDS AND CONSULT DIRECTLY WITH CHILDREN WITH SPECIAL EDUCATIONAL NEEDS.

Clarity should be provided to children with special educational needs as to the rights and remedies they are entitled to and under which they can have redress. They should be consulted directly as part of this process.

DEVELOP AND PUBLISH THE IMPLEMENTATION PLAN TO INTRODUCE IN-SCHOOL SPEECH AND LANGUAGE SERVICE AT PRIMARY LEVEL.

In order to progress this commitment, the implementation plan to introduce in-school speech and language service at primary level should be published without delay